

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
December 07, 2010

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

**I. CALL TO ORDER:**

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

**II. CLOSED SESSION:**

**III. CONVENE OPEN SESSION:**

**A. ROLL CALL**

All Council Members were present.

**B. PLEDGE OF ALLEGIANCE**

The Benicia Arsenal U-10 Girls Soccer Team led the Pledge of Allegiance.

**C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:**

**IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:**

**A. ANNOUNCEMENTS**

Ms. McLaughlin reported the actions on the following items:

V.A - Council gave direction to Staff

V.B - Council received information from Staff and provided direction to Staff.

V.C - Council received information from Staff

V.D - Discussion on item began, however the item was continued until after regular meeting tonight.

Mayor Patterson announced various openings on boards and commissions.

Mayor Patterson stated that a proclamation had been added to the agenda to recognize a citizen's service to the community. It would be presented under the

proclamation section of the agenda.

Tonight's meeting would be adjourned in honor of the people who lost their lives on December 7, 1941, at Pearl Harbor and in the Philippines.

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

**2. Openings on Boards and Commissions:**

Sky Valley Open Space Committee: Four full terms to January 31, 2015

Civil Service Commission: Two full terms to January 31, 2015

Planning Commission: Two full terms to January 31, 2015

Parks, Recreation and Cemetery Commission: Three full terms to January 31, 2015

Building Board of Appeals: Three full terms to January 31, 2015

**3. Mayor's Office Hours:**

**B. APPOINTMENTS**

**C. PRESENTATIONS**

**D. PROCLAMATIONS**

**1. In Recognition of Ryan Savage, Eagle Scout**

**V. ADOPTION OF AGENDA:**

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes

Noes: (None)

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

**A. WRITTEN COMMENT**

One item (copy on file).

## **B. PUBLIC COMMENT**

Larry Fullington - Mr. Fullington discussed the bicycle racks that were recently installed along First Street. The racks are already rusting. He would like Council to consider removing the racks and replacing them with something more appropriate for the Downtown Area.

Staff clarified that the bicycle rack issue would be discussed at HPRC meeting on 12/16/10. Council Member Campbell discussed concern regarding the Sustainability Commission not going through the City Council when spending funds.

Mayor Patterson formally recognized the Benicia Arsenal FC 2000 U-10 Girls Soccer Team. The team recently won the Northern California State Cup.

Coach Michael Jacobs discussed the team's success throughout the season and the State Cup.

Citizen - The citizen discussed the possibility of the City and/or community helping The Adobe House with the Christmas lights in future years.

Greg Savage - Mr. Savage discussed the positive experience he and his son (Ryan) had while working on Ryan's Eagle Scout service project.

Vice Mayor Schwartzman discussed concern regarding why an update on the Arsenal item was not on the agenda, as Council agreed to place it on all future agendas. Mayor Patterson and Staff noted that it was an oversight, and it would be done in the future.

## **VII. CONSENT CALENDAR:**

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

Council pulled items VII.A, VII.B, VII.E, and VII.J for discussion. Council Member loakimedes noted that due to a conflict of interest, he would abstain from voting on item VII.F.

### **A. Approval of Minutes for the Special meeting of November 9, 2010 and the Special and Regular meeting of November 16, 2010**

Mayor Patterson discussed clarifications on pages VII-12 and VII-13, and requested changes be made.

On motion of Council Member Hughes, seconded by Mayor Patterson, Council

approved the Minutes for the Special meeting of November 9, 2010, and the Special and Regular meeting of November 16, 2010, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**B. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE TO INCORPORATE BUILDING CODE REVISIONS AND TO ADJUST BUILDING INSPECTION FEES**

ORDINANCE 10-5 - AN ORDINANCE AMENDING CHAPTER 15.04 (DIVISION 1. CONSTRUCTION STANDARDS AND STRUCTURE RELOCATION) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

Council Member Campbell and Staff discussed concern regarding fees related to solar panel installation. Council gave direction to Staff to come back with a report and analysis on cost differential (within nine months). If, during the nine months, there proves to be evidence of hesitancy to do the installations because of the fees, Staff should come back to Council.

