

MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
MAY 2, 2000

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. Tuesday, May 2, 2000, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Councilmembers Bidou, Corbaley, Whitney and Mayor Messina
Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ADOPTION OF AGENDA:

There were no changes to the Agenda.

On motion of Councilmember Whitney, seconded by Councilmember Bidou, and unanimously carried, Agenda was adopted as presented.

CONSENT CALENDAR:

There were no items pulled from the Consent Calendar.

On motion of Councilmember Whitney, seconded by Councilmember Bidou, and unanimously carried, the following items were approved under the Consent Calendar:

Minutes of April 18, 2000.

(END OF CONSENT CALENDAR)

NEW BUSINESS:

RESULTS OF THE SPECIAL MUNICIPAL ELECTION HELD APRIL 11, 2000

Linda S. Purdy, City Clerk, read the results of the April 11, 2000 Special Municipal Election certified by Solano County Registrar of Voters.

Council took the following action:

RESOLUTION NO. 00-56 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE RESULTS OF THE SPECIAL MUNICIPAL ELECTION HELD APRIL 11, 2000

WHEREAS, on April 11, 2000 a Special Municipal Election was held to elect a Council Member to an unexpired term to November 2001 and to determine the passage of Measure M by the voters; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form an manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BENICIA that the results of the SPECIAL MUNICIPAL ELECTION held in the City of Benicia on April 11, 2000 to elect a Council Member to an unexpired term to November 2001 and to submit to the voters Measure M were as follows:

VOTES CAST AT PRECINCTS	-----	1473
ABSENTEE VOTES	-----	1430
TOTAL VOTES CAST	-----	2903
TOTAL REGISTERED VOTERS	-----	16249
PERCENT TURNOUT	-----	17.8

STEPHEN GIZZI received the following vote for COUNCIL MEMBER (to fill an unexpired term to November 2001)

Precinct No. 1020	78
Precinct No. 1030	41
Precinct No. 1040	26
Precinct No. 1050/1051/1140	38
Precinct No. 1060	38
Precinct No. 1110	36
Precinct No. 1115	36
Precinct No. 1120	30
Precinct No. 1125	32
Precinct No. 1130	39
Precinct No. 1135	32
Precinct No. 1150	41
Precinct No. 1155/1170	109
Precinct No. 1160	50
Precinct No. 1171	58
Precinct No. 1180	114
Precinct No. 1190	136
Precinct No. 1195	63
Precinct No. 1196	46
Precinct No. 1197	50
Precinct No. 1198	36
Precinct No. 1199	33
Absentee	<u>1104</u>
TOTAL VOTE	2266

MEASURE M received the following vote:

	<u>Yes</u>	<u>No</u>
Precinct No. 1020	72	18
Precinct No. 1030	48	8
Precinct No. 1040	27	9
Precinct No. 1050/1051/1140	42	6
Precinct No. 1060	36	8
Precinct No. 1110	41	6
Precinct No. 1115	39	6
Precinct No. 1120	25	13
Precinct No. 1125	26	12
Precinct No. 1130	31	14
Precinct No. 1135	32	5
Precinct No. 1150	47	4
Precinct No. 1155/1170	133	10
Precinct No. 1160	51	2
Precinct No. 1171	61	6
Precinct No. 1180	143	14
Precinct No. 1190	165	10
Precinct No. 1195	75	5
Precinct No. 1196	52	2
Precinct No. 1197	57	7
Precinct No. 1198	47	3
Precinct No. 1199	37	6
Absentee	<u>1264</u>	<u>151</u>
TOTAL VOTE	2551	325

BE IT FURTHER RESOLVED that Stephen Gizzi is declared elected as Council Member and that Measure M was approved and is adopted and ratified and that the results of Special Municipal Election are declared final.

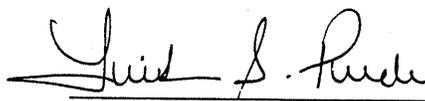
On motion of Council Member Bidou, seconded by Council Member Whitney, the above resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Bidou, Corbaley, Whitney and Mayor Messina

Noes: None

ADJOURNMENT SINE DIE:

Mayor Messina adjourned the meeting sine die at 7:38 p.m.



