

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
December 20, 2011

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 7:06 p.m.

**II. CLOSED SESSION:**

**III. CONVENE OPEN SESSION:**

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

Diane Smikahl led the Pledge of Allegiance.

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

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

**A. ANNOUNCEMENTS**

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

Ms. McLaughlin reported that Council met in Closed Session on 12/13/11 and 12/20/11, and did not take any action at either meeting.

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

Library Board of Trustees, 2 full terms  
Application Due Date: January 13, 2012

Planning Commission, 3 full terms  
Application Due Date: January 13, 2012

Arts and Culture Commission, 3 full terms  
Application Due Date: January 13, 2012

Community Sustainability Commission, 1 full term  
Application Due Date: January 13, 2012

Benicia Housing Authority Board of Commissioners, 2 full term  
Application Due Date: January 13, 2012

Economic Development Board, 1 unexpired term  
Application Due Date: January 13, 2012

SolTrans Public Advisory Committee, 3 full terms  
Open Until Filled

Sky Valley Open Space Committee, 1 full term  
Open Until Filled

Building Board of Appeals, 3 full terms  
Open Until Filled

Solano Transportation Authority Pedestrian Advisory Committee,  
1 full term, Open Until Filled

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

**4. Benicia Arsenal Update:**

Mayor Patterson reviewed the update report.

**B. APPOINTMENTS**

**1. Resolution Approving Mayor's Appointments to Council Committees**

**RESOLUTION 11-145 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING MAYOR'S APPOINTMENTS OF MEMBERS OF THE CITY COUNCIL TO STANDING, AD HOC AND OUTSIDE AGENCY COMMITTEES**

Council Member Hughes requested the distribution of appointments be balanced out. He requested his appointments to the Sky Valley Open Space Committee and the STA alternate be given to another Council Member.

After a discussion, Mayor Patterson made the following changes: Council Member Schwartzman would be the alternate on the STA, Vice Mayor Campbell would be the alternate to the SWA/SCWA, and Council Member Schwartzman would be on the Sky Valley Open Space Committee.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**C. PRESENTATIONS**

1. **Report on the progress of the renovations of the Benicia Veterans Memorial Building - Ernie Gutierrez and Rose Lane**

**D. PROCLAMATIONS**

1. **IN RECOGNITION OF THE DEPLOYMENT AND RETURN OF THE 749<sup>th</sup> COMBAT SUSTAINMENT SUPPORT BATTALION**

**V. ADOPTION OF AGENDA:**

On motion of Council Member Schwartzman, seconded by Council Member Hughes, 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**

None

**B. PUBLIC COMMENT**

1. Mary Frances Kelly Poh - Ms. Kelly Poh discussed the City Bus Tour that the City used to do during the holidays. She would like the City to consider doing it next year.

**VII. CONSENT CALENDAR:**

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

Council pulled item VII.B for discussion.

**A. APPROVAL OF MINUTES OF THE FIRST AND SECOND MEETINGS OF DECEMBER 6, 2011**

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the special and regular meeting minutes of December 6, 2011, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**B. ADOPT RESOLUTION IN SUPPORT OF MEASURE L, AN EXTENSION OF 1/8 CENT SALES TAX TO SUPPORT LIBRARY OPERATIONS IN SOLANO COUNTY.**

**RESOLUTION 11-146 - RESOLUTION SUPPORTING AN ORDINANCE EXTENDING ARTICLE XIV TO CHAPTER 11 OF THE SOLANO COUNTY CODE THAT IMPOSES A TRANSACTIONS AND USE TAX FOR COUNTYWIDE LIBRARY PROGRAMS TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION ON THE JUNE 5, 2012 BALLOT**

Diane Smikahl, Library Director, reviewed the staff report.

