

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
MARCH 20, 2007

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 20, 2007, 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, and Mayor Messina

Absent: Council Member Whitney (arrived at 6:02 p.m.)

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).

OPPORTUNITY FOR PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

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

CLOSED SESSION:

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

Agency negotiators: City Manager

Employee organization: Benicia Senior Management Group

ADJOURNED TO CLOSED SESSION:

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

RECONVENE OPEN SESSION:

Mayor Messina reconvened the meeting to Open Session at 6:26 p.m.

ACTION ITEM:

Study session to consider adoption of a Code of Conduct and Best Practices

Jim Erickson, City Manager, reviewed a PowerPoint presentation titled 'City Council Code of Conduct and Best Practices' (hard copy on file).

Mayor Messina stated that he hoped Council would be able to provide direction to Staff tonight to say whether or not it wants to move forward with this issue. He would like to have some specific dialogue on the two issues that were raised by Council Members Whitney and Schwartzman at some point.

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot suggested that before this is adopted, it should be made available to the public for a few weeks so they could review it. He suggested that Council needed to see what is being said at the commission and board meetings. It is important they know what is going on. It is good for Council to go to the meetings. He asked if this town was so starved for people to serve on the commissions that people are serving on multiple boards and commissions.

Council Member Hughes stated that on the first issue – attending meetings – he does not see any issues with that. He has attended many meetings. He goes out of his way not to influence the meetings. On the proposed language, he would take out the word ‘unduly’ and just have it read ‘no influence.’ Any participation would be somewhat risky. Council would have some influence and impact on the meetings if they were to participate. He goes just to listen. That is what he would encourage his colleagues to do as well. He would like Council to consider the wording in the City of Sunnyvale’s ordinance. Any opinions stated should be personal opinions, not opinions stated on behalf of the Council.

Council Member Whitney stated that he brought this issue forward because he has serious concerns. Council’s attendance at the board and commission meetings influences the meetings, simply by their presence. What happens if Council is not careful is that it starts to lose the commission’s independence. He wants to know what the people on the commissions think. He does not have a problem with someone sitting there, not speaking at the microphone, and simply gathering information. His key concern is that the commissions and boards might say what they think Council wants to hear, and not what they really think. Council needs to look at how it influences the commissions.

Vice Mayor Schwartzman stated that the Planning Commission meetings are televised. Council Members could see what is going on if they watch television. That is the only commission that is televised. He would love to see, somewhere down the line, the Commission room wired for broadcasting, so that other board and commission meetings could be televised. Regarding the public’s comment that someone might not come to the Council meetings due to the environment – it may have the same effect at a board or commission meeting if a Council Member were present. He would be okay to allow the Council Members to observe meetings, but not provide any input and just simply observe.

Council Member Patterson stated that the issue of attendance at meetings is one that is well identified and discussed. The League of California Cities has for years, stood by the undue influence aspect. She respects Council Member Hughes’ comment about not having any undue influence. The issue is for Council Members to be well informed in the community. As people testified at the last Council meeting, it was recognized that when

she attends the EDB meetings, she quietly observes and learns a great deal. It has been an amazing information resource for her. It is particularly important to a person like her, who has a day job, to be able to learn the information being presented in the meetings. She has answered questions when she was asked. When she read minutes from past meetings, other Council Members, including Mayor Messina, have answered questions as well. She supports having this in the Code of Conduct. Providing more verbiage would help.

Mayor Messina stated that the State law is clear on when council members must excuse themselves. The FPPC is clear on the issue of undue influence and that a person's presence could influence decisions. He has gone out of his way not to attend meetings unless there is a specific presentation, question, or issue that Council has to address. It is better for the commissions and boards to make decisions on their own. He would go with the strict interpretation that the FPPC follows and not allow Council to attend board and commission meetings.

