

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
DECEMBER 16, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:25 p.m. on Tuesday, December 16, 2008 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:

Police Chief Spagnoli 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:

Action taken at Closed Session:

Heather McLaughlin reported that Council gave direction to Staff on both issues.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee
One unexpired term to September 30, 2010
One full term to January 31, 2013
- Civil Service Commission
One full term to January 31, 2012
- Planning Commission
Two full terms to January 31, 2013
- Open Government Commission
One full term to January 31, 2013
- Library Board of Trustees
Two full terms to January 31, 2012
- Finance, Audit and Budget Committee
One full term to January 31, 2011
Two full terms to January 31, 2013

Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

Mayor Patterson announced that the Benicia Business Park Facilitated Workshop was scheduled for January 7, 2009 at 6:00 p.m. The location of the workshop is currently being finalized. As soon as that information is available, it will be communicated to the public.

APPOINTMENTS:

None

PRESENTATIONS:

Presentation of check to Parks & Community Services for \$500 by Mr. Kimble Goodman, Benicia Bicycle Club, was accepted by Heather McLaughlin, City Attorney.

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the Agenda was adopted as presented, 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:

None

CONSENT CALENDAR:

Council pulled item VII-B.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, 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

Council approved the Minutes of December 2, 2008.

Council approved the denial of the claim against the City by Hilbers, Inc. and referral to insurance carrier.

(END OF CONSENT CALENDAR)

Council took the following actions:

Foreclosed or vacant properties: (1) Second reading and adoption of an ordinance to provide for fines and penalties for failure to maintain foreclosed properties; (2) Introduction of an ordinance to require maintenance and registration of neglected, vacant, and foreclosed properties; (3) Introduction of an ordinance providing for an administrative hearing for contesting the fines, penalties and orders for foreclosed or vacant buildings; and (4) Amending the master fee resolution to establish a registration fee:

Council and Staff discussed adding a definition of pre-foreclosure to the proposed ordinance, registration and maintenance of commercial and residential properties on how to locate owners of the property, adding the name, address, and telephone of the owner to the ‘owner must provide the following’, adequacy of 60-miles, the latitude a responsible agent would have from the property owner, and the issue of the frequency that responsible agents must provide the maintenance log to the City.

Public Comment:

1. George Oakes - Mr. Oakes discussed the difficulty regarding registration and maintenance of properties.

Ms. McLaughlin recommended introducing the Ordinance as-is, as it has worked thus far in other cities. Adjustments to the Ordinance could be made later on.

Council, Staff, and Mr. Oakes discussed the issue of identifying who the property owners are, how ownership and foreclosures transpire, possibly doing more research on ownership/responsibility to see how it is working in practicality in cities who have adopted similar ordinances, the need to get this on the books and moving forward, staff working with Mr. Oakes or other individuals in the future on this issue, and Council not needing to go through the two-step process to make amendments to the ordinance in the future.

Council discussed the following amendments to the Ordinances: adding a definition of pre-foreclosure, requiring the name is added to the address and telephone number, changing that the inspection log is to be made available immediately upon request, directing Staff to work with Mr. Oakes and any other local agents who are involved to see if there are any ways the Ordinance could be made better.

Vice Mayor Campbell made a motion to approve Staff’s recommendations, as stated on VIII-B-1, along with the amendments suggested in the preceding paragraph.

ORDINANCE 08-18 - AN ORDINANCE ADDING CHAPTER 8.46 (FORECLOSED PROPERTIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

ORDINANCE 08- - AN ORDINANCE ADDING CHAPTER 8.50 (MAINTENANCE AND REGISTRATION OF NEGLECTED, VACANT AND FORECLOSED PROPERTIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

ORDINANCE 08- - AN ORDINANCE ADDING CHAPTER 8.54 (ADMINISTRATIVE HEARINGS) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

RESOLUTION 08-136 - A RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO INCLUDE FEES FOR REGISTRATION OF NEGLECTED, VACANT AND FORECLOSED PROPERTIES

On motion of Vice Mayor Campbell, seconded by Council Member 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

PUBLIC HEARING:

Amendments to the Benicia Municipal Code regarding adult entertainment- amending Chapter 5.44 (Adult Businesses) and adding chapters 5.45 (Adult Business Performer License) and 5.46 (Adult Business Background Check for Non-Performers) in Title 5 (Business Taxes, Licenses and Regulations) to regulate the licensing provisions and operational standards for adult businesses, adult performers and non-performers and amending Section 17.28.020 (CC, CO, CG and CW Districts-Land Use Regulations) and Section 17.32.020 (IL, IG, IW and IP districts-land use regulations) and adding a new Chapter 17.102 (Adult Businesses) in Title 17 (Zoning) to regulate the locations of adult businesses:

Heather McLaughlin, City Attorney, introduced the item.

Damon Golubics, Principal Planner, reviewed the staff report.

Deborah Fox, Contract Attorney, Meyers-Nave, presented a staff report.