On motion of Vice Mayor Schwartzman, seconded by Council Member loakimedes, Council approved the Second Reading and Adoption of the Ordinance, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**C. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING THE CITY OF BENICIA FIRE PREVENTION AND LIFE SAFETY CODE**

ORDINANCE 10-4 - AN ORDINANCE AMENDING CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) IN ITS ENTIRETY OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

**D. AUTHORIZATION OF THE ANNUAL APPLICATION FOR TRANSPORTATION DEVELOPMENT ACT FUNDS TO OPERATE BENICIA BREEZE FOR FISCAL YEAR 2010-2011**

RESOLUTION 10-155 - A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF TRANSPORTATION DEVELOPMENT ACT FUNDS FOR FISCAL YEAR 2010-11

**E. FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING SECTION 9.28.040 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE I (NIGHTTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL**

**CODE AND SECTION 9.28.100 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE II (DAYTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MUNICIPAL CODE**

ORDINANCE 10- - AN ORDINANCE AMENDING SUBSECTION I AND ADDING SUBSECTION j OF SECTION 9.28.040 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE I (NIGHTTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE BENICIA MUNICIPAL CODE, AND ADDING SUBSECTIONS I AND J OF SECTION 9.28.100 OF CHAPTER 9.28 (YOUTH PROTECTION) OF ARTICLE II (DAYTIME CURFEW) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE BENICIA MUNICIPAL CODE

Council Member Hughes and Staff discussed the issue of enforcement.

Council Member loakimedes discussed age limit that applies to the resolution (it applies to youth under the age of 18).

Public Comment:

None

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, Council approved the Introduction and First Reading of an Ordinance, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**F. APPROVE THE LEASE AGREEMENT BETWEEN THE CITY OF BENICIA AND JUAN VALLEJO FOR 356 E. I STREET**

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the lease agreement between the City of Benicia and Juan Vallejo for 356 East I Street, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: (None)

**G. RECLASSIFY THREE FIREFIGHTER/PARAMEDIC POSITIONS TO THREE FIRE ENGINEERS**

RESOLUTION 10-156 - A RESOLUTION RECLASSIFYING THREE FIREFIGHTER/PARAMEDIC POSITIONS TO THREE FIRE ENGINEER POSITIONS

**H. APPROVE AMENDMENTS REGARDING NECESSARY ADMINISTRATIVE CHANGES DUE TO IRS REQUIREMENTS TO APPLICABLE LABOR AGREEMENTS**

RESOLUTION 10-157 - A RESOLUTION APPROVING AMENDMENTS TO THE LABOR AGREEMENT WITH PUBLIC EMPLOYEES UNION, LOCAL #1, SENIOR MANAGERS, MIDDLE MANAGERS, AND POLICE MANAGERS

**I. DENIAL OF THE CLAIM AGAINST THE CITY BY ALMA FOSTER AND REFERRAL TO INSURANCE CARRIER**

**J. ADOPTION OF A RESOLUTION TO DECLARE THAT THE CITY OF BENICIA WILL BECOME A HEALTHY EATING ACTIVE LIVING (HEAL) CITY**

RESOLUTION 10-158 - A RESOLUTION DECLARING THAT THE CITY OF BENICIA WILL BECOME A HEALTHY EATING ACTING LIVING (HEAL) CITY

Public Comment:

Dennis Lowry - Mr. Lowry discussed concern regarding the slippery slope this resolution could lay a foundation for.

Council Member Hughes discussed concern regarding the resolution taking things too far. The City could move forward with a lot or all of the issues, but when zoning and land use could be changed, it was going too far.

Council Member loakimedes discussed the issue of childhood obesity. This would reach out to the community and let them know that health is a priority.

Mayor Patterson discussed the General Plan, and the issue of the healthy element in the plan. She discussed the Public Policy Institute's study, which included the costs of obesity. This policy would be fiscally responsible. This would be affirming the City's General Plan.

Council Member Hughes clarified his concerns. His vote would not be a vote against children. This would get into making decisions for citizens that they could make on their own, and possibly scaring businesses away. He didn't think the City needed a resolution to do most of the things that are listed.

Council Member loakimedes discussed the value of having a resolution for this issue.

Vice Mayor Schwartzman discussed concern regarding the proposed resolution. He was afraid it could lead to a slippery slope.

Council Member loakimedes discussed the correlation to this issue and the arguments years ago when smoking in restaurants was being scrutinized.

Council Member Campbell suggested removing a portion of the language in an attempt to move the resolution along. Council Member loakimedes was agreeable to the suggestion.

Mayor Patterson read the resolution language. She suggested continuing the item and having the Planning Commission and possibly another commission look into this and bring it back next year.

Council Member Campbell made a motion to approve the proposed resolution with the following amendments: 1) remove the last sentence regarding restaurants, 2) in the sentence above that, insert 'encourage' instead of 'promote', 3) take out the portion regarding setting nutrition standards, and 4) leave in the language regarding 'HEAL City.'

