

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JUNE 19, 2018
7:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

CALL TO ORDER

Mayor Patterson called the Closed Session to order at 5:30 p.m.

All Council Members were present.

1) CLOSED SESSION (5:30 PM)

1.A CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Name of case: Fein vs. City of Benicia

1.B CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Name of case: APS West Coast dba Amports v. City of Benicia et al. regarding Oak Road

1.C CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2) or (3):

Number of potential cases: 1

1.D PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Attorney

2) CONVENE OPEN SESSION (7:00 PM)

Mayor Patterson called the Open Session to order at 7:04 p.m.

3) ROLL CALL

All Council Members were present.

4) PLEDGE OF ALLEGIANCE

Mario Giuliani led the Pledge of Allegiance.

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

Mario Giuliani led the Pledge of Allegiance.

6) ANNOUNCEMENTS

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

Item 1.A - Staff received direction from Council.

Item 1.B - Staff received direction from Council.

Item 1.C - Staff received direction from Council.

Item 1.D - Council started the employee evaluation.

Benicia Arsenal Update - Ms. McLaughlin stated Staff was working with the DTSC and the Attorney General's Office, however, they missed the City's last conference call. The call would be rescheduled for later this week.

7) PROCLAMATIONS

7.A - PARKS MAKE LIFE BETTER PROCLAMTION

[Parks Make Life Better, Proclamation](#) 

8) APPOINTMENTS

9) PRESENTATIONS

10) ADOPTION OF AGENDA

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

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

11) OPPORTUNITY FOR PUBLIC COMMENTS

12) WRITTEN COMMENT

Thirteen items received (copies on file).

13) PUBLIC COMMENT

1. Dana Dean - Ms. Dean discussed regulations and issues in Solano County regarding unaccompanied minors.
2. Constance Beutel - Ms. Beutel thanked Staff for their assistance with a possible water leak.
3. Mary Frances Kelly Poh - Ms. Kelly Poh requested assistance with obtaining the link for her to view her water usage online.
4. Mayor Patterson - Mayor Patterson discussed the 25th celebration of the current Benicia Public Library.

14) CONSENT CALENDAR

14.A - CITY COUNCIL MEETING MINUTES FROM JUNE 5, 2018 CITY COUNCIL MEETING (City Clerk)

[June 5, 2018 City Council Meeting Minutes](#) 

14.B - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)



14.C - DENIAL OF THE CLAIM AGAINST THE CITY BY BERNICE CURE AND REFERRAL TO INSURANCE CARRIER (City Attorney)

[Staff Report - Cure Claim](#) 

1. [Redacted Claim Form - Cure Claim](#) 
2. [Roto-Rooter Plumbers Work Order - Cure Claim](#) 

14.D - APPROVAL OF CHEMICAL PURCHASES FOR WATER AND WASTEWATER TREATMENT FOR FISCAL YEAR 2018-2019 (Public Works Director)

[Staff Report - Approval of Chemical Purchase Orders for Water and Wastewater Treatment for Fiscal Year 2018-2019](#) 

1. [Proposed Resolution - Approval of Chemical Purchase Orders for Water and Wastewater Treatment for Fiscal Year 2018-2019](#) 
2. [Bid Summary - Approval of Chemical Purchase Orders for Water and Wastewater Treatment for Fiscal Year 2018-2019](#) 

RESOLUTION 18-57 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING BIDS AND APPROVING PURCHASE ORDERS TO THE LOWEST RESPONSIBLE BIDDERS FOR FURNISHING CHEMICALS FOR WATER AND WASTEWATER TREATMENT FOR FISCAL YEAR 2018-2019 AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN THE PURCHASE ORDERS ON BEHALF OF THE CITY

14.E - PURCHASE OF MAINTENANCE DIVISION PRODUCTION SUPPLIES FOR FISCAL YEAR 2018-2019 (Public Works Director)

Staff Report - Purchase of Maintenance Division Production Supplies for Fiscal Year 2018-2019

1. Resolution (Crushed Aggregate Rock) - Purchase of Maintenance Division Production Supplies for Fiscal Year 2018-2019
2. Resolution (Fittings and Hardware) - Purchase of Maintenance Division Production Supplies for Fiscal Year 2018-2019

RESOLUTION 18-58 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF CRUSHED AGGREGATE ROCK FOR FISCAL YEAR 2018-2019 FROM SYAR INDUSTRIES INC. OF VALLEJO, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$56,000

RESOLUTION 18-59 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF WATER DISTRIBUTION PIPELINE FITTINGS AND HARDWARE FOR FISCAL YEAR 2018-2019 FROM ROBERTS & BRUNE CO. OF OAKLEY, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$75,000

14.F - AWARD OF CONTRACT FOR STORM WATER MANAGEMENT & FLOOD MITIGATION PLAN (Public Works Director)

