

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
December 04, 2012

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

Mayor Patterson called the meeting to order at 7:00 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Ms. Juneman led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

1. Announcement of action taken at Closed Session, if any.

None

2. Openings on Boards and Commissions:

Building Board of Appeals
1 full term
Open Until Filled

Art and Culture Commission
2 unexpired terms
Open Until Filled

Community Sustainability Commission
1 full term

Application Due Date:
December 21, 2012

Civil Service Commission
1 full term
Application Due Date:
December 21, 2012

Finance Committee
2 full terms
Application Due Date:
December 21, 2012

Human Services Board
1 full term
Application Due Date:
December 21, 2012

Open Government Commission
1 full term
Application Due Date:
December 21, 2012

Planning Commission
2 full terms
Application Due Date:
December 21, 2012

Sky Valley Open Space
1 full term
Application Due Date:
December 21, 2012

3. Mayor's Office Hours:

4. Benicia Arsenal Update: Verbal Update

Mayor Patterson announced there was nothing new to report.

B. PROCLAMATIONS

C. APPOINTMENTS

D. PRESENTATIONS

1. Tula Sister City Report

V. ADOPTION OF AGENDA:

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted the agenda, as presented, on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Three items submitted (copies on file).

B. PUBLIC COMMENT

1. Nikki Davis - Ms. Davis discussed the issue of the boat yard, and submitted photos (copies on file).
2. Jon Van Landschoot - Mr. Van Landschoot discussed concerns regarding the boat yard. He urged Council to contact BCDC to have a meeting before changes were made.
3. Citizen - The citizen discussed the issue of bay conservation and the boat yard.
4. Susan Street - Ms. Street asked Council to be the boat yard owners' advocate.
5. Karen Burns - Ms. Burns discussed support for keeping the Red Barron and crane in the boat yard.
6. Citizen - the citizen expressed support for keeping the crane and Red Barron in the boat yard.
7. Kathleen Juneman -.Ms. Juneman noted she was a city council person in Maplewood, Minnesota. She discussed how lucky people who lived in Benicia were, as it was a lovely city.
8. Mary Frances Kelly Poh - Ms. Kelly Poh thanked City staff for their efforts in street sweeping and storm drain control.
9. Gerald Turner - Mr. Turner discussed the importance of not destroying the Red Barron and crane boats in the boat yard.
10. Carl Lucca - Mr. Lucca spoke in support of saving the boats in the boat yard.
11. Larnie Fox - Mr. Fox spoke in support of preserving the natural art in the

city (boats in boat yard).

12. Brad MacLain - Mr. MacLain spoke in support of approaching BCDC to try and save the boats in the boat yard.

VII. CONSENT CALENDAR:

Council pulled items VII.C and VII.D for discussion.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted the Consent Calendar, as amended, on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

A. APPROVAL OF THE MINUTES OF THE NOVEMBER 20, 2012 MEETING

B. ADOPT THE CITY OF BENICIA'S LOCAL HAZARD MITIGATION PLAN (LHMP)

RESOLUTION 12-151 - A RESOLUTION AUTHORIZING THE ADOPTION OF THE ASSOCIATION OF BAY AREA GOVERNMENT (ABAG) REPORT ENTITLED "TAMING NATURAL DISASTERS" AS THE CITY OF BENICIA'S LOCAL HAZARD MITIGATION PLAN

C. DENIAL OF THE CLAIM AGAINST THE CITY BY CONSTANCE JOHNSON AND REFERRAL TO INSURANCE CARRIER

Vice Mayor Campbell expressed support for paying the claims, as they were for valid potholes, and were small dollar amounts. He expressed concern regarding spending staff time and dollars on the claims.

Ms. McLaughlin expressed support for Council denying the claims.

Council Member Hughes discussed support for Staff's recommendation, and for looking at similar cases on a case-by-case basis.

Council Member Strawbridge discussed support for reviewing such cases on a case-by-case basis. She inquired about Staff's procedures for filling potholes.

Vice Mayor Campbell expressed concern regarding spending the City's money on investigating the claim, etc. when it is such a small amount.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved the denial of the claim against the City by Constance Johnson and referral to insurance carrier, on roll call by the following vote:

Ayes: Council Members Patterson, Hughes, Schwartzman, Strawbridge

Noes: Campbell

D. DENIAL OF THE CLAIM AGAINST THE CITY BY JENNIFER KRAUS AND REFERRAL TO INSURANCE CARRIER

Vice Mayor Campbell discussed his concerns regarding this claim when item VII.C was discussed.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the denial of claim against the City by Jennifer Kraus and referral to insurance carrier, on roll call by the following vote:

Ayes: Council Members Patterson, Hughes, Schwartzman, Strawbridge

Noes: Campbell

E. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. BUSINESS ITEMS:

A. INTRODUCTION AND FIRST READING OF ORDINANCES TO AMEND THE WATER AND SEWER RATES/FEEES RELATED TO WATER AND SEWER SERVICE

