

May 17, 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
MAY 17, 2005**

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:31 p.m. on Tuesday, May 17, 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, and Mayor Messina

Absent: Council Member Whitney (arrived at 6:32 p.m.)

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ADOPTION OF AGENDA:

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

None

PRESENTATION:

Presentation on Form-Based Zoning by Judy Corbett, Local Government Commission:

Judy Corbett, Local Government Commission, reviewed a PowerPoint presentation (hard copy on file) on 'Form-Based Zoning Codes At The Tipping Point?'

Mayor Messina asked how much it cost and how long it took other cities to convert to form-based zoning. Ms. Corbett stated that it took other communities approximately 9 months to convert. She could not give a cost estimate at this time. It requires somebody to write the code (she stated that Paul Crawford was wonderful at this) and you would need to hire a good architect.

Council Member Smith asked for a definition of 'form.' Ms Corbett stated that it is an odd term. Form means rather than looking at use, you would be looking at what the building looks like, and the uses are less important. Council Member Smith stated that Ms. Corbett discussed 'measuring.' He asked for some examples of things that are measured. Ms. Corbett stated that in addition to square footage of lots, sidewalk widths, how the building meets the street, and the height and width of the building.

Vice Mayor Patterson and Ms. Corbett discussed different possibilities on how the term form-based zoning came about. Vice Mayor Patterson asked Ms. Corbett to expