

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
December 15, 2015

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 Closed Session to order at 6:00 p.m.

All Council Members were present.

II. CLOSED SESSION:

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: Clock Tower, 1189 Washington Street, Benicia
Agency Negotiator: City Manager and Economic Development Manager
Negotiating parties: City of Benicia and Lit San Leandro
Under negotiation: Price and terms of payment
- B. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Name of case: Ramsey-Smith, Matle and Orr vs. City of Benicia et al.

III. CONVENE OPEN SESSION:

Mayor Patterson called the meeting to order at 7:01 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Lisa Wolfe led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

Heather McLaughlin, City Attorney, reported the following actions taken during closed session:

Item II.A - Council received information from Staff.

Item II.B - Council gave direction to Staff.

2. Openings on Boards and Commissions:

Benicia Housing Authority
1 unexpired term (Tenant)
open until filled

Community Sustainability Commission
2 unexpired terms
1 student commissioner term
open until filled

Library Board of Trustees
1 unexpired term
open until filled

Open Government Commission
1 unexpired term
open until filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update

Update from City Attorney

Heather McLaughlin, City Attorney, stated there was nothing new to report. Staff is working on having a meeting with the subcommittee this week, and has another meeting scheduled this week with representatives of the other property owners. She hoped to have something concrete to report in January 2016.

B. PROCLAMATIONS

C. APPOINTMENTS

D. PRESENTATIONS

1. PRESENTATION OF LIBRARY'S ANNUAL REPORT

V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Six items received (copies on file).

B. PUBLIC COMMENT

1. Citizen - The Citizen discussed concern regarding people running stop signs and speeding, as well as excessive litter in Benicia.
2. Molly Weaver - Ms. Weaver discussed concern regarding crosswalk safety in the City.

VII. CONSENT CALENDAR:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

A. APPROVAL OF THE MINUTES OF THE DECEMBER 1, 2015 CITY COUNCIL MEETING

B. APPROVAL OF AMENDMENT TO AGREEMENT FOR CONTINUED STAFF AUGMENTATION FOR THE PUBLIC WORKS DEPARTMENT

RESOLUTION 15-137 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO AGREEMENT FOR CONTINUED STAFF AUGMENTATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT WITH PAKPOUR CONSULTING GROUP, INC. FOR A NOT-TO-EXCEED COST OF \$76,560 AND AUTHORIZING THE CITY

MANAGER TO SIGN THE AMENDMENT TO AGREEMENT ON BEHALF OF THE CITY

- C. APPROVE CONTRACT AND ACCEPT FUNDING FROM THE BENICIA UNIFIED SCHOOL DISTRICT TO SUPPLEMENT EXISTING ADULT LITERACY SERVICES OFFERED BY THE LIBRARY

RESOLUTION 15-138 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH THE BENICIA UNIFIED SCHOOL DISTRICT FOR SUPPLEMENTAL ADULT LITERACY SERVICES AND TO ACCEPT FUNDING OF UP TO \$46,000 FOR THESE SERVICES

- D. UPDATE ON EMERGENCY CONTRACTS FOR CLOCK TOWER ELEVATOR REPLACEMENT
- E. SOLANO CITY-COUNTY COORDINATING COUNCIL'S DRAFT PROPOSED 2016 STATE & FEDERAL LEGISLATIVE PLATFORM
- F. APPROVAL OF AMENDMENTS TO THREE CONTRACTS (ONE CONTRACT FOR 4LEAF, INC., AND TWO CONTRACTS FOR BUREAU VERITAS) FOR CONTINUED STAFF AUGMENTATION AND PLAN CHECK SERVICES FOR THE COMMUNITY DEVELOPMENT DEPARTMENT, AND A BUDGET AMENDMENT FOR \$112,300 TO BE FUNDED BY GENERAL FUND RESERVES

RESOLUTION 15-139 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT AMENDMENT WITH 4LEAF, INC. IN THE AMOUNT OF \$130,300 TO THE EXISTING CONTRACT AMOUNT OF \$104,999, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$235,299 FOR FISCAL YEAR 15/16, FOR CONTRACT STAFFING, PLAN REVIEW AND INSPECTION SERVICES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

RESOLUTION 15-140 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT AMENDMENT WITH 4LEAF, INC. IN THE AMOUNT OF \$130,300 TO THE EXISTING CONTRACT AMOUNT OF \$104,999, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$235,299 FOR FISCAL YEAR 15/16, FOR CONTRACT STAFFING, PLAN REVIEW AND INSPECTION SERVICES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

RESOLUTION 15-141 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT AMENDMENT OF \$84,100, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$159,100 FOR FISCAL YEAR 2015-2016, WITH BUREAU VERITAS FOR BUILDING INSPECTION AND PLAN REVIEW SERVICES, AND AMENDING THE BENICIA BUDGET IN THE

**AMOUNT OF \$72,300 TO BE FUNDED BY GENERAL FUND RESERVES,
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT
ON BEHALF OF THE CITY**

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

VIII. **BUSINESS ITEMS:**

A. **WIND ENERGY REQUEST FOR PROPOSALS (RFP)**

Alex Porteshawver, Climate Action Plan Coordinator, reviewed the staff report and a PowerPoint presentation (copy on file).

