

April 5, 2005

The Benicia City Council meets the 1st and 3rd Tuesday of each month at 7:30 p.m. in the Council Chambers. Copies of Council Agendas are available in the City Clerk's office on the Friday afternoon before the Council meeting.

**MINUTES OF THE
SPECIAL MEETING - CITY COUNCIL
APRIL 5, 2005**

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:18 p.m. on Tuesday, April 5, 2005, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENT OF CLOSED SESSION:

City Clerk Lisa Wolfe read the announcement of Closed Session.

ADOPTION OF AGENDA:

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

COMMUNICATIONS ON CLOSED SESSION ITEMS:

WRITTEN: None

PUBLIC COMMENT: None

CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9

Number of potential cases: 1

2. CONFERENCE WITH LABOR NEGOTIATOR (Government code Section 54957.6 (a))

Agency negotiator: City Manager, Human Resources Director, Senior Personnel Analyst, Bill Avery of Avery & Associates

Employee organization: BPSEA, BPOA, BFA, BDA

Unrepresented employees: Supervisor, Professional/Confidential, Middle Management, Police Management, Senior Management

ADJOURNMENT:

Mayor Messina adjourned the meeting a 6:20 p.m.

**MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
APRIL 5, 2005**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 8:01 p.m. on Tuesday, April 5, 2005, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Mayor Messina stated that on the first Closed Session item, Council gave direction to staff to release requested information in compliance with the Public Records Act. On the second Closed Session item, Council received information and provided direction to Staff.

City Council Priority Setting Workshop - Wednesday, April 6th at 5:30 p.m. in the Dona Benicia Room at the Benicia Public Library.

Openings on the following boards and commissions:

- **Human Services Fund board - 3 full terms to June 2009**
- **Benicia Housing Authority Board of Commissioners - 1 full term to June 2009**

APPOINTMENTS:

RESOLUTION 05-38- A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MICHAEL L. WHITE TO THE BOARD OF TRUSTEES FOR THE SOLANO COUNTY MOSQUITO ABATEMENT DISTRICT TO A FULL

TERM ENDING APRIL 30, 2009

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

RESOLUTION 05- - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF MARK LOBDELL TO THE PLANNING COMMISSION TO A FULL TERM ENDING SEPTEMBER 30, 2008

Mr. Lobdell read a letter (on file) that he previously submitted to Council.

Public Comment:

- 1. Fred Railsback - Mr. Railsback stated that he has worked with Mr. Lobdell for over 4 years. He supports the reappointment of Mr. Lobdell.**
- 2. Alan Schwartzman - Mr. Schwartzman stated that the Planning Commission is down by one Commissioner. The City is soon going to be losing the Community Development Director soon. The Community Development department has a lot on its plate at this time. He urged Council to support Mr. Lobdell's reappointment.**
- 3. Bob Mutch - Mr. Mutch discussed the criteria used to evaluate applicants for boards and commissions. He urged Council to reconsider the process being used to evaluate board and commission applicants.**

Council Member Campbell stated that he was in the same position as Mr. Lobdell 4 or 5 years ago. He asked the Mayor why he (Council Member Campbell) was not reappointed when his term was up on the Planning Commission. Mayor Messina stated that when he was running for Mayor, he was approached by an individual who was interested in being on the Planning Commission. Mayor Messina told the individual that he would give him serious consideration if he were appointed Mayor. Council Member Campbell stated that it is a political decision. He stated that he does not have a problem with Mr. Lobdell, however he wants someone from one of the local activist groups serving on the commission.

Council Member Smith stated that he is not supporting the reappointment because of the information provided in the Zucker Report, which states 'there is concern that the various commissions are not adequately representative of the citizenry.'

Vice Mayor Patterson recognized Mr. Lobdell's efforts while serving on the Planning Commission. She noted that per the Zucker Report, the City needs commissioners that are more qualified. She discussed the numerous applicants, including educated and trained planners who have applied for the Planning Commission. She would like to give the other applicants the opportunity to serve on the commission.