Council, Staff, and Ms. Fox discussed beefing up lighting provisions, noise ordinance issues, adding other crimes to the list of disqualifying events, 300 ft., 500 ft., and 600 ft. buffer, the brief period of time to process applications to the Police Chief for performers, definition of non-performer, other ordinances out there that is similar to the one being proposed that have been

tested in the courts, the application process, having an adequate number of security guards patrolling inside and outside the premises, the Police Chief's ability to look at the history of the applicant, rules regarding unannounced inspections of businesses, what constitutes 'after-hours in an adult business establishment, the age limit of 18 years old for all employees, making sure that the performers understand there are resources available to them if they want to seek another line of profession, and requiring security guards for adult businesses.

Public Hearing Opened

Public Comment:

1. John Van Landschoot - Mr. Van Landschoot spoke in favor of the Ordinance. He thanked Ms. Fox for her expertise at the Planning Commission meetings and for tonight's presentation. He thanked Mr. Golubics and Council for protecting our community.

Public Hearing Closed

Council and Staff discussed requested changes to the ordinance including addressing the lighting to avoid night pollution and changes to the buffer from 300 ft. to 500 ft. Council discussed rules the City has regarding excessive use of alcohol in the parking lots, possibly beefing up the City's nuisance ordinance, and the possibility of renting the facility for private parties.

Council thanked Ms. Fox for her great presentation.

ORDINANCE 08- - AN ORDINANCE AMENDING CHAPTER 5.44 (ADULT BUSINESSES) AND ADDING CHAPTERS 5.45 AND 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) REGULATING THE LICENSING PROVISIONS AND OPERATIONAL STANDARDS FOR ADULT BUSINESSES AND ADULT PERFORMERS AND NON-PERFORMERS OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) AND AMENDING CHAPTER 17.28 (C COMMERCIAL DISTRICTS) AND CHAPTER 17.32 (INDUSTRIAL DISTRICTS) AND ADDING CHAPTER 17.102 (ADULT BUSINESSES) TO TITLE 17 (ZONING) TO REGULATE ZONING REQUIREMENTS FOR ADULT BUSINESSES TO THE BENICIA MUNICIPAL CODE

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, the Introduction and First Reading of the above Ordinance was approved as amended, on roll call by the following vote:

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

Noes: None

Mayor Patterson called for a 5-minute break at 9:15 p.m.

The meeting resumed at 9:20 p.m.

PUBLIC HEARING:

Six-lot single-family subdivision and associated right of way vacation at Military West/I-780:

Mayor Patterson stated that she would like this item continued to next meeting as there were environmental issues, lack of Planning Commission record, and revised subdivision map.

Public Hearing Opened

Public Comment:

1. Bob Karn, Applicant's Engineer - Mr. Karn was concerned that the project was doable, but less likely to come back in 2009 because the lender wants to pull financing if not completed in 2008.

Public Hearing Closed

Council discussed the fact that financing is hard to get but was concerned about issues regarding the Gateway. Council requested a study session of design review at the Historic Preservation Review Commission.

RESOLUTION 08-137 - A RESOLUTION APPROVING A SIX LOT RESIDENTIAL SUBDIVISION TENTATIVE MAP, ADOPTING THE MITIGATED NEGATIVE DECLARATION FOR THE PROJECT, AND APPROVING THE VACATION OF A PORTION OF MILITARY WEST RIGHT-OF-WAY EAST OF THE I-780 EASTBOUND ON-/OFF-RAMPS (PENDING AGREEMENT ON RIGHT-OF-WAY PURCHASE PRICE)

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

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

Noes: None

ACTION ITEMS:

First Street Sidewalk Cleaning:

Dan Schiada, Public Works Director, reviewed the Staff report.

Council Ioakimedes and Schwartzman recused themselves, due to a conflict of interest.

On motion of Vice Mayor Campbell, seconded by Council Member Hughes, Council directed Staff to include a funding allocation request for the Benicia Main Street Program to perform annual cleaning of the First Street sidewalks as part of the 2009-11 budget process, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, and Mayor Patterson

Noes: None

Abstain: Council Members Ioakimedes and Schwartzman

INFORMATIONAL ITEMS:

Reports from City Manager:

2009-2011 Strategic Plan Update:

Anne Cardwell, Administrative Services Director, reviewed the staff report.

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: December 17, 2008
2. Association of Bay Area Governments - (ABAG) - (Mayor Patterson & Vice Mayor

- Campbell) - Next Meeting Date: April 23, 2009
3. Audit & Finance Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: January 7, 2009
 4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: January 21-23, 2009, New Mayors & Council Members Academy
 5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: March 12, 2009
 6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: February 4, 2009
 7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: December 11, 2008
 8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: January 14, 2009
 9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: January 8, 2009
 10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: To be determined
 11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: - CAC - February 18, 2009
 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 28, 2009
 14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: December 29, 2008

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:08 p.m.

Lisa Wolfe, City Clerk