Public Comment:

1. Bob Langston - Mr. Langston inquired about the amount realized in most recent closed fiscal year from the tax (approximately \$610,000).
2. Dana Dean - Ms. Dean discussed BUSD's 20% budget cuts. The City's Library is very important. She supported the proposed tax extension.
3. Kimble Goodman - Mr. Goodman spoke in support of the proposed tax extension.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted the Resolution, on roll call by the following vote:  
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge  
Noes: (None)

**C. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 2011**

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council reviewed and approved the Investment Report for the quarter ended June 2011, on roll call by the following vote:  
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge  
Noes: (None)

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

**VIII. BUSINESS ITEMS:**

**A. APPROVE THE 2011-12 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BENICIA AND THE BENICIA PUBLIC SERVICE EMPLOYEES ASSOCIATION (BPSEA) PART-TIME UNIT**

**RESOLUTION 11-147 - A RESOLUTION APPROVING THE NOVEMBER 1, 2011 TO OCTOBER 31, 2012 AMENDMENTS TO THE LABOR AGREEMENT WITH BENICIA PUBLIC SERVICE EMPLOYEES ASSOCIATION (BPSEA) PART-TIME UNIT**

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

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted the Resolution, on roll call by the following vote:  
Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge  
Noes: (None)

**B. VACATION OF A PORTION OF CITY PROPERTY ADJACENT TO 532 CAMBRIDGE DRIVE**

**RESOLUTION 11-148 - A RESOLUTION VACATING A PORTION OF THE PROPERTY ALONG THE EASTERN PROPERTY LINE OF 532 CAMBRIDGE DRIVE AND AUTHORIZING THE SALE TO THE ADJACENT PROPERTY OWNER**

Charlie Knox, Public Works & Community Development Director, reviewed the staff report. He suggested Council add a statement recognizing that the additional piece of land could not be counted towards any future subdivision of the property.

Council Member Hughes thanked Staff and the applicant for being patient during this two-year long process.

Council Member Schwartzman spoke in support of Staff's recommendation.

Public Comment:

1. Jim Stevenson - Mr. Stevenson inquired about the location of the property in question.
2. Rhonda Stewart - Ms. Stewart spoke in support of the proposed action. They had been working on the issue for three years.

Mayor Patterson and Staff discussed the issue of deed restrictions for the property. Staff suggested the 2,509 sq. ft. not be allowed to be counted in any future subdivision on the property.

Council Member Schwartzman and Staff discussed Staff's suggestion regarding the square footage.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted the Resolution, as amended, on roll call by the

following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

- C. PUBLIC HEARING TO CONSIDER ADOPTING A RESOLUTION APPROVING AND ADOPTING A NEGATIVE DECLARATION FOR THE FIRST AMENDMENT TO THE 1995 COUNTYWIDE SITING ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN; AND A RESOLUTION APPROVING AND ADOPTING THE FIRST AMENDMENT TO THE 1995 COUNTYWIDE SITING ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN, DIRECTING STAFF TO IMPLEMENT AN ANNUAL DISPOSAL CAPACITY REPORTING REQUIREMENT, AND DIRECTING STAFF TO SEEK APPROVAL OF THE AMENDMENT BY THE CITIES WITHIN THE COUNTY AND BY THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)**

**RESOLUTION 11-149 - A RESOLUTION STATING THAT THE NEGATIVE DECLARATION PREPARED BY THE COUNTY OF SOLANO IN CONNECTION WITH THE FIRST AMENDMENT TO THE COUNTYWIDE SITING ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN REVIEWED AND CONSIDERED**

**RESOLUTION 11-150 - A RESOLUTION APPROVING AND ADOPTING THE FINAL DRAFT FIRST AMENDMENT TO THE COUNTYWIDE SITING ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN, DIRECTING STAFF TO ESTABLISH AN ADDITIONAL REPORTING REQUIREMENT REGARDING LANDFILL CAPACITY, AND AUTHORIZING SUBMITTAL OF THE AMENDMENT TO THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

Mayor Patterson asked Council to disclose any ex parte communications regarding this item, which there were none.

Narcisa Untal, Solano County Department of Resource Management, and Harry Englebright, Englebright & Associates, reviewed the report.

Council Member Hughes and Staff discussed the impact this would have on Staff time (minimal), and the impact on service providers (none).

