

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
APRIL 4, 2006

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:01 p.m. on Tuesday, April 4, 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:

Openings on Boards and Commissions:

- Human Services Fund Board - Three openings:
 - One unexpired term to June 30, 2008
 - One unexpired term to June 30, 2009
 - Three full terms to June 30, 2010
- Benicia Housing Authority Board of Commissioners – Two openings:
 - Two full terms to June 30, 2010
- Economic Development Board – Three openings:
 - Three full terms to June 30, 2010
- Library Board of Trustees – One opening:
 - One full term to June 30, 2009

Restricted Water Use:

Mr. Dan Schiada announced that the City is asking for the public's cooperation in restricting water use on April 12-13, 2006. He requested the public not use any outside water use on those dates, and limit indoor use as much as possible. The request is necessary due to major construction being done at the Water Treatment Plant on the dates listed above. The Water Treatment Plant will have to be shut down for an extended period of time. In order for the City to provide residences and businesses with water during that time, restricted water use will be necessary. It is critical that the City has the public's assistance with this matter. The dates are subject to change. Updated information

on the progress of this issue will be posted on channel 27, the City's website, and in the Benicia Herald newspaper.

APPOINTMENTS:

Appointment to the Solano Transportation Improvement Authority Independent Taxpayers' Watchdog Committee:

RESOLUTION 06-39 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF RALPH DEJESU TO THE SOLANO TRANSPORTATION IMPROVEMENT AUTHORITY'S INDEPENDENT TAXPAYER'S WATCHDOG COMMITTEE

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

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

Noes: None

PRESENTATIONS:

None

PROCLAMATIONS:

Mayor Messina presented the following proclamations:

- National Library Week, April 2-8, 2006
Ms. Mary Eichbauer accepted the proclamation.
- Child Abuse Prevention Awareness Month
Ms. Kristy Whatley – accepted the proclamation and invited the public to its event 'Cherish the Child' on 4/23/06 at the Benicia Senior Center.

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:

PUBLIC COMMENT:

Council Member Patterson asked Mayor Messina to clarify that the public could discuss more than one issue during public comment. Mayor Messina confirmed that was correct.

1. Betsy Radtke – Ms. Radtke is a Girl Scout Leader in Benicia. The Girl and Boy Scouts were displaced from their facility in 2002. They are in need of a new facility for the Scouts. The Scouts appreciate the support of the City in this effort. Various ideas have been discussed as a solution to this problem. Ms. Radtke presented the City with a Memorandum of Understanding (MOU) from the displaced Boy Scout and Girl Scout leaders working group. The MOU is to show

everyone involved that they continue in their commitment to work together to find a new scout house. The Girl Scouts have decided that working with the City and the Boy Scouts to put a new building on the site of the old Boy Scout house would be their best option for a long-term solution. There are 35 Girl Scout troops in Benicia, with over 420 members. Ms. Radtke reviewed the various accomplishments of the Girl Scouts in Benicia. They need a secure meeting location.

Council Member Patterson asked Ms. Radtke to clarify the process the Scouts went through for deciding on a site for the Scout house. Ms. Radtke stated that long-term commitment to a site would be their first option. They also looked at the issue of the site being isolated from other user-groups (for safety reasons), flexibility in noise situations, 24-hour access, etc.

2. Bill Vandervoort - Mr. Vandervoort is a Boy Scout leader. He is troubled to see that the City's promise to replace the Scout house is still unfulfilled. The Scouts are unified in their commitment to helping the City find a place for the Scouts. The volunteer leaders from Boy Scout Troop 8 and Venture Crew 78 feel strongly that only the former site of the Scout house on East Fourth Street offers the best long-term solution as listed in the MOU for all of the displaced Scout organizations. The Mills site option does not allow the City to fulfill its obligation to provide a permanent or long-term solution for the Scouts. The Mayor understood this and suggested to the Scouts that they contact contractors to review the East 4th Street site for this purpose. That effort is currently in progress. The Scout House Working Group is comprised of parent volunteers. They are unified in finding a solution for the displaced Scouts. They are unified in their commitment in assisting the City to its commitment to providing a dedicated Scout facility to all of the displaced Scouts. Mr. Vandervoort and Ms. Radtke submitted a copy of the MOU to the City Manager.

Council Member Patterson stated that she was personally committed to making sure there is a permanent place for the Scouts. She was involved in the Girl Scouts with her two daughters. She understood the options were the ill-fated Community Center at Community Park, the Mills site, or the bottom floor of the Clocktower. She asked where the information was obtained regarding the Mills site not being available for long-term use. Mr. Vandervoort stated that there is no guarantee the Mills site could be used long term. The conversations regarding this site were with the Mayor, City Manager, and Mr. Alvarez.