Public Comment:

1. Kitty Griffin – Ms. Griffin stated that she read how other cities handle this issue. They were all pretty open about allowing council members to attend commission and board meetings. She would hate not to be allowed to attend meetings simply because she was a council member. She asked that Council not make Benicia look bad to other communities by not allowing its Council Members to attend meetings. A council member should wait to be invited or asked to speak at the meetings. That would embarrass her.
2. Joel Fallon – Mr. Fallon stated that if the public at large is allowed to attend the meetings, council members should be allowed to attend as well. If that were not allowed, you would have a public that was vastly more informed than its council.
3. Brad MacLane – Mr. MacLane stated that Council Member Patterson brought a great deal of information to the PURE Committee meetings. She did not cross the line at any time. As a Library Board Member, he would like anyone who wanted to attend be allowed to attend. There is an ethical line that Council should not cross when attending meetings.
4. Marilyn Bardet – Ms. Bardet stated that it was interesting that this was being discussed for both kinds of meetings (boards and commissions); where at some meetings decisions are being made on projects and such. However, at board meetings, Council's input could be valuable. However, at the commission meetings, we might want to use the word 'restraint.' They might need to provide a point of information that could prove to be very useful. We are trying to build a better city, using all of the brainpower we have to do so. She would hate to see huge restrictions imposed, when people are mostly able to behave in public at such meetings.

Council Member Patterson asked for a clarification from Ms. McLaughlin on the issue with the FPPC as discussed by Mayor Messina. She wanted clarification on the purpose of the FPPC monitoring those potential private conflicts of interest vs. the public interest. Mayor Messina clarified that he was referring to the code that says that council members have to leave the room because their mere presence could affect people's decisions.

Council Member Patterson clarified that the reason council members have to leave the room is because they have a private interest in the issue that is being discussed. That is why they are required to leave. It has nothing to do with the information they could learn. It is strictly a material conflict of interest issue.

Ms. McLaughlin stated that the FPPC regulations are for governing personal private interests for council members.

Council Member Patterson stated that #5 in the proposed Conflict of Interest Code discusses conduct at meetings. She wanted the public to know that Council was addressing that issue.

Vice Mayor Schwartzman stated that he thinks there is a difference in what the FPPC was ruling on. It is clear that when a council member has a financial interest in the topic being discussed, they have to leave the room. He agreed that a council member's presence at a meeting could have influence, although it is not to the same degree as when you have a financial interest in the issue.

Mayor Messina stated that due to time, this issue would be continued to a future meeting.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 7:10 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MARCH 20, 2007

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:10 p.m. on Tuesday, March 20, 2007, 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:

Council received information from Staff.

Openings on Boards and Commissions:

- Historic Preservation Review Commission:
One full term to February 28, 2011

APPOINTMENTS:

RESOLUTION 07-24- A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF VIOLA ROBERTSON TO SERVE AS BENICIA'S
REPRESENTATIVE ON THE SENIOR COALITION OF SOLANO COUNTY

The above Resolution was adopted, on roll call by the following vote:

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

Noes: None

Mr. Erickson introduced Sandra Spagnoli, the City's new Police Chief.

PRESENTATIONS:

Viability of the City of Benicia/Valero Water Reuse Project:

Mr. Bob Craft, Chair of the PURE Committee, reviewed a PowerPoint presentation titled 'Viability of Benicia/Valero Water Reuse Project' (hard copy on file).

Mayor Messina stated that since this was a report, no actions would be taken tonight. The action that Council would take on this would be brought back at a future meeting.

Vice Mayor Schwartzman asked Mr. Craft to clarify what he was referring to when he discussed technology. Mr. Craft stated that he was combining two things: The concept for the kind of system they were coming up with and the components. The siting issue is a separate one, except that what they picked as a system component had to fit someplace. They fit nicely at the City facility, however, some of the neighbors may not agree with that. Vice Mayor Schwartzman clarified that the components they had to use had to integrate with existing technology. Vice Mayor Schwartzman asked how the increasing cost of petroleum came into play with this. Paul Meyerhofer, CDM, explained that a lot of the elements that are used in the treatment technologies are derived from petroleum-based products. Vice Mayor Schwartzman asked when the construction of the actual project was estimated to begin. Mr. Craft stated that it was estimated to be sometime late in 2007. Vice Mayor Schwartzman asked Mr. Craft how in March the project was estimated at the same amount for 14 months, then from May 2006 to October 2006 almost double in cost. Mr. Craft stated that he did not have an explanation for that. He said that Mr. Meyerhofer might want to explain. Mr. Meyerhofer stated that the nature of preliminary construction cost estimating is that because you don't have a detailed set of drawings upon which to go out and solicit bids, you tend to rely on two things: historical cost information and updating the historical cost information based on professional cost indices. That is a standard method. When they were following that method, there was no indication that they should adjust the cost significantly upward, which they eventually did. The reason was because there was a lot of thought in the industry that these were short-term cost increases that would settle back down. That was the basis for CDM's tipping point. In August 2006, a similar project was bid on in Pebble Beach. However, there were about \$5 million worth of items that were not in that project, but were in Benicia's project. The bid cost for that project was \$18 million. At that time, there was a lot of discussion in the industry that the increases were short-term in nature.