Public Comment:

None

Mayor Patterson and Staff discussed the effect this would have on Measure E (there would be no change, regardless of the outcome of Measure E in the courts). They discussed to what extent on the estimates that are generated on the disposal capacity, does it represents the Climate Action Plan strategies for

reducing solid waste (The current diversion rates were used. They did not make estimates. It was not part of their calculations. To the extent that occurs, it extends the life of the landfill.)

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, Council adopted Resolution 11-149, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 11-150, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

#### **D. COASTAL CONSERVANCY GRANT AWARD TO CITY OF BENICIA FOR BENICIA URBAN WATERFRONT RESTORATION PLAN**

##### **RESOLUTION 11-151 - A RESOLUTION APPROVING THE GRANT AGREEMENT BETWEEN THE CITY AND THE COASTAL CONSERVANCY FOR THE DEVELOPMENT OF THE BENICIA URBAN WATERFRONT RESTORATION PLAN, APPROPRIATING \$20,000 FROM THE PARK DEDICATION ACCOUNT TO SERVE AS THE GRANT MATCH AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY**

Council Member Strawbridge recused herself due to a conflict of interest.

Mario Giuliani, Acting Economic Development Manager, reviewed the staff report.

Mayor Patterson disclosed exparte communications. She also noted that she works with the Coastal Conservancy in her day job.

Vice Mayor Campbell and Staff discussed the schedule for construction phases, approximate cost (rough estimate \$1.4 - 1.6 million), Measure C Initiative, concerns regarding the high cost for design, limitations on what can be done in the area (Measure C Initiative), whether or not to address the storm drain issues, and whether or not some costs could be covered by the VIP Funds (most likely not).

Council Member Hughes and Staff discussed concerns regarding the financing of the project, previous waterfront restoration plan (it was addressed in a past Parks Master Plan), concerns regarding spending the \$20,000 on the design/plan and then not receiving the other funding, and the need for some assurance that the events that are currently being held on the First Street Green would still be able to be held (car show, events sponsored by Benicia Main Street, etc.).

Vice Mayor Campbell discussed concern regarding coming up with the

design/plan, and not being able to use it.

Council Member Schwartzman and Staff discussed why the current plan had not been updated or used, and the issue of sea level rise.

Mayor Patterson and Staff discussed the former plan, and whether it ever had CEQA on it (no), and whether the current grant would cover CEQA costs (yes).

Public Comment:

1. Mike Smith, President, Portside Village Homeowners Association - Mr. Smith discussed concerns regarding ensuring any action the City takes not add to their obligations or liabilities.
2. Susan Street - Ms. Street spoke in support of the proposed grant award.
3. Mary Frances Kelly Poh - Ms. Kelly Poh read a letter written by Sarah Johnson, expressing support for the proposed grant award.
4. Constance Beutel - Dr. Beutel spoke in support of the proposed grant award.
5. Mary Frances Kelly Poh - Ms. Kelly Poh spoke in support of the proposed grant award.
6. Steve Goetz - Mr. Goetz spoke in support of the proposed grant award.
7. Greg Davis - Mr. Davis read a letter written by Judy Donaldson, expressing support for the proposed grant award.
8. Sue Wickham - Ms. Wickham spoke in support of the proposed grant award.
9. Jim Stevenson - Mr. Stevenson spoke in support of the proposed grant award.
10. Citizen - The Citizen read a letter written by Lee Wilder Snyder and Craig Snyder, expressing support for the proposed grant award.
11. Bonnie Silveria - Ms. Silveria spoke in support of the proposed grant award. She and Staff discussed the issue of CEQA and the prior Parks Master Plan. If adopted, she hoped the Urban Waterfront Restoration would come to fruition. She hoped the public would be included in the process.
12. Sue Johnson - Ms. Johnson spoke in support of the proposed grant award.
13. Tony Shannon - Mr. Shannon spoke in support of the proposed grant award.
14. Jon Van Landschoot - Mr. Van Landschoot spoke in support of the proposed grant award.

Council Member Schwartzman discussed concerns regarding the claim that this would increase tourism, concern regarding timing (needs vs. wants), and concerns regarding the cost and the current budget constraints.