3. Jon Van Landschoot – Mr. Van Landschoot stated that he hoped the City would be able to help the Scouts. He requested Council pull item VII-E from the Consent Calendar. He referenced a letter that was sent by Mr. Bob Craft with regards to that agenda item (hard copy of Mr. Craft's letter on file).
4. Nick Santini – Mr. Santini stated that he was a former employee of Benicia. During his exit interview, the Human Resources Director told him that his family would have medical insurance through 3/31/06. On March 9, 2006, his infant son required medical attention. A few days later, his insurance carrier told him that he was not covered. Someone in the Finance department cancelled his insurance

because he had not made a premium payment. During his exit interview, the Human Resources Staff verified that he was not required to pay for the premiums prior to 3/31/06. Mr. Santini asked Council if this situation seemed fair. To date, no one from the City has contacted him to apologize. Why is there no communication between two small departments?

Mayor Messina directed Staff to look into this issue and report back to Council. Mr. Erickson stated that this was the first time he has heard of this situation. He was anxious to look into the situation and report back to both Mr. Santini and Council.

5. Council Member Patterson – Council Member Patterson requested Mr. Van Landschoot clarify the Consent Calendar item he wanted pulled for discussion. Mr. Van Landschoot verified he wanted item VII-E pulled for discussion.

CONSENT CALENDAR:

Council pulled items VII-E and VII-J.

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 March 7, 2006.

Council approved the denial of the claims against the City by Magdalena Cagonot, Gary Foster and Balinda Vasquez and referral to insurance carrier.

RESOLUTION 06-40 - A RESOLUTION ACCEPTING THE I/I WET WEATHER IMPROVEMENTS-RELIEF SEWER PIPELINE PROJECT, INCLUDING FINAL CHANGE ORDERS, 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

RESOLUTION 06-41 - A RESOLUTION DESIGNATING THE CITY MANAGER, THE DIRECTOR OF PUBLIC WORKS, OR THE CITY ENGINEER AS ITS AGENTS AND AUTHORIZING THE FILING OF APPLICATIONS FOR FEDERAL AND/OR STATE FINANCIAL ASSISTANCE RELATED TO THE 2005-2006 WINTER STORMS

RESOLUTION 06-42 - A RESOLUTION ESTABLISHING A PUBLIC ACCESS AND UTILITY EASEMENT ON A CITY OWNED PARCEL NEAR COVE WAY AND AUTHORIZING THE CITY CLERK TO RECORD THE RESOLUTION ON BEHALF OF THE CITY

Council approved the cancellation of the July 4, 2006 City Council Meeting.

RESOLUTION 06-43 - A RESOLUTION APPROVING THE CITY OF BENICIA TO ENTER INTO AN AMENDMENT FOR CONTRACT NO. C02-07514 WITH THE STATE OF CALIFORNIA FOR THE PER CAPITA GRANT PROGRAM UNDER THE CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION BOND ACT OF 2002

RESOLUTION 06-44 - A RESOLUTION EXPRESSING SUPPORT FOR CALIFORNIA STATE ASSEMBLY BILL 583, AS AMENDED, HANCOCK POLITICAL REFORM ACT OF 1974: CALIFORNIA CLEAN MONEY AND FAIR ELECTIONS ACT OF 2006

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of the July 1, 2005 to June 30, 2010 Amendments to the Labor Agreement with the Benicia Firefighters' Association and authorize certain retroactive payments to the various employee groups:

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot stated that he belonged to a union. He has negotiated contracts for the teachers in the past. He was concerned about the contract. His concerns were with longevity and the issue of the Firefighter's receiving the automatic 2% increase every six months (4% per year). He had issues with the 'may' and 'shall' listed in the contracted. If the City has financial difficulty in the future, this could put the City in financial straights. He discussed prior contracts that were negotiated in the year 2000. Economic certainty in the future is difficult. He discussed the issue of PERS. Council should take action in a positive way. He was not sure if the CPI would be 20%.

Mayor Messina stated that Council wanted to pay the Firefighter's an average wage. He discussed how salary surveys were taken and followed up on. The City has not always been able to keep its employees at the average wage. The intent of the contract is to keep them at the average wage.

Mr. Van Landschoot stated that he was simply suggesting (as was Mr. Craft via his letter) that Council be proactive and change the language to protect the City if it becomes a financial hardship to pay the increases.

Vice Mayor Schwartzman asked if the change Mr. Van Landschoot suggested were to be implemented, would it need to go back to the Firefighter's for a vote. Ms. McLaughlin verified that it would have to be re-voted on if any changes were made.

