

MINUTES OF THE  
SPECIAL MEETING – CITY COUNCIL  
MARCH 7, 2006

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:00 p.m. on Tuesday, March 7, 2006, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina 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).

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

OPPORTUNITY FOR PUBLIC COMMENT:

None

CLOSED SESSION:

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

**Agency negotiators: City Manager, Human Resources Director, Bill Avery  
of Avery & Associates**

**Employee organization: Benicia Firefighters Association**

**B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
(Subdivision (a) of Government Code Section 54956.9)**

**Name of cases:**

**City of Benicia v. Benicia Harbor Corporation and Benicia Harbor  
Corporation v. City of Benicia**

**Togonon v. City of Benicia**

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:01 p.m.

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
MARCH 7, 2006

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:04 p.m. on Tuesday, March 7, 2006, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina 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:

Item A - Council received information from Staff.

Item B - Council gave direction to Staff on how to proceed.

Openings on Boards and Commissions:

- Human Services Fund Board – 1 unexpired term to June 2009
- Solano Transportation Improvement Authority Independent Taxpayers' Watchdog Committee – 1 opening

APPOINTMENTS:

None

PRESENTATIONS:

Benicia-Tula Sister City Association Update:

Mr. Larry Floyd, President of Benicia-Tula Sister City Association, passed out a memo and pamphlet titled 'Significant 2006 Association Initiatives' (hard copies on file). Mr. Floyd stated that the Benicia-Tula Sister City Association was here to honor Mayor Messina. He presented Mayor Messina with a Certificate of Appreciation. Mr. Floyd reviewed the information provided in the memo. He announced several cultural events coming up in the near future.

PROCLAMATIONS:

Mayor Messina presented the following proclamations:

- Recognition of Sunshine Week, March 12-18, 2006  
Ms. Christine Linville presented Council with a pamphlet titled ‘Looking for the Sunshine’, as well as yellow rubber bracelets.
- Recognition of Good Neighbor Steering Committee  
Ms. Marilyn Bardet and Ms. Dana Dean accepted the proclamation. Ms. Dean reflected on the accomplishments and efforts of the Good Neighbor Steering Committee. She requested Council carefully consider its statements regarding the need or lack of need for an Industrial Safety Ordinance.

ADOPTION OF AGENDA:

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the Agenda was adopted as presented, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items received (hard copies on file).

PUBLIC COMMENT:

1. Linda Jimenez – Ms. Jimenez, Solano Patient’s Group, discussed the rights of medical marijuana users.
2. Joe Thomas – Mr. Thomas stated that Council might have received a letter from the Carquinez Democratic Club. He is concerned about the very important issue of a clean campaign finance reform process. He urged Council to support the government process on AB583. He asked Council to support the ordinance on clean campaign expenditures. He hopes that Council will not wait to see what other communities are going to do. Council should take the initiative on this issue.
3. Bruce Blankenhorn – Mr. Blankenhorn stated that he has not been notified of a Council item that relates to him financially. Council recently passed a resolution for reimbursement arrangements for a road on a portion of his property. He was aware of the general arrangement; he was not given the opportunity for consideration of a few points such as cost. The cost seems to be unreasonable. There seems to be some inequity with the reimbursement. He was told by Ms. Meunier (former Community Development Director) that the reimbursement he would have to pay would be a condition, prior to a certificate of occupancy. He found out a few days ago that it is a requirement before permits are even taken out. He wants to move forward with his project. He requested Council reconsider this issue and work together on a more equitable solution to this.

Mayor Messina directed Staff to look into this issue and report back to Council.

4. John Bearden – Mr. Bearden stated that he represents the Solano Patient’s Group. He read a letter that he and Mr. Galen Lawton sent to the Sacramento Chapter of

- The Compassionate Coalition. He read a letter he received from Congressman George Miller regarding support the State's Right to Medical Marijuana Act.
5. Galen Lawton, President, Solano Patient's Group – Mr. Lawton reviewed the goals of the Solano Patient's Group. The group wants to educate the public, law enforcement officials, and patients on safe use of medical marijuana. Solano County has not instituted its program yet. For more information on the Solano Patient's Group, the public can contact them at: [www.solanopatientsgroup.org](http://www.solanopatientsgroup.org)
  6. Marilyn Bardet – Ms. Bardet asked if Council would pull agenda item VII-G. Council verified it would.
  7. Bonnie Silveria – Ms. Silveria stated that at the last Council meeting, she requested the clean government ordinance issue be discussed earlier in the agenda. She asked what it would take to finally have a discussion on this issue. She asked why it could not be moved up to be an 'action item'. Mayor Messina stated that the rules of procedure prevented that. She stated that the subject is getting older and older, and it is not being discussed. She hopes Council will be able to get to it tonight.

Council Member Patterson stated that the Open Government Ordinance does not dictate how an agenda item is classified. The remedy for a full agenda is to schedule additional Council meetings. She encouraged Council to consider that possibility tonight.