Vice Mayor Schwartzman inquired about the scrubber and the technology changes within that project. How does that relate to the project that was approved? How significant are the changes, and how does that relate to environmental concerns?

Mr. Guy Young, Valero, read the following prepared statement: "Good evening Mr. Mayor and members of the City Council. My name is Guy Young. I am the Technical Director at the Valero Benicia Refinery. I'm also a member of the PURE Committee. I am here tonight to support the work of the PURE Committee and to help answer any questions you might have about the water re-use project from Valero's perspective.

First, I would like to recognize the commitment and effort that all my fellow committee members made to participate in this project. For over 3 years, the team has been effectively led by our chairman, Bob Craft, with Chris Tomasik from Public Works providing excellent staff support. Councilmember Patterson and community members Brad Maclane, Don Basso, Dennis Lund, and others before them, committed their personal time and energy to get us to where we are today. The community should be grateful.

Our refinery remains committed to efficiently using water in our operations. Nearly all of the water we use is “raw water,” not drinking water like the water other residents of the City use. Our raw water is delivered by the City to the refinery, where we treat it to make high-purity water or steam for our processes and for use as make-up water in our closed-loop cooling water system.

Since 2000, when Valero acquired the refinery, we have reduced our raw water use by over 15% or nearly 800,000 gallons per day. We have done this through conservation and our own internal reuse of water.

In 2001 and 2002, as part of our Valero Improvement Project development (or VIP), we examined the possibility of using some of the City’s treated effluent water to meet possible new demands from VIP. At the time, these new uses were estimated to be about 1 million gallons a day, primarily from increased water use in the new flue-gas scrubber.

To address the possible increased water demand, Valero pledged to spend up to \$15 million toward construction of a water reuse facility. The facility would treat for reuse some of the water that is now being discharged by the City to the Carquinez Straits. Under terms of our agreement, the expenditure of funds would take place if the project was found to be technically, regulatory and economically feasible of delivering 1 to 2 million gallons per day of treated water to the refinery.

Since the time of Valero’s original commitment, two important developments have occurred that affect the underlying basis for the re-use project.

First, the cost estimates for construction of a water reuse facility have exceeded original estimates by \$9 million to as much as \$25 million, making the project uneconomic.

Second, the engineered design of the VIP flue-gas scrubber has significantly reduced the water demand requirements of the scrubber.

The refinery remains committed to water conservation and we will continue to look for ways to reduce our water use...but none of this comes for free.

The scrubber design I mentioned a moment ago incorporates systems to re-circulate flue-gas scrubbing solution with only small amounts of water required for make-up. The equipment needed to do this represents a \$16 million investment to conserve water.

We are also in the process of revamping our Naphtha Reforming Unit to minimize the use of once-through cooling water during routine reactor regenerations. About \$1 million

has been invested in air coolers that are expected to save us an average of 150 gpm of water.

Valero remains committed to resource conservation. However, the original driving force for the City effluent reuse project, a more water-intensive scrubber design, has been significantly reduced with technology improvements—at a cost of \$16 million. So although the estimated cost for water reuse has skyrocketed, making the project uneconomic, the original project objective is still being met.

In closing, I want to once again commend the members of the PURE Committee for their hard work and dedication to this project and to the Benicia community.”

Mr. Young then stated that what they are talking about is details in the design. It does not change the permitted project. It is just refinements and the design equipment that was envisioned in the permit that allows this to be a much less water intensive scrubber design. It is a more efficient way to use water for the process.