Mr. Erickson stated that the City was in control of the language in the contract. If the City feels it is incapable of fulfilling the raises, they can exercise the clause delaying the increase for a period of time.

Council Member Whitney stated that the bottom line is that it is a fair agreement for the employee groups. It is time for Council to move forward with this item.

RESOLUTION 06-45 - A RESOLUTION APPROVING THE JULY 1, 2005 TO JUNE 30, 2010 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA FIREFIGHTERS' ASSOCIATION

On motion of Council Member Whitney, 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

Report on City implementation of ordinances combining the previous Design Review Commission with the Historic Preservation Commission (City Ordinances No. 05-01 and 05-02)

Council Member Patterson stated that she was seeking to have the report amended or brought back to Council for review. The primary purpose for having the ordinance was to gain CLG status. Part of getting at CLG status, Council had to increase the qualifications for the Commission. The report is not accurate and does not reflect that. The City needs to be clear that the applications for the Commission need to clearly reflect the qualifications. Council needs to do a better job of applying the ordinance, particularly in terms of qualifications. She requested this be brought back to Staff and Council so it could be given more thought.

Council Member Whitney stated that he did not have a problem bringing this back for a review at a later date.

Vice Mayor Schwartzman stated that he did not have a problem bringing this back at a later date.

Mayor Messina stated that this item would go back for further review by Staff. Staff will bring it back for Council review at a future Council meeting.

PUBLIC HEARINGS:

None

ACTION ITEMS:

Support of the extension of the Orderly Growth Initiative through the Solano County General Plan Update process and incorporation of the initiative's cornerstone principles:
Jim Erickson, City Manager, reviewed the Staff report.

Supervisor Duane Kromm discussed the Orderly Growth Initiative. Three other Cities have adopted the resolution that is before Council tonight. By percentage, Solano County is the fastest growing county in California. With the exception of San Francisco, Solano County is the most urban county in the state of California. Solano County is in healthier financial shape than it has ever been in the history of the County. He urged Council to adopt the proposed resolution.

Mr. Bob Berman, Urban Growth Committee, urged Council to support the proposed resolution. He has been involved in this issue since 1984. This has worked very well in Solano County.

Public Comment:

1. Jon Van Landschoot urged Council to adopt the proposed resolution. Council Member Whitney thanked the Mayor for his support with this issue in the past. He can think of no reason why Council should not support this issue.

Council Member Whitney worked on the Solano County Land Trust with Supervisor Kromm and Mr. Berman. It seems that this has been successful. He can't think of a reason why Council would not want to support this. He wholeheartedly endorses this issue.

Vice Mayor Schwartzman stated that he was very much in favor of this issue.

Council Member Patterson stated that she had the extreme pleasure of working with Supervisor Kromm and Mr. Berman on this issue. She thanked Mayor Messina, the STA, and the group that she has been working with in helping put this together.

Supervisor Kromm stated that the Sierra Club has unanimously endorsed Measure H. He thinks that is because it was put together in a constructive way.

RESOLUTION 06-46 - A RESOLUTION AFFIRMING THE CITY OF BENICIA'S SUPPORT FOR THE EXTENSION OF THE ORDERLY GROWTH INITIATIVE THROUGH THE SOLANO COUNTY GENERAL PLAN UPDATE PROCESS

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

Review of draft "Request for Proposal" for City of Benicia General Plan Implementation Program for Downtown and Arsenal planning areas:

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

Mayor Messina stated that he was troubled by the way the proposal was framed. He asked if, since they owned property in the area, he and Vice Mayor Schwartzman would have full participation in the discussion on these items.

Ms. McLaughlin stated that there might be conversations that they may have to abstain from.

Mayor Messina stated that he would hate to have two Council Members excluded from general discussion and the process. He would like to have maximum Council participation. Ms. McLaughlin stated that it would be better if the Mayor did not give Staff too much direction on how to do this. Mr. Erickson stated that Staff was looking into exploring various ways to allow for maximum participation with the limitations that have been discussed.

Vice Mayor Schwartzman stated that his preference would be to keep the discussion as broad as possible to allow for maximum participation.

Council Member Hughes concurred that maximum Council participation would be his preference.

Council Member Whitney stated that certain issues could be separated out to allow for maximum Council participation.

Ms. McLaughlin stated that her fear is that the current discussion should not proceed, and Council should allow Staff to do their jobs as they usually do to work towards presenting items to allow for maximum Council participation.

Council Member Patterson asked when a zoning code comes before Council for adoption, is it required that there is a distinction with regards to participation, for the properties that may be affected by the zoning code? Ms. McLaughlin stated that there is a distinction for properties. It depends on what sort of impact the zoning ordinance has. It is possible that people with certain economic interests could participate in decisions.

