

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
REGULAR MEETING - CITY COUNCIL
APRIL 20, 2004**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:35 p.m. on Tuesday, April 20, 2004, 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, Smith, Whitney, and Mayor Messina

Absent: Vice Mayor Patterson

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Mayor Messina announced an opening on the Parks, Recreation and Cemetery Commission. Council Member Campbell stated that Bill Tanner resigned from the Economic Development Board, creating an opening.

APPOINTMENTS:

None

PRESENTATIONS:

Update on Tula Sister City Committee:

Leeann Cawley stated that the fire truck project has been completed. The Committee raised enough to locate and acquire a fire truck from Idaho. Valero donated \$5,000 towards the purchase of the fire trucks. Mr. Camphauser, who assisted the Committee in raising money for the truck in Idaho, was able to find a second truck, which he donated to the Committee. Assistant Fire Chief Mike Tessier inspected the trucks and found that both were in perfect working order. Assistant Chief Tessier donated many spare parts that could be used for the trucks. The Benicia Fire Department conducted a demonstration of both trucks for the Committee. Pictures of the demonstration were shared with the Council. The Committee is in the process of planning a Cinco de Mayo celebration to be held on 5/1/04 at the Camel Barns. Tickets are available at F&P Trophy. The committee has been working on the student exchange program. The Committee is proud of all that has been accomplished during the past year.

PROCLAMATIONS:

Mayor Messina presented the following proclamation:

Benicia Historical Museum's new exhibition: A portrait of Benicia An Early California Town. Janet Grothe accepted the proclamation.

ADOPTION OF AGENDA:

On motion of Council Member Whitney, seconded by Council Member Smith, and unanimously approved, the Agenda was adopted as presented.

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

1. Susan Street, 240 East Second Street - Ms. Street stated that at the last EDB meeting on 4/14/04, there were 30 citizens present to speak against development on the waterfront. However, the EDB voted 3-2 to continue the process to spend \$40,000-\$60,000 to hire a facilitator and land use planner. They ignored the statements of the citizens that were at the meeting. The citizens will now have their say. The citizens have started the initiative process to amend the General Plan to make the parcel open space. The group of citizens has hired an attorney, raised money, and is in the planning stages of collecting signatures that will give Council the option to adopt the initiative. If Council decides not to adopt the initiative, the citizens will bring this to the voters in November.
2. Gretchen Burgess, 28 Buena Vista - Ms. Burgess was at the EDB meeting on 4/14/04. She was concerned the City would hire a consultant at such an early stage. She contacted cities around the Bay Area. She talked with the City Manager of Newark, CA. who stated that their city rarely hires consultants. She quoted the EDB as stating that \$40-60,000 was a 'pittance'. Ms. Burgess gave various examples of how \$60,000 could be used in and around the City of Benicia. She advised Council to recommend to the EDB to forgo hiring a consultant for the project. She would like to see more meetings on this issue.
3. Guy Benjamin, 442 Marina Place - Mr. Benjamin spoke on behalf of Reach Out Benicia. Reach Out Benicia works with Benicia's youth regarding drug and alcohol issues. They have helped over 4,000 youth and teens during the past ten years. They will be holding an Informational Social in May. Mr. Benjamin invited and encouraged Council to attend and show their support.
4. Bob Mutch, 695 Knight Drive - Mr. Mutch clarified the events that took place at the EDB meeting on 4/14. The consultant that the EDB recommended be hired would act as a facilitator to hold discussions with members of the community to discuss what, if any development would be appropriate. Development has not been designed or decided on. The use of the word 'pittance' was correct. It was a misuse of the word by someone on the EDB. Mr. Mutch thinks hiring a consultant is a very important task. Mr. Mutch invited Ms. Street and the concerned citizens to attend future meetings to discuss the issues at hand.
5. Jim Erickson, City Manager - Mr. Erickson stated that Staff was trying to develop a community discussion.
6. Jon Van Landschoot 175 West H Street - Mr. Van Landschoot stated that he agrees with all of the speakers. He likes stakeholder involvement. Leah Perry-Shelhorn was also at the 4/14 EDB meeting. At the meeting, Ms. Shellhorn proposed having a series of walk-about to see the First Street Green. The idea was voted down by the EDB. Mr. Van Landschoot and Ms. Shelhorn went on their own walk-about, where they ended up talking with various people along the way regarding the issues of developing the property. They will be holding a meeting on 4/22/04 at 6:30 p.m. the First Street Green sign (at the corner of First and B Street). Everyone is welcome to attend. Regarding hiring a consultant: consultants have been wrong in the past. They could be wrong again.
7. Council Member Smith announced the following:
 - o There will be meetings at the various elementary schools regarding site closure discussions. Contact the BUSD for more information.
 - o On Saturday, 4/24/04, there will be a Mardi Gras parade at 11:00, immediately followed by the Mardi Gras Festival. For more information, call 747-5272.
 - o The Old Towne Theatre Group is presenting 'Emma's Child'. For more information, call 746-1269.
 - o On Saturday, 4/24/04, Voena's Children's Choir will perform in celebration of St. Paul's 50th anniversary. For more information call 745-0407.
 - o Stan Houston presents has various artists; comedians, flamenco guitarist, etc. performing at the Majestic in the near future. For information call 747-0182.
 - o There will be a Transportation Authority Meeting on Monday, 4/26/04 at 7:00 p.m. in the Commission Room at City Hall. The sales tax expenditure plan will be discussed.
 - o The BPAF will have their Spring Festival on Sunday, 5/2/04 at the Jefferson Street Mansion. For information call 746-1762.
 - o It is time for 'Open Studios' in Benicia, which will be held from 4/29 to 5/2. For more information call 745-2614.
 - o April is Child Abuse Prevention month. Children's Network will hold its annual conference titled 'Keeping Children Safe from the Start, Partnership in Action' at the Maritime Academy on 5/7 and 5/8. For more information call 421-7229.