Council Member Whitney stated that he supports Mr. Lobdell's reappointment. Mr. Lobdell has the qualities necessary to serve as a Planning Commissioner.

The above Resolution was not adopted on roll call by the following vote:

Ayes: Council Member Whitney and Mayor Messina

Noes: Council Members Campbell, Patterson, and Whitney

RESOLUTION 05-39 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF REBECCA BILLING TO THE HUMAN SERVICES FUND BOARD TO AN UNEXPIRED TERM ENDING JUNE 30, 2006

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

RESOLUTION 05-40 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF SANDY MORIARTY TO THE PARKS, RECREATION AND CEMETERY COMMISSION TO AN UNEXPIRED TERM ENDING MARCH 31, 2005

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

PRESENTATIONS:

Livable and Sustainable Communities:

Vice Mayor Patterson gave a brief description on the conference she recently attended on behalf of the City. She then gave a PowerPoint presentation (hard copy on file) on the Local Government Commission Building Livable Walkable Communities Conference (held March 17-20, 2005).

Vice Mayor Patterson thanked Anne Cardwell for putting the PowerPoint presentation together.

PROCLAMATIONS:

Mayor Messina presented the following proclamations:

- **National Public Safety Telecommunicator's Week - April 10 -16, 2005 - Mr. Ben DuClos, Public Safety Dispatchers accepted the proclamation.**
- **National Library Week - April 10-16, 2005 - Ms. Daveta Cooper, Interim Library Director, accepted the proclamation.**

Council Member Smith stated that several citizens have suggested that the Library Board help appoint a 'poet laureate' for special occasions.

- **Child Abuse Prevention Awareness Month - April 2005 - Ms. Colleen Smith, Family Resource Center Coordinator, accepted the proclamation. She invited Council and the public to attend the 'Cherish the Child' event on 4/17/05 at the City Park.**

Council Member Smith stated that because of the low crime rate, some people think Benicia has problems with child abuse and homelessness, when in fact it does. He stated that this month is also

Sexual Abuse Prevention Month. He stated that there are approximately one dozen sex offenders registered in Benicia. Sexual abuse is only one form of child abuse. Other types of abuse are; verbal abuse, physical abuse, and general neglect. He urged citizens to report incidents of child abuse to the proper authorities.

ADOPTION OF AGENDA:

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

COMMUNICATIONS:

WRITTEN:

None

PUBLIC COMMENT:

1. Chris Howe, Valero Refinery - Mr. Howe wanted to follow up on a letter he recently sent to Council about some work that is being done at Valero. He discussed a recent article about Valero in the Benicia Herald that highlighted the potential for increased flaring this week. He stated that there was no danger in the recent flaring events that have taken place at Valero. Valero will make every effort to reduce flaring.

Council Member Smith stated that he thought Mr. Howe was minimizing the health effects of flaring. He stated that the Bay Area Air Quality Management District formerly estimated that 22 tons of emissions were released in the Bay Area on a daily basis. It is now down to 8 tons being released per day. It is sometimes felt that flaring is used when it is not necessary. It is not that there are 'no' negative health effects caused by flaring.

Vice Mayor Patterson asked Mr. How what the status of the study being done by the Air Quality District. Mr. Howe stated that the study is related to the emission numbers noted by Council Member Smith. Since 2003, the refineries have been directly reporting incidents of flaring, and are required to gather samples. They have identified that flaring is a minor source of emissions in the Bay Area. Vice Mayor Patterson asked that he report to Council by the end of May or June on this issue.