Linda S. Purdy, City Clerk

MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
MAY 2, 2000

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:39 p.m. Tuesday, May 2, 2000, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ADMINISTRATION OF OATH OF OFFICE TO ELECTED OFFICIAL

Linda S. Purdy, City Clerk, administered the oath of office to Stephen Gizzi, Council Member.

ROLL CALL:

Present: Councilmembers Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

REMARKS BY ELECTED OFFICIAL

Councilmember Gizzi thanked the citizens of Benicia and made brief remarks.

ANNOUNCEMENT:

Mayor Messina announced that Jim Greco, representing Supervisor John Silva, will be in the Mayor's office from 7:30 to 9:00 p.m. this evening.

"WATER AWARENESS MONTH" MAY 2000

Mayor Messina made the announcement; read the Proclamation and presented it to Chris Tomasik, Utilities Manager, Public Works Department.

ADOPTION OF AGENDA:

Otto Giuliani, City Manager, stated Councilmember Whitney has requested an item to be added under New Business - Staff time to prepare a beautification ordinance.

Mayor Messina requested Written Communications and Public Comment be brought forward on the Agenda prior to the Consent Calendar.

On motion of Councilmember Corbaley, seconded by Councilmember Whitney, and unanimously carried, Agenda was adopted as amended.

PUBLIC COMMENT:

1. Cathy Hewitt, 266 East B Street, commented that discussions of items would now increase with the addition of Mr. Gizzi to the Council; staff does not listen to citizens; Economic Development Board has not met; referred to fire at Military East and East 7th Street.
2. James O. Milburn, 280 East J Street, read his verse on the 20 minute delay between Ferries.
3. Bob Craft, 323 Columbia Circle, requested that there be a Public Comment period on the Good Neighbor Agreement.
4. Jon VanLandschoot, 175 West H Street, spoke on the importance of service to the people of Benicia, not to Corporations and having the trust of the people.
5. Aaron VonInnes, 900 Southampton Rd. #120, approves Chevron Mini Mart.
6. Carla Keosa, 1639 Bayview Circle, congratulated Councilmember Gizzi; spoke on affordable housing issue; have an open mind in order to solve the problem.

WRITTEN COMMUNICATIONS:

Mayor Messina read a letter from Brian Tulloch, Vice President, Benicia Industrial Park Association, requesting that Federal Trade Commission approve Valero Energy Corporation as the owner and operator of the Benicia Refinery as soon as possible.

CONSENT CALENDAR:

Mayor Messina asked if there were any items to be pulled.

Councilmember Gizzi requested Item D be pulled.

On motion of Councilmember Whitney, seconded by Councilmember Corbaley , and unanimously carried, the following items were approved:

RESOLUTION NO. 00-57 - A RESOLUTION APPROVING AN AMENDMENT TO TASK ORDER NO. 1 WITH EOA, INC. INCREASING THE COST OF THE WORK AUTHORIZED TO \$35,000 AND CITY MANAGER SIGN AMENDMENT NO. 1 TO TASK ORDER NO. 1

RESOLUTION NO. 00-58 - A RESOLUTION AUTHORIZING THE SUBMITTAL OF A PROPOSAL TO THE 2000 CALFED BAY-DELTA ECOSYSTEM RESTORATION PROGRAM TO IMPROVE THE AQUATIC AND TERRESTRIAL HABITAT ALONG THE CARQUINEZ STRAIT SHORELINE

RESOLUTION NO. 00-59 - A RESOLUTION ACCEPTING THE BENICIA STATE CAPITOL BUILDING SECOND FLOOR ASSEMBLY HALL FIRE ESCAPE IMPROVEMENTS, CITY MANAGER TO EXECUTE NOTICE OF COMPLETION AND CITY CLERK RECORD SAME WITH SOLANO COUNTY RECORDER

RESOLUTION NO. 00-60 - A RESOLUTION AUTHORIZING AT&T BROADBAND TO INCREASE ITS MONTHLY CHARGE FOR BASIC CABLE TELEVISION SERVICE FROM \$11.00 TO \$11.50 AND TO MODIFY OTHER FEES AND CHARGES EFFECTIVE JUNE 1, 2000

Waive the reading of all ordinances introduced and adopted pursuant to this Agenda.

(END OF CONSENT CALENDAR)

RENEWAL OF LEASE AGREEMENT FOR RENTAL AT 356 EAST I STREET
Councilmember Gizzi requested this item be pulled from the Consent Calendar and continued until a rent survey can be done.