Council Member Whitney thanked Mr. Craft for his efforts. He asked if the energy consumption would be the same on all the systems Mr. Craft discussed in his report. Mr. Craft stated that it would depend on the size of the system. The primary energy power users were the reverse osmosis system and the ultra violet system. The amount of energy used is dependent on the size of the system.

Council Member Patterson stated that water conservation was the cheapest form of water supply, and it makes a great deal of sense that they are pursuing that. She was not sure if this approach was a ‘no problem’ approach. Are they working with the Regional Water Quality Control Board, are they looking at some new permitting process for the discharge of the water, etc. Mr. Young stated that the difference is whether water is going to evaporate or not be used at all. The water they would be consuming if they did not install this design change would be going out of the stack as a plume. Council Member Patterson asked if there was a possibility that there would be a glitch in designing this and going forward with an alternative approach. Mr. Young stated that there was not.

Council Member Patterson stated that generally, the rule of thumb for desalination plant is \$900/acre foot of water. That is based on \$.03/kilowatt costs. These desalination plants are usually located next to energy or refineries. It is kind of a false price. It is not a market rate and it is extremely energy intensive. The water recycling projects that are being funded in the Bay Area run the whole gamut from wastewater treatment to desalination. It is a question of when, not if ever. It is good to keep that thought as we proceed.

Council Member Hughes stated when the project was first started there was not the same water supply that is now available. He understood that there is not a water supply issue right now. The objective of the project was to reduce demand for water supply. Some of the conservation efforts that Valero has moved forward with have reduced demand. Council Member Hughes asked Mr. Young to clarify what the conservation efforts were.

Mr. Young stated that if you compare the water usage at the refinery and the period of the sale (from Exxon to Valero) to what they are at today, they are down approximately 800,000 gallons per day. Valero averages approximately 4.2 million gallons per day today, with a lot of seasonal variability. Going forward, they are looking at a scrubber project, with other conservation projects they are currently undertaking, that is essentially water-neutral. Council Member Hughes thanked everyone who worked on the PURE Committee for their efforts.

PROCLAMATIONS:

- National Library Week, April 15-21, 2007
- National Poetry Month, April 1-30, 2007

ADOPTION OF AGENDA:

On motion of Vice Mayor Schwartzman, seconded by Council Member Patterson, 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:

PUBLIC COMMENT:

1. Ann Hansen – Ms. Hansen stated that the Benicia Historical Museum’s exhibit titled ‘Eyes of the Lens’ would be opening on April 15, 2007. She was proud that Council accepted responsibility for the buildings the museum uses. The City has done outstanding work in preserving the building. She wanted to especially thank Mr. Alvarez and Mr. Knight in the Parks and Community Services department. They have been wonderful. The museum is cooperating with the Benicia Tula Sister City group on Founder’s Day. She encouraged everyone to visit the museum to see what is being done.
2. Dana Dean – Ms. Dean welcomed Chief Spagnoli to the City. On the water reuse presentation – regarding the suggestion that there has been some sort of collusion with the PURE Committee, there has not been. She was a member of the PURE Committee. She was disturbed by the notion that the people involved were not trustworthy or their conclusions were improper. If they are going to say that, they should come to the hearing and say it to their faces. Valero has a tremendous opportunity to keep the promises they made. She hopes they will step up and fill the financial gap. At a minimum, the administrative record needs to be set out publicly. She was disturbed by the change in the amount of the cost for the project. It would be appropriate to track in a formal way, the changes in technology, economics, etc. Regarding Sky Valley – it is very important to this community. It deserves Council’s support.
3. Marilyn Bardet – Ms. Bardet discussed the water reclamation and recycling program. She is a member of the Good Neighbor Steering Committee. PURE has done a great job. Valero tried to avoid extraordinary costs and still provide something that makes their processes more efficient. If there is a new scrubber

design that is cheaper and more efficient, it should be looked into. She was happy to support the PURE Committee's findings and recommendations. She would also support possible compensatory ways Valero could contribute as per the settlement agreement's intent. This is an advantage that we should make use of. Maybe Valero could contribute to a tree-planting program.