On motion of Council Member Campbell, seconded by Council Member loakimedes, Council adopted the Resolution, as amended, on roll call by the following vote:

Ayes: Patterson, Campbell, loakimedes

Noes: Schwartzman, Hughes

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

**VIII. PUBLIC HEARINGS:**

**IX. ACTION ITEMS:**

**A. REVIEW OF PROPOSED YEAR-END BUDGET ADJUSTMENTS FOR FISCAL YEAR 2009-10 AND MID-CYCLE ADJUSTMENTS FOR FISCAL YEAR 2010-11**

**RESOLUTION 10-159 - A RESOLUTION APPROVING ADJUSTMENTS TO THE MUNICIPAL BUDGETS FOR FISCAL YEAR 2009-2011**

Mayor Patterson stated her goal was not to take a lot of time on this item, but frame questions around the item, explain why a resolution is needed at this time, ask questions for clarity, and to ask questions in preparation for an in-depth workshop with Brad Kilger, the new city manager.

Rob Sousa, Finance Director, reviewed the staff report.

Council Member Campbell and Staff discussed the projected reserve funds, PERS, and the VIP numbers.

Council Member Hughes discussed concern regarding the 'surprise' with some of the items listed in the report, clarification regarding PERS, and the issue of there being a lot of 'red flags' going forward.

Mayor Patterson discussed the need for having a list of 'what if's.'

Council Member Ioakimedes and Staff discussed clarification on savings (ongoing or onetime), PERS, the need to identify what items could and could not be controlled, and what items we don't have a handle on.

Mayor Patterson would like to see a future discussion (at the upcoming workshop) on the \$2 million the City is advancing itself for the Community Center, as well as a discussion on the Utility User's Tax. The action tonight would include allocation for funding for the parking lot repairs by the Police Station.

Vice Mayor Schwartzman and Staff discussed the \$348,000 in additional savings noted on page IX.A.3. They discussed the issue of liability insurance, and the budget unknowns (PERS, County taxes, communication tax).

Public Comment:

Dennis Lowry - Mr. Lowry discussed a tool that the FAB has come up with to help track costs, and how it was used to identify some inconsistencies in the budget. He also discussed the outstanding MOU's, budget policies, and the \$2 million loan for the Community Center.

Staff and Council discussed the \$2 million loan for the Community Center.

On motion of Vice Mayor Schwartzman, seconded by Council Member Campbell, Council adopted the Resolution, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes

Noes: (None)

**B. ALLOCATION OF FUNDS FOR DESIGN AND CONSTRUCTION OF THE DOWNTOWN INTERMODAL PROJECT**

RESOLUTION 10-160 - A RESOLUTION AUTHORIZING THE PUBLIC WORKS & COMMUNITY DEVELOPMENT DIRECTOR TO REQUEST AN ALLOCATION OF REGIONAL MEASURE 2 (RM2) FUNDS FROM THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) FOR THE DESIGN AND CONSTRUCTION PHASE OF THE BENICIA INTERMODAL FACILITIES PROJECT, AND TO EXECUTE ANY AGREEMENTS, DOCUMENTS, OR CORRESPONDENCE RELATED TO SAID RM2 FUNDING REQUEST

Mayor Patterson recused herself from discussion, due to a conflict of interest.

Charlie Knox, Public Works & Community Development Director, reviewed the staff report.

Council Member Hughes discussed the right hand turn on Military West and First Street.

Council Member Campbell and Staff discussed the trees by the Vet's Hall.

Vice Mayor Schwartzman and Staff discussed when the design elements would be done (late February or early March 2011).

Council Member loakimedes and Staff discussed the design elements, and whether they were complimentary with the Downtown streetscape.

Council Member Hughes and Staff discussed the issue of the bus stop, parking, and how the proposed site was selected.

Council Member Campbell and Staff discussed concern regarding bicyclists turning left onto First Street and the area of Military and East Second Street. He requested Council remove the issue of the right hand turn lane.

Public Comment:

Jerry Hayes - Mr. Hayes discussed his disappointment in Council and Staff for not listening to the community. He spoke in opposition for using the City Park location for the Downtown Intermodal Project.

Council Member Hughes discussed not forwarding the right hand turn lane issue on to the Traffic, Pedestrian and Bicycle Safety Committee. Staff clarified that Council could direct Staff not to include that issue in the design.

Karen Burns - Ms. Burns discussed concern regarding changing the intersection at the entrance to First Street.

Kathy Kerridge - Ms. Kerridge discussed the dangerous intersection at Military and West Second Street. She hoped the proposed plan would address that.

Toni Haughey - Ms. Haughey discussed the need to keep the right hand turn lane. She discussed concern regarding the Traffic, Pedestrian and Bicycle Safety Committee weighing in on the issue. They were not at any of the workshops. She spoke in opposition to the plaza option.