- o Senator McClintock will be coming to Benicia on 4/22. For more information, call the Chamber of Commerce.

CONSENT CALENDAR:

Mayor Messina asked if there were any items to be pulled from the Consent Calendar. Council Member Campbell requested items V-E and V-H be pulled. Council Member Smith requested items V-C and V-G be pulled.

On motion of Council Member Whitney, seconded by Council Member Smith and unanimously approved, the Consent Calendar was adopted as amended on roll call by the following vote:

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

Noes: None

Absent: Vice Mayor Patterson

The minutes of April 6, 2004 were approved.

Council rejected the claim against the City by Kenneth and Jane Roberts and referred this item to the insurance carrier.

RESOLUTION 04-52 - A RESOLUTION APPROVING AMENDMENT NO. 4.5 TO THE JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOLANO WATER AUTHORITY TO REVISE THE FORMULA FOR ADMINISTRATIVE COST ALLOCATION, AND AUTHORIZING THE MAYOR TO SIGN THE DOCUMENT ON BEHALF OF THE CITY

RESOLUTION 04-53 - A RESOLUTION ACCEPTING GRANT FUNDS FROM THE STATE OF CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS IN THE AMOUNT OF \$200,000 FOR THE WEST NINTH STREET LAUNCHING FACILITY EMERGENCY REPAIR PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT AND ALL RELATED DOCUMENTS

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

(END OF CONSENT CALENDAR)

Council took the following actions:

RESOLUTION 04-54 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2004-2005

Council Member Smith stated that the rates for this district will be going up in 2005-2006. There will be a rate increase, and wanted to make sure the citizens were aware of this.

On motion of Council Member Smith, seconded by Council Member Whitney, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

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

Noes: None

Absent: Vice Mayor Patterson

Contract with MBIA for Utility Users Tax auditing services:

Council Member Campbell stated that he is not sure if the \$10,000 the City will be paying for this service is worth the money. The only contract being looked at where they could save money is the Pac Bell contract.

City Manager Jim Erickson stated that there are some taxes not being paid in the cell phone area. The basis for the audit is that the City should get its dues in taxes. Staff will bring this item back to Council in two weeks with more information and detail on the amount of dollars in question.

RESOLUTION 04-55 - A RESOLUTION OF THE CITY OF BENICIA DECLARING ITS INTENTION TO VACATE A 12.51 FOOT WIDE PORTION OF WEST 6TH STREET RIGHT-OF-WAY, BETWEEN WEST K STREET AND MILITARY WEST, AND SETTING THE PUBLIC HEARING FOR MAY 18, 2004

Council Member Smith wanted to make sure the citizens knew that the reason this vacation is taking place is to accommodate the expansion of the Benicia Fitness Center.

On motion of Council Member Smith, seconded by Council Member Whitney, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

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

Noes: None

Absent: Vice Mayor Patterson

Records Destruction Resolution:

Council Member Campbell suggested waiting on this item, as the Sunshine Ordinance addresses how long correspondence should be kept. Council agreed to wait to address this item.

PUBLIC HEARINGS:

RESOLUTION 04-56 - A RESOLUTION ADOPTING AN INCLUSIONARY HOUSING IN-LIEU FEE FORMULA IN ACCORDANCE WITH SECTION 17.70.320 OF THE BENICIA MUNICIPAL CODE

Brenda Gillarde, Principal Planner, reviewed the staff report summary on this item.