Staff Report - Award of Contract Storm Water Management and Flood Mitigation Plan

1. Resolution - Award of Contract for Storm Water Management and Flood Mitigation Plan
2. Agreement - Award of Contract for Storm Water Management and Flood Mitigation Plan

RESOLUTION 18-60 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AWARDED AN AGREEMENT TO WEST YOST ASSOCIATES IN THE AMOUNT OF \$269,249 FOR THE DEVELOPMENT OF A STORM WATER MANAGEMENT AND FLOOD MITIGATION PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

14.G - APPROVAL OF PURCHASE OF REPLACEMENT TURBIDIMETERS FOR THE WATER TREATMENT PLANT (Public Works Director)

Staff Report - Approval of Purchase of Replacement Turbidimeters for the Water Treatment Plant

1. Proposed Resolution - Approval of Purchase of Replacement Turbidimeters for the Water Treatment Plant 

RESOLUTION 18-61 - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE PURCHASE OF HACH TU5300 SERIES TURBIDIMETER SYSTEM FOR THE WATER TREATMENT PLANT FROM HACH COMPANY IN THE AMOUNT OF \$44,264.54; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE ORDER ON BEHALF OF THE CITY

14.H - CUSTODIAL SERVICES CONTRACT (Parks & Community Services Director)



Staff Report - Custodial Services Contract 

1. Proposed Resolution - Custodial Services Contract 
2. Agreement for Custodial Services 

RESOLUTION 18-62 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH IMPORTANT DETAILS INC. OF VALLEJO, CA, FOR CUSTODIAL SERVICES AT CITY HALL, THE SENIOR CENTER, & THE FAMILY RESOURCE/IT BUILDING IN THE AMOUNT OF \$51,667.20 TO BE ALLOCATED FROM ACCOUNT 010-9205-8100

14.I - AWARD OF CONTRACT FOR STREET LIGHT AND FACILITY LIGHT MAINTENANCE AND REPAIR SERVICES (Public Works Director)

Staff Report - Award of Contract For Street Light & Facility Light Maintenance & Repair Services 

1. Resolution - Award of Contract For the Street Light & Facility Light Maintenance & Repair Services 
2. Agreement - Award of Contract For the Street Light & Facility Light Maintenance & Repair Services 

RESOLUTION 18-70 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING BIDS, AWARDING A TWO-YEAR CONTRACT FOR STREET LIGHT AND FACILITY LIGHT MAINTENANCE AND REPAIR SERVICES IN THE AMOUNT OF \$81,500 TO DC ELECTRIC GROUP, INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

Vice Mayor Young asked Staff for confirmation that DC Electric was the low bidder on the project.

Public Comment:

None

On motion of Vice Mayor Young, seconded by Council Member Schwartzman, Council approved the adoption of Resolution 18-70, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

14.J - APPROVAL OF CHANGE ORDER NO. 2 TO TEAM GHILOTTI, INC. FOR EAST 5th STREET PIPELINE REPLACEMENT PROJECT- FULL STREET PAVING (Public Works Director)

Staff Report -Approval of Change Order No. 2 to Team Ghilotti, Inc. for East 5th Street Pipeline Replacement Project

1. Proposed Resolution - Approval of Change Order No. 2 to Team Ghilotti, Inc. for East 5th Street Pipeline Replacement Project
2. Contract Change Order No. 2 - Approval of Change Order No. 2 to Team Ghilotti, Inc. for East 5th Street Pipeline Replacement

RESOLUTION 18-63 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING CONTRACT CHANGE ORDER NO. 2 WITH TEAM GHILOTTI, INC. FOR A FULL GRINDING AND ASPHALT PAVING, INCLUDING THERMOPLASTIC STRIPING AND LEGENDS, ON EAST 5TH STREET FROM LA PRENDA TO HILLCREST AVENUE FOR A PROPOSED PRICE OF \$160,682; AUTHORIZING THE FINANCE DIRECTOR TO TRANSFER \$160,682 FROM THE WATER ENTERPRISE FUND RESERVE INTO THE LOWER ARSENAL/EAST 5TH STREET PROJECT ACCOUNT; AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT CHANGE ORDER ON BEHALF OF THE CITY

14.K - AMENDMENT TO ACCEPTANCE OF THE FIRST STREET CURB RAMP AND BRICK PATTERN SIDEWALK REPLACEMENT PROJECT (Public Works Director)

Staff Report - Amendment to Acceptance of First Street Curb Ramp and Brick Pattern Sidewalk Replacement Project

1. Resolution - Amendment to Acceptance of First Street Curb Ramp and Brick Pattern Sidewalk Replacement Project

RESOLUTION 18-71 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO THE ACCEPTANCE OF THE FIRST STREET CURB RAMP AND BRICK PATTERN SIDEWALK REPLACEMENT PROJECT

Council Member Campbell and Staff discussed the cost of the contract, scope of work, and variances.

