

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
December 15, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:02 p.m. on Tuesday, December 15, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Patterson led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Openings on Boards and Commissions:

- ❑ Sky Valley Open Space Committee:
One full term to January 31, 2013
- ❑ Human Services and Arts Board:
Two unexpired terms to June 30, 2010 and July 31, 2013
One full term to July 31, 2013

Mayor's Office Hours:

The Mayor will NOT have office hours during the month of December. Future meetings may be scheduled through the City Manager's office at 746-4200.

APPOINTMENTS:

RESOLUTION 09-119 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF GERALD ROSENFELD TO THE SENIOR COALITION OF SOLANO COUNTY TO A TWO-YEAR TERM

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

RESOLUTION 09-120 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF THE FOLLOWING MEMBERS TO THE BENICIA ARTS AND CULTURAL COMMISSION FOR A FOUR-YEAR TERM

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

The following commissioners were appointed to the Benicia Arts and Culture Commission per the above Resolution: Lee Wilder Snider, Bob Surratt, Kenny Hall, Pat Ryll Newhall, Judith Donaldson, Steve Waranietz, Patrice (Patty) Gavin, Sandra Summerfield Kozak, and Elaine Eisner.

RESOLUTION 09-121 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF THE FOLLOWING MEMBERS TO THE BENICIA COMMUNITY SUSTAINABILITY COMMISSION FOR A FOUR YEAR TERM

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

The following commissioners were appointed to the Benicia Community Sustainability Commission: Emmalyn Tringali, Rae Lynn Fiscalini, Eugene (Gene) Doherty, John F. Silva, Kathy Kerridge, Larry Lamoreux, Constance M. Beutel, Valero – TBD, Randall Scott, Rosie Switzer, and Marilyn Bardet.

PRESENTATIONS:

Executive Certificate Presentation to Chief Sandra Spagnoli:

Mr. Paul Kelly and Sheriff John McGinnis, Peace Officers Standards and Training Commission, presented Chief Spagnoli with her Executive Certificate.

PROCLAMATIONS:

None

Mayor Patterson called for a 5-minute break at 7:18 p.m.

The meeting resumed at 7:27 p.m.

ADOPTION OF AGENDA:

Heather McLaughlin, City Attorney, noted there could possibly be a change to item IX-A. The item may be continued.

Council Member Campbell withdrew his request for consideration of item XI-A.

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file).

PUBLIC COMMENT:

1. Jason Diavatis - Mr. Diavatis requested that Council reconsider the card room license application by Mr. and Mrs. Lemmings. He discussed various reasons the license should be reconsidered.
2. Luke Bergeson - Mr. Bergeson discussed the positive experiences he had working at the Pastime Card Room.
3. James Lemos - Mr. Lemos discussed the positive atmosphere they hoped to bring to the proposed card room. He requested Council look deeper into the possibility of bringing a card room back to Benicia.
4. Anne Hansen - Ms. Hansen discussed the Benicia Historical Museum's 25th anniversary. She discussed various festivities and events they would have to celebrate the museum's anniversary.
5. Kimbal Goodman - On behalf of the Benicia Town Race, Mr. Goodman presented a check for \$500 to CAC. The Benicia Bicycle Club also presented CAC with a check for \$500.
6. Jon Van Landschoot - Mr. Van Landschoot requested Council approve more frequent meetings of the Sky Valley Open Space Committee.

Staff discussed the lack of staff support for additional meetings. Council discussed the possibility of forming subcommittees. Staff discussed the lack of staff support available to support additional meetings.

7. Mayor Patterson - Mayor Patterson congratulated Vice Mayor Schwartzman and Council Member Hughes on the outcome of the recent election.

CONSENT CALENDAR:

Council pulled item VII-E.

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, Council approved the Minutes of December 1, 2009, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, and Vice Mayor Schwartzman

Noes: None

Abstain: Mayor Patterson

RESOLUTION 09-122 - A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION FOR TRANSPORTATION FUNDS FOR CLEAN AIR (TFCA) THROUGH THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT (BAAQMD) AND AUTHORIZING THE PUBLIC WORKS AND COMMUNITY DEVELOPMENT DIRECTOR TO SIGN THE APPLICATION ON BEHALF OF THE CITY

RESOLUTION 09-123 - A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT FUNDING WITH THE CALIFORNIA ENERGY COMMISSION AND DESIGNATING THE CITY MANAGER AS THE AUTHORIZED REPRESENTATIVE FOR THE CITY

RESOLUTION 09-124 - A RESOLUTION REJECTING THE THIRTEEN BIDS FOR THE LIBRARY BASEMENT IMPROVEMENT PROJECT

Council gave direction to Staff to submit a FOCUS grant application for technical assistance on downtown design issues.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of a resolution authorizing an agreement for the purchase and installation of agenda management and streaming video software:

Council and Staff discussed the annual maintenance fee, data storage, live video web streaming capability, who the project manager would be (Bill Guggemos), including public stakeholders and the Open Government Commission, the transition process, and transitioning to paperless agendas.

Public Comment:

None

Vice Mayor Schwartzman discussed the possibility of installing video monitors at the dais for Council Members.

