

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
December 16, 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. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Vice Mayor Schwartzman led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. ADJOURN TO CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR (Government Code Section 54957.6 (a))

Agency negotiators: Acting City Manager, Administrative Services Director

Employee organizations: Police Officers Association (BPOA), Benicia Firefighters Association (BFA).

IV. RECONVENE TO OPEN SESSION:

V. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

Staff and Council discussed whether it was necessary to go into closed session. Unless Council had questions on the contracts, it was not mandatory. There are no changes to the proposed contracts. Council decided a closed session was not necessary.

Mayor Patterson and Staff clarified that it was not necessary to review the

openings on boards and commissions at special meetings.

Mayor Patterson welcomed Brad Kilger, City Manager.

Mr. Kilger reviewed his employment history. He was currently working with City Staff to get up to speed on projects. He would be working with Staff and Council on the strategic plan and budget. He would be meeting with the various boards and commissions, and citizen groups in the coming months. If anyone needed to meet with him sooner, they should contact the City Manager's office.

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

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

B. APPOINTMENTS

C. PRESENTATIONS

D. PROCLAMATIONS

VI. ADOPTION OF AGENDA:

Mr. Kilger reported that the Mayor requested item X-A be continued.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

VII. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Three items received (copies on file).

B. PUBLIC COMMENT

None

VIII. CONSENT CALENDAR:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH BENICIA FIREFIGHTERS ASSOCIATION

RESOLUTION 10-162 - A RESOLUTION APPROVING THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA FIREFIGHTERS ASSOCIATION

B. APPROVE THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH BENICIA POLICE OFFICERS ASSOCIATION (BPOA)

RESOLUTION 10-163 - A RESOLUTION APPROVING THE JULY 1, 2010 TO JUNE 30, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA POLICE OFFICERS ASSOCIATION

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

IX. PUBLIC HEARINGS:

X. ACTION ITEMS:

A. REQUEST TO SOLICIT PROPOSALS FOR THE SOLID WASTE, RECYCLING AND GREEN WASTE FRANCHISE AGREEMENT AND TO HIRE A CONSULTANT TO ASSIST WITH THE PROCESS

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Hughes discussed negotiations being at an impasse, and his desire to continue with negotiations.

Council Members Hughes, Patterson, Schwartzman, and Ioakimedes disclosed ex parte communications.

Council Member Campbell inquired how much detail regarding the impasse could be discussed at this time. Staff indicated the impasse was regarding money. Staff discussed the issue of a vehicle impact fee and franchise extension fee.

Public Comment:

John Silva - Mr. Silva spoke in opposition to the agenda item. He discussed the positive relationship the City had with Allied Waste.

Jim Trimble - Mr. Trimble requested Council hold off on this item. He discussed

Allied Waste's positive effect on the community. He requested Council extend this item and continue to negotiate.

Robert Hilton, HF&H Consultants - Mr. Hilton discussed their enthusiasm to work with the City of Benicia on this issue.

Tracy Swanborn, HF&H Consultants - Ms. Swanborn discussed various reasons the City should bring HF&H on Board to work on this issue.

Allison Finn - Ms. Finn discussed concern regarding the City hiring a consultant to work on this issue. She discussed the positive experiences she has had with Allied Waste Services.

Steve Moore, Pacific Rim Recycling - Mr. Moore discussed his company's positive relationship with Allied Waste Services. He suggested Council extend the deadline.

Tim Argenti, General Manager, Allied Waste Services - Mr. Argenti discussed Allied's willingness to continue negotiations. He requested a two-year extension to the existing agreement to allow the agreement to be worked out. If an agreement could not be worked out in that time, the City would still have time to go through the procurement process.

Mayor Patterson clarified that on the table, there was the pledge to the City that there could be an extension of a year beyond the January 2012, and that the new programs that are listed on the chart would be implemented. Mr. Argenti confirmed that was correct.

Dennis Lowry - Mr. Lowry discussed the model agreement. He discussed concern regarding increasing fees and hiring another consultant.

Dana Dean - Ms. Dean asked for clarification on Mr. Argenti's commitment. She discussed concern regarding hiring another consultant. She discussed the need to seek 'RFQ's' as well as RFP's.

Eldon Peterson - Mr. Peterson discussed his positive experience with Allied Waste Services.

Public Comment Closed

Vice Mayor Schwartzman discussed the need for Council to ensure the citizens are getting what they paying for. He discussed his involvement in the subcommittee that has been working on this issue. He discussed frustration with Allied walking away from negotiations. He discussed concern regarding stretching this process out. He would like there to be a deal made on this issue

by January 2011.

Council Member Ioakimedes discussed concern regarding the franchise extension fee. He discussed the need for a contract that is reflective of what the market is right now. The City's goal was to decrease garbage. He discussed concern regarding negotiating in the newspapers.

Council Member Hughes discussed concern regarding hiring another consultant. He discussed the great service Allied has provided the City over the years. He suggested looking at other competitive, recently signed agreements in other cities. He would be interested in a six-month extension (not a two-year extension).

Council Member Campbell asked Council Members Ioakimedes and Schwartzman what their recommendation was.