Council Member Schwartzman and Staff discussed how Staff verified the change orders, and whether we are obligated to use the same time of contract in the future.

Vice Mayor Young and Staff discussed the rules of the Cal Trans contract, and whether Cal Trans returned any unused materials for credit.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved the adoption of Resolution 18-71, on a roll call by the following vote:

Ayes: Council Member Hughes, Council Member Schwartzman, Mayor Patterson

Noes: Council Member Campbell, Vice Mayor Young

14.L - APPROVAL OF PURCHASE ORDER INCREASE FOR EMERGENCY GENERATOR RENTAL AT THE WASTEWATER TREATMENT PLANT (Public Works Director)

Staff Report - Approval of PO Increase for Generator 

1. Proposed Resolution - Generator Purchase Order Increase 

RESOLUTION 18-72 - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE PURCHASE ORDER INCREASE WITH AGGREKO LLC IN THE AMOUNT OF \$38,000 FOR EMERGENCY GENERATOR RENTAL FOR THE WASTEWATER TREATMENT PLANT

Vice Mayor Young and Staff discussed what the cost would be for the City to purchase a generator (roughly \$200,000), and whether Staff anticipated a future use for an emergency generator (possibly - Staff will look into the issue). The City currently does not have a generator sufficient enough for use at the Wastewater Treatment Plant.

Public Comment:

None

On motion of Vice Mayor Young, seconded by Council Member Schwartzman, Council approved the adoption of Resolution 18-72, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

14.M - AWARD OF CONSTRUCTION CONTRACT FOR THE WATER TREATMENT PLANT SLUDGE COLLECTOR REPLACEMENT PROJECT (Public Works Director)

Staff Report - Award of Construction Contract for the WTP Sludge Collector Replacement Project 

1. Proposed Resolution - Award of Construction Contract for the WTP Sludge Collector Replacement Project 
2. Contract Agreement - Award of Construction Contract for the Water Treatment Plant Sludge Collector Replacement Project 
3. Bid Proposal - Award of Construction Contract for the Water Treatment Plant Sludge Collector Replacement Project 
4. Bid Summary - Award of Construction Contract for the Water Treatment Plant Sludge Collector Replacement Project 

RESOLUTION 18-64 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BIDS FOR THE WATER TREATMENT PLANT SLUDGE COLLECTOR REPLACEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO W.M. LYLES COMPANY OF ROCKLIN, CA, IN THE AMOUNT OF \$236,000 WITH A CONTINGENCY OF \$23,600, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

14.N - AWARD OF CONSTRUCTION CONTRACT FOR REPAIR OF LINE VALVE ON RAW WATER TRANSMISSION LINE (Public Works Director)

Staff Report - Award of Construction Contract for Repair of LV4 

1. Resolution - Award of Construction Contract for Repair of Line Valve on Raw Water Transmission Line 
3. Proposal - Award of Construction Contract for Repair of Line Valve on Raw Water Transmission Line 
2. Agreement - Award of Construction Contract for Repair of Line Valve on Raw Wawter Transmission Line 

RESOLUTION 18-73 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BID FOR THE LINE VALVE (LV4) REPLACEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO GHILOTTI CONSTRUCTION, INC. OF SANTA ROSA, CA, IN THE AMOUNT OF \$75,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

Vice Mayor Young and Staff discussed the last replacement on this item (2012), the warranty on the line. Seeno installed a butterfly valve that has failed. For the City's best interest, it must be replaced. Council and Staff discussed whether it was the City's responsibility to pay for the replacement.

Mayor Patterson and Staff discussed whether this was the same line that had issues in the past. Staff confirmed it was the line that runs on the west side of I-680 that was attributed to the Seeno project in Cordelia. There were some cathodes installed incorrectly. She and Staff asked if this could be taken back to the City of Fairfield and Seeno. It is a good

valve, but not industrial rated. The valve only had a one-year warranty. She asked Staff to look into putting in a claim against Seeno.

Council Member Campbell and Staff discussed the issue of the City having no say on what goes in but being responsible for paying for repairs.

Vice Mayor Young asked Staff to clarify that Seeno wanted to repair the valve. Staff stated that Seeno wanted to be invited to give a proposal on repairing the valve. Staff chose not to use Seeno, as they didn't want the contractor who installed the valve come back and repair it at the City's cost. The City did not have a lot of say in the initial valve installation, as it is on an easement that runs through the City of Fairfield.

Public Comment:

None

Mayor Patterson stated that the motion would be to adopt the resolution with additional direction to Staff to perfect the easement and file a claim for the repair.