8. Sabina Yates – Ms. Yates discussed the clean campaign money issue. She discussed AB583 – the Clean Money and Fair Election's Act. She discussed Humboldt County's Clean Money Initiative. She discussed Vice Mayor Schwartzman's protestations of unawareness of Valero's and the Vallejo Firefighters Union's expenditures on behalf of his recent campaign. She questioned whether Council Member Hughes was unaware of the campaign expenditures as listed in a recent newspaper article. The amount spent on the campaign was obscene.
9. Jon Van Landschoot – Mr. Van Landschoot discussed the clean money issue. There is a 'storm' brewing in Vallejo over the Bordoni Ranch Project. The storm in Vallejo is reflected in about two or three storms in Benicia. There are storms brewing over the clean campaign money issue, the Arsenal and the Downtown Historic Area. He implored Council to do something to lead in the historic area. This town is pretty good at petitions. He wants Council to take the lead in the Historic Areas by adopting a master plan for both the Downtown and Arsenal Areas. He does not want Benicia to lose its two Historic Districts.

CONSENT CALENDAR:

Council pulled item VII-G.

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Council approved the minutes of February 15, 2006, February 16, 2006, and the February 21, 2006.

RESOLUTION 06-28 - A RESOLUTION APPROVING THE FY 2005-06 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FOR THE PERIOD OF MARCH 7, 2006 THROUGH SEPTEMBER 30, 2006 AND AUTHORIZING THE CITY MANAGER TO SIGN THE PROGRAM ON BEHALF OF THE CITY

Council approved the investment report for the quarter ended December 2005.

RESOLUTION 06-29 - A RESOLUTION ACCEPTING THE 2005 BENICIA MARINA MAINTENANCE DREDGING PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAID NOTICE WITH THE SOLANO COUNTY RECORDER

RESOLUTION 06-30 - A RESOLUTION ACCEPTING THE ROTATING BIOLOGICAL CONTRACTOR MEDIA REPLACEMENT PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 06-31 - A RESOLUTION TO ENDORSE AND SUPPORT PROPOSITION 81, THE CALIFORNIA READING AND LITERACY IMPROVEMENT AND PUBLIC LIBRARY CONSTRUCTION AND RENOVATION BOND ACT OF 2006

RESOLUTION 06-32 - A RESOLUTION APPROVING THE JOB DESCRIPTION FOR ASSISTANT TO THE CITY MANAGER AND ESTABLISHING THE SALARY RANGE

RESOLUTION 06-33 - A RESOLUTION APPROVING THE PURCHASE OF A REPLACEMENT RESCUE VEHICLE IN THE AMOUNT OF \$187,589 FROM FERRARA FIRE APPARATUS, INC.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Second reading of an ordinance to rezone Parcel APN 0080-222-010 at 1451 Jefferson Street from CO (Commercial Office) to PD (Planned Development):

Public Comment:

1. Marilyn Bardet – Ms. Bardet stated that she did not have time to respond in her appeal to some of Mr. Adams’ comments. Mr. Adams’ contests that the Officer’s

Enclave and Officer's Row is not the last physically surviving Officer's Enclave in the United States. When she discussed this in her appeal, she meant that we have surviving original buildings in their same location with topography relatively the same as it has been such as we have at the Camel Barns. Therefore, there is an opportunity for people to walk the area and get a feel for old California. Mr. Adams also stated that Abraham Lincoln did not have anything to do with the expansion of the Lower Arsenal. The Arsenal was expanded under Abraham Lincoln, not started by him. It was the only Arsenal that supplied the entire West Coast Federal Military at the time. She encouraged the owners of the shabby buildings in the Arsenal to fix them up and show some pride. She stated that she does not consider the solution for having a safe place to play in the Arsenal is for Mr. Bortolazzo to put up another cyclone fence. She discussed the City's responsibility for having safe areas for children to play in the Arsenal. She was desperately upset that the City does not require better documentation through photographs and CAD documents, etc. that set a project proposal in a visual context that is clear without deception. She is alarmed with how easily the City gives things up. The Planning Department has never done its job. We are paying City Staff to basically voice what developer's want. That is what Ms. Gillarde did with this particular project. Ms. Bardet spent hours preparing her appeal documenting this project with photograph.

ORDINANCE 06-5 - AN ORDINANCE APPROVING A ZONE CHANGE FROM COMMERCIAL OFFICE (CO) TO PLANNED DEVELOPMENT (PD) FOR APN: 0080-222-010 LOCATED AT 1461 JEFFERSON STREET

On motion of Mayor Messina, seconded by Vice Mayor Schwartzman, the above Ordinance was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, Whitney, and Mayor Messina

Noes: Council Member Patterson

Council Member Patterson clarified her reason for not supporting the ordinance. She stated that this was an inappropriate application of the zoning code to this property.

Vice Mayor Schwartzman clarified his reason for supporting the ordinance. He stated that he believes it is a fine project for the area. He does not believe the project will deteriorate the Arsenal.