4. Norma Fox – Ms. Fox stated that she wanted to talk about the two ordinances that would be on the Council agenda in two weeks. She was concerned the newly tinkered with ordinances were not available on the City's website for citizens to view. It should be on the 'what's new' page very soon. She was concerned that some written comments that Council receives after the agenda packet were not available for the public to view in a timely manner. Mayor Messina informed Ms. Fox that all written items submitted to Council were kept on file.
5. Council Member Patterson asked Ms. McLaughlin if the City could post the written comments that Council and the public might consider on the City's website. Ms. McLaughlin stated that it was a matter of space and time. They are not part of the agenda packet. If they don't make the deadline, the items cannot be included in the packet. However, there could be a separate section for written comment items. Mr. Erickson stated that he would look into this.
6. Scott Shepherd – Mr. Shepherd stated that he supported increased Staff time to support the Sky Valley Open Space Committee.
7. Jon Van Landschoot – Mr. Van Landschoot commended Council for having the PURE Committee provide a detailed report tonight. He was glad to see that there is a police chief who is not a guy. He hopes she will move here. He likes the idea of having an environmental committee. He hopes the City will finance that in the future.
8. Kitty Griffin – Ms. Griffin discussed the letter to the editor she wrote to the Benicia Herald regarding campaign practices. She was concerned that what she said might have been misunderstood. Voters need to know as much as they can. It is unfair not to make it clear publicly and broadly what is being spent. This information should be put forth before the vote. A committee might want to sign off that they will not make any contributions after the fourth quarter.
9. Council Member Whitney stated that he toured the new Solano County extension campus in Vallejo. This will be an excellent facility. It will be a great opportunity for people to receive an education. There will be meeting rooms that will be made available to the public.
10. Council Member Patterson discussed the Delta, and the fact that it was at risk. A recent study (Public Policy Institute of California Report) suggested that parts of the Delta should be returned back to a water area, and other parts could be used for restoration of the ecology that is being lost for various reasons. That is one of the sites identified where Benicia gets its water. She encouraged everyone to follow this issue. It could mean added costs and added treatments. Benicia is going to be involved in the Delta solution.

Mayor Messina called for a 5-minute break at 8:49 p.m.

The meeting resumed at 8:54 p.m.

CONSENT CALENDAR:

Council pulled items VII-C, VII-D, and VII-E.

On motion of Vice Mayor Schwartzman, seconded by Council Member Whitney, 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

The Minutes of March 3, 2007 and March 6, 2007 were approved.

ORDINANCE 07-08 - AN ORDINANCE AMENDING SECTION 4.20.020 (ADMINISTRATIVE REVIEW PROCESS) OF CHAPTER 4.20 (OPEN GOVERNMENT COMMISSION) TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE REGARDING THE ADMINISTRATIVE REVIEW PROCESS

RESOLUTION 07-25 - A RESOLUTION ACCEPTING AS COMPLETE THE POLICE DEPARTMENT EMERGENCY SELECTIVE SEISMIC AND SECURITY UPGRADES PROJECT, AS COMPLETE, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAID NOTICE WITH THE SOLANO COUNTY RECORDER

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Award of construction contract for the door renovation project at the Water and Wastewater Treatment Plants:

Vice Mayor Schwartzman stated that the engineer's estimate was \$65,000, and the bid was less than that. He stated that he liked that. He asked Mr. Schiada what the likelihood of having contingencies, change orders, etc. was. Mr. Schiada stated that Staff budgeted for a little bit of a cushion. Staff does not anticipate any major changes to the cost.

RESOLUTION 07-26 - A RESOLUTION ACCEPTING THE BID FOR THE DOOR RENOVATIONS PROJECT AT THE WATER AND WASTEWATER TREATMENT PLANTS, AWARDING THE CONSTRUCTION CONTRACT TO OPENING TECHNOLOGIES, INC. OF CONCORD, CALIFORNIA, IN THE AMOUNT OF \$58,179.03, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

Approval of Change Orders for Marina Area Storm Drain Project:

Vice Mayor Schwartzman asked what effect this would have on the City's 20% reserve. Mr. Sousa stated that at the April 3, 2006 Council meeting, he would be discussing the fact that there was recognition of additional sales tax of \$600,000, which gave the City a

buffer above its 20% reserve. Of that amount, this \$195,000 would be the first amount spent from.

Council Member Hughes asked if the City typically budgeted contingencies into projects. Mr. Schiada stated that it did, however on this project; the City only had a contingency of \$75,000 on this over \$1 million project, which is very slim. The money that is budgeted for contingency is based on a project-by-project basis.

Council Member Patterson stated that at the time this project was bid on, the State was not charging the high amounts that it currently is for permitting of the soil disposal. The City got hit with a surprising high fee for that.

RESOLUTION 07-27 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE CONTRACT CHANGE ORDERS WITH ANDERSON PACIFIC ENGINEERING CONSTRUCTION AND PAKPOUR CONSULTING GROUP FOR THE MARINA AREA STORM DRAIN PROJECT, AND APPROPRIATING \$195,400 FROM THE GENERAL FUND RESERVES FOR THE PROJECT

Request by Sky Valley Committee for staff assistance to produce a work program for development of a Watershed Management Plan:

Vice Mayor Schwartzman stated that he did not pull this item because he did not think it was important, but because he was very concerned about staff time. He asked Mr. Erickson if this would present an issue. Mr. Erickson stated that if this would be an ongoing thing, the City Staff could not do it. When they initially discussed it, it was thought to be on a one-time basis. If this entails an ongoing commitment of Staff time, Staff needs to figure out where it will get its resources. It is predicated on the notion that there would be a search for some grant funding to do the work program. Regarding a start time, the committee would like to start as soon as possible.

RESOLUTION 07-28 - A RESOLUTION AUTHORIZING STAFF SUPPORT FOR THE SKY VALLEY OPEN SPACE COMMITTEE TO PRODUCE A WORK PLAN FOR DEVELOPMENT OF A WATERSHED MANAGEMENT PLAN

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

PUBLIC HEARINGS:

None

ACTION ITEMS:

Introduction of an ordinance amending Chapter 1.36 (Voluntary Code of Fair Campaign Practices) to Title 1 (General Provisions) of the Benicia Municipal Code to add independent committees:

Mayor Messina stated that at the last Council meeting, Council voted to reconsider this item, with a very narrow scope. The reconsideration was whether Council would expand the language in the ordinance that refers to candidates and candidate controlled committees to include independent or political committees, including recipient committees, independent expenditure committees, and major donors, in the appropriate sections within the ordinance.

Ms. McLaughlin stated that the definition of political committees was arrived at in consultation with Mr. Steve Churchwell.

Public Comment:

1. Norma Fox – Ms. Fox passed out a copy of Contra Costa’s Voluntary Code of Fair Campaign Practices and pledge (hard copy on file). She wanted Council to change the language to reflect ‘independent expenditure committee’ not ‘political committee.’ She discussed the issue of repudiation. The time limit needs to be moved back to Wednesday.

Council Member Patterson stated that she was confused by Ms. Fox’s comments. On page IX-A-3, it lists the committee that the ordinance would address. Ms. McLaughlin confirmed the ordinance covered the same types of committees that the Contra Costa ordinance does. The proposed ordinance in the agenda packet is actually broader than Contra Costa’s ordinance. Contra Costa’s ordinance only includes independent expenditure committee’s. The ordinance proposed tonight actually covers recipient committees and major donors as well.

Council Member Patterson stated that regarding the posting; the City is talking about that type of thing in the future reporting ordinance. It will actually address Ms. Fox’s concerns about the situations such as the literature, last minute campaign attacks, etc. Although it is not perfect, it is getting closer to the original intent to address the issues that came up during the last campaign with the independent expenditure committees. She was comfortable with the proposed ordinance.

Council Member Hughes asked what the definition of ‘major donor’ was. Ms. McLaughlin stated that the definitions are included in the Political Reform Act. Council Member Hughes inquired about IX-A-6 – he was not sure what #5 meant. Ms. McLaughlin stated that it meant that the candidates could not ask their employees for help on their campaign. Council Member Hughes inquired about page IX-A-9 - #9 – who’s political committee is it referring to? Ms. McLaughlin stated that the candidate would make copies of the documents available to all contributors, and the contributors could sign off on it as well.

Council Member Hughes stated that he could not support the proposed changes. He liked the way the previous ordinance was written. There used to be financial incentives for candidates to sign on to this, and with the changes, those are gone. There are no teeth to this, as it is voluntary. Also, it borders on the issue of free speech.

