MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
January 05, 2016

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 6:30 p.m.

All Council Members were present.

II. CLOSED SESSION:

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Subdivision (b) of Government Code Section 54957)
Title: City Manager and City Attorney

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:00 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Reverend Jerry Pollard led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

Chief Upson discussed recent happenings around Benicia. The Police Department has started a Facebook page to get information out to citizens. He discussed the crime report that the BPD sends to the FBI on an annual basis. He discussed recent burglaries that have taken place. Although there have been recent incidents, overall burglaries are down from last year. There have also been some recent larceny incidents; however Benicia is still one of the safest cities in California. He discussed various measures citizens could take to help

prevent burglaries.

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

Heather McLaughlin, City Attorney, reported that Council provided direction to Staff on item II.A.

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 at this time. Staff would have a formal staff report to present to Council sometime during the next two Council Meetings.

B. PROCLAMATIONS

C. APPOINTMENTS

D. PRESENTATIONS

1. **SOLANO STATE PARKS COMMITTEE UPDATE**

2. **QUARTERLY WATER UPDATE**

V. ADOPTION OF AGENDA:

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

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Five items received (copies on file).

B. PUBLIC COMMENT

1. Mike Caplin - Mr. Caplin thanked Council and Staff for their support of the Benicia State Parks Association.
2. Council Member Strawbridge - Council Member Strawbridge thanked Staff for their work on the staff report, and their support of the Benicia State Parks Association.

VII. CONSENT CALENDAR:

Council pulled items VII.B, VII.E, and VII.F for discussion.

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

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

A. APPROVAL OF THE MINUTES OF THE DECEMBER 15, 2015 CITY COUNCIL MEETING. (City Clerk)

B. NOMINATION OF THE SOUTHERN PACIFIC DEPOT TO THE NATIONAL REGISTER OF HISTORIC PLACES

RESOLUTION 16-1 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SUPPORTING THE NOMINATION OF THE SOUTHERN PACIFIC DEPOT TO THE NATIONAL REGISTER OF HISTORIC PLACES

Council Member Campbell pulled this item to publicly thank Mr. David Hyde for his work on this item.

On motion of Council Member Campbell, seconded by Council Member Schwartzman, Council adopted Resolution 16-1, on roll call by the following vote:

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

C. UPDATE ON EMERGENCY CONTRACTS FOR CLOCK TOWER ELEVATOR REPLACEMENT

D. DENIAL OF THE CLAIM AGAINST THE CITY BY PAYAM TIMMY AFSARI AND REFERRAL TO INSURANCE CARRIER

E. ADOPTION OF A COMPLETE STREETS POLICY

RESOLUTION 16-2 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING A COMPLETE STREETS POLICY

Mayor Patterson pulled this item so that Staff could explain what a 'Complete Streets Policy' was.

Public Comment:

None

Mayor Patterson and Staff discussed an email she received from a citizen asking if the improvements on First Street would add bulk to the streets. Staff discussed grants the City received for various streets projects. Staff clarified that sidewalks were included in complete streets.

Council Member Campbell and Staff discussed the City's problem of trip and fall claims on First Street, and concern with the 'reactive approach' rather than a 'proactive approach' to sidewalk repairs.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 16-2, on roll call by the following vote:

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

F. INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE TO REGULATE THE CULTIVATION, DELIVERY AND USE OF MARIJUANA, AFTER A DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA

ORDINANCE 16- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 9.60 (MEDICAL MARIJUANA DISTRIBUTION FACILITIES) AND ADDING A NEW CHAPTER 9.64 (CONSUMPTION OF MEDICAL MARIJUANA) TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE), REPEALING AND REPLACING CHAPTER 17.84 (Medical Marijuana DISTRIBUTION FACILITIES) TO TITLE 17 (ZONING), AND AMENDING SECTIONS 17.24.020, 17.26.020, 17.28.020, 17.32.020, 17.36.030, 17.40.030, AND 17.46.010 OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE

Mayor Patterson discussed her overall dislike of smoke. She liked Staff's approach to this item, as it is calm and deliberate. There is a transition happening in the State of California. What Staff is recommending tonight makes sense until things settle with the changes that are occurring, which is why she recommended the two amendments (copy on file).

Heather McLaughlin, City Attorney, reviewed the staff report. She discussed the reason for bringing the ordinance forward in a swift manner. She discussed the Mayor's two requested amendments to the ordinance. There are some ballot initiatives regarding recreational marijuana use coming up on the November, 2016 ballot. She recommended Council allow Staff to take a better look at the issue of deliveries.