PUBLIC HEARINGS:

Approval of Federal Transit Administration Section 5310 grant submission to support Benicia Breeze Paratransit:

Rob Sousa, Finance Director, reviewed the Staff report.

Public Hearing Opened

Public Hearing Closed

RESOLUTION 06-34 - A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FTA SECTION 5310 FUNDING FOR THE PURCHASE OF SCHEDULING SOFTWARE AND COMMITTING THE NECESSARY LOCAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE CITY OF BENICIA TO COMPLETE THE PROJECT AND CERTIFYING THAT THERE IS NO READILY AVAILABLE NON PROFIT SERVICE PROVIDERS ABLE TO PROVIDE THE SERVICES RELATED TO THIS PROJECT

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Review of a revised parcel map for West 7<sup>th</sup> Street from I to J Street – Continued from February 21, 2006 City Council Meeting:

Bob Brown, Interim Community Development Director, reviewed the Staff report.

Proponent:

Mr. Steve Benetti provided a brief overview of the project. There have been some comments regarding putting an alley through his property. The provision of the alley will result in some financial hardship to the project. They are accumulating quite a few costs; including storm drain costs, attorney fees, project delays, and a 33% reduction in the overall project (going from 3 lots to 2). Once he takes possession of the property, he would entertain selling the alley to the City or any interested private party. The alley footage across the property has value. He should not be compelled to provide this free of cost. Also, it needs to be understood that the alleyway was never an open alleyway for public use. It was private property. There were logs put up to prevent people from entering the private property. He feels confident that the two-lot subdivision is providing the City and many neighbors with many generous economic improvements.

Vice Mayor Schwartzman asked Mr. Benetti if he would be deeding the alley to two of the property owners on the eastside. Mr. Benetti stated that he owns the property. Once he takes possession of the property, he would be able to do it. He has already spoken to neighbors on either side of his property. If they are willing to pay for the civil engineering work and permit fees to do this, he would allow a lot line adjustment to be done.

Public Hearing opened.

Public Comment:

1. Allan Deal – Mr. Deal congratulated Council for standing by its Planning Commission. The neighbors would prefer a two-lot subdivision. They have issues with the alleyway. They would prefer to require that the alley continue as is typical for much of Downtown Benicia.
2. Jennifer Deal – Ms. Deal stated that the only concern that she has is that there should be some easement for the neighbors to utilize the pathway that will be

going down. If there is going to be a public access, there should be some landscaping or trees, which should be addressed before it is sanctioned. Mr. Alvarez stated that the path is 8 ft. wide with shoulders on each side.

3. Bea Reynolds – Ms. Reynolds stated that she has not been notified of either activity relating to her property at 711 West J Street that are on the agenda. The previous resident was notified, but they have moved away. She wants to be notified in the future. She provided Mr. Brown with her information a while ago, and has still not received anything from the Community Development Department. She discussed the path in question for the J and K Street project. She is opposed to the proposed pathway.
4. Manny Salvatin – Mr. Salvatin stated that he agrees with the developer on the two-lot parcel. He supports deeding the extra alleyway to the property owners. He stated that he sent a letter to the City stating his concerns with the alleyway.

Public Hearing Closed

Proponent rebuttal:

Mr. Benetti stated that the land was never open to the public for access to any other alleys that belonged to the current owner.

Council Member Hughes asked for clarification on the subdivision map act. There are two additional subdivision applications. Mr. Brown stated that the subdivision map act states that there is a property ownership that involves the creation of over four parcels; it has to go through the subdivision process as opposed to the parcel map process. Since Mr. Benetti does not own the other properties, they are eligible to be considered as a parcel map. Essentially, it is a factor of ownership.

Council Member Patterson stated that she was pleased with the way this project has worked out with two lots, however, she is not completely happy with the conditions of approval listed on VII-B-7 – swale feature. She would like it to be changed to reflect a ‘meander swale’ however, it does not need to be an exaggerated meander. This meander would tie in with the landscaping. She would like the condition added for including vegetation, including trees for erosion control and stabilization. The conditions don’t reflect the issue of riparian vegetation. She complimented Staff on referencing the storm water manual ‘Start at the Source’. She supports the alley going across the project. Alleys are part of what is unique to Benicia. She wants to hang on to the alleys in the community. On the easterly side, the issue is not creating an alley for auto access. She wanted Council to think long and hard about the value of the ‘alleys’, even if they are not improved.

Mr. Benetti stated that we are only talking about two lots. He does not know how much water will be going through there. On the issue of the ‘meander’, as long as it could be fitted within the 17 ft. easement, that’s okay. There are some prior obligations to some of the neighbors to keep it away from their fences. Mr. Benetti stated that he was okay with the suggested changes of changing ‘swale’ to ‘meandering swale’ and adding reference to vegetation (consistent with the 17 ft. parameter).