ORDINANCE 12- - AN ORDINANCE AMENDING CHAPTER 13.12 (WATER RATES AND CHARGES) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE BY REPLACING IT IN ITS ENTIRETY

ORDINANCE 12- - AN ORDINANCE AMENDING CHAPTER 13.52 (SEWER RATES AND CHARGES) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 12- - AN ORDINANCE AMENDING SECTIONS 13.56.030 (PAYMENT-RETURNED CHECKS), 13.56.050 (DELINQUENT ACCOUNTS), 13.56.070 (DELINQUENCY OF SERVICE-DISCONTINUATION OF SERVICE) AND CHAPTER 13.56.080 (DISCONTINUATION OF SERVICE-UNAUTHORIZED USE) OF CHAPTER 13.56 (SEWER BILLING REQUIREMENTS) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 12- - AN ORDINANCE AMENDING SECTIONS 13.08.040 (WATER USE WITHOUT APPLICATION) AND 13.08.050 (DEPOSIT) OF CHAPTER 13.08 (WATER SERVICE) OF TITLE 13 (PUBLIC SERVICES) OF

THE BENICIA MUNICIPAL CODE

Melissa Morton, Public Works Director, reviewed a staff report and PowerPoint presentation.

Council Member Hughes and Staff discussed the need to have rate comparisons to other cities both in the near and distant future.

Public Comment:

1. Drake Valentine - Mr. Valentine spoke in support of the proposed increases, due to necessity.
2. Scott Rovanpera - Mr. Rovanpera spoke in support of the proposed increases, due to necessity.
3. Karen Burns - Ms. Burns discussed a previous bond measure (sewer taxes). She spoke in opposition to the proposed rate increase.
4. John - John spoke in opposition to the proposed rate increase. He supports an increase, but not the one that is being proposed.
5. Ron Askham - Mr. Askham discussed concerns regarding the process for polling the public on this issue, the negative cash flow with regards to the solar panel project, and the issue of outsourcing the water/sewer tasks.

Council Member Schwartzman and Staff discussed Prop 218.

Vice Mayor Campbell discussed his lack of support for the first two ordinances because of the senior discount issue. Seniors who are not low income should not receive discount.

Council Member Hughes discussed support for the ordinances, as it is necessary to protect the health, safety, and welfare of the citizens. He discussed the senior citizen/low income discounts.

Council Member Strawbridge discussed the issue of the senior citizen and low-income family discount.

Council Member Schwartzman discussed concerns regarding the water increase, senior discounts, and support for the water rate increase.

Mayor Patterson discussed that every community has infrastructure problems. She suggested people who are able should follow Vice Mayor Campbell's example and not take the senior discount unless they need it.

Vice Mayor Campbell discussed the options discussed at the last Council meeting (the community voting on whether they wanted to subsidize the senior discount). Staff clarified that Council gave direction to Staff to bring ideas back after the first of the year regarding revenue sources to pay for the amount that would be used from the General Fund for the senior discounts.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of an Ordinance (amending Chapter 13.12), on roll call by the following vote:

Ayes: Council Members Patterson, Hughes, Strawbridge

Noes: Campbell, Schwartzman

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council approved the Introduction and First Reading of an Ordinance (amending Chapter 13.52), on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of an Ordinance (amending Sections 13.56.030, 13.56.070, and 13.56.080), on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of an Ordinance (amending Sections 13.08.040 and 13.08.050), on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of an Ordinance (amending Sections 13.16.040, 13.16.060, 13.16.080, 13.16.090, and 13.16.110), on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

B. MASTER FEE SCHEDULE ADDITIONS AND AMENDMENTS TO VARIOUS WATER AND SEWER FEES

RESOLUTION 12-152 - A RESOLUTION APPROVING AND ADOPTING ADDITIONS AND AMENDMENTS TO VARIOUS WATER AND SEWER FEES TO THE MASTER FEE SCHEDULE FOR THE 2012-13 FISCAL YEAR

Mayor Patterson introduced the item.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-152, on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

C. HOOKAH LOUNGE MORATORIUM ORDINANCE

ORDINANCE 12-7 - AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF HOOKAH LOUNGES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

Heather McLaughlin, City Attorney, reviewed the staff report.

Vice Mayor Campbell and Staff discussed how the proposed ordinance would interact with the current tobacco and smoking ordinances.

Mayor Patterson stated she was interested in getting the proper language for regulating hookah lounges; therefore she was interested in the moratorium, however, not with the categorical exemption. She believed that by using CEQA as a tool, the City could get at some of the questions raised by Vice Mayor Campbell. She would like to start with an initial study.

Staff clarified that Council could go with the categorical exemption at this time and adopt the moratorium ordinance, but when Staff comes back with the ordinance to regulate the hookah lounges, they could do the initial study and go through the environmental review process.

Council Member Schwartzman discussed support for doing a study on this item.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Ordinance 12-7 (Urgency Interim Ordinance), on roll call by the following vote:

Ayes: Council Members Patterson, Campbell, Hughes, Schwartzman,
Strawbridge

Noes: None

IX. **ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 9:33 p.m.

Lisa Wolfe, City Clerk