2. Council Member Smith announced the following events:
 - o 3/2 to 4/15 - Elizabeth the 1st - Ruler and Legend - continues at the Benicia Public Library.
 - o 4/6 - Book Club meeting to discuss 'Elizabeth: The Struggle for the Throne' at the Library
 - o 4/8 - Event for teens - 'Elizabethan Party' at the Library
 - o 4/10 - Presentation on 'Falconry Through the Ages' at the Library

- 4/9 - Friends of the Library book sale at the Library
- 4/6 - Napa Solano Audubon Society will have a bird walk in Vallejo
- 4/16 - Napa Solano Audubon Society will have another bird walk - (location not listed)
- 4/7 - BIPA will present a lecture on 'Keeping California Competitive' at the Yacht Club
- 4/8 - 4/9 - BUSD will host 'Change Management' conference at Joe Henderson Elementary School
- 4/10 - Candlelight concert 'Trio de Janeiro'
- 4/16 - 'Golden Bough' will be performing
- 4/16 - Opening Day on the Strait at the Marina Green
- 4/17 - Benicia Old Timers will play baseball at Fitzgerald Field
- 4/22 - Benicia Old Towne Theatre Group will present 'Over the River and Through the Woods' - Opening night and champagne gala
- 4/22 - Benicia Chamber of Commerce will host its annual golf tournament at Hiddenbrook Golf Course

CONSENT CALENDAR:

Council pulled items VI-B and VI-E

The minutes of February 28, 2005 Joint City Council/School Board meeting and the March 15, 2005 regular Council Meeting were approved.

The Monthly Investment Reports for October through December 2004 were accepted.

RESOLUTION 05-41 - A RESOLUTION APPROVING THE JOB DESCRIPTION FOR THE CLASSIFICATION OF AT RISK CHILDREN, YOUTH AND FAMILY COUNSELOR

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Denials of Claims against the City by Aldrich, Flanagan, Schmidt and Thach, and referral to insurance carrier were approved:

Council Member Smith pulled this item because the claim listed as item V-B-1 was a claim dealing with the City's I&I project. Ms. McLaughlin stated that since the Staff report was completed, the claimant has accepted the City's \$500 offer and has signed a release.

On motion of Council Member Smith, seconded by Council Member Whitney, Council approved denial

of claims against the City and referral to insurance carrier for items V-B-2, V-B-3, and V-B-4, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

On motion of Council member Whitney, seconded by Mayor Messina, Council approved denial of claims against the City and referral to insurance carrier for item V-B-1, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Whitney, and Mayor Messina

Noes: Council Member Smith

Status report on emergency repairs to the Police Patrol Locker Room and adjoining space:

Council Member Smith stated that when he was first elected one of his stated goals was to build a new police station for less than \$7 million. This fiscally responsible approach earned the endorsement of the Benicia Taxpayers Association (BTA). Subsequently, the project was submitted at \$13 million. He was the only Council Member not to support that. It was fiscally irresponsible. He desires to have a new police station. He served on a committee that recommended a less expensive project. In subsequent meetings with police and City management, it was indicated they did not want a police building costing less than \$10 million. City Council then approved two-thirds of a million dollars of band-aid fixes on the current police station. Now, City and police management are coming back with an 'emergency' that was not included in the original package of fixes. They are asking Council to bypass the competitive bidding process and its advantages to the City. He does not have confidence that some department heads are managing city resources in a fiscally responsible way. He does not support this approach.

Council Member Whitney asked Chief Trimble to respond to Council Member Smith's comments. Chief Trimble stated that the men's locker room has no heating or air conditioning. Staff needs that in order to get dressed. It is like getting dressed in your bathroom or bedroom with no heat. The unit that quit working was at least 45 years old.

Mike Alvarez reviewed the events that led up to the bid and the work that needs to be done. He secured three informal bids. He assured Council that the bids and prices are fair. He did not have the price range for the bids that were received. The equipment will take 4-5 days to install. The equipment has not been delivered yet. He will update Council as he receives additional information.

Council Member Whitney stated that Council had already voted on this item. He stated that it sounds like this situation falls into the 'emergency funding' category. He stated that he thinks Staff does a good job managing the City's money.

Vice Mayor Patterson discussed her visit to the Police Department a few months ago. It is amazing what they are able to accomplish in that building. She supports Staff's fiscal responsibility. She is not a fan of the policy of picking the lowest bidder, especially in this case. To save a few thousand dollars on this needed repair does not make a lot of sense. She supports this item.

Council Member Campbell asked what the status of the project is. Chief Trimble stated that the units have been backordered for one week. It will take one workweek to install the units.

Public Comment:

1. **Bob Mutch - Mr. Mutch stated for the record that BTA does not support any individual candidates.**

RESOLUTION 05-45 - A RESOLUTION DETERMINING A CONTINUING NEED FOR THE EMERGENCY PURCHASE AND INSTALLATION OF HEATING AND AIR CONDITIONING UNITS AND RELATED CLEAN UP FOR THE PATROL OFFICER LOCKER ROOM IN THE POLICE DEPARTMENT AND APPROPRIATING THE FUNDS FROM THE GENERAL FUND RESERVE

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

**Establish an Urban Water Management Planning Task Force:
Dan Schiada, Public Works Director, reviewed the Staff report.**

Mayor Messina discussed the appointments for the task force. Regarding the Council Member appointment, he was considering himself and noted that the Vice Mayor was also interested in the appointment.

Vice Mayor Patterson stated that she has a profound interest in water management. She would like to link it to land use. It was her assumption that she would make the transition as the Council Representative to the Urban Water Management Plan. However, if the Mayor disagrees, she would be happy to work with him as a non-member. She noted that she has been appointed by ABAG to the Cal Fed Water Forum. The Mayor stated that he would like to make appointments that Council can agree on.

Council Member Campbell stated that whichever two Council Members the Mayor wants to appoint is fine with him. He discussed the cost of the consultants hired for this project. He is still unhappy about the cost of this item.

Council Member Smith stated that Council is fortunate to have two people with water expertise. He asked if the Mayor was determined to serve. Mayor Messina stated that he and the Vice Mayor would discuss this issue at another time.

RESOLUTION 05-42- A RESOLUTION ESTABLISHING THE URBAN WATER MANAGEMENT PLANNING TASK FORCE FOR PREPARATION OF THE URBAN WATER MANAGEMENT PLAN (WATER CODE ? 10610 ET SEQ.) FOR DECEMBER 2005 DEADLINE

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

Ayes: Council Members Patterson, Smith, and Whitney

Noes: Council Member Campbell and Mayor Messina

Approve employee compensation philosophy and compensation survey parameters:

Diane O'Connell, Human Resources Director, reviewed the Staff report.

Public Comment:

- 1. John Noble, Range Lucia and Wilkinson Law Firm - Mr. Noble stated that he was representing the Police Officer's Association. The one problem they have with the report is that it would change the traditional survey-cities that the Police Officers Association has been using for years. Also, the parameters that have been identified are somewhat limited and do not provide Council with an accurate knowledge of what the true market is for police officer personnel in the area. He asked that Council hold off on voting on this item until further information is obtained. He gave Council a list of traditional survey-cities (on file).**

Mayor Messina asked Mr. Noble what cities or types of cities should be included in the survey. Mr. Noble stated that the survey cities that were previously used worked just fine. The way it is being proposed is not reflective of what the market is for the group that he represents (police officers and dispatchers). He discussed the bargaining practices that are currently followed.

Council Member Campbell stated that Mr. Noble was invited to the meetings but chose not to come. Mr. Noble responded by stating that he became aware of the meeting on January 21st, 2005. He sent a letter to Ms. O'Connell concerning the meeting. However, he broke his leg shortly thereafter and was not able to attend the meeting. He is looking for a total compensation approach. The proposed survey approach is a 'one size fits all' approach. He would like the opportunity to sit down and discuss the issues at hand.

Ms. O'Connell stated that the Employee Compensation Committee began their meetings in January 2004. There were eight meetings. Members from each one of the bargaining groups were invited to the meetings. Citizens at-large were invited as well. She summarized what took place during the eight meetings.

Council Member Whitney asked Ms. O'Connell if the other employee groups had reviewed the survey of cities and if they were in alignment with it. Ms. O'Connell stated that they reviewed the cities and had some tweaking that occurred after the December meeting. They are not 100% happy with the survey cities, but the majorities are in agreement with it. If, during negotiations, the Police Officer's Association is not in alignment with one or two of the survey cities, they could negotiate and discuss

what survey cities would be included at that time. The goal is to have a unified list that would be used for all of the groups.

2. **Todd Matthews - Mr. Matthews is the President of the Benicia Firefighters Association. He stated that the BFA actively participated in the Employee Compensation Committee meetings. They feel that the cities on the list are a fair set of cities. It is a good point of reference that builds a good solid base to work off of.**

Council Member Campbell asked the consultant, Jean Sullivan of Bryce Consulting, to address Council. Ms. Sullivan discussed the process that is followed when conducting a labor market survey. Council Member Campbell asked about the geographical range used. Why were Hercules, Rodeo, and Suisun City taken out of the range? Ms. Sullivan stated that they were not used because their services were not similar enough to the services that Benicia provides. She stated that because of its makeup, Benicia has to compete with the other cities in the Bay Area. Her goal was to get the City into a market place that is fair and balanced. They looked at the extremes (low and high) and came up with something in the middle.

Council Member Smith stated that he wished Benicia was somewhere in the middle of the survey cities. He suggested the following changes to the proposed Resolution:

- Should 'protect' the financial condition instead of 'not jeopardize'
- Should 'maintain' instead of 'enhance'
- Add that Benicia should be in the middle third in terms of population size

Council Member Whitney stated that the City needs to be fair and competitive but 'not give away the store.' He discussed how the Employee Compensation Committee got to this point. He encouraged Council to support the proposed process.

Council Member Campbell asked Ms. Sullivan how total compensation is factored in. Ms. Sullivan discussed how the total compensation calculation is achieved.

Council Member Smith made a motion to adopt the resolution with his three suggested changes.

Mayor Messina reviewed Council Member Smith's suggested changes.

Mayor Messina would like to add a bullet point that deals with total cost.

Mr. Noble stated that he does not think that the process has been concluded. A lot of what has been said tonight is a lot of what would be said 'at the table.'

Vice Mayor Patterson stated she supported Smith's first two bullet points, but not the third. She asked Mayor Messina his rationale for adding the suggested fourth bullet point dealing with total cost. Mayor Messina stated that as we look at other cities, we would see that they have different items in their total compensation package. He would rather we look at the total cost and then figure out how to 'cut the pie.' Ms. Sullivan stated that the information requested of the other agencies

needs to be very specific. It is very difficult to get detailed information from agencies. She discussed total compensation and salary. Vice Mayor Patterson said it would be safer to go back to the original language in the Resolution. She disagrees with Council Member Smith about listing a specific city. She seconded Council Member Smith's motion, accepting the changes on first two bullets but not the third - leaving the third bullet 'as is.'

Council Member Campbell asked Mr. Erickson if Council could continue this item until the next meeting. Mr. Erickson stated that it could be continued. However, whatever policy is adopted would not be a straight jacket on any employee organization. It is a statement of intent that is not so rigid that it could not be altered at the bargaining table. Council Member Campbell asked Mr. Noble if he could deal with the 'philosophy' since the specifics could be tweaked during negotiations. Mr. Noble stated that he is more concerned about the parameters that we would end up surveying. They are very limiting. He thinks there needs to be more discussion at the table.

Mayor Messina stated that the policy does not set the list of cities or items that are included in the scope or survey.

Public Comment:

1. Todd Matthews - Mr. Matthews stated that we need to build a foundation that could be broadened later. We need to pick a fair group of cities.
2. James Kavanagh - Mr. Kavanagh is the S.E.I.U. Field Representative for the City's general employee unit (BPSEA). He endorses the proposed system. He does not want to go back and change things just because two of the memberships did not partake in the negotiations. He is comfortable with the list of cities that were provided in the report.

Mayor Messina suggested striking the word 'parameters' from the title of the Resolution.

Vice Mayor Patterson made a motion to approve the Resolution with her previous suggested changes (first two changes suggested by Council Member Smith, but not the third) and striking 'and compensation survey parameters' from the Resolution title.

RESOLUTION 05-43 - A RESOLUTION APPROVING EMPLOYEE COMPENSATION PHILOSOPHY

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

Ayes: Council Members Campbell, Patterson, Whitney, and Mayor Messina

Noes: Council Member Smith

Mayor Messina called for a 5-minute break at 10:38 p.m.

The meeting resumed at 10:44 p.m.

NEW BUSINESS:

Approval of fee deferral for East 5th Street Hotel Project:

Karen Majors, Assistant City Manager, reviewed the Staff report.

Council Member Campbell discussed the transient occupancy tax (TOT). He had issues with the fee deferral (8 years). What insurance does the City have that they will pay any money at all? Ms. Majors stated that she agreed that the estimates did seem high. She discussed Best Western's upcoming expansion and how it would affect the new hotel with the SURAJ Investment Group. The new hotel would be a 'Comfort Suites.' Collateral would be in the form of a deed of trust that would be secondary to their construction and permanent financing. There are a number of safeguards are built into our process. She feels the 8-year request is reasonable. She stated that this project would enhance that section of the City.

Mayor Messina stated that he shares Council Member Campbell's concerns with the TOT number. We should lock in the \$84,000 TOT number.

Council Member Smith asked if there was a compensation factor that would be built in. Ms. Majors stated that there would be interest charged on the fee deferral. Typically, we charge the equivalent of the State/Local Agency Investment Fund (LAIF).

Vice Mayor Patterson stated that Benicia does not have a redevelopment agency, and thus does not have the resources to invest in projects like this; therefore the only choice the City has is to consider a fee deferral. In general, she does not like fee deferrals. However, for the sake of the east side, this is a reasonable approach. Her main reason for supporting this is for the investment in the east side.

Council Member Campbell stated that he wants them to come up with a minimum each year they will have to pay the City. He does not want to set a precedent with fee deferrals. They would be paying back \$26K per year (\$213,000/8 years). If they don't make the minimum TOT, the difference would go towards covering over and above the \$26,000.

Mayor Messina clarified that for example, if the TOT were \$40,000 and they only made \$30,000, they still pay us the additional \$10,000, but it would not go to TOT, we use it as an advanced payment of their fee deferral.

Council Member Smith asked Ms. McLaughlin if it would be a conflict for him to vote on the proposed deferral. Ms. McLaughlin stated that she did not think so, but would look into it. It was determined that there would not be a conflict.

Mayor Messina summed up by stating that Council wants to add that there would be a penalty if they don't make the TOT.

Ms. Majors stated that she hoped to bring back a full-proposed agreement to Council at the next meeting.

Vice Mayor Patterson suggested Council go forward with the Resolution and give Staff some latitude to work on the agreement, and deal with the issue of a penalty if applicant does not meet the

minimum TOT each year.

RESOLUTION 05-44- A RESOLUTION APPROVING THE FEE DEFERRAL REQUEST OF THE SURAJ INVESTMENT GROUP, LLC FOR THE EAST 5TH STREET HOTEL PROJECT

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

REPORTS FROM CITY MANAGER:

Oral report on the status of recruitment for Library Director:

Jim Erickson, City Manager stated that as of last week, they had picked the top two candidates. They hope to decide on the finalist very soon.

Council Member Smith asked Mr. Erickson if any of the candidates were Benicia residents. Mr. Erickson stated that neither of the two finalists were Benicia residents.

Oral report on the status of recruitment for Community Development Director:

Mr. Erickson stated that they have a closing deadline of early May. Staff has engaged the firm of Bob Murray and Associates to run the recruitment for this position. They will be interviewing a number of people in terms of Staff, commission members, and citizens to determine selection criteria.