RESOLUTION 06-35 - A RESOLUTION APPROVING A TWO LOT SUBDIVISION FOR APNS: 89-013-240 AND 89—021-260

On motion of Council Member Patterson, seconded by Council Member Whitney, the above Resolution was adopted as amended, on roll call by the following vote:  
Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina  
Noes: None

Approval of a Reimbursement Agreement for Storm Drainage Improvements between West I and J Streets in the former West 7<sup>th</sup> Street

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

Vice Mayor Schwartzman asked what the current budget was for the storm drain project. Mr. Schiada estimated at \$900,000. Staff is asking to take \$112,000 and put it towards these improvements. Mr. Schiada stated that he is gambling a little that the costs will not increase. He was fairly confident that they would not. The bid process closes the first part of April 2006.

Public Hearing Opened  
Public Hearing Closed

RESOLUTION 06-36 - A RESOLUTION APPROVING THE REIMBURSEMENT TO DEVELOPER AGREEMENT AND APPROPRIATING \$112,000 FROM THE MARINA AREA STORM DRAIN PROJECT ACCOUNT AND \$100,000 FROM THE GENERAL FUND RESERVES FOR THE WEST 7<sup>TH</sup> STREET STORM DRAIN PROJECT

On motion of Council Member Whitney, seconded by Council Member Patterson, the above Resolution was adopted, on roll call by the following vote:  
Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina  
Noes: None

ACTION ITEMS:

Consideration of issuing pension obligation bonds– Continued from February 21, 2006 City Council Meeting

Rob Sousa, Finance Director, reviewed the Staff report.

Ms. Margaret Backstrom, Morgan Stanley, assisted by Mr. Phil Morgan, Counsel representing Orrick Harrington, reviewed a PowerPoint presentation on pension obligation bonds (hard copy on file in the agenda packet).

Vice Mayor Schwartzman had a question on page IX-A-14 with regards to ‘safety, level savings’ structures. He asked if it was actually ‘recommended savings’ that Staff was referring to. Mr. Sousa stated that when the report was done, Staff failed to list the ‘recommended’ or ‘combined’ savings on that page. Vice Mayor Schwartzman asked on page IX-A-26, regarding discounts, what is the possibility of this happening? Mr. Sousa

stated that in the past few years, Council has approved lump-sum payment to PERS, which results in a \$400,000 savings per year. Vice Mayor Schwartzman asked on page IX-A-29, regarding credit ratings, what is the effect on the city's bond? Ms. Backstrom stated that rating agencies have been very supportive about issuing pension obligation bonds because it shows the City is being proactive about its liability. Vice Mayor Schwartzman asked if the City has debt limits. Mr. Sousa stated that there is a general obligation bond, as well as the Casa Vilarrasa lease. He believes the City has \$80 million available in debt. It is based on our ability to repay. We are well below the capacity.

Council Member Whitney asked if the City's risk or exposure would be on the miscellaneous side. Mr. Sousa verified it would. Council Member Whitney asked if there were any options to offset the risk. Ms. Backstrom stated that the risk is minimal over the 30 years. Council Member Whitney asked, with regards to being over/under funded, would PERS immediately adjust the contributions if the City were over funded? Ms. Backstrom explained how the over/under funded amounts worked. You basically don't get a big hit or a big benefit it is spread out.

Council Member Hughes stated that there is significant anticipated savings with this. There is also risk in doing nothing. Why wouldn't the City do this? Mr. Sousa stated that there is clearly very little risk in the public safety portion. Over the course of 30 years, PERS estimates they will earn 7.75%. Short term, the City might be under the 7.75%. He anticipates over the next decade, the City will save enough money to mitigate the outside risk. He is very comfortable with this proposal.

Vice Mayor Schwartzman asked about 'non callable bonds.' Ms. Backstrom explained how 'callable' and 'non callable' bonds work. The call provision is more expensive.

Mayor Messina asked if Council could do part of the public safety portion of the plan. He would rather not take the risk on the other portion. Mr. Sousa discussed how the City could mitigate the risk. He discussed the PERS stabilization fund. The City could deposit the money in that fund to use in the years when the PERS earnings rate decline below the 7.75% expectation. Over the course of time, we could decide what balance should be kept in that fund. That would cover the risk.

Council Member Patterson asked about the list of participants. There are many responsible agencies involved. This is one of the smallest risks the City has entered into. The City is facing a bulge in its unfunded portion due to its work force. This is dealing with a situation today that is timely. The risk is minimal. The investment company has a sterling record. She supports this item.

Council Member Hughes stated that he is financially conservative. There are minimal risks, but there tremendous benefit potential as well.

Vice Mayor Schwartzman stated that we have to figure out what to do with the savings. If the City does a good job with the savings, it would pretty much eliminate the risks.

RESOLUTION 06-37 - A RESOLUTION AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF PENSION OBLIGATION BONDS, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST AGREEMENT, AND AUTHORIZING A VALIDATION ACTION AND OTHER MATTERS RELATING THERETO

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

Ayes: Council Members Hughes, Patterson, Schwartzman, and Whitney

Noes: Mayor Messina

Consideration of mid-year budget adjustments for Fiscal Year 2005-2007:

Rob Sousa, Finance Director, reviewed the Staff report.