On motion of Mayor Patterson, seconded by Council Member Campbell, Council approved to adopt Resolution 18-73, with additional direction to Staff to perfect the easement and file a claim for the repair, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

14.O - APPROVAL OF CONTRACT FOR TREATMENT OF WASTEWATER TREATMENT PLANT BIOSOLIDS (Public Works Director)

Staff Report - Approval of Contract for the Treatment of Biosolids 

1. Proposed Resolution - Approval of Contract for the Treatment of Wastewater Treatment Plant Biosolids 

2. Contract Agreement - Approval of Contract for the Treatment of Wastewater Treatment Plant Biosolids 

RESOLUTION 18-65 - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A FIVE-YEAR CONTRACT WITH LYSTEK INTERNATIONAL LIMITED FOR TREATMENT OF WASTEWATER TREATMENT PLANT BIOSOLIDS IN THE AMOUNT OF \$68.50 PER WET TON, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

14.P - APPROVAL OF CONTRACT FOR TRANSPORTATION OF BIOSOLIDS FROM THE WASTEWATER TREATMENT PLANT (Public Works Director)

Staff Report - Approval of Contract for Biosolids Transportation 

1. Proposed Resolution - Approval of Contract for Biosolids Transportation 
2. Contract Agreement Republic Services 

RESOLUTION 18-66 - A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A FIVE-YEAR CONTRACT WITH REPUBLIC SERVICES FOR TRANSPORTATION OF BIOSOLIDS FROM THE WASTEWATER TREATMENT PLANT IN THE AMOUNT OF \$512 PER LOAD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

- 14.Q - AUTHORIZE GRANT AGREEMENT WITH DEPARTMENT OF JUSTICE FOR YOUTH RELATED TOBACCO WORK (Police Chief)**

Staff Report DOJ Tobacco Grant 

1. Resolution DOJ Tobacco Grant 
2. Initial Grant Response to DOJ Request for Proposal 
3. Second Grant Response to DOJ Request for Proposal 
4. DOJ Tobacco Grant MOU 2018-2020 

RESOLUTION 18-67 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA TO ACCEPT ENTERING INTO A FUNDING AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF JUSTICE PROPOSITION 56, THE CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TAX ACT OF 2016, GRANT PROGRAM FUNDING.

- 14.R - AUTHORIZE A GRANT AGREEMENT WITH SOLANO COUNTY FOR THE FAMILY RESOURCE CENTER (Police Chief)**



Staff Report - Family Resource Center Grant 

1. Resolution - Family Resource Center Grant 
2. Grant Agreement - Family Resource Center Grant 

RESOLUTION 18-68 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING A GRANT IN THE AMOUNT OF \$42,214.00 FROM THE COUNTY OF SOLANO TO PROVIDE FAMILY SUPPORT SERVICES AND AUTHORIZING THE CITY TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF SOLANO

- 14.S ESTABLISHMENT OF THE ANNUAL APPROPRIATIONS LIMIT(GANNLIMIT) PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR FISCAL YEAR 2018-2019**

Staff Report - Appropriations Limit (Gann) 2018-19 

1. Resolution - Appropriation Limit 
2. Exhibit I - Appropriation limit calculations 2018-19 

RESOLUTION 18-69 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR FISCAL YEAR 2018-19

**14.T - ADOPTION OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE TO MODIFY CHAPTER 8.20, NOISE REGULATIONS, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA
(Community Development Director)**

Staff Report - Noise Ordinance Amendments 

1. Ordinance - Noise Ordinance Amendments 

ORDINANCE 18-15 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 8.20 (NOISE REGULATIONS) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

Mayor Patterson discussed her vote at the last meeting. She had concerns about the legality of what the City is doing. She would like this continued to a Closed Session. She discussed the noise two weeks ago on graduation night. She wants to get it right. She read her proposed changes (as listed in her email - copy on file). She was concerned regarding legal issues, which is why she wanted to continue this to a closed session. She disclosed exparté communications.

Council Member Hughes discussed his support for the current proposed ordinance. He did not want to continue or delay it. He supported Staff's recommendation.

Vice Mayor Young disclosed exparté communications. There are changes that could be made. He suggested reducing the hours on the weekends to 9:30 p.m. and allow for amplified music on Thursdays during farmers market until 9:30 p.m., and where a decibel measurement would happen in the event of a complaint (property line). He suggested it be measured at the site of the property where the music is being played rather than the site of the complainant.

Council Member Campbell asked Staff to clarify that this would have to be brought back for another second reading if substantial changes were made tonight.