RESOLUTION 09-125 - A RESOLUTION AUTHORIZING AN AGREEMENT WITH SIRE TECHNOLOGIES FOR AGENDA MANAGEMENT AND STREAMING VIDEO SOLUTIONS

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

PUBLIC HEARINGS:

Participation in CaliforniaFIRST property assessed Clean Energy Program:

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

Council and Staff clarified the program was for commercial use as well, whether it was enough money to gain commercial interest, the program being subject to the Assessment Bond Act of 1915, and the financial risk to the City (none).

Council and Staff discussed contractor qualifications, criteria for citizen qualification, costs to citizens, the minimal role of City staff in the program, program start date (May or June 2010), comprising a list of qualified contractors, Solano County's role in the program, and Solano County's concern regarding Prop 218.

Council and Staff discussed the issue of possible permission being needed from mortgage lender, qualifying for the program, loan to value constraints, properties being subject to design review, having HPRC take a look at the program, and clarification that participation in the program would not prohibit homeowners from qualifying or participating in other State rebate programs.

Public Hearing Opened

Public Comment:

1. Dana Dean - Ms. Dean discussed a continuing education seminar she went to that focused on greenhouse gas law. She discussed the 'Berkeley First' model. She discussed the mortgagee issue, the cost to the homeowner being minimal over time, and the cost being transferred to the new homeowner when the property is sold. She fully supported the program.
2. Jon Van Landschoot - Mr. Van Landschoot spoke in support of the program. He discussed the benefits of solar panels, the need to get the HPRC and the Sustainability Commission involved.

Public Hearing Closed

RESOLUTION 09-126 - RESOLUTION AUTHORIZING THE CITY OF BENICIA TO JOIN THE CALIFORNIA-FIRST PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE BENICIA; AND AUTHORIZING RELATED ACTIONS

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

RESOLUTION 09-127 - A RESOLUTION AUTHORIZING SACRAMENTO COUNTY TO APPLY FOR FUNDS ON BEHALF OF THE CITY OF BENICIA

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

On motion of Council Member Campbell, seconded by Vice Mayor Schwartzman, Council authorized expenditures of \$25,000 for program costs and \$60,000 for public outreach, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

ACTION ITEMS:

2008 Valero "VIP" Agreement Amendment

Jim Erickson, City Manager, discussed Staff's recommendation to continue this item to the 1/19/10 Council meeting. The negotiating parties are close, but not quite there yet. The recommendation comes with a few conditions. The first condition has to do with the air quality issues in the draft agreement. The stipulation for the continuance would include the sense that \$250,000 for the air quality monitoring equipment, its maintenance, and upkeep, shall be expended for the Air Monitoring Hound, shed, and DSL connection, as detailed in the proposal as attachment (a), shall be contracted no later than 1/1/10. The second has to do with the initial deposit projects. There is a provision in the contract that says certain projects are to be included for moving forward. That list has several items. The parties understand those projects would be funded very quickly, within 30 days notice from the City. Finally, with respect to a project called the 'Condensate Recovery Project', which is a water conservation project that Valero wants to undertake, and would be funded partially with this agreement, it has a cost of upwards \$3 million against the \$10 million that is provided for in the agreement. Additionally, there is another large project, the Mills Community Center Project, which under the draft terms of the agreement would be covered, and that is \$3 million. It would be an understanding that both of those projects would be living within the \$2 million annual maximum payment from Valero for water conservation activities.

Mr. Erickson suggested, since negotiations were still ongoing, it would be best to refrain from talking about the negotiation to the extent possible, as not to have an adverse effect on the negotiations.

Dana Dean, Good Neighbor Steering Committee, discussed the amount of time and energy put into this issue thus far, and the need for the negotiations to wrap up. They would continue to come to the table and negotiate as long as Valero would agree tonight to commit fully to the section in the agreement that requires them to contract for \$250,000 worth of air monitoring benefits by 1/1/10, as described in attachment (a), and

that they agree to fund the initial deposit in section 3(b). She also clarified that it was 10 days notice, not 30.

Chris Howe, Valero, discussed the VIP fund, what Valero has done up to this point, Valero's commitment to meeting the conditions of the VIP agreement. He requested they be allowed to continue negotiations on the amendments to the agreement. He was confident all parties could come to closure on the last two issues in the next few weeks. Valero was working on a contract for the air quality monitoring equipment, which they hoped to have executed next week.

Ms. Dean and Mr. Howe discussed the issue of the funding for Mills and the Condensate Recovery Project.

Council and Ms. Dean discussed the original agreement date, and whether it reflected a calendar year.

Council and Mr. Howe discussed the balance of the projects for the initial deposit.

Council Member Ioakimedes disclosed ex parte communications. He and Staff discussed the City's role in the negotiations.

Mayor Patterson discussed agendizing the conditions of approval for a January meeting. She suggested that if no progress has been made by 1/19/10, that it be agendized for the Planning Commission to review the conditions of approval.