Council Member Patterson asked if legislature was looking at Proposition 218 to legislatively look at water fees, with regards to storm water treatment. Mr. Schiada stated that nothing has been decided by legislature as of yet. Council Member Patterson noted that at the budget planning sessions for the last year, she questioned the assumption used for the City's energy needs. Referring to page IX-B-12, she requested that Council reach concurrence for some brainstorming with Staff on the rising fuel cost issues and the increase in natural gas costs. She was concerned about the trends in energy costs increasing aspects. She discussed the police station renovation with regards to energy efficiency. She would like Staff to think about ways to address exponential increases on the City's fuel costs.

Council Member Hughes asked about projects that were carried over from last year. Were the projects forecasted to be completed? Mr. Sousa stated that the projects are difficult to predict with regards to timing of completion. Council Member Hughes stated that he prefers balanced budgets. After two years, it should be balanced. Too many variables could affect the second year.

Vice Mayor Schwartzman asked a question on page IX-B-11/12 with regards to natural gas and fuel. Should Council be more conservative and budget more for 2006-2007? He asked for clarification on Valero's tax. Mr. Sousa stated that the City is currently negotiating with Valero. The City has been working on a sales tax mechanism for their contractors so we could steer that 1% towards the City of Benicia. Mr. Sousa estimated between \$70-80 million will be spent on purchases and supplies, which equates to approximately \$800,000 in sales tax per year. Staff hopes to have something more solid on the Utility User's tax by the end of March 2006. Vice Mayor Schwartzman asked for clarification on Bio-Rad's tax rebate. Mr. Sousa explained that the City gave Bio-Rad a short-term agreement to share the sales tax that they bring in, over and above what they bring in. That was an incentive to keep them here, locally.

Per Council Member Patterson, there will be a notation with the Resolution directing Staff to look into allocating for future energy costs and to be conservative with the numbers.

Council Member Whitney stated that he was abstaining from the portion of the budget adjustment that pertains to the part-time employee's salary, as his daughter works for the City. He would be voting in favor of the remaining portion of the Resolution.

RESOLUTION 06-38 - A RESOLUTION APPROVING ADJUSTMENTS TO THE MUNICIPAL BUDGETS FOR FISCAL YEARS 2005-2006 AND 2006-2007

On motion of Council Member Patterson, seconded by Council Member Hughes, the above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, and Whitney

Noes: Mayor Messina

Abstain: (partially) Council Member Whitney

Mayor Messina called for a 5-minute break at 9:21 p.m.

The meeting resumed at 9:26 p.m.

COMMENTS FROM COUNCIL MEMBERS:

Request for reconsideration of City Council committee membership – Continued from the February 21, 2006 City Council meeting:

Council Member Patterson stated that she has been attending the Economic Development Board (EDB) meetings. She believes, as a group, the EDB appreciates having Council members present to provide comments and information. She believes Council was hasty in making the decision not having a Council Member on the EDB. She would like the issue reconsidered. She wanted to schedule this item to be discussed by Council.

Mayor Messina stated that it is better, as on most of the other commissions, to allow them provide an advisory role to Council and not have Council participation. However, he is willing to reconsider, if that is what the Council majority wants.

Council Member Whitney stated that he tends to agree with the Mayor on this issue. It allows for a more open discussion when Council Members are not on the board/commission.

Mayor Messina stated that Council has done the EDB a disservice. Council has had the EDB looking at short term, daily issues. Council should allow it to look at future and help Council make long-term decisions rather than look at day-to-day issues.

Vice Mayor Schwartzman did not feel there needed to be representation. The EDB is doing a fine job on its own.

Council Member Hughes asked if the EDB had asked to have Council representation.

Council Member Patterson stated that the EDB had discussed it and she offered to bring it up. She thought the EDB valued having Council participation on the board. She stated that she discussed the issue with the City Manager. The City Manager discussed two schools of thought: 1) Council participation can stifle the board, and 2) Council could

provide information and clarification on issues for the board. She has experienced situations when Council participation proved very useful on the board. She also discussed the possibility of the Council membership be ex-officio and not participate in the votes.

Mayor Messina stated that a few members of the public approached him and expressed their desire not to have Council representation on the EDB.

Council Member Hughes suggested taking the question back to the EDB to get its response as to whether or not it wants Council representation. If the EDB wants Council participation/representation, it should come back to Council with a formal request.

Review of an ordinance addressing campaign expenditure limits, request to review a Clean Campaign Ordinance and request for support of related state legislation -Continued from February 21, 2006 City Council meeting:

Council Member Patterson stated that Council has heard a lot from the public on this item. It has been requested that Council support AB583, which creates a statewide clean money campaign program including public financing of state office candidates.

Mayor Messina suggested the City piggyback on the Senate and its decision. Council should follow the State's decision.