After comments made by Mayor, Council and City Manager, consensus of the Council was to **continue** this item and to obtain an updated rent survey.

PUBLIC HEARING:

CONSIDERATION OF AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A USE PERMIT FOR A 24-HOUR CONVENIENCE MARKET FOR CHEVRON

Mayor Messina read the instructions to be followed.

Mayor Messina opened the Public Hearing. Legal notice was given. One Petition was received in favor of granting the Use Permit to Chevron; one Petition was received opposing a Use Permit to Chevron; one letter was received supporting the Appeal; one letter was received requesting denial of the Appeal.

John Bunch, Planning Director, gave a report; explained the process that had been followed by Chevron in order to obtain this Use Permit; the concerns cited in the Appeal; the current ordinance that allows this use; original staff recommendation limiting the hours of operation; and the Planning Commission approval of the Use Permit.

Dana Ralls, 245 West K Street, Appellant, spoke on her reasons for filing the Appeal of the Planning Commission decision, 1) a disregard for the testimony of the neighbors and 2) the unrestricted hours; requested a ban or limit of alcohol sales, restricted hours for mini-mart and deliveries, and a traffic study.

Timothy Boe, Architect, spoke in favor of the convenience market; pointed out the differences between the initial and current proposals.

The following persons spoke:

1. Linda Lewis, 282 West I Street, expressed concerns over increased foot traffic and trash in the neighborhood; not in favor.
2. Carl Lusted, 1107 West 2nd Street, circulated a Petition along I and K Streets ; 24 hour operation not necessary; against.
3. Toni Houghey, 251 West J Street, spoke on alcohol issue and its impact in the area.
4. Michael Brown, 261 West J Street, opposes 24 hour operation; quality of life issue; will increase crime.
5. Jane Lauder, 176 West H Street, former Design Review Commissioner, design is not consistent with downtown historic look; against.
6. Priscilla Whitehead, 288 West J Street, opposes, this is a quality of life issue; will increase traffic in the area.
7. Kitty Griffin, 236 Baker Street; it is not City responsibility to protect Chevron; referred to General Plan.
8. Karen Burns, 161 West N Street, against; disrupts quality of life; design not good.
9. Jon VonLandschoot, 175 West H Street; against; historic town, a mini-mart is not compatible.
10. Cory Stanhope, 248 Military West, lives next to proposed mini-mart; is against.
11. James O. Milburn, 280 East J Street, is against; previous application at 7th and Military was denied.
12. Josanna Berkow, is against traffic and possible alcohol problems.
13. Ron Uhlman, 217 Military West, is against traffic problems; put a stop sign on that corner.
14. Sheri Reineman, 336 Viewmont Street, is against.
15. Zack Cooper, 253 Carlisle Way, supports; safety is paramount.
16. Dean O'Hair, 486 Gray Court, supports; let the free market process determine the success of the operation.
17. Richard Bortolazzo, 839 First Street, Chairman of Benicia Chamber of Commerce, opposes Appeal; approves project.
18. Aaron VonInnes, 900 Southampton Road #120, supports.
19. Peter Lepley, 256 East J Street, supports; plan is an improvement to area.
20. Tom Wilson, 2138 East 5th Street, supports the project without any restrictions.
21. Michael Wilson, 256 East J Street, supports; 24 hour operation will make the area safer.
22. Don Kerr, 869 Hanlon Way, supports.
23. Cathy Hewitt, 266 East B Street, quality of life issue; traffic and safety concerns.
24. Mark Dubin supports; trust the Planning Commission; use permit can always be appealed.

Mayor Messina closed the Public Hearing.

Councilmember Gizzi stated that this was a good design; issue of concern was the 24 hour operation; would like to see the original staff recommendation of closure between the hours of 12-5:00 a.m. implemented; conduct a traffic study for a possible 4-way stop sign at that intersection, with Chevron responsible for the cost of the sign if it is necessary.

Councilmember Corbaley supports doing something at that intersection in regards to the traffic problem; General Plan calls for strong economic development; agrees with the staff recommendation on the hours of operation.

Councilmember Whitney stated that due to the commercial zoning of this area, retail uses are allowed; approves of the installation of the new tanks, large canopy to restrict lights, lack of mechanics and tow trucks; supports the 24 hour use.