Public Comment:

1. Dana Dean - Ms. Dean discussed the letter she submitted (copy on file). She discussed concern regarding the proposed ordinance. She asked Council to take some time to improve the ordinance.
2. Russel Hans - Dr. Hans spoke in support for the ordinance as proposed by Staff.
3. Jack Giordano - Mr. Giordano discussed concern regarding the noise level at special events, as well as the school band functions.
4. Jon Van Landschoot - Mr. Van Landschoot discussed concern regarding noise complaints and Staff's time addressing those complaints, enforcement, and how many complaints have to be registered before a permit is revoked.

5. Nancy Atkins - Ms. Atkins clarified that the ordinance addressed recorded music as well as live music. She discussed concern regarding the loud levels of recorded music around town.
6. Dan Smith - Mr. Smith spoke in support of the proposed amendments.
7. Andres Soto - Mr. Soto discussed concern regarding restricting amplified music on Sundays.
8. Karen Burns - Ms. Burns spoke in opposition to the proposed ordinance. She discussed concern regarding the lack of notification to surrounding neighbors.
9. Marilyn Bardet - Ms. Bardet discussed concern regarding cumulative impacts. She discussed concern regarding leaf blowers.
10. Jason Buckingham - Mr. Buckingham discussed decibel levels. He urged Council to keep the reasonable parts of the proposed ordinance and add the parts that were not discussed to it.
11. Ricky Greene - Mr. Greene discussed concerns regarding noise complaints.
12. Mary Frances Kelly Poh - Ms. Kelly Poh discussed special event permits, and how she enjoyed walking downtown last week hearing various music playing at several places.
13. Kathy Kerridge - Ms. Kerridge objected to limiting music on Sundays.
14. Citizen - the citizen objected to limiting amplified music on Sundays.
15. Citizen - the citizen discussed concern regarding limiting amplified music.
16. Citizen - the citizen discussed whether outdoor noise on restaurant patios would be limited because of the decibel levels.
17. Carl Lucca - Mr. Lucca discussed the need to have viable downtown businesses.
18. Citizen - the citizen stated there has been an increase in noise downtown since Lucca's opened.
19. Citizen - the citizen spoke in support of the ordinance.
20. Citizen - the citizen spoke in support for having the decibel reading taken at the property line of the venue when a complaint is made.

Council Member Schwartzman discussed support for having the decibel reading taken at the property line of the venue. He was okay with backing the level down to 80 db. He was fine with the hours as listed in the proposed ordinance, except for Sundays starting at 10:00 a.m. and stopping at 6:00 p.m. He did not have a problem with the amplified music.

Lorie Tinfow, City Manager, discussed concern regarding the level and number of changes being made at the dais. She requested Council allow Staff to review Council's direction and bring the changes back at a future meeting.

Vice Mayor Young made a motion to amend the ordinance by changing the hours to 9:30 p.m. on Fridays, Saturdays, and Thursdays (during farmers market season), change the decibel reading at the property line of the establishment, and prohibit amplified music before noon and no later than 6:00 p.m. on Sundays. He wants to make sure churches are not precluded from amplified music on Sunday. Mayor Patterson seconded the motion.

Council Member Hughes disagreed the decibel measurement should be taken at the property line of the venue. The only change he would agree to would be to reduce the time on Friday and Saturday from 10:00 p.m. to 9:30 p.m.

Mayor Patterson clarified that the motion was to go to 9:30 p.m. Thursday (during Farmers Market season), Friday, and Saturday, modify Sundays with amplified music allowed 12:00 p.m.-6:00 p.m. Making those changes would force it to be brought back for another reading. She asked if the maker of the motion was willing to make an amendment, so it did not have to be brought back.

Vice Mayor Young stated he would like to maintain keeping the decibel reading at the site of the business when a complaint is made.

Council Member Hughes stated that it was clear to him that one of the businesses (Lucca's) would prefer to have the decibel reading taken from the property line of the person complaining, not at the business property line.

Council Member Campbell stated the issue of construction equipment being used on Sundays was not addressed in the motion. He and Staff discussed the decibel level readings table on page 336 of the agenda packet.

Mayor Patterson clarified that the motion was to go to 9:30 p.m. Thursday (during Farmers Market season), Friday, and Saturday, modify Sundays 10:00 a.m. to 6:00 p.m., with amplified music allowed 12:00 p.m.-6:00 p.m., and restriction on Sundays for construction tools. The motion failed.

Council Member Hughes made a motion to adopt the ordinance as proposed with change to stop time for amplified music to 9:30 p.m., and add the heavy construction equipment restriction on Sundays, the decibel reading being taken from the property line of the complaint.