Council Member Campbell asked Staff for clarification on what wind energy options would be included in the proposal.

Council Member Schwartzman and Staff discussed how the power of wind energy compared to the energy generated by the City's solar arrays.

Vice Mayor Hughes asked Staff for clarification that the City was looking into the benefits that wind energy could provide us.

Mayor Patterson clarified that the decision for the Council is whether or not to authorize a fact-finding exercise and public participation, which are two critical factors. Based on the fact-finding and public participation program, at some point it will come back to Council with a report by Staff and the consultant, and then Council would have a choice to move forward or not.

Public Comment:

1. Lee Anne Buudeseu - Ms. Buudeseu asked for clarification on whether the focus of the RFP would be on installing a wind turbine at the water treatment plant. She spoke in opposition of installing wind turbines in Benicia.
2. David Buudeseu - Mr. Buudeseu spoke in opposition of installing wind turbines in Benicia, as it would endanger the birds in the area.
3. Russ Clifton - Mr. Clifton spoke in opposition to the request for proposals for wind turbines in the City.
4. Pat Toth-Smith - Ms. Tot-Smith spoke in favor of the City obtaining wind energy proposals.
5. Constance Beutel - Ms. Beutel spoke in favor of the City obtaining wind energy proposals.
6. Kathy Kerridge - Ms. Kerridge spoke in favor of the City obtaining wind energy proposals. She discussed the benefits of renewable energy vs. fossil fuel energy.

7. Judy Sullivan - Ms. Sullivan spoke in favor of the City obtaining wind energy proposals.
8. Stan Davis - Mr. Davis spoke in opposition of installing wind turbines in Benicia. He urged Council to look at other options. He challenged Council to do a better job at reaching out to the community to inform them on the issue.

Council Member Schwartzman discussed the importance of getting the facts on the issue so Council could make an informed decision.

Vice Mayor Hughes discussed the importance of getting the facts on the issue so Council could make an informed decision. He asked citizens to keep an open mind while the City goes through the process.

Council Member Strawbridge and Staff discussed the effects wind turbines would have on the City's agreement with Marin Clean Energy (MCE). Council Member Strawbridge discussed the importance of the City reaching out to the public on the issue.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved, by motion, the Wind Energy Request for Proposals, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

**B. SECOND STEP OF MAYOR PATTERSON'S 2-STEP PROCESS
REQUEST TO DISCUSS BENICIA'S LARGE FAMILY DAY CARE HOME
REGULATIONS**

Christina Ratcliffe, Community Development Director, reviewed the Staff report.

Public Comment:

1. Jerry Raycraft - Mr. Raycraft spoke in support of reducing the noticing requirement to 100 ft.
2. Kathy Lago, Solano Family and Children Services - Ms. Lago discussed the need for family child care centers in Benicia. She spoke in support of reducing the noticing requirement to 100 ft.
3. Claudia Claverie - Ms. Claverie spoke in support of reducing the noticing requirement to 100 ft. She asked Council to make Benicia a 'by right' community so that family child care centers would not have to go through so much time and money to open their businesses.

Vice Mayor Hughes discussed support for minimizing the notification to a lesser number, but not down to 100 ft. (possibly 250-300 ft.)

Council Member Schwartzman agreed the notification needed to be less than 500 ft. but more than 100 ft. The issue needs to be looked at, but Council has a full plate right now. He and Staff discussed the requirements of the Health and Safety Code regarding family child care centers.

Council Member Campbell stated he was fine with Staff's direction with B, C, or D, but did not agree with reducing it to 100 ft. from 500 ft., as the notification process should be the same for all sectors within the City.

Mayor Patterson suggested Council move forward with giving direction to Staff to move forward with option B, where the distance and revision of the ordinance is addressed. In the meanwhile she would like to have a regulatory agency respond to the City's inquiry about that particular section of the law. If there is no objection from Council, the direction would be to proceed with B, with a clarification from the regulatory agency, and advice from the City Attorney once it comes back.