Council Member Hughes discussed his reservations with hiring consultants. He asked for justification for hiring consultants for this issue. Mr. Erickson stated that the undertaking would be quite large with regards to time, expertise, etc. Staff is currently at capacity. It would be best if Staff could manage the program. Council Member Hughes asked if utilizing the consultant would speed up the process. Mr. Erickson confirmed it would.

Council Member Patterson asked Mr. Erickson to refresh her memory about the first effort that was done to implement the required mixed-use zone and when. Mr. Erickson stated that in 2001-2002 there was an effort to implement the mixed-use zoning. For whatever reason, that ceased to move forward. Perhaps other priorities got in the way of the effort. Staff was doing a large measure, if not all of it. He did not believe Staff had the time to devote to the issue.

Vice Mayor Schwartzman stated that he vaguely remembered outside participation by an in the 2001-2002 effort. He asked for verification on the cost. It is a lot of money. Part of the justification is that it should have been done six years ago. Six years ago, it would not

have cost this much money. This will be a long and arduous process. We need to have people that deal with this issue every day to help us on this.

Council Member Whitney stated that he moved his business from Vallejo to Benicia. He is on the 300 block of Military West. It looks like he is not in conflict, but he wanted to publicly state that he might be.

Mayor Messina stated that if Council proceeds with this, there should be a strict timeline for this and there should be monetary penalties if that timeline is not met.

Public Comment:

1. Marilyn Bardet – Ms. Bardet asked if the focus of the plan and initiative was on implementing Form Based Zoning.

Mr. Brown stated that in the proposal, Staff has requested the consultants consider Form Based Zoning, but the consultants would be recommending what they feel will work best for the City.

Ms. Bardet stated that a proper CEQA process was not done in the 2001-2002 attempt. If the City is going to allow a project to go forward prior to the development of this plan (Ms. Olson's project in the Arsenal), she suggested a full or mitigated EIR. She has asked the CAP to do a presentation on what the current situation is at the refinery port. She would like the same from Amports, etc. Council will not have the privilege to review those things unless it makes a plan to make this in step with the proposal that is going forward. A proper CEQA process could get at that. The City needs to hear from all of the stakeholders.

2. Belinda Smith – Ms. Smith stated that the language seems limited to her. She hopes Council is planning on having public participation throughout the process, and would like the language in this item to reflect that. She is glad this is being done.
3. Jon Van Landschoot – Mr. Van Landschoot stated that he does not like spending money, however this might be worthwhile. He thinks this could easily be done within six months. He suggested there be charrettes held.
4. Kathleen Olson – Ms. Olson stated that her project would officially be named '1025 Grant.' In her copy of the General Plan, she has a second draft of the Downtown mixed-use language that she could make available to Council. It's not that she does not want to see consultants hired, but if there is language already available, money could be saved. She hopes the City is not doling out Arsenal good planning to 15 or 16 property owners. She hears the word 'stakeholders' used often. There needs to be a consensus on what that word means.
5. Mark Hajjar – Mr. Hajjar stated that the cost to fund this plan was referred to as being 'reimbursed.' He wondered what that meant. He questioned the issue of noticing. He questioned what a realistic timetable for this completion of the plan would be. Is it Council's intent to affect a moratorium on development in progress while the study is being considered? Council needs to make a clear definition of that.

6. Richard Bortolazzo – Mr. Bortolazzo discussed the Arsenal Conservation Plan. It has been in effect for a long time. He discussed the General Plan. He is the largest property owner/landholder in the Arsenal. The General Plan was passed in 1999. His property was zoned commercial. Council has effectively created a moratorium. He had a project moving forward in 2001. He had to use planned development at that time. A group of citizens fought and destroyed his project via petition drive. When his project was shot down, the Friends of the Arsenal disappeared. They stopped working with anything in the Arsenal. Norm Koerner and Kathleen Olson have now brought projects forward. All of the sudden, Council swings into action. Council does have a moratorium out there. Nothing has happened in the Arsenal in six years. He met with the Friends of the Arsenal and the City Manager two years ago. The Friends of the Arsenal told him he could not build on his property. When Norm Koerner brought his project forward, Council Member Patterson asked him if he talked with the Friends of the Arsenal, as if they are a subdivision of the City's government. He is cynical about the charrettes/stakeholders – they use mob mentality. He is in favor of having a non-biased, educated consultant, with experience in land economics, urban planning, Form Based Code, etc. brought on board. The City needs to use professional, realistic consultants. Council should not abdicate its responsibility to take control of this project. The prior Council should have been turned into the Civil Grand Jury for destroying properties in the Arsenal. If Council wants the Arsenal land to remain vacant, it should keep doing what it has been doing. He is not sure the City would even be working on this issue if the 1025 Grant and Norm Koerner's projects had not been brought forward.