On motion of Vice Mayor Young, seconded by Mayor Patterson, Council denied the Ordinance, with amendments allowing noise to go to 9:30 p.m. Thursday (during Farmers Market season), Friday, and Saturday, modify Sundays 10:00 a.m. to 6:00 p.m., with amplified music allowed only 12:00 p.m.-6:00 p.m., and the restriction on Sundays for construction tools, on a roll call by the following vote:

Ayes: Council Member Campbell, Vice Mayor Young

Noes: Council Member Hughes, Council Member Schwartzman, Mayor Patterson

On motion of Council Member Hughes, seconded by Council Member Campbell, Council approved the Ordinance as proposed with change to stop time for amplified music at 9:30 p.m., add the heavy construction equipment restriction on Sundays, and having the decibel reading being taken from the property line of the complaint, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Vice Mayor Young

Noes: Council Member Schwartzman, Mayor Patterson

14.U SECOND READING AND ADOPTION OF ORDINANCE AMENDING TITLE 15 OF THE CITY OF BENICIA MUNICIPAL CODE (“BUILDINGS AND CONSTRUCTION”) TO ADD CHAPTER 15.39 ESTABLISHING AN EXPEDITED PERMITTING PROCESS FOR ELECTRIC VEHICLE (“EV”) CHARGING STATIONS.

Staff Report - Electric Vehicle Charging Ordinance 

1. Ordinance - Electric Vehicle Charging Ordinance 

ORDINANCE 18-14 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA SETTING FORTH PROCEDURES FOR EXPEDITING PERMITTING PROCESSING FOR (EV) ELECTRIC VEHICLE CHARGING SYSTEMS

14.V - ADOPTION OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE (TITLE 17) TO ALLOW OUTDOOR ENTERTAINMENT IN COMMERCIAL AREAS WITH A USE PERMIT, AFTER FINDING THAT THE PROJECT IS EXEMPT FROM CEQA (Community Development Director)

Staff Report - Zoning Ordinance Amendments for Outdoor Entertainment 

1. Ordinance - Zoning Ordinance Amendments for Outdoor Entertainment 

ORDINANCE 18-16 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS OF TITLE 17 (ZONING) TO ESTABLISH A USE CLASSIFICATION AND REGULATIONS FOR OUTDOOR ENTERTAINMENT IN COMMERCIAL AREAS

Mayor Patterson stated that she pulled this item for discussion at the adoption of the Consent Calendar. She withdrew her action and did not wish to discuss it, as it didn't matter at this point with the action taken on item 14.T.

Public Comment:

None

On motion of Vice Mayor Young, seconded by Council Member Hughes, Council approved the adoption of Ordinance 18-16, on a roll call by the following vote:

Ayes: Council Member Hughes, Vice Mayor Young, Mayor Patterson

Noes: (None)

Council pulled items 14.I, 14.K, 14.L, 14.N, 14.T, and 14.V for discussion.

On motion of Council Member Schwartzman, seconded by Vice Mayor Young, Council approved the Consent Calendar, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

15) BUSINESS ITEMS

15.A -PUBLIC HEARING FOR CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FOR FISCAL YEAR 2018-19 (Public Works Director)

Staff Report - Landscape & Lighting District Public Hearing

1. Resolution - Landscape & Lighting District Public Hearing

2. Resolution Nos. 18-52, 18-53, and 18-54 - Landscaping and Lighting District Public Hearing

3. Landscape & Lighting Assessment District Diagram - Landscape and Lighting District Public Hearing

4. Engineer's Report - Landscape and Lighting District Public Hearing

RESOLUTION 18-74 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ORDERING THE MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF THE DISTRICT, CONFIRMING THE ASSESSMENT DIAGRAM, APPROVING THE ENGINEER'S REPORT AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2018-19

Will Tarbox, Public Works Director, introduced Dennis Klingehoffer, Harris & Associates. Mr. Harris reviewed the staff report.

Public Comment:

None

Vice Mayor Young stated the action required a \$136,000 subsidy from the City's General Fund (to the property owner's benefit). It is not fair to the rest of the City. The rates need to be raised. He was hopeful that Council would bring this back to do a study on the issue of raising the rates.

Council Member Campbell stated that all five of the L&L Districts were running at a deficit. Harris & Associates would bring a report back to Staff in late September 2018 with strategies and recommendations on how to eliminate the subsidies or balance the assessment revenues. It could be done before June 2019.







On motion of Council Member Hughes, seconded by Vice Mayor Young, Council approved the adoption of Resolution 18-74, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson

Noes: (None)

15.B SECOND STEP OF MAYOR PATTERSON'S 2-STEP PROCESS REQUEST TO DISCUSS ADOPTING AN INDUSTRIAL SAFETY ORDINANCE

Staff Report - 2-Step Request for Industrial Safety Ordinance (Patterson) 

1. 2-Step Request ISO_amended (Patterson) 
2. Contra Costa ISO Chapter-450-8 
3. Richmond ISO Chapter_6.43 
4. P3_P4_ISO Comparison Chart 
5. Benicia ISO Working Group Draft Ordinance 
6. Valero Letter 

Mayor Patterson reviewed her request regarding an industrial safety ordinance (ISO).