Status report on the progress towards a Joint Use Agreement with the Benicia Unified School District:

Mr. Erickson stated that there has been a tremendous amount of progress made on the agreement.

Mr. Alvarez has agreed to be the project leader on this project. Mr. Erickson stated that the City needs to find a way to provide a financial balance if it goes forward with this agreement. There will be some significant out of pocket expenses going into this agreement. In order to protect the quality services that the City provides, it needs to look strongly at measures that would enhance our revenues to accommodate the additional expenses.

Mayor Messina stated that in terms of the monetary expenses, the intent is to go ahead with the agreement. Council needs to look at the entire budget in its entirety. Council cannot just pull this item out.

Mr. Alvarez discussed the financial impacts and the effect the agreement will have on the budget. The project is more focused at this point. Staff will be meeting with BUSD's attorneys later in the week. He has concerns with Section 10 of the agreement. Mayor Messina stated that Council wants to make the commitment that we will move forward with the project. Mr. Alvarez stated that the Reserve Fund and changes to the deficit spending policy and would need to be addressed in the future. They will be meeting with BUSD and will have the document back for Council's review within 30 days. They will keep moving forward with the project. They have met with BUSD's labor group and have discussed the proposal. The labor group has raised the issue of working conditions. The issue of contract labor was discussed. This issue of contract labor was raised by BUSD. They have indicated that their labor

group does not see that as a viable solution to the maintenance issue. However, Staff will still obtain the numbers for that. Council Member Campbell asked for cost breakdown of a 'phased approach.' Mr. Alvarez stated he did not have that information available, but would get it.

Mr. Schiada discussed the issue of water and creating a waiver or discount for BUSD. It was determined that any ongoing waiver or discount would need to be addressed either through: 1) a revised water rate schedule, 2) to backfill the waiver discount with a General Fund contribution, or 3) to have the cost for the water included in a citywide assessment district or an assessment district for the particular uses of the BUSD fields that the City would be maintaining. We need to go back to the ratepayers for a vote on the waiver or discount that would require them to pay more than their fair share. This would allow us to create the waiver and discount for the fields being considered. It would not address the annual maintenance. The annual maintenance cost would need to come from a General Fund back fill or an assessment district. The water rate option only focuses on the water fees.

Vice Mayor Patterson asked when Council would be giving direction to Staff to develop the fee deferral/waiver for the district. Nine months seems like a long time. Council needs to have a discussion on possible increases to the ratepayers. A rough calculation would be a monthly increase of \$3.50 to the ratepayers. We need to look at the investment for water conservation, since the City will be motivated to save on costs.

Mr. Schiada stated that the water discount/waiver creates a concern of making sure that there are water conservation measures in place. When we go to the ratepayers, there will need to be a majority vote approval.

Mayor Messina suggested Staff consider using some of the raw water from Lake Herman. Mr. Schiada stated that Staff would look into that. Also, when looking at water rates, the school fields, remaining school water costs and the city water costs that will be a significant cost to the ratepayers.

Vice Mayor Patterson reminded Staff that we all need to think differently because of the position we are currently in.

Mr. Alvarez stated that Staff has asked BUSD for some information that has not been provided in a timely manner. Staff has asked for a meeting with the site principals.

Council Member Campbell asked how Valero is treated as an assessment district vs. ratepayer. Mr. Schiada stated that Valero uses raw water, which is a different rate. There will be some assignment of cost to them. Mr. Alvarez clarified that Valero would not be part of the citywide assessment district.

Council Member Smith stated that Council is talking about a new culture of cooperation between the City and BUSD. Staff continues to ask for delays on this issue and the fields continue to deteriorate. He discussed comments in the Staff report. A few of the clauses staff introduced in the report could be deal-breakers. He has concerns with 1a, 1b, and 1n. Staff keeps erecting problems with the agreement. The financial issues that Staff is raising are legitimate. He agrees and supports the suggestion made by Mr. Alvarez to meet with the site principals. He suggested including the

Superintendent-Elect, Kimberley Dennis, in the meetings.