Council Member Whitney agreed that the City should follow the State's path. When the Sunshine Ordinance was first brought up, the community was divided. He recommended having a little patience to see what happens at the state level. There could then be some community workshops or discussion on how to proceed.

Council Member Hughes stated that he was on the same page. He wanted to make a personal comment. There have been attacks and editorials in the papers with regards to campaign spending limits. It has been very frustrating. Spending limits would be an unfair disadvantage to newcomers and an advantage to incumbents. He spent more than some of the other candidates during his campaign. He felt he needed to do so because he did not have the same name recognition as the incumbents had. He has looked at the campaign spending history for the past few elections. There is not a direct correlation between the amount of money spent and those that are successful in the elections. It is not consistent. He has the information available if anyone wants to look at it. He discussed the independent expenditures and the fact that he and Vice Mayor Schwartzman have gone on the record as not knowing about the ones that have been reported in the papers. Regarding a clean campaign ordinance, he is bothered by the implications. The implication is that if someone contributed to his campaign, his integrity would be compromised after he was elected. He took an oath to look at the needs of the whole community and that is what he intends to do. There is also an implication that the money that was donated to his campaign was not clean, and therefore 'dirty'. He ran a good clean campaign. For us to look back, because of the election, and begin to impose some restrictions, he personally does not think it is the right thing to do.

Council Member Whitney stated that Mr. Pepe Arteaga ran a race (for City Council) where he spent less than \$100.00. Mr. Arteaga won that race. Money can have an impact, but that particular situation made him think about Council Member Hughes' comment about there not being a correlation between the amount of money spent on a campaign and the outcome.

Vice Mayor Schwartzman stated that he is not sure how personally he should be taking some of the comments that have been made. He spent the most money on his campaign. Campaigns cost a lot of money. About half of what he spent was his own money. He and Council Member Hughes were out walking the neighborhoods. People may want to start saving money to put into their campaigns if they intend to run. He ran a good clean campaign, which is the way they should be run. He thought he needed to spend money to help him overcome some things with regards to the incumbents. He did not do any negative campaigning. He ran as an independent. He did not know about the independent expenditures that were made until they started hitting in the mail. When he heard about Seeno's involvement, he was taken aback because he does not feel good about it. That expenditure was out of his control. It is illegal for candidates to have communications with any other committee, whether it is documented or not. He makes no apologies for the money he spent. The amount of money needed to be spent on this campaign was obscene. Therefore, he supports the legislation that is going through. He hopes to discuss and look at potential voluntary limits.

Council Member Patterson stated that it sounded like she shared a lot of the same concerns as the other Council Members regarding the public's trust in our campaign, especially the last one with outside money. The suggestion that Council move forward with three of these items would go a long way in healing the process. Other communities have clean campaign ordinances. They did not wait to see what the State did. She discussed the City of Livermore's one-page campaign pledge. Livermore also invests in a newsletter that provides updates on the campaign issues, how to judge campaigns for ethics, fairness, and truthfulness. Some communities are looking at 'public financing' of candidates for local office. Studies are showing (where the ordinances have been adopted) that candidates are saying that clean campaign laws give them a lot more time to discuss issues. They find that the public is re-engaged and that they are getting more interested participation from the public. The public feels as if it has a voice in the campaign and they are not cheated by the influence of money. On a national level, \$100.00 contribution is considered the beginning of a 'large contribution.' White men make Eighty percent of \$100.00 contributions. Minorities and women have less of a voice when running for election. A lot of working people simply cannot enter into a political office because of the cost of campaigning. We need to look at what elements of our community are not able to enter into public office. Benicia has had a pretty good record with regard to campaigning. However, there is an alarming trend with the last election. Valero has made it clear that they are entering into the campaigning business. In the year 2000, campaigns cost candidates approximately \$5.00/registered voter to run. In 2003, it cost approximately \$7.00 per vote. In 2005, it cost \$12.60 per vote. The trend of the increasing cost is alarming. Approximately 90% of incumbents that run for office and spend a lot of money win elections. We want to send a message to Sacramento that we

want clean campaigns. Council should support the idea of allowing Staff to support and work with a citizens group that would do most of the work of drafting a clean money campaign ordinance. She urged Council to support the effort to get the ordinance fixed. Mayor Messina asked if there was support from Council to give direction to Staff to draft a resolution expressing support for AB583. Council agreed to give direction to Staff on this issue. Regarding a City ordinance, he would rather wait to see what happens at the state level.

Council Member Hughes stated that he was all for clean campaigns. He believes he ran clean campaigns. Campaigns should be fair and respectful. However, Council should not be too idealistic to think that the campaign is not a contest. It is not a level playing field.

Council Member Whitney stated that he is not too excited about reinventing the wheel. We have time to wait and see what the State is going to do. We need to have an open forum and a more causal environment.

Vice Mayor Schwartzman stated that he is all for clean campaigns. It is different than the issue of campaign financing. Council Member Patterson was alluding to the outside money that is being spent. He is concerned about the outside money that was spent on the last campaign. The money did not 'buy' him. He reiterated that he did not know the independent expenditures were being spent. He is a little more open to the ethics part as described in the City of Livermore's clean campaigns.