Council Member Schwartzman and Staff discussed the issue of including the delivery provision.

Vice Mayor Hughes and Staff discussed the issue of violations and enforcement regarding the medical marijuana ordinance.

Council Member Strawbridge asked Ms. McLaughlin to clarify that Staff's recommendation was to proceed tonight.

Public Comment:

1. Donald Dean, Planning Commission - Mr. Dean discussed the Planning Commission's rationale and recommendations regarding the delivery provision.
2. Steve Young, Planning Commission - Mr. Young discussed the relevance of including a delivery provision in the ordinance. He discussed concern

with how the delivery provision was not included in the staff report. He urged Council to look into the issue in the ordinance. He urged Council to ensure the Planning Commission's recommendations are brought forward in the future.

Mayor Patterson reviewed the two modifications: 1) allow delivery in certain circumstances, and 2) reduce the penalties for consumption of marijuana to be consistent with the smoking ordinance.

Council Member Schwartzman and Staff discussed the issue of enforcement with regards to delivery and what identification the delivery people would need to carry.

Council Member Campbell discussed the requirements of the Health Insurance Portability and Accountability (HIPPA) laws.

Vice Mayor Hughes discussed concern regarding the two proposed changes. He would find it difficult to support them, as it is too easy for people who don't need marijuana for medical purposes to obtain a card. It would open up some loopholes and there would be unintended consequences.

Mayor Patterson suggested continuing this item to give Staff another two weeks to research the delivery provision and see what other cities are doing.

Council Member Campbell discussed concern regarding the delivery provision and how the courier would be protected.

Council Member Strawbridge and Staff discussed what concerns the Police Department had regarding the delivery provision. Chief Upson discussed the dangers delivery people face when delivering medical marijuana (thefts, murder, etc.), as it is a cash-and-carry business.

Mayor Patterson discussed some articles that discuss this issue, and how other communities are reacting to it.

Ms. McLaughlin suggested Council adopt proposed ordinance and direct Staff to look into the delivery provision, and let Council know what the other communities have done.

Mayor Patterson discussed the upcoming actions the State will take to correct some errors regarding this. She stated she did not have a problem adopting the proposed ordinance, as long as Council has a commitment that Staff will look into the issue of fairness, and make sure we have a way to address the question of deliveries.

Mayor Patterson clarified that the motion would be to adopt the proposed

ordinance as-is, including Mayor Patterson's proposed change #2, and have Staff look into the delivery issue.

On motion of Council Member Schwartzman, seconded by Council Member Campbell, Council approved the Introduction and First Reading of the above Ordinance, as amended, on roll call by the following vote:
Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

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

VIII. BUSINESS ITEMS:

A. SECOND STEP IN MAYOR PATTERSON'S TWO-STEP PROCESS REQUEST TO DISCUSS GRAY WATER SYSTEMS PERMIT PROCESS

Brad Kilger, City Manager, reviewed the staff report.

Council Member Schwartzman discussed support for bringing this back on a future agenda.

Council Member Campbell and Staff discussed the issue of fee/no fee, and other alternatives to consider. Staff discussed the staff time required to look into this issue further. Council Member Campbell discussed the need to educate the public on the issue via pamphlets, educating staff, etc.

Mayor Patterson discussed the importance of having another water supply. There needs to be a discussion on the issue of fees.

Council Member Strawbridge discussed a meeting she went to with Marin Clean Energy (MCE) where she learned how cost effective installing the gray water systems can be. There is a lot of information the residents need to know about regarding this issue.

Public Comment:

None

Council Member Schwartzman discussed the importance of taking a look at the issue.

Vice Mayor Hughes and Staff discussed where this issue stands with respect to Council's other priorities. He has not had anyone approach him regarding the

issue. If the process helps educate the community, and possibly creates a demand for the systems, he's okay with it, as long as we take pauses along the way.

Staff discussed the possibility of working on this item in April, 2016. Mr. Kilger stated it was something that should be looked at some time in 2016.

Mayor Patterson discussed the importance of building some resiliency in our water supply. It is a great opportunity to get ahead of the water problem.

Staff confirmed there had been one request for such a permit to date.

On motion of Council Member Campbell, seconded by Council Member Hughes, Council approved placing this issue on a City Council meeting agenda in 2016, on roll call by the following vote:

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

B. COMPLETION OF OPEN GOVERNMENT AWARENESS TRAINING

Heather McLaughlin, City Attorney, completed the Open Government Training for Council and the City Clerk.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:32 p.m.

Lisa Wolfe, City Clerk