Council Member Whitney asked if the use of the multi-purpose rooms had been discussed with the principals. Mr. Alvarez stated that Staff cannot control the decisions made by BUSD with respect to their staff and who is present at meetings. Council Member Whitney wants the issue of the multi-purpose rooms and gymnasiums included when Staff meets with the principals.

Public Comment:

- 1. Larry Fullington - Mr. Fullington stated that the City has been very generous to its schools. The people of Benicia care about Benicia. He discussed the Valero appeal for a property tax adjustment. He suggested committing to one-year-at-a-time, not a 5-year agreement. He listed reasons to support his suggestion.**
- 2. Bob Craft - Mr. Craft disagreed with Mr. Fullington's comments. There is no 'fat' left within the school district. Progress with this agreement has been slow. Council needs to press on with this. BUSD needs to plan ahead. One-year stints would not work. There is nothing more important than the kids in this town.**

Mayor Messina had a question on page IX-C-9, item #4. He asked if Staff was prepared to begin maintaining the fields if the contract was signed tomorrow. Can it be done without the proposed improvements to the fields?

Mr. Erickson stated that he understood the direction to staff was to find a way as quickly as possible to improve the four fields. Once the fields were improved, we would then assume maintenance. Mayor Messina stated that the direction was to sign the agreement and then begin maintaining the fields.

Patterson stated that Council's direction to staff was to have the fields ready for use for the next school year.

Mr. Erickson stated that was not physically possible. Staff does not have the ability to do this in that amount of time. The intent was to give relief to the school district. The fields should be maintained. Mayor Messina stated that he knows the improvements cannot be done by the next school year. He wants the fields to begin being maintained by Staff once the agreement is signed. Council wants the fields to begin being maintained as soon as the agreement is executed.

Ms. McLaughlin stated that if Council wants Staff to begin maintaining the fields by September 2005, Council would need to make a motion to that effect. She cautioned Council that if the fields were not redone, just maintained, the City's liability would increase. Council Member Smith stated that the immediate safety issues would be dealt with first, rather than the color of the turf. We need to save BUSD the cost of maintaining the fields. Council Member Campbell stated that Council is asking Staff to do something that they said they couldn't do. It is not a good idea.

Council Member Whitney asked Mr. Alvarez if Staff could begin maintaining the fields and spot fix the areas that need repair. Mr. Alvarez stated that this could be done, but there is still the issue of

liability. He will need additional staff to begin maintaining safe conditions on the fields. Council Member Whitney said he does not want to sign an agreement if there is not accessibility to the fields; that is a must. Mr. Alvarez noted that he would need four positions filled to maintain the fields.

Ms. McLaughlin stated there are still things that need to be settled. If we don't have the staff, we may need to contract out. So, the contract labor issue will definitely need to be resolved.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, Council gave direction to Staff that the intent is that we have an agreement in place and take over the maintenance of the fields by the beginning of the school year. The date the City signs the contract is the date it takes over the fields, on roll call by the following vote:

Ayes: Council Members Patterson, Smith, Whitney, and Mayor Messina

Noes: Council Member Campbell

Mayor Messina stated this needs to be a number one priority. He asked if Council needs to have another joint meeting with BUSD. Vice Mayor Patterson stated it would be a good idea to schedule that in late April or early May at the latest. Mayor Messina will contact BUSD to discuss another joint meeting.

Council Member Campbell discussed the lack of staff to take over the maintenance of the fields.

On motion of Council Member Whitney, seconded by Council Member Smith, council agreed, at 12:24 a.m., to continue the remaining agenda item (IX-D), on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

Vice Mayor Patterson stated that she would miss what Ms. Majors brings to the City. She acknowledged Ms. Major's resignation and congratulated her on her new position.

Seeno Status Report:

Continued to the next meeting.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 12:25 a.m. on 4/6/05

Lisa Wolfe, City Clerk