Council Member Patterson discussed the issue of free speech. This does not cause a problem to free speech. It is unfortunate that we have the arrogance of a corporation such as Valero, as displayed in the recent article in the Benicia Herald, saying that they had no intention of staying out of local politics, and no intention of not throwing their \$83 billion corporate weight against local politics. On the face of it, she would be embarrassed about not supporting the opportunity of having a corporation sign a voluntary ethics for good, clean, and fair campaigning.

Vice Mayor Schwartzman stated that there were absolutely no incentives for a business or corporation. There is an incentive for a candidate. Regarding the comment about arrogance, some people might call it arrogance, and some might call it honesty. Why would an independent expenditure group that is formed primarily to support or not support a candidate sign on? Leveling the playing field would have better results. Council needs to concentrate on the other ordinances.

Council Member Whitney stated that there seemed to be a movement within the community to demonize independent campaign expenditures and demonize the intentions of people to go out and support candidates. He is not about attack ads. He does not talk about anybody else except for himself during his campaigns. A lot of what is being done is incumbent insurance. The bottom line is that it protects people who are already elected. Elections should be more open.

ORDINANCE 07- - AN ORDINANCE AMENDING CHAPTER 1.36 (VOLUNTARY CODE OF FAIR CAMPAIGN PRACTICES) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE TO INCLUDE INDEPENDENT COMMITTEES

On motion of Council Member Patterson, seconded by Mayor Messina, the above Introduction and First Reading of an Ordinance was not adopted, on roll call by the following vote:

Ayes: Council Member Patterson

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

INFORMATIONAL ITEMS:

Reports from the City Manager:

None

Completion of Open Government Awareness Training - continued from March 6, 2007

City Council Meeting:

Heather McLaughlin, City Attorney, completed the Open Government Awareness Training for Council. She asked that all Council Members complete the certificate of completion and submit it to the City Clerk, to be placed on file.

Council Member Committee Reports:

1. Mayors' Committee Meeting (Mayor Messina) - Next Meeting Date: March 21, 2007

2. Association of Bay Area Governments (ABAG) (Mayor Messina) - Next Meeting Date: April 19, 2007
3. Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes) Next Meeting Date: April 6, 2007
4. League of California Cities (Mayor Messina) - Next Meeting Date: April 30, 2007
5. School District Liaison (Council Members Whitney and Hughes) - Next Meeting Date: April 12, 2007
6. Sky Valley Area Open Space (Council Members Patterson and Whitney) - Next Meeting Date: April 4, 2007
7. Solano EDC Board of Directors (Mayor Messina) - Next Meeting Date: March 22, 2007
8. Solano Transportation Authority (STA) (Mayor Messina) - Next Meeting Date: April 11, 2007 – Mayor Messina stated that he would be participating in the annual lobbying exercise next week.
9. Solano Water Authority/Solano County Water Agency (Mayor Messina) - Next Meeting Date: April 12, 2007
10. Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes) - Next Meeting Date: April 19, 2007
11. Tri-City and County Regional Parks and Open Space (Council Member Whitney) - Next Meeting Date: April 25, 2007 (Citizen’s Advisory Committee)
12. Valero Community Advisory Panel (CAP) (Council Member Hughes) - Next Meeting Date: April 26, 2007
13. Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney) - Next Meeting Date: March 28, 2007
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson) - Next Meeting Date: March 26, 2007

COMMENTS FROM COUNCIL MEMBERS:

Request for consideration of request to rename Kuhland Alley:

Public Comment:

Richard Tipton - Mr. Tipton stated that they are only talking about the western end of the alley. It would be changed to Peggy D. Martin Lane.

Vice Mayor Schwartzman asked how common this request was. Mayor Messina stated that it has been requested three or four times since he was on the Council.

Ms. McLaughlin stated that it was possible that the alley was not ever formally named in the first place.

Council Member Patterson stated that the City does not have a policy on this. The City should look into having a policy regarding renaming alleys. Mr. Erickson stated that although there was not a policy, there was ‘practice.’

On motion of Mayor Messina, seconded by Council Member Whitney, to reconsider the request to rename Kuhland Alley. The motion was approved, on roll call by the following vote:

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

Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 9:35 p.m.

Lisa Wolfe, City Clerk