Councilmember Bidou questioned what the noise level would be during the restricted hours; supports the recommendation of the Planning Commission; grant a temporary permit for 6 months.

Mayor Messina stated that this is a permitted use in this area; would like to focus on the traffic of the entire area.

Motion made by Councilmember Gizzi, seconded by Councilmember Whitney, to deny Appeal and add conditions that would require a traffic mitigation study at West 2nd and Military, with any identified mitigation measures to be paid for by Chevron; 24 hours with the understanding that Council would revisit in nine months to reevaluate whether 24 hours is appropriate.

Heather McLaughlin, City Attorney, clarified the motion, referred to the Resolution on page B-A-8 of Agenda packet. 1) address traffic issue to require Chevron to pay for their share of a traffic study and any mitigation that might be required by the project, and 2) require staff to bring project back in nine months from date of operation to Planning Commission for reevaluation.

Scott Slatkowski, spokesperson for Chevron, San Ramon; stated Chevron would be willing to pay their fair share of traffic study and relevant mitigation measures, if the City pays its portion.

Council took the following action:

RESOLUTION NO. 00-61 - A RESOLUTION DENYING THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A USE PERMIT FOR A 24-HOUR CONVENIENCE MARKET FOR CHEVRON, WITH AMENDMENTS

On motion of Councilmember Gizzi, seconded by Councilmember Whitney, the above Resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Bidou, Gizzi, Whitney and Mayor Messina

Noes: Councilmember Corbaley

Mayor Messina called for a break at 10:37 p.m.
Mayor Messina reconvened the meeting at 10:49 p.m.

REPORTS FROM CITY MANAGER:

"GOOD NEIGHBOR AGREEMENT" BETWEEN VALERO REFINING COMPANY
AND THE CITY OF BENICIA

Councilmember Bidou stated that due to a conflict of interest on Items A and B, he will step down.

Otto Giuliani, City Manager, gave a report containing the chronology of events that have taken place since the announcement of the required sale of Exxon; concerns of the City and community members; cited the 15 specific items addressed in the Good Neighbor Agreement; this is an unprecedented agreement, a good basic document, not originating from a disaster or problem.

Rich Marcogliese and Fred Newhouse, representing Valero/Exxon Refinery, support the Agreement, which represents a commitment to the community; establishment of the Community Advisory Panel (CAP) will provide more direct contact with the citizens.

Councilmember Gizzi asked for clarification of the Air Monitoring Program and the NOX emissions credits.

Councilmember Corbaley questioned some of the provisions in the Agreement referring to attorney fees, disclosure, expansion of the Air Monitoring Program to seven days a week, and the Safety Management Plan.

Ten concerned citizens spoke.

Councilmember Whitney felt the Agreement is a step in the right direction; questioned whether there was a provision for amending the agreement.

Councilmember Gizzi requested that the item be continued in order to incorporate changes in reference to the pollution credits.

Mayor Messina stated that this agreement covers areas of concern; retention of employees, continuation of tax base, safety and community involvement; not a perfect document, but contains many of the things that the City wanted.

Mayor Messina made a motion, seconded by Councilmember Whitney, to approve document as is and go back and discuss those additional items that were brought up this evening.

Rich Marcogliese, representing Valero/Exxon Refinery, stated some of the issues brought up are simply explained; however, others are complex and will require discussion; willing to work with Councilmember Gizzi on a clarification of the NOX reduction credits; will continue to work and be committed to discussing items that have been raised this evening.

Otto Giuliani, City Manager, clarified the direction of the Council to approve the agreement as presented and to go back and enhance the agreement with those items identified this evening.

Councilmember Corbaley restated intent of the motion; that Valero is willing to negotiate in good faith on the issues that were raised this evening with the exception of the pollution credits issue, which because of pending administrative hearings can not be negotiated, but they will commit to discussion of that issue.

Mayor Messina amended his motion as stated, seconded by Councilmember Whitney.

Council took the following action:

RESOLUTION NO. 00-62 - A RESOLUTION AUTHORIZING CITY MANAGER TO SIGN A "GOOD NEIGHBOR AGREEMENT" BETWEEN VALERO REFINING COMPANY AND THE CITY OF BENICIA, AS AMENDED.