Council Member Campbell, Hughes, Schwartzman, and Young disclosed ex parte communications.

Chief Chadwick reviewed the staff report.

Organized Proponent: Industrial Safety Ordinance (ISO) Working Group (organized support):

Constance Beutel played a video covering the May 5, 2017 incident at the Benicia Valero Refinery.

Kathy Kerridge - Ms. Kerridge discussed concern regarding Valero's air monitors, the need for an ISO, how an ISO would benefit the City, and the lack of air monitors in the residential areas.

Pat Toth-Smith - Ms. Toth-Smith discussed the dangers of sulfur dioxide and the health risks that is involved with refinery chemicals, how an ISO would benefit the City, and the need for Valero to have a backup generator.

Rick Beason - Mr. Beason discussed concern regarding the lack of communication between Valero and the City of Benicia. He discussed the need for an ISO, how an ISO would benefit the City, and the need for citizens to know what steps Valero has taken to prevent events like the 5/5/17 incident.

Terry Mollica - Mr. Mollica reviewed a PowerPoint presentation (copy on file) in support of implementing an ISO.

Organized Opposition:

Bob Livesay - Mr. Livesay recommended Council go with option #2 and monitor it for six months. He discussed concerns with Mayor Patterson going beyond Staff and working with an outside group on this issue. Valero was not given a seat at the table.

Chris Robinson, Process Manager, Valero Benicia Refinery - Mr. Robinson discussed the need for the City of Benicia to work with all agencies involved in regulating Valero's operations. He discussed Valero's safety record, and Valero's desire to work with the City on future issues.

Leslie Sullivan, Operations Director, Valero Benicia Refinery - Ms. Sullivan encouraged the City to meet with the agencies that regulate their operations. She suggested the City meet with Valero regarding fence line monitoring. She urged Council to go with option #2.

Council Member Schwartzman and Ms. Sullivan discussed concern regarding what has been done to prevent future power issues, Valero's air monitoring plan, and how to ensure those are achieved without an ISO. Ms. Sullivan discussed the ongoing dispute with PG&E regarding the incident, and Valero's lack of ability to discuss the situation.

Elizabeth Burbon, Valero Counsel, discussed Valero's frustration regarding the lack of information they are receiving from PG&E. She offered to try and arrange a meeting with the City of Benicia and PG&E to try and get the answers.

Ms. Sullivan offered to have a side conversation with the City to discuss the technical plans Valero has in place regarding future power outages. They would need to involve people with the appropriate expertise. She and Ms. Burbon offered to sit down with the City and the Bay Area Air Quality Management District (BAAQMD) to go over the specifics of the approved air quality monitoring plan. Valero would be open to considering and discussing the issue of neighborhood monitoring.

Vice Mayor Young discussed concern regarding Valero's lack of explanation on what occurred and Valero's suggestion to discuss more details in private, out of the public's eye.

Council Member Hughes discussed the need to establish a better open and honest communication with Valero regarding the incident.

Cherie Cabral, California State Building and Construction Trades Council - Ms. Cabral discussed Iron Workers Union Local 378 opposition to an ISO. She requested Council allow the statutes to take place and work the way they are supposed to. Creating its own ISO would be duplicative for the City. She suggested going with Program Four.

Public Comment:

1. Gwen Ottinger, Drexel University - Ms. Ottinger spoke in support of an ISO.
2. Cathy Bennett - Ms. Bennett spoke in support of an ISO.

3. June Mejias - Ms. Mejias spoke in support of an ISO.
4. Marilyn Bardet - Ms. Bardet spoke in support for an ISO.
5. Andres Soto - Mr. Soto spoke in support for an ISO.
6. Dan Smith - Mr. Smith spoke in support of an ISO.
7. Constance Beutel - Ms. Beutel spoke in support of an ISO.
8. Citizen - the citizen suggested Council wait and see how the State program turns out.
9. Citizen - the citizen spoke in support of an ISO.
10. Craig Snyder - Mr. Snyder spoke in support of an ISO.
11. Elizabeth Burbon, Valero Counsel - Ms. Burbon spoke in opposition to having an ISO.
12. Christina Strawbridge - Ms. Strawbridge discussed the need for an evacuation plan, for citizens to have more information in the event of a crisis, and the need for people to work together.

Council Member Hughes discussed the differences between an ISO and Program #4. He could not support the local proposed ISO. He asked Staff and Council to meet with the regulatory agencies to discuss the inconsistencies.