Council Member Whitney asked if the vote from the Planning Commission on this item was unanimous. Ms. Gillarde confirmed that the vote was unanimous. Council Member Whitney asked if there were specific guidelines as to how the in-lieu fee money must be spent. Ms. Gillarde confirmed that the Ordinance states that the fees collected must go in an affordable housing trust fund. Council Member Whitney wants to make sure the housing gets built, as opposed to using the 'in-lieu' option.

Council Member Campbell asked if there has to be an in-lieu fee. The Ordinance is part of a settlement agreement. The in-lieu fee is mandatory. Council Member Whitney asked Ms. Gillarde to clarify information on the Tourtelot sites.

On motion of Council Member Whitney, seconded by Council Member Smith, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

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

Noes: None

Absent: Vice Mayor Patterson

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Filling the Historic Preservation Commission vacancy:

Council Member Smith stated that several concerned citizens had come forward to raise questions as to why this position has not been filled. Council Member Smith stated that Mayor Messina and Vice Mayor Patterson have been meeting with Staff about potential modification of the design review procedures. There is some thought that the Design Review Commission would be dissolved or consolidated into the Historic Preservation Commission and the Planning Commission in terms of responsibilities. The design review within the historic districts would be undertaken by the Historic Preservation Commission. The design review outside the historic districts would be undertaken by the Planning Commission, or possibly a combination of the Planning Commission and a Staff person. Council Member Smith stated that there are certainly qualified candidates for the Historic Preservation Commission. However, Benicia is trying to qualify to become a Certified Local Government. To do this, the two Commissioners have to have specific qualifications and backgrounds.

REPORTS FROM CITY MANAGER:

Informational Oral Report on progress toward Certified Local Government status:

City Manager Jim Erickson stated that Council Member Smith accurately summarized the current status. Mr. Erickson stated that on 2/27, Council gave Staff direction to take steps to move towards becoming a Certified Local Government (CLG). The next step might be to hear local input or hear from the Commissions that would be affected by the process.

Public Comment:

1. Jon Van Landschoot, 175 West H Street - Mr. Van Landschoot said there was a meeting last week in the Commission Room that was great (no details given). He asked Ms. Meunier and Mr. Angstadt the timeframe for the historic plan and the CLG, and they came up with approximately 1 year. Mr. Van Landschoot suggested Staff and Council should let the people on the affected Boards and Commissions know what is going on.
2. Donnell Rubay, 175 West H Street - Ms. Rubay asked for clarification on how long it would take to become a CLG. She was under the impression that this would be a quick process. The City is embarking on revising the Historic Plan, and the open positions need to be addressed. Ms. Rubay stated that if the Mayor and Vice Mayor would be having more than one or two meetings on this subject, they should be public meetings. It could be a possible Brown Act violation. Ms. Rubay asked if there was a moratorium on appointments to either board or commission.
3. Mayor Messina stated that it is the will of the Council that Benicia become a CLG. At this time, Staff work is being done on this subject. There is no moratorium on appointments to commissions. If the DRC and HPC were combined, the number of people serving on the Commission would probably be between 5 and 7. This item will be brought back to Council for review in the future.
4. Council Member Smith stated that he is pleased to hear there is not a moratorium. If there are qualified candidates, the City should not wait to fill the openings, with the exception of the commission that may be eliminated. Eleven months ago, Council Member Smith asked Staff for a summary of what it takes to become a CLG. Becoming a CLG is not a process, it is a status. Becoming a CLG is a goal in the General Plan.
5. Council Member Whitney asked Ms. Meunier for an estimate as to how soon the City could become a CLG. Ms. Meunier stated that once the issue of combining or eliminating Boards and Commissions is resolved, the application could be completed and submitted.
6. Mayor Messina stated that it could be a 'handful' of meetings before the issues with the Boards and Commissions are straightened out.
7. Council Member Whitney stated that he would like to see the City become a CLG sooner than later.
8. Council Member Campbell stated that Council needs to make a choice. He would prefer that Council resolve the issue with the Boards and Commissions at the next Council meeting. He stated that he would be requesting this item be on the next Agenda. Mayor Messina stated that he and Vice Mayor Patterson wanted to have more discussion on this prior to a decision being made.
9. Council Member Smith stated that he would support this item being on the next Agenda, with the exception that if it will force the meeting to go past midnight it should be on the following Agenda.

Informational oral report on the Compatibility of City employment and Commission or Board appointments:

City Manager Jim Erickson stated that Council Member Smith asked that this issue be addressed. The question is that if you are a City employee, are there conflicts if you serve on a Commission or Board; are their conflicts, is it legal, and is it practical. There are two City Commissions that City employees are not permitted to serve on, which are the Library Board and the Civil Service Commission. The main principle or issue that the City needs to adhere to is to do everything possible to avoid conflicts or perceived conflicts of interest. When it comes to financial issues, the City needs to avoid them or prohibit them. Similar issues could arise with contractors working for the City that may be serving on Boards or Commissions. He is not aware of any conflicts, particularly those of the financial kind, and if

there were any, the City needs to go after them immediately.

Council Member Smith asked that this be put on the Agenda as some citizens had approached him with concerns regarding possible conflicts on the Human Services Board. He stated that this was the perfect topic for the Sunshine Committee. He requested that the Sunshine Committee review all Commissions, both ad-hoc and permanent, individually to see if there are any conflicts that need to be addressed.

Council Member Campbell stated that the Sunshine Committee is currently looking in to this issue, as well as other related issues. They may have an answer very soon.

Status report on proposal from Cheri McCammon to develop a golf education center in the Benicia Community Park:

Assistant City Manager Karen Majors reviewed the background information of the Staff report on this item. Ms. Majors listed the related milestones that were identified with this project. She asked Council, if the milestones were met, would they show continued interest in the project.

Mr. Mark Stephen, an architect, spoke on behalf of Cheri McCammon. He discussed details of the project.

Council Member Smith asked who would be paying for the project, and who would own it. Ms. Majors stated that Ms. McCammon would be the investor (along with other private investors) for the project, but the City would retain ownership of the land. The center would be privately owned, but open to the public. It would be a place for kids to come and learn and play.

Council Member Campbell asked how much the project would cost. Mr. Stephen could not provide an estimate.

Council Member Whitney asked what the start to finish time estimate was. Mr. Stephen stated that project would take a minimum of one year, possibly 15 months.

Mayor Messina gave direction to staff that Council is supportive of this project. It should receive some priority. There is no desire for the City to spend money on development. The City could lease, but not sell the land. The budget has to stand on its own.

Request for Council direction to conduct a study involving the restoration of the Von Pfister Adobe: Mike Alvarez, Parks and Community Services Director discussed the background on this item. There were studies done on this building in the late 1980s. The studies may need to be updated, but will prove to be very useful. Staff needs direction from Council on this issue. Mr. Alvarez asked Council to put this item on the 4/30/04 Agenda (Special City Council Meeting) for discussion.

Council Member Smith stated that he would strongly support the Von Pfister Adobe being considered by staff in preparation for the 4/30 meeting.

Council Member Campbell stated that the Historic Society is willing to take the ball and run with it, however, they do not have the funds to do it. They would like to get it on the State Register of Historic Buildings. The City could then look into getting some grant money to put towards restoring the building. The City needs to have someone come and verify whether or not the building can be restored. The cost would be approximately \$7,500 (possibly less) to have this done.

Mayor Messina stated that the City should assist the citizens that have expressed interest in restoring this building. His only concern is the availability of resources and Staff.

Mayor Messina called for a 5-minute break at 9:35 p.m.
The meeting resumed at 9:45 p.m.

Review of the Fiscal Year 2004-2005 General Fund Budget and the long range budget model. Rob Sousa, Finance Director reviewed the summary and background information of the Staff report included in the Agenda packet.

Mayor Messina asked Mr. Sousa when the City would have clarity as to the State budget and what is going to happen with the shift in property tax. Mr. Sousa stated that he hoped the May revise (from the State) will give us a better feel for what to expect.

Council Member Campbell asked Mr. Sousa why the cost of vision care went down. Mr. Sousa stated that it is a fixed benefit. Council Member Campbell had a question regarding health insurance, and how the rates are established. Mr. Sousa explained the process. Council Member Campbell wanted to know what the City was doing to control costs on future increases. He would like Council to have a better understanding of the model the City uses. Council Member Campbell had various questions for Mr. Sousa regarding PERS. Mr. Sousa and Mr. Erickson explained how PERS works. Council had discussions regarding PERS.

Mayor Messina asked Staff to discuss Council's concerns with the Human Resources department and bring the information back to Council.

Council had extensive discussion on all exhibits presented by Mr. Sousa.

Mayor Messina stated that the next three years are very critical. Having a balanced budget will prove to be a challenge, however, it needs to be done.

League of California Cities Legislative Action Days, May 12-13, 2004:

City Manager Jim Erickson encouraged all Council Members to attend. This will be an opportunity for Council to speak with their legislative representatives.