On motion of Mayor Messina, seconded by Councilmember Whitney, the above Resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Abstain: Councilmember Bidou

Mayor Messina called for a break at 1:00 a.m. May 3, 2000.

Mayor Messina reconvened the meeting at 1:05 a.m. May 3, 2000.

On motion of Councilmember Corbaley, seconded by Councilmember Whitney, and unanimously carried, to continue the meeting past 11:30 p.m., May 2, 2000, prior to the introduction of any New Business, was approved. (Councilmember Bidou had stepped down.)

CONSENT TO ASSIGNMENT UNTREATED WATER DELIVERY AGREEMENT
BY EXXONMOBIL TO VALERO

Council took the following action:

RESOLUTION NO. 00-63 - A RESOLUTION AUTHORIZING CITY MANAGER TO
SIGN A CONSENT TO ASSIGNMENT UNTREATED WATER DELIVERY
AGREEMENT BY EXXONMOBIL TO VALERO

On motion of Councilmember Corbaley, seconded by Councilmember Whitney, the above Resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Abstain: Councilmember Bidou

(Councilmember Bidou returned to the meeting.)

UPDATE AND ORAL REPORT ON THE ARSENAL

Heather McLaughlin, City Attorney, gave a report. The Army Corp of Engineers has begun a site characterization study in order to begin the work needed.

REPORTS FROM CITY COUNCIL COMMITTEES

COMMUNITY ADVISORY GROUP (CAG)

Councilmember Corbaley stated that DTSC had reaffirmed their commitment to clean up the Tourtelot property at the last CAG meeting; new schedule in place with the field work to start in November/2000 and completion of project in March/2002.

UNFINISHED BUSINESS:

REPORT FROM THE HISTORIC PRESERVATION ADVISORY COMMITTEE

Mike Ioakimedes, Chair, gave a report; requested that the Committee be given an additional year to complete their evaluation.

Mayor Messina reaffirmed the Council's commitment to the Historic assets; projects would eventually be funded through the Parks and Community Services budget.

Mike Ioakimedes, Chair, explained there is a difference between preservation vs. restoration; long term Historic Preservation is a goal; lots of overlap with Planning Department and Parks and Community Services Department; requested 90 days to bring back an additional report.

Three concerned citizens spoke.

Mayor Messina stated that his recommendation at this point would be to give the Committee another 90 days and report back with an idea on where we should go in the future.

Councilmember Corbaley requested that she would like included in the Agenda for the 90 day report a discussion of the General Plan requirement to have an Historic Preservation Advisory Commission and related issues.

Consensus of the Council was to **continue 90 days** and bring back a report to include discussion of the General Plan requirements of an Historic Preservation Advisory Commission and related issues.

NEW BUSINESS:

PUBLIC/PRIVATE PARTNERSHIP AGREEMENT FOR ADVANCED LIFE SUPPORT SERVICES WITH THE SOLANO COUNTY EMERGENCY MEDICAL SERVICES COOPERATIVE

Otto Giuliani, City Manager, stated that we are the last City in the County to ratify this agreement.

Ken Hanley, Fire Chief, gave a brief summary of the agreement.

Council took the following action:

RESOLUTION NO. 00-64 - A RESOLUTION AUTHORIZING CITY MANAGER TO SIGN A PUBLIC/PRIVATE PARTNERSHIP AGREEMENT FOR ADVANCED LIFE SUPPORT SERVICED WITH THE SOLANO COUNTY EMERGENCY MEDICAL SERVICES COOPERATIVE

On motion of Councilmember Gizzi , seconded by Councilmember Bidou, the above Resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

BEAUTIFICATION ORDINANCE

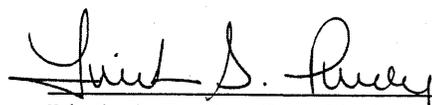
Councilmember Whitney requested this item be placed on the Agenda; suggested moving up on priority list; form a sub-committee (two members of the Council reach out to the community and solicit opinions) and report back to the Council at a later date

Councilmember Whitney will be one of the members on the sub-committee.

Mayor Messina requested Councilmember Whitney let City Manager know when a report is ready and it will be placed on the Agenda.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 1:56 a.m. May 3, 2000.



Linda S. Purdy, City Clerk