Donna Sheehan - Ms. Sheehan spoke in support of keeping the right hand turn lane.

Council Member loakimedes and Staff discussed the changes that have

occurred in the area over the past 40 years. The proposed changes are minor, compared to the changes that have been made in the past.

Council Member Hughes discussed concern regarding removing the right hand turn lane. He suggested approving the resolution, and removing that issue from the project.

Council Member Campbell discussed the issue of removing the right-hand turn lane, trees potentially blocking vision, and the need to keep all of the \$3 million in funding (if it isn't used on this project, save it for other projects).

Vice Mayor Schwartzman discussed support for keeping the right hand turn lane, and not going with the plaza option.

Council Member Hughes made a motion to adopt the resolution, but do not forward right hand turn lane issue on to any commission/committee, and add Council Member loakimedes' suggested language regarding the importance of the City Park (that it is a jewel, and the City should protect and preserve the current character and atmosphere).

On motion of Council Member Hughes, seconded by Council Member Campbell, Council adopted the Resolution, as amended, on roll call by the following vote:

Ayes: Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

### **C. ALLOCATION OF FUNDS FOR DESIGN AND CONSTRUCTION OF THE WESTERN GATEWAY INTERMODAL PROJECT**

RESOLUTION 10-161 - A RESOLUTION AUTHORIZING THE PUBLIC WORKS & COMMUNITY DEVELOPMENT DIRECTOR TO REQUEST AN ALLOCATION OF REGIONAL MEASURE 2 (RM2) FUNDS FROM THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) FOR THE DESIGN AND CONSTRUCTION PHASE OF THE BENICIA INTERMODAL (WESTERN GATEWAY) FACILITIES PROJECT, AND TO EXECUTE ANY AGREEMENTS, DOCUMENTS, OR OTHER CORRESPONDENCE RELATED TO SAID RM2 FUNDING REQUEST

Charlie Knox, Public Works & Community Development Director, reviewed the staff report.

Council Member loakimedes and Staff discussed the issue of bike lockers.

#### Public Comment

None

Staff clarified that the resolution would be amended to state that it was only for

the Western Gateway. The recommendation on the agenda was correct, but the resolution was not correct.

Council Member Campbell and Staff discussed the sidewalk on the north side of the Military ramp. The City would determine what the City's cost is for the sidewalk so that future development of a subdivision would be responsible for the cost. Council Member Campbell noted that if there were any funds left over, he would like the intersection in front of the State Park worked on.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council adopted the Resolution, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

## **X. INFORMATIONAL ITEMS:**

### **A. City Manager Reports**

#### **1. REPORT FROM THE COMMUNITY SUSTAINABILITY COMMISSION REGARDING THE 2010 - 2011 CLIMATE ACTION PLAN PRIORITIES**

Charlie Knox, Public Works & Community Development Director, introduced the item.

Kathy Kerridge, Community Sustainability Commission, reviewed a PowerPoint presentation (copy on file).

Mayor Patterson and Ms. Kerridge discussed formalizing the commission's recommendations and submitting them to Council, cross-city department participation, design of the communication plan (need some ideas), renewed commitment to the urgency of the Climate Action Plan, and the extent Valero is sharing information on what they are doing with AB32.

Council Member Campbell and Ms. Kerridge discussed the gray water program.

Council Member Hughes discussed how the commission should go about spending funds (expenditures should go through Council). He discussed having the commission bounce ideas off of Council, if there is anything they are not sure about.

Vice Mayor Schwartzman discussed the issue of wind power.

Council Member loakimedes discussed the issue of the commission's outreach to the construction community.

Mayor Patterson and Staff discussed the issue of developing a website. Mayor

Patterson would like to have a peer review, keep the design local, and keep the costs low.

**XI. COUNCIL MEMBERS REPORTS:**

**A. Request to agendaize a discussion regarding the Orange County proposal to form a new non-profit association to advocate on behalf of its members for the preservation and enhancement of local control**

Mayor Patterson reviewed the Council report. She discussed how this issue came through the League of California Cities. The item could possibly be placed on the consent calendar.

Council Member Hughes discussed the need to clarify the two-step process.

Staff should look into this to see when a decision needed to be made, which would dictate when it should be on an agenda.

On motion of Council Member loakimedes, seconded by Vice Mayor Schwartzman, Council approved placing the item on a future agenda, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**XII. ADJOURNMENT:**

Mayor Patterson adjourned the meeting to Closed Session at 10:58 p.m., in honor of everyone who lost their lives at Pearl Harbor and served valiantly in World War II.

---

Lisa Wolfe, City Clerk