Mayor Patterson responded to Council Member Schwartzman's comments. She discussed Council Member Schwartzman's previous vote regarding the Community Center. He was opposed to, and voted against the very steps necessary to get the Community Center, with much the same language. The City couldn't afford it, and there wasn't any money out there, and ultimately, we now have the Community Center. That lack of vision is something we really want to avoid. The vision that Mr. Stevenson spoke to was very eloquent and inspiring. She discussed the various plans that were drawn for the Community Center, and

how the Community Center was finally finished. She discussed the Delta Recreation Plan's inclusion of Benicia. She discussed the importance of investing in Benicia.

Council Member Schwartzman clarified his previous vote for the Community Center. He voted against the lease with BUSD, because he didn't believe the terms were beneficial. He believed it would cost hundreds of thousands of dollars for the City to get the building to a point where they could do tenant improvements. The City ended up having to come up with over \$700,000 for the project. He was not against the Community Center, only the lease.

Vice Mayor Campbell and Staff discussed the cost of the Marina Green. They discussed the possibility of using some of the grant money to do something out there. Staff expressed concerns regarding changing the current scope of work with the current grant.

Mayor Patterson, Vice Mayor Campbell, and Staff discussed including having 'including construction drawings' included in the RFP.

Council Member Hughes expressed concern regarding Mayor Patterson's possible violation of Council's Code of Conduct. He felt her comments regarding Council Member Schwartzman were unnecessary. He felt she was borderline in violating the Council Code of Conduct. If she had made those comments about him, he would have considered it a personal attack. If she doesn't like someone's recommendation, she should talk about the recommendation, not the individual. What he heard was that she thought Council Member Schwartzman had a lack of vision. He was disappointed and felt it was a violation of Council's Code of Conduct. He and Staff discussed the time sensitivity for acceptance of the grant, and where the money for Phase II of the program would come from.

Vice Mayor Campbell, Mayor Patterson, and Staff discussed the possibility of making modifications to some of the conditions within the agreement after acceptance. Staff expressed concern regarding not complying with the terms of the agreement. Mayor Patterson clarified that they intended to meet the terms of the agreement, but if there were funds left over, they wanted the option to redirect those dollars for construction costs.

Mayor Patterson was looking for a motion to adopt the resolution accepting the grant, with the understanding of the discussion Council had, that if in the process of the RFP, specifying construction drawings as a component to that, and if there is money left over, Council could direct Staff to see if the money could be redirected for construction.

Mayor Patterson and Staff discussed the nature of the restrictions for the Park Dedication funds. Staff confirmed the money was currently allocated to the Jack London Park playground. The money could not be spent on anything that was not park related. The depot was considered park-related. There is currently a

fund for improvements at the depot.

Council Member Schwartzman clarified that his issue with this was spending money on this in the current economic times. He inquired if the grant could be obtained without the City matching the funds. Staff confirmed the City's match was currently \$20,000.

Vice Mayor Campbell stated he would make the motion to adopt the resolution, as written. Council could take a shot at modifying it at a later date. Mayor Patterson seconded the vote.

Council Member Hughes discussed his concerns regarding funding for Phase II.

Staff discussed the timeline: if Council were to accept the grant this evening, that would begin the process for Staff to develop the RFP (released Jan/Feb), it would be brought back in March/April, then Council would make a commitment to spend the money. It is at that time Council could accept or reject the bids. They would not have accepted any money from the Conservancy yet, so if rejected, there would be no money to repay.

Mr. Kilger stated Staff could research what types of funds this project could qualify for.

Ms. McLaughlin clarified the scope of agreement. It does not specify construction.

Council Member Schwartzman suggested waiting to vote on this item until Council's questions were answered.

Vice Mayor Campbell did not want to risk losing \$140,000.

Council Member Hughes stated he would support it, however, he was prepared to vote against it in the future if his level of confidence regarding Phase II was not increased.

After the vote was taken, Mayor Patterson discussed the prior comments regarding violation of Council's Code of Conduct. She wished Council Member Hughes had made those comments to her when Council Member Ioakimedes made remarks about her during a meeting on the Arsenal last year. Her comments were simply pointing out an action of displaying a consistency in an approach to things. She did not take the admonishment lightly. She looked forward to the next time someone was improper in addressing her that Council Member Hughes be the first to comment.