Public Comment:

1. Ramon Castellblanch – Mr. Castellblanch urged Council to move forward as soon as possible to adopt a campaign finance limit. It was disturbing to read that a Texas company dropped \$35,000 on a local campaign. He is concerned that the big money is coming to town through such companies.
2. Bonnie Silveria – Ms. Silveria stated that she spoke to Assemblywoman Wolk about this issue. She would like to see a discussion within the community on this issue. Benicia will lose good candidates if they cannot afford to run. People that have been part of the process and people that want to be part of the process should be able to sit down and discuss this. They could actually do this without Council's blessing.
3. Bob Craft – Mr. Craft stated that it is important that this issue be dealt with expeditiously with a lot of community input. The issue is how the large amounts of money distort the system. He believes that the two Council Members did not know about the independent expenditures that were made. When an outside party introduces that much money into the system, they are not donating to 'good' government, they are donating to 'favorable' government. He cannot think of a reason to state as to why the State of California would be qualified to lead Benicia in this matter. Benicia should control its own destiny with this issue.
4. Marilyn Bardet – Ms. Bardet agreed with Mr. Craft's comments. She knew a long time ago that Valero was going to be getting involved in local politics. She believes the two Council Members when they say they ran a clean campaign. However, it was a lot of money that was spent on the last election. How much

needs to be spent in a small town? It is about scale and proportionality. She agreed that this should be a community discussion on this issue.

Council Member Patterson stated that she did not want to have the clean campaign ordinance confused with the ordinance that was adopted at one time that needs to be updated (voluntary expenditure ceiling). She wants Council go give direction to fix that ordinance (voluntary expenditure ceiling).

Mayor Messina stated that the majority of Council wants to wait to see what happens at the state level.

Council Member Patterson stated that the AB583 does not have anything to do with this ordinance. It would be fixing an ordinance that deals with a voluntary expenditure ceiling. She wants to give direction to Staff to fix the ordinance so that it complies with state law (.50 cents per resident limit). Mayor Messina has combined the discussion on the ordinances.

Vice Mayor Schwartzman stated that he is not sure if \$.50 cents is enough to do what one needs to do in a campaign. He does not mind having a discussion.

Mayor Messina would prefer to wait to see what happens with AB583.

Council Member Whitney stated that the limits are a tough thing to nail down. What is the 'correct' amount? These discussions need to be had by the community. If you have not been in a campaign, it is difficult to gauge how much it costs. These issues will not become clear to the community until a discussion or forum is held. Trying to take old ordinances and push them through is not serving the public. He supports clean government.

Council Member Hughes stated that he was open-minded. He is interested in engaging in some dialogue within the community.

Consideration of options for use of a City property, situated at East 4<sup>th</sup> and L Streets, for affordable housing or a Boy/Girl Scout building – Continued from February 21, 2006 City Council meeting:

Vice Mayor Schwartzman stated that the property used to be the Boy Scout house. The City wanted to use it for affordable housing and told the Scouts it would find them a home. The property is currently vacant. This particular site may not be the right home for the Scouts. He discussed the ideas of using the Community Park, Mills School site, and the Clocktower for a community center/scout house. The Affordable Housing Affiliation (AHA) showed him a presentation for a project on this property. He liked the idea. It is designed as affordable housing for local teachers.

Mayor Messina discussed Burgess Point and other areas where affordable housing units have been built. He has talked with the Boy Scouts and Girl Scouts. They are impatient about this issue. He discussed leasing the Scouts the land so they could build a Scout

house on their own with volunteer labor. In terms of affordable housing, a good model to follow is Burgess Point. The City owes it to the Scouts to provide some land.

Council Member Hughes had discussions with AHA. The City has failed on its commitment to the Scouts. The Mills site could be an ideal setting for the Scout's home. He was impressed with the project proposed by AHA with regards to the four units being built for teachers.

Council Member Whitney stated that affordable housing is all about 'community'. He also had ex-parte communications with AHA and the Scouts. Council made a commitment to the Scouts. It has become clear to him that Council needs to fulfill its promise to the Scouts. This property may be the only site left for the Scouts to use.

Vice Mayor Schwartzman stated that he was not suggesting the City had not done its job with regards to affordable housing. He thought AHA would be paying for the land the question is when? He wonders if BUSD would be willing to temporarily lease the Mills multi-purpose room until a permanent home for the Scouts could be built.

Council Member Patterson wanted to hear from the public.

Public Comment:

1. Robert Moore, AHA – Mr. Moore stated that they would be purchasing the site from the City. They would not be financing the site through the City. He understands the Scouts need a house. The Scouts could use an existing civic sight. This site is in the housing element, which has been designated for affordable housing. This project is a 6-unit single-family ownership. It would provide affordable home ownerships for low-income teachers. There is a considerable amount of interest within the local teaching community.