Council Member Whitney stated that he is concerned about the cost of hiring consultants. This is a large project and thinks the City needs outside help. There is specific expertise that is required for this project. He is in favor of this expenditure. He thinks public participation is valuable. He is in favor of beefing up the language so that it speaks of public participation. He discussed the process the Business License Tax issue went through. He agreed that there needs to be a specific timeline adhered to and penalties if it is not met. Regarding the moratorium, the speakers are correct. If there had been a plan in place, Mr. Bortolazzo's project could have moved forward. He is not in favor of having a moratorium. He wants to move forward out there. He has had ex-parte conversations with the owners of 1025 Grant. The project looks very interesting. He supports the request for proposal.

Council Member Patterson stated that she has had ex-parte conversations with the owners of 1025 Grant. Previously, there was favoritism towards Form Based Code. Council is seeking a quick but more than adequate process. There is a vast difference between a specific plan and a Form Based Code. She recommended the following changes to the RFP: 1) Include the Staff report with the RFP, 2) provide more definition on the public participation process, 3) have the RFP indicate that the consultants are responsible for designing/proposing a public participation process that may include a designated task force or some other process that includes all stakeholders, 4) page IX-B-2 – adding clarification 'it should be clear that the general plan and objectives suggest programs to

promote economic development activity of the Arsenal 5) page IX-B-5 – she would like to see ‘the program may be a specific plan or the preferred Form Based Code, 6) page IX-B-6 – project description – it should be clear that it is all stakeholders and to define and give examples ‘the City requires an all-stakeholder consensus approach’ (she suggested using the glossary in the General Plan for specific use of the word referring to ‘stakeholder’ etc.), 7) page IX-B-10 - she is not keen on imposing penalties to consultants for not meeting target dates. She suggested the consultant not be paid until the product is produced – the term ‘time is of the essence’ could be used. Also, if the consultant cannot meet the deadline, they have to provide reasons in writing.

Vice Mayor Schwartzman stated that referencing ‘task force’ might not be a good idea. He agreed that bringing out the economic aspect would be appropriate. On page IX-B-5 – he liked the suggestion of firming up Council’s thoughts on Form Based Code. He agreed with the suggestion on IX-B-6 regarding ‘the City requires a stakeholder’ reference. On page IX-B-10 – ‘time is of the essence’ should be included.

Council Member Hughes agreed that referencing ‘task force’ was not a good idea. On page IX-B-5 – stating ‘preferred’ Form Based Code should be used. On IX-B-8 – the ‘preferred Form Based Code’ language should be reflected as well.

Mayor Messina stated that it sounded like Council was trying to micro-manage Staff. This is only the RFP process. The Council and Board/Commission meetings are open, public forums. He agrees the task force approach is wrong. He would rather leave the process open to anyone who wants to participate. He is goal/result oriented. He is comfortable with Form Based Zoning.

Council Member Hughes stated that he did not think Council was micromanaging Staff. It was agreed that Form Based Zoning was Council’s preferred process, and the language should reflect that. This is an important project.

Vice Mayor Schwartzman agreed that Council was not micromanaging Staff.

Council Member Patterson stated that the goal of this whole effort was to have a plan so that the projects can be accepted and embraced by the community, and that the vision of the General Plan can be realized. We have abundant evidence that this is a very difficult task. There is a lack of trust in the institution. The consultants are being charged with gaining the public’s trust and confidence. She thought she understood that Council would let the consultant tell Council the best approach for public participation.

Vice Mayor Schwartzman reviewed the changes: 1) Include Staff report, 2) elaborate on public participation, 3) reference economic activity, 4) state Council’s preference to Form Based Code, 5) reference stakeholders inclusion under the project description, and 6) state ‘time is of the essence.’ 7) Follow City Attorney’s clarification that this is not in the City’s regular format, and it will need to be fixed to reflect the regular format. On motion of Vice Mayor Schwartzman, seconded by Council Member Patterson, Council authorized City Staff to distribute a ‘Request for Proposal’ for professional

services to assist the City in preparation of a General Plan Implementation Program for the Downtown and Arsenal areas of the City, as amended, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

Mayor Messina called for a 5-minute break at 9:07 p.m.
The meeting resumed at 9:12 p.m.

INFORMATIONAL ITEMS:

Report on Council Priority Projects – Continued from March 7, 2006 City Council

Meeting:

Jim Erickson, City Manager, reviewed the Staff report. He stated that the specific projects would be discussed by exception.