Council Member Hughes did not feel she needed to criticize him. He was simply bringing up a point where he believed there was a violation of the code of conduct. They could consult with the City Attorney or review the tapes if necessary. He did not feel it was necessary to attack him and put him on the

spot. He was simply bringing up a point. He was just saying that if he were Council Member Schwartzman, he would have been very offended by her comments.

Mayor Patterson brought it up because she thought it was a double standard. On motion of Vice Mayor Campbell, seconded by Mayor Patterson, Council adopted the Resolution, as presented, on roll call by the following vote:  
Ayes: Patterson, Campbell, Hughes  
Noes: Schwartzman

**E. AWARD CONTRACT TO CENTER FOR SUSTAINABLE COMMUNITIES, SONOMA STATE UNIVERSITY, TO PROVIDE CLIMATE ACTION PLAN COORDINATOR SERVICES**

**RESOLUTION 11-152 - A RESOLUTION ACCEPTING THE PROPOSALS FOR THE CLIMATE ACTION PLAN COORDINATOR, AWARDING THE CONSULTANT CONTRACT TO CENTER FOR SUSTAINABLE COMMUNITIES, SONOMA STATE UNIVERSITY, IN THE AMOUNT NOT- TO- EXCEED \$150,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

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

Council Member Schwartzman and Staff discussed the need for grant writing ability.

Mr. Hinds, The Center for Sustainable Communities, Sonoma State University, discussed the proposal they submitted. He had assumed that grant writing was part of the proposal. They would be submitting grant-writing applications.

Vice Mayor Campbell and Mr. Hinds discussed their success rate with grant applications.

**Public Comment:**

1. Constance Beutel - Dr. Beutel spoke in support of the proposed resolution.

Council Member Schwartzman discussed how much staff time was involved in supporting the CSC. He stated he would make a motion to approve, with the amendment of adding a one-year review of the contract. He would like to see two reports to Council (one in three months, and a second one in twelve months) regarding how much staff time this freed up.

Council Member Hughes suggested the first report be presented to Council in six months, rather than three months. Council Member Schwartzman agreed with the six and twelve-month reviews.

On motion of Council Member Schwartzman, seconded by Council Member

Hughes, Council adopted the Resolution, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**F. Council Member Committee Reports:**

1. **Mayor's Committee Meeting. (Mayor Patterson) Next Meeting Date: TBD**
2. **Association of Bay Area Governments (ABAG). (Mayor Patterson and Council Member Ioakimedes) Next Meeting Date: Spring General Assembly - April 19, 2012**
3. **Finance, Audit and Budget Committee. (Council Member Schwartzman and Vice Mayor Campbell) Next Meeting Date: December 16, 2011**
4. **League of California Cities. (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: TBD**
5. **School Liaison Committee. (Council Members Ioakimedes and Hughes) next Meeting Date: January 12, 2012**
6. **Sky Valley Open Space Committee. (Council Members Campbell and Hughes) Next Meeting Date: February 1, 2012**
7. **Solano EDC Board of Directors. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: January 18, 2012**
8. **Solano Transportation Authority (STA). (Mayor Patterson and Council Member Ioakimedes) Next Meeting Date: December 14, 2011**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: TBD**
10. **Traffic, Pedestrian and Bicycle Safety Committee. (Council Members Hughes and Ioakimedes) Next Meeting Date: January 19, 2012**
11. **Tri-City and County Regional Parks and Open Space. (Council Members Campbell and Hughes) Next Meeting Date: TBD**
12. **Valero Community Advisory Panel (CAP). (Council Member Hughes) Next Meeting Date: TBD**

13. **Youth Action Coalition. (Council Member Schwartzman and Vice Mayor Campbell) Next Meeting Date: TBD**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. (Mayor Patterson) Next Meeting Date: January 26, 2012**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson and Council Member Ioakimedes) Next Meeting Date: TBD**

**IX. ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 10:38 p.m.

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Lisa Wolfe, City Clerk