- Mayor Messina asked if the project could be built on another site. Mr. Moore stated that there are not many sites left. There are not many opportunities. Mr. Moore stated that the project was designed to this specific site.
2. Dave Burgess – Mr. Burgess discussed prior projects that AHA has been involved in within Benicia. There is a lack of space for single women to live. Considering the cost of property values, it would be difficult for AHA to find another property for the project. He does not know why the Mills School site could not be used. AHA is struggling to go to banks to obtain finances. They will eventually be able to build, but it will be very difficult. He hopes Council will take some time to think about its decision. The Mills site is an ideal location for the Scouts house. AHA needs the support of the Council. He requested Council delay its decision until it is convinced that the Mills site is not an appropriate site. AHA originally thought Council would give it the land. They know that will not happen now. However, AHA needs Council's cooperation in this matter.
  3. Bob Craft – Mr. Craft discussed the use of the Mills site. It is worth pursuing a temporary arrangement with BUSD to lease a portion of the site. Council should

pursue this issue. He thinks the AHA could provide a unique opportunity for the City with regards to building homes for teachers.

4. Marilyn Bardet – Ms. Bardet stated that the 7-11 Committee has heard the idea of using the Mills site from Ms. Dennis. She supports the idea of affordable housing. If the Mills site were used, parking would be an issue. However, the Mills site should be put on the table.

Council Member Patterson stated that the two worthy goals are: 1) affordable housing, and 2) the need for a Scout house. Both goals could be met. AHA has been before Council for the last two years. They have been involved in the budget and priority meetings. She is on the 7-11 Committee (Mills Elementary School reuse). The state Education Code sets protocol for the sale or lease of school surplus property and there are issues of first right of refusal, childcare, etc. The tour that she took of Mills proved it most suitable for the Scouts use. Regarding property negotiations, costly delays are unacceptable in a City that is committed to affordable housing. She would like Staff to report back to Council at the next Council meeting with the specifics in terms of approaching BUSD about a lease, and direction to Staff that they can work with AHA in terms of financing.

Ms. McLaughlin stated that the City cannot just ‘pick’ AHA. The City has to follow procedures. It would have to be opened up for bid or via RFP.

Council Member Whitney asked Mr. Alvarez if he knew the value of the property. Mr. Alvarez was not aware of the property value. Council Member Whitney is open to discussion on this issue. However, the City needs to check in with the Scouts to see where they are on this issue. He suggested having Staff sit down with all parties involved to find out what everyone’s thoughts are on the issues.

Council Member Hughes stated that if Council delays a little bit in order to make an informed decision, it would be better. He agrees with Council Members Patterson and Whitney on various points. Maybe Council should light a fire under the 7-11 Committee so they know there is a sense of urgency. He was discouraged to hear that it may be a 6-month delay. He would like to make a decision sooner than that.

Vice Mayor Schwartzman stated that if memory served him correctly, the Girl Scouts liked the Mills site. If the City could negotiate an interim agreement with BUSD, it is conceivable that the site could become a permanent home for the Scouts. Regarding AHA, the City does have to open up the process and cannot just give it to AHA.

Council Member Whitney stated that the project proposed by AHA is terrific.

Mr. Erickson asked for clarification on how Council wants Staff to proceed. Mayor Messina stated that Staff should contact BUSD and the Scouts to open up the dialogue with regards to a short-term solution.

Council Member Hughes stated that a month is too long for Staff to report back to Council on this. He would like Staff to talk with the interested parties to get feedback on whether or not the short term lease idea at the Mills site.

Mr. Alvarez stated that the City has submitted an application to BUSD for leasing part of the Mills site for summer camps. They could extend the request to include space for the Scouts. The Scouts would need the multi-purpose room for meetings, as well as a classroom for storage. Staff has a meeting next Wednesday, and this could be part of the discussion. Council Member Whitney would like to express the sense of urgency to both Staff and BUSD.

Council Member Patterson stated that she could bring the 7-11 Committee's schedule to the next Council meeting.

At 11:14 p.m., Council Member Patterson made a motion to hear item XI-D (as it would only take 15 seconds), and continue all remaining agenda items to the next Council meeting.

On motion of Council Member Patterson, seconded by Council Member Hughes, Council did not approve hearing any remaining agenda items, on roll call by the following vote:

Ayes: Council Members Hughes and Patterson

Noes: Council Members Whitney, Schwartzman, and Mayor Messina.

Request for reconsideration of the Traffic Relief and Safety Plan for the Solano County ½ Cent Sales Tax Measure:

Continued to the next Council meeting.

Discussion of participation in the Association of Refinery Cities and Counties:

Continued to the next Council meeting.

Discussion of an Industrial Safety Ordinance:

Continued to the next Council meeting.

INFORMATIONAL ITEMS:

Report on Council Priority Projects – Continued from February 21, 2006 City Council meeting:

Continued to the next Council meeting.

Reports from City Manager:

Continued to the next Council meeting.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:15 p.m.

---

Lisa Wolfe, City Clerk