- Community Center:

Council Member Hughes asked about the temporary use of the Mills site for the Kid's Kaleidoscope Program. Mr. Dotson stated that the Mills Site was only being used for the summer camp sessions through August. The School Board will be discussing further use of the site at a future meeting. The City would not have dedicated space at the Youth Activity Center for use by the Boy Scouts.

Council Member Patterson stated that the City needs to take a look at what its needs are. Developers have expressed interest in the Mills site. She heard that the Mayor and Supervisor Silva had encouraged developers to approach the 7-11 Committee. She was troubled by the comments by the Scouts regarding this issue. Mayor Messina clarified that he and the City Manager had been approached by a few developers regarding the Mills site. They instructed those developers that the Mills site was controlled by BUSD. If they were interested in the Mills site, they would need to contact BUSD directly. They told them the City had no control over how the site would be used. They told the developers that there was a tentative date of May 2006 for the report to be completed by the 7-11 Committee.

- Fire Rescue Boat:

Council Member Whitney asked if regarding the lease option, was there just one option or was there multiple options? Chief Hanley stated that two out of the three boat manufacturers that he had spoken with have lease options available. Council Member Whitney asked if the project was 'build to suit'. Chief Hanley confirmed it would be a custom boat. It could be used for security for protection of the port as well as fire rescue. The Vallejo Fire Department expressed willingness to aid in the training process for the fire rescue boat.

Council Member Patterson asked Chief Hanley what the primary goals of the rescue boat were. Is it protecting the port? Is the port vulnerable? Chief Hanley stated that protecting the port was, to a certain extent, one of the goals. The dock situation would be one of the most logical protections. Some of the shipping down there would be out of the league for

this particular size of rescue boat. Council Member Patterson stated that the idea of the boat is splendid; however, she is loathed to use the money from the General Fund and not have any donations from the port, Valero, or the Homeland Security Response Fund. She would like Council to give direction to pursue outside funding for the boat and not use City financing for this. Chief Hanley stated that the Fire Department sought grant funds for a boat three years ago and were turned down. However, the issue of pursuing Homeland Security funding has not been addressed. Council Member Patterson discussed the Delta Regional Emergency Response Program. The State has invited Benicia to participate in the program. That may be an avenue as well. Chief Hanley stated that pursuing the grant would delay the startup of the program. Council Member Patterson stated that the savings might be worth the few months of delay that may occur.

Council Member Hughes stated that he supports the proposal. However, in an ideal world, the boat would sit idle. Has the City done any benchmarking with other communities that have fire rescue boats on the amount of use the boats get? Chief Hanley stated that the Vallejo Fire Department has a few dozen incidents per year.

Public Comment:

1. Tim Winfield – Mr. Winfield stated that he wished Council had thought of all of these questions before this went on the budget priorities. It will take time to pursue the grant funds.
2. Marilyn Bardet – Ms. Bardet stated that she was not used to the public comment format that was being used. The port is a significant part of the community and it is vulnerable. There have been accidents on the Straight. She wants people to understand this is an important safety item. She endorsed getting the fire rescue boat, one way or another. There must be a way to finance the boat. The boat could be shared by Benicia and Martinez. It could be financed by homeland security. She was sure that Valero, Amports, etc. would love to contribute, as their businesses are on the water. Security in the water is important.

Vice Mayor Schwartzman encouraged Chief Hanley to explore, with gusto, financing and contributions from the local businesses.

- Joint Use Agreement:

Council Member Hughes asked if the labor issues had been addressed and resolved. Mr. Dotson confirmed that the labor issues had been resolved.

- Benicia Business Park:

Vice Mayor Schwartzman asked if the City had an idea when a meeting with the applicant could be initiated. Mr. Brown stated that there was a meeting scheduled for 4/12/06.

- State Park Road Bridge Construction:

No comments from Council.

- X-Park Construction:

No Comments from Council.

Report on the temporary use of Mills School by the City and Scout groups:

Mayor Messina stated that this item was covered via previous comments in Council meeting.

Reports from City Manager:

None

COMMENTS FROM COUNCIL MEMBERS:

Request for reconsideration of the Traffic Relief and Safety Plan for the Solano County ½ Cent Sales Tax Measure – Continued from March 7, 2006 City Council Meeting:

Council Member Patterson stated that this item is one of the most important decisions that will be made in the County. There was a failed election for the ½ cent sales tax measure. There was always a concern that there was a lack of a link between the ½ cent sales tax and land use. She wanted to vote for this. However, she could not previously support it because the things that needed to be done had not been done (Orderly Growth Initiative, linking of the TLC Plan with the resolution, and making findings that the return to source funds are consistent with the TLC Plan). There needed to be a rate of improvement for transit that matched the rate of improvement for roads. For all of those reasons, she wanted to show unanimous support for the ½ cent sales tax. She wants to have on the record a unanimous vote in support of the tax.

Mayor Messina stated that at a subsequent STA meeting he asked questions regarding the changes Council made. Council was only asked to review/approve the expenditure plan, which it did. It is time to move on. He is not sure it would serve the community to rehash this issue. He was given a copy of an MOU by a one of the taxpayer's groups regarding TLC, which was signed by Council Member Patterson, Benicia City Council. He was concerned about how some of the issues in the MOU are addressed. He is concerned with possible issues with the Brown Act. He was concerned that the issues in the MOU don't reflect the views of the Council.

Ms. McLaughlin stated that this item was agendized for a specific issue. If Council is going to have a discussion on how they want to represent themselves in public, it needs to be specifically agendized.

Council Member Patterson stated that the information (MOU) in question was presented to Council on the night of the vote on the expenditure plan. The signature on the MOU is for identification purposes only. It does not represent a position by the City of Benicia. She will wait for the discussion to be properly agendized.

Mayor Messina stated that this item would be brought back for discussion.

Council Member Whitney asked about the rules of procedure. If something is voted on, what do the rules say about bringing that item back? Ms. McLaughlin stated that there are two different rules for bringing an item back for discussion. 1) A form must be filled out if the item has been discussed within the past year if the item is to be reconsidered. 2) If an item was not properly agendized, the item needs three votes. It is a two-step process. This is the first step of a two-step process.

Public Comment:

1. Kitty Griffin – Ms. Griffin stated that strategically, Council Member Patterson is perceived by many as the person on the Council who represents environmental sensitivity. Having a unanimous Council would be to the City's advantage.

Council Member Patterson stated that the request was for the good of the measure.

On motion of Council Member Patterson, seconded by Council Member Whitney, Council voted to consider this item on the next agenda, on roll call by the following vote: Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

Review of request to consider participation in the Association of Refinery Cities and Counties – Continued from March 7, 2006 City Council Meeting:

Council Member Patterson reviewed the Staff report on this item.

Council Member Hughes stated that he expects the City and City Staff to be doing this stuff now. He hesitates to think that we need a formal resolution to make sure this happens. He is not sure if he is in favor of a formal resolution.

Council Member Whitney asked what other cities were involved in this. Council Member Patterson stated that it was just the City of Richmond, Ca. It is a formalized way of talking together. Council Member Whitney stated that he believes there is a little bit of trailblazing going on. He prefers to sit back and see what is going on. Maybe we could have some informal discussions with the group and maybe then he could make an informed decision on this.

Mayor Messina stated that all Council Members should feel free to contact other city's Council members. He does not feel formalizing this is necessary. Council has a lot of things on its plate right now.

Vice Mayor Schwartzman stated that there is nothing wrong with being a trailblazer. He does not see a problem with formalizing this. However, he would not want to see Staff involved.

Public Comment:

1. Kitty Griffin – Ms. Griffin stated that Council should consider how the public would perceive this. She sees no problem with formalizing this. This is a no-brainer. She discussed an article in the Contra Costa Times newspaper listing comparative information about the local refineries. It seems if the City were to join this group, Council would appear to the citizens as being very responsible. To say no to this, Council would look strange. Council could appoint someone to this group, who could report back.
Council Member Whitney asked Ms. Griffin if she agreed that there is no group at this point. Ms. Griffin stated that it sounded like Richmond is proposing the formation of the group. Council Member Whitney stated that he was not saying

no to the formation of the group, but that more information needs to be obtained before Council decides to proceed. The CAP should take a look at this and decide if it is worth pursuing. Ms. Griffin stated that the CAP is a refinery-owned group. It is not a community group. She would like to hear a positive feeling from Council on this issue. She detected a note of hesitation or pessimism from a few of the Council Members. Council Member Whitney stated that he wanted to address Ms. Griffin's comments about who 'owned' the CAP. He stated that Ms. Griffin implied that the CAP is a bunch of hacks owned by Valero. Ms. Griffin clarified that her understanding was that the CAP is a creature of the refinery rather than a creature of the City. She stated that she might have misunderstood that fact. Council Member Whitney stated that the CAP has addressed some very meaty issues. There are seven individuals (including Mr. Bob Craft) who represent a very broad based group of people, who would take an honest look at whether or not this group makes sense.

Mayor Messina stated that it is possible for people to care and do the right thing, but still disagree. He talks with other Mayor's all the time to find out information that can make the City a better place.

2. Marilyn Bardet – Ms. Bardet is in favor of Benicia stepping forward and pursuing this. Benicia should take a leadership role with this.

Council Member Patterson stated that the question is whether or not Council should consider this item at the next Council meeting. She asked Staff what their level of communication was and what their needs are, it would be helpful.

Council Member Hughes stated that it is a good idea to communicate with other communities on a regular basis. He does not think it is necessary to formalize the issue of communication.

Council Member Patterson stated that we live in Solano County. There are peculiar and distinct, and unique circumstances here.

Council Member Whitney stated that he was voting against this because he wants it to go to the CAP for discussion and obtaining further information.

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, Council voted against bringing this item back to Council for discussion at the next Council meeting, on roll call by the following vote:

Ayes: Council Members Patterson and Schwartzman

Noes: Council Members Hughes, Whitney, and Mayor Messina

Discussion of an Industrial Safety Ordinance (ISO) – Continued from March 7, 2006 City Council Meeting:

Council Member Hughes revisited the requests of Council for issues to be brought back to CAP. Regarding updates, the CAP decided to present Council with updates on a

quarterly basis and have MRS Consulting provide an annual report to Council. Regarding the mission and objectives of the CAP, everyone was happy with that. There were some questions on term limits. Regarding an ISO, the CAP had some very good spirited dialogue; however, it had not reached a decision. Between now and the next scheduled meeting, they will be doing some research on what the key elements are for industrial safety. The CAP hopes to make a decision on this issue at the next meeting.

Mr. Erickson stated that he had a conversation with Valero Staff on this issue. Valero is about to enter into a special audit program. They have asked to be a part of the voluntary inspection program. They want to demonstrate that they are running a very safe program.

Council Member Patterson stated that she wanted this brought back because she felt Council was a bit hasty in its earlier decision. She wanted this brought back to make sure the CAP knew a resolution existed. She was delighted to see that the CAP is proceeding. She suggested the CAP look at the gaps that currently exist. She is interested in seeing what is going on with emergency response. The City needs to take leadership with this. She suggested Council Member Hughes take this information back to Council with the CAP's findings.

Vice Mayor Schwartzman asked if this would be brought back on a future agenda. He understood that this issue would be discussed by the CAP and brought back to Council.

Council Member Patterson stated that it was not known that there was a resolution adopted by Council.

Council Member Whitney thanked the CAP for its efforts and wished them luck.

Request for change in Sky Valley Open Space Committee focus and commitment of staff resources:

Jim Erickson, City Manager, reviewed the Staff report.

Mayor Messina discussed the Sphere of Influence and LAFCO. He discussed the initial goals of the Sky Valley Open Space Committee.

Council Member Whitney stated that he attended two meetings, but neither had a quorum. The idea of expanding the scope with regards to watershed is important. With regards to staffing, they can't get too much done. By adding some additional vision and scope to this, they might be able to use some staff from the Public Works department. They could use a few staff hours to support expertise.

Ms. McLaughlin confirmed that Council could give direction to Staff on this item tonight.

Council Member Patterson stated that the primary purpose of the committee is to provide permanent protection to this area of Sky Valley. There are three ways to do that, 1) the property owner can give the land to a non-governmental organization, 2) a conservation easement could be purchased, or 3) some portion or all could be part of a mitigation bank

for lifted or threatened species of a project in Benicia or the County. The lay of the land is that there has been a major shift in the state and federal money that is available. It is water oriented and watershed oriented. There is money out there. If you can show that the purpose is to help manage watershed lands, that approach would work. There is no shift in the main goal, which is permanent protection of Sky Valley. The City has been directed by the General Plan to make that happen.

Council Member Hughes fully supports the refocus on watershed management. However, Council has directed Staff to work on some high priority projects. Staff is stretched very thin. He asked of the Staff hours be reduced.

Vice Mayor Schwartzman stated that watershed is a very important thing, but he agrees that Staff is stretched very thin. He suggested a middle of the road approach. He proposed this be revisited in four to six months. Council will have a better idea of what is going on with the RFP at that time.

Council Member Whitney stated that he and Council Member Patterson could go back to the committee and create their own proposal or work plan.

Vice Mayor Schwartzman stated that it would be better to have something in front of Council so it could have a better idea with regards to Staff time.

Mr. Erickson stated that the Public Works department is fully employed on day-to-day operations and special projects.

Mr. Schiada stated that the Public Works department's plate is very full. He likes the idea of revisiting this in a few months.

Mayor Messina stated that he would like to go with Council Member Whitney's offer to take this back to the committee so it can come up with a work plan and come back to Council when it is ready.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:05 p.m.

Lisa Wolfe, City Clerk