REPORTS FROM CITY COUNCIL COMMITTEES:

1. Mayors' Committee Meeting - The Mayors' Conference will be held on 4/21/04. Mayor Messina urged all Council Members to attend.
2. Arsenal Restoration Advisory Board - The next meeting has been moved to 5/26/04.
3. Association of Bay Area Governments (ABAG) - Vice Mayor Patterson was absent.
4. Audit & Finance Committee - The next meeting is scheduled for 4/30/04.
5. Carquinez Strait Preservation Trust - The Committee is inactive, however there has been discussion regarding reviving it.
6. City Employee Compensation Committee - There was not a meeting on 4/14/04. The next scheduled meeting is 4/28/04. There will be an employee compensation specialist to give a presentation.
7. First Street Revitalization Committee - Council Member Smith reported that the EDB probably had their most well attended meeting ever on 4/14/04. The recommendation from Staff was to forward to Council a recommendation to spend \$40,000-\$60,000 on consulting services for facilitation for a community consensus and land use planning services. Council had discussion regarding the First Street Green. This issue will need to be agendaized. City Attorney Heather McLaughlin will put this item on a future agenda, some time in May 2004. Mayor Messina asked Ms. McLaughlin for a map of the First Street Green, so he can be advised as to what parts of the discussion he can participate in. The next EDB/First Street Revitalization Committee meetings are scheduled for 4/28/04 and 5/20/04 at City Hall.

Public Comment:

J.B. Davis, 385 West K Street - Mr. Davis stated that the City needs to define the specific areas of the First Street Green. Mr. Davis had various comments regarding the EDB meeting on 4/14/04.

8. League of California Cities (LOCC) - Council Member Smith was not able to attend the last meeting. The LOCC will have its Legislative Action Days on 5/12 and 5/13.
9. People Using Resources Efficiently (PURE) - Vice Mayor Patterson was absent.
10. Police Station and Civic Center Restoration Committee - Council Member Smith stated that this committee only has one more scheduled meeting, on 4/27/04. They will be coming up with various recommendations. There is a possibility the City can use a general obligation bond,

somewhere between \$8-9 million. The 4/27 meeting is the last time the public will have a chance to provide input to the Committee.

Public Comment:

Bob Mutch, 695 Knight Drive - Mr. Mutch had various comments on this committee, and its recommendations.

11. School District Liaison - The next scheduled meeting is 5/27/04. Staff has contacted the BUSD to see if the 5/27 meeting could be a joint meeting with the BUSD and Council.
12. Sky Valley Area Open Space - At the last meeting they developed a purpose and objectives. They may make a recommendation to expand the committee and seek citizen representation. The next scheduled meeting is 4/27/04.
13. Solano EDC Board of Directors - Vice Mayor Patterson was absent.
14. Solano Transportation Authority (STA) - Mayor Messina stated that as a result of the actions at the last Council Meeting (regarding the ITS), Benicia has been bounced to the end of the line for funding. Council had discussion regarding this issue.
15. Solano Water Authority/Solano County Water Agency - The Committee meets quarterly. There has not been a meeting since March, 2004.
16. Sunshine Committee - Council Member Campbell stated that the meeting on 4/21 may be the last meeting of the committee. It is in the Dona Benicia Room at the Library at 7:00 p.m.
17. Traffic, Pedestrian and Bicycle Safety Committee - At the last meeting, there was a tour on various pedestrian sites. The E Street parking lot was discussed.

On motion of Council Member Smith, seconded by Council Member Campbell, Council voted to continue the meeting past 11:30 p.m. and complete the Agenda on roll call by the following vote:

Ayes: Council Members Campbell, Smith, and Mayor Messina

Noes: Council Member Whitney

Absent: Vice Mayor Patterson

18. Tri-City and County Regional Parks and Open Space - The last meeting was on 3/29/04. Docent-led tours and hikes were discussed. The finalization of the Swett property was discussed.
19. Youth Action Task Force - The next scheduled meeting is 4/28/04 at 3:30 at City Hall. There will be an art exhibit by Solano County Youths at the Westfield Shopping Center at 12:00 p.m. on 5/24 and 5/25.
20. Valero Citizens Advisory Panel (CAP) - The next scheduled meeting is on 4/29/04. MRS attended the last meeting. The request for quote has gone out to the companies that Valero feels is qualified to conduct the evaluation. Attendance from the public continues to be low. JB Davis was appointed as a new CAP member. Council Member Campbell raised concern regarding the appointment process for this committee.

ADJOURNMENT:

Vice Mayor Patterson adjourned the meeting at 11:45 p.m.

Lisa Wolfe, City Clerk