Vice Mayor Schwartzman agreed the City should not spend money on consultants if it didn't need to. He discussed the City's expectation to be on a fair plane compared to other cities. He would like to have this issue resolved quickly (in a matter of weeks). He recommended discussing this with Allied next week.

Mayor Patterson discussed the need to have in writing, that the services would be extended.

Council Member Ioakimedes discussed his willingness to continue negotiations with Allied.

Staff informed Council that the item would need to be continued to the second meeting in January, as the agenda for the first meeting is full, and with the holidays, time is short.

Vice Mayor Schwartzman asked Allied if, the two parties could not come to an agreement in the next two weeks, they would extend the contract for at least an additional three months.

Council Member Campbell discussed the need to go with the best bid, for the best amount of money.

Council Member Hughes discussed his willingness to continue negotiations, but was concerned about cutting the time limit too close. He discussed the issue of the 'self-imposed' deadline.

Vice Mayor Schwartzman made a motion to continue discussion about going out for an RFP regarding the solid waste contract to January 18, 2011, with the understanding that in the interim, Allied would negotiate with the subcommittee and Staff for two meetings maximum (one next week, and

perhaps a follow up), so by January 18, 2011, they could come back to Council with a decision that hopefully they had come to a deal. If not, the City will proceed with the RFP, understanding that Allied has acknowledged tonight, that if the City ends up going out for an RFP, they would give us a 3-month extension. Or, the subcommittee could come back on January 18, 2011 and tell Council that they were very close, and they just needed perhaps something to finalize the deal.

Mayor Patterson clarified that it was an extension of the item to the January 18, 2011 Council meeting, to allow for negotiations, and that there would be choices to be made on that night whether to move forward with the RFP, whether to finalize an agreement that might have been reached, or to have an option which would include increased services with the schedule, and continue negotiations.

Council gave direction to the City Attorney to send a letter to Allied stating the City's position. Vice Mayor Schwartzman stated he would like the letter signed by Allied, acknowledging the terms before the subcommittee meets.

Council Member Campbell suggested choosing a consultant tonight, so the City would be prepared in the event they are needed in the future.

Mayor Patterson and Vice Mayor Schwartzman discussed concern regarding choosing a consultant at this time.

On motion of Vice Mayor Schwartzman, seconded by Council Member loakimedes, Council approved continuing this item to the January 18, 2011 City Council meeting, to allow negotiations to continue, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**B. REPORT FROM THE ARSENAL SUBCOMMITTEE AND
RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR
CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT TO
ENVIRONMENTAL RISK SERVICES ("ERS")**

Heather McLaughlin, City Attorney, reviewed the request to continue this item to the January 4, 2011 City Council meeting.

Mayor Patterson discussed a meeting she had with Ron Myska. The property owners need a comfort level with Mr. O'Brien's approach. Their questions deal with the technical aspect of the contingency. Mr. O'Brien has contacted DTSC to update them. Ms. McLaughlin will contact DTSC on behalf of the City as well.

Council Member loakimedes discussed concern regarding what would happen if there were not enough money in the pot for the entire cleanup. (The money would be in an escrow account.) He and Staff discussed the issue of the

regulations regarding the actual cleanup. He would like something to help people understand the DTSC documents and the ERS documents.

Council Member Campbell discussed the need for actual compensation numbers in the agreement, not 'fair' or 'reasonable.'

Public Comment:

Dana Dean - Ms. Dean acknowledged progress had been made, but expressed concern regarding several points in the agreement. She discussed the need for all property owners to be included in all meetings.

Mayor Patterson discussed the reason for having a separate meeting for the smaller property owners.

Jack Bethars, Schoenstein & Co. - Mr. Bethars stated it was not their intention to exclude anyone from the meeting.

Ron Myska - Mr. Myska formally invited everyone to attend the upcoming meeting. He discussed his appreciation for having an open meeting. At the meeting earlier today, they talked about reducing the scope of the draft of the imminent endangerment order. The focus needs to be narrowed. The residential component needs to be removed from the Industrial Park and the Arsenal. He discussed the need to expand the definition of the Arsenal and the Industrial Park separately. The City has to look out for the best interests of the businesses in the Industrial Park.

Marilyn Bardet - Ms. Bardet discussed the scope of work for the investigation. She discussed the issues of public outreach and the consultants.

Mayor Patterson clarified that the intent for the meeting was to have property owners with 1.5 acres or less to attend, noncontiguous, however, anyone could attend. The meeting would be Wednesday, 12/22/10 at 3:00 p.m., in either the Commission Room, or Council Chambers.

Council Member Ioakimedes reminded Council that the City needed to resurrect its own land use issues, and fold that back in at the appropriate point.

Mayor Patterson discussed the need for public outreach, once the consultants are on board.

Council Member Hughes made a motion to continue this item until January 4, 2011, and to have the Arsenal subject included in all future regular Council meeting agendas.

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council approved continuing this item to the January 4, 2011 City

Council meeting, and to place the Arsenal item on all future regular City Council meeting agendas, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes

Noes: (None)

XI. INFORMATIONAL ITEMS:

A. City Manager Reports

None

XII. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:49 p.m.

Lisa Wolfe, City Clerk