Public Comment:

None

On motion of Council Member Campbell, seconded by Council Member Hughes, Council approved continuing this item to the 1/19/10 Council meeting, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

Benicia Bike Race Update

Jim Erickson, City Manager, reviewed the staff report. He discussed the need for updated policies regarding special events. He discussed the City's out of pocket expenses for the last race (\$27,000).

Council Member Campbell and Staff discussed how difficult it would be to come up with a policy that addresses so many different types of special events.

Mayor Patterson discussed the importance of weighing the importance of events to the strategy for the Downtown area and tourism.

Vice Mayor Schwartzman discussed support for the race, concerns raised by merchants, concerns regarding the day of the race (it should be on Sunday), a possible course change, the crossing situation, the cost to the City, and the cost of other events such as the Peddlers Fair (approximately \$5,000).

Council Member Campbell discussed the issue of the bike race being approximately five times other special events.

Mayor Patterson discussed concern regarding Council planning a bike race.

Council Member Hughes discussed the importance of not micromanaging staff, and allowing them to come up with a solution for this issue. He believed the current process could work.

Mayor Patterson discussed the possibility of forming a subcommittee for looking at the policy regarding special events.

Public Comment:

1. Dana Dean - Ms. Dean discussed the location of her office on First Street. She spoke in support of the bike race. She spoke in support of having a consistent policy for special events.
2. Kimbal Goodman - Mr. Goodman discussed post race discussions he has had with City staff. There were issues that were identified that the race promoters were working on. There are other issues that City staff and the race promoters need to find a middle ground.

Council Member Ioakimedes discussed concerns regarding singling out this event for scrutiny. He did not think there was a definitive link between special events and tourism. He did not see a nexus between special events increasing business on First Street. He discussed the impacts on the businesses on First Street, the need to rethink what we do with special events, concerns regarding political motivation to make the event happen, putting staff in the difficult position of having to make it work, the need to look at how all special events happen, and the need to look at the Downtown differently.

Council Member Hughes discussed how to move forward, the need to let staff work with interested stakeholders to improve how the event is handled the next time and come back with a proposed policy.

Council Member Campbell and Staff discussed the need for a policy regarding special events, and the work Staff is doing regarding codifying a policy regarding special events.

Mayor Patterson discussed the nexus between special events, the community, and tourism, and the benefits of having a task force.

Vice Mayor Schwartzman discussed support for working on a special event policy, and new events that have been happening Downtown.

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, Council directed Staff to continue following the existing special event process, and to continue working with the organizers of the Benicia Criterion on the event, on the assumption the organizers plan to hold the event in 2010, and to direct Staff to work with interested stakeholders to develop policy framework for special events, if for no other reason than to ensure consistency in the future, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, and Mayor Patterson

Noes: Council Members Campbell and Ioakimedes

INFORMATIONAL ITEMS:

City Manager Reports:

Resolution in Support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010:

Council and Staff discussed the need for such items to be listed under action items in the future.

Jim Erickson, City Manager, reviewed the staff report.

Council and Staff discussed the possibility of the State finding another loophole to take City funds, support for the act, and the need to come up with a way to inform citizens about governance issues in the State.

RESOLUTION 09-128 - A RESOLUTION IN SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: December 16, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Council Member Campbell) - Next Meeting Date: Spring General Assembly – April 22, 2010
3. Finance, Audit & Budget Committee - (Council Member Campbell & Vice Mayor Schwartzman) - Next Meeting Date: December 18, 2009.
4. League of California Cities - (Mayor Patterson & Vice Mayor Schwartzman) - Next Meeting Date: New Mayors and Council Members Academy – January 20-22, 2010
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: March 11, 2010
6. Sky Valley Open Space Committee - (Council Member Campbell & Council Member Ioakimedes) - Next Meeting Date: February 3, 2010 - Council

Member Campbell discussed the need for the committee to meet more frequently. He discussed negotiations that are ongoing relating to the property. He discussed funds available in the VIP settlement funds for watershed protection. Council and Staff discussed its support for more meetings. Council discussed the restrictions on staff time for the committee. Mayor Patterson suggested directing Staff to lift the restrictions on staff time and the committee is empowered to have more meetings, but minimize staff time necessary for the committee.

7. Solano EDC Board of Directors. - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: To be determined
8. Solano Transportation Authority (STA) - (Mayor Patterson & Vice Mayor Schwartzman) - Next Meeting Date: January 13, 2010
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Council Member Campbell) - Next Meeting Date: January 14, 2010
10. Traffic, Pedestrian and Bicycle Safety Committee - (Council Member Campbell & Council Member Hughes) - Next Meeting Date: January 21, 2010
11. Tri-City and County Regional Parks and Open Space - (Council Member Campbell & Council Member Hughes) - Next Meeting Dates: To be determined - Council Member Campbell discussed the issue of the committee working on a regional park district, the lack of funding to move forward, and requested support from the Council to support the idea of a regional park. Mayor Patterson suggested coming up with a resolution for action on this item.
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: To be determined
13. Youth Action Coalition - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: January 27, 2010
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: January 25, 2010

COUNCIL MEMBER REPORTS:

Request to agendize the East E Street Gate:

Withdrawn

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:25 p.m.

Lisa Wolfe, City Clerk