Ms. McLaughlin clarified that a regulatory agency would not give the City legal advice. Mayor Patterson stated that the regulatory agency would have the legislative history, record, background, testimony, and information so they could shed some light on the maximum distance issue, or whether it is up to our discretion. Ms. McLaughlin stated that only a court could decide definitively. She and Mayor Patterson discussed the issue of legislative intent.

Vice Mayor Hughes stated he was fine with sending it back to Staff with respect to B; however, Staff has a lot on their plate right now. He could support the direction as stated, but let the City Manager decide the priority of bringing it back to Council. He did not see the use in getting a legal interpretation. Council should just use existing case law.

Council Member Campbell and Staff discussed the current direction to Staff and whether it was doable. He asked for clarification on whether the distance on notification was included in the direction. He could not support the change in notification distance.

Mayor Patterson reaffirmed the direction to Staff was to go with option B, looking at the entire amendment process, sending this back to the Planning Commission, get some community input, do some outreach, do some research on common practice, etc., and then bring the Planning Commission's recommendation back to Council. The Planning Commissions may or may not include changes to the notification issue.

Mayor Patterson stated the above direction to Staff was being given, with one objection (from Council Member Campbell).

C. SOLAR AND MCE ENERGY FINANCIAL PERFORMANCE REPORT 2015

Karin Schnaider, Finance Director, reviewed the staff report and a PowerPoint presentation.

Council Member Schwartzman and Staff discussed having to use City Hall and the Clock Tower as collateral. He wished the collateralization would have been explained clearer in the beginning. Staff explained how collateralization process worked.

Council Member Campbell said the City was doing better than originally predicted. He and Staff discussed the issue of 'avoidance' and savings. He would like the numbers clarified regarding cost, avoidance, and rebates.

Vice Mayor Hughes and Staff discussed the detailed report and the need to come up with a one page summary that details the project and shows why it was a good idea. He and Staff discussed the costs related to debt service, maintenance, etc. They discussed when those costs would go away so the City could start using the profits generated from the solar panels. Council needs the information so they can clearly relate it to their constituents.

Mayor Patterson discussed the conservation fund. She and Staff discussed the City's participation in MCE (50%), the issue of maintenance and replacement costs, and what the additional cost would be to go to Deep Green (approximately \$58,480.00) Mayor Patterson asked Staff to memorialize and document the issue of a maintenance program and how replacement funds would be dealt with.

Public Comment:

1. Constance Beutel - Ms. Beutel spoke in favor of the City's participation in MCE.
2. Kathy Kerridge - Ms. Kerridge spoke in favor of the City's participation in MCE. She would love to see a one-page report on the issue, as mentioned by Vice Mayor Hughes.
3. Kelly Ferguson, OpTerra Energy Services - Ms. Ferguson discussed the overview of the City's project performance (handout - copy on file).

Mayor Patterson and Staff discussed the proposed maintenance contract, and who was currently responding to the maintenance issues. Mayor Patterson stated that the direction to Staff was to develop a maintenance contract that says

the company is responsible for proactively ensuring the inverters are working, not burning out, and the solar panels are functioning and are cleaned (performance based maintenance contract).

D. Council Member Committee Reports:

- 1. Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: December 21, 2015**
- 2. Association of Bay Area Governments (ABAG) <http://www.abag.ca.gov/>. (Vice Mayor Hughes and Council Member Schwartzman) Next Meeting Date: TBD**
- 3. Finance Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: December 17, 2015**
- 4. League of California Cities. (Mayor Patterson and Vice Mayor Hughes) Next Meeting Date: TBD**
- 5. School Liaison Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: TBD**
- 6. Sky Valley Open Space Committee. (Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: TBD**
- 7. Solano EDC Board of Directors. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: January 14, 2016**
- 8. Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Campbell) Next Meeting Date: January 13, 2016**
- 9. Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/> (Mayor Patterson, Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: January 7, 2016**
- 10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: January 21, 2016**
- 11. Tri-City and County Cooperative Planning Group. (Vice Mayor Hughes and Council Member Schwartzman) Next Meeting Date: March 14, 2016**

12. **Valero Community Advisory Panel (CAP). (Council Member Campbell and Council Member Schwartzman) Next Meeting Date: TBD**
13. **Youth Action Coalition. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: TBD**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. <http://www.baywaterforum.org/> (Mayor Patterson) Next Meeting Date: TBD**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: December 17, 2015**
16. **Marin Clean Energy (Council Member Schwartzman and Council Member Strawbridge) Next Meeting Date: December 17, 2015**

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:03 p.m.