Vice Mayor Young and Staff discussed staff costs involved with an ISO, fee based ISO, the need for Staff to review the draft ordinance proposed by the ISO working group, BAAQMD's approved air monitoring plan, the proposed air monitors, and the Local Emergency Planning Committee. Vice Mayor Young discussed his frustration with Valero's not coming to the City to explain what happened and how they will prevent it from happening again. That discussion needs to be public. He would support moving the ISO forward, with direction to Staff to review the existing draft ordinance proposal that was prepared from the ISO working group.

Colby LaPlace and Jagjinder Sahota, Solano County Department of Resource Management, discussed the County's investigation and Program Four.

Council Member Schwartzman stated he was not ready to move forward with an ISO. Program #4 is close but missing a few things. The City and Valero need to work on communication, fence line monitoring, and community air monitoring. He discussed the importance of having an evacuation plan. He could not support this item moving forward at this time.

Mayor Patterson asked for confirmation that Solano County had not had any community meetings to discuss concerns regarding the 5/5/17 incident at Valero. She discussed the need for an ISO, her prior efforts regarding the City participating in AB 16, difficulties the City experienced with Valero during the 5/5/17 event, concerns regarding follow-through and follow-up, the community's right to know and participation, and the need to institutionalize the City's seat at the table to participate in the discussions and receive the reports from the regulatory agencies.

Council Member Hughes made a motion to approve Option #2 in the staff report, directing Staff to monitor Solano County's implementation of Program Four, directing Staff to meet with Valero and the appropriate regulatory agencies to address the few gaps that exist between Contra Costa County's ISO and Program #4, including more effective and frequent communications with the City, Valero, and the community, fence line and community air monitoring, an evacuation plan, and having a report back to the City Council the first meeting in November. Council Member Schwartzman seconded the motion.

Council Member Campbell would like to continue this issue for six months to get the air monitors installed and get the data back to Council. If that can't be done within six months, he would vote for an ISO. He would like the monitors installed and in place within six months.

Mr. LaPlace discussed the County's investigation process regarding the 5/5/17 incident and Program Four. Mr. Sahota offered to attend the Benicia Farmers Market to educate the public on Program Four.

Council Member Hughes stated he would be willing to amend his motion to include the 6-month limit for installing fence line monitoring. While that was going on, the community monitoring could be negotiated.

Council Member Schwartzman asked for clarification that the motion was referring to the monitors being in place per the BAAQMD's recently approved monitoring plan. Anything additional would have to be negotiated.

Council Member Campbell discussed the need for the City to be able to receive the same information the regulatory agencies receive.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved Option #2 in the staff report, directing Staff to monitor Solano County's implementation of Program Four, directing Staff to meet with Valero and the appropriate regulatory agencies to address the few gaps that exist between Contra Costa County's ISO and Program #4, including more effective and frequent communications with the City, Valero, and the community, fence line monitors installed within 6 months (while that was going on, the community monitoring could be negotiated), an evacuation plan, and having a report back to the City Council the first meeting in November, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman

Noes: Vice Mayor Young, Mayor Patterson

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved continuing the meeting past 11:00 p.m. to hear Item 15.C, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson
Noes: (None)

15.C ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE TO ESTABLISH A TAX ON COMMERCIAL CANNABIS ACTIVITIES AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018 (TWO-THIRDS APPROVAL BY COUNCIL REQUIRED) (City Attorney)

Staff Report - Cannabis Tax Measure 
1. Resolution - Cannabis Tax Measure 
1.a. Ordinance - Cannabis Tax Measure 

RESOLUTION 18-75 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE TO ESTABLISH A TAX ON COMMERCIAL CANNABIS ACTIVITIES AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018

Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

1. Brian Mitchell - Mr. Mitchell discussed their desire to lease property for cannabis operation in Benicia. With tax at 6%, the City will not be able to attract cannabis businesses in Benicia.
2. Tom Hamilton - Mr. Hamilton discussed the need to keep the tax rate lower for cannabis businesses. He suggested possibly using a sliding scale the first year.
3. Laura Dorais - Ms. Dorais discussed frustration with support for this agenda item and the lack of support for an ISO.

Council Member Hughes made a motion to approve, knowing that the tax would be up to 6% and the City could accomplish the sliding scale if it wished to do so.

Vice Mayor Young and Staff discussed when the City could start accepting applications (within 2 weeks possibly).

On motion of Council Member Hughes, seconded by Council Member Young, Council approved the adoption of Resolution 18-75, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Hughes, Council Member Schwartzman, Vice Mayor Young, Mayor Patterson
Noes: (None)

16) COUNCIL MEMBER COMMITTEE REPORTS:

16.A CITY COUNCIL COMMITTEE REPORTS

Committee Reports - June 19, 2018 

17) ADJOURNMENT (10:30 PM)

Mayor Patterson adjourned the meeting at 1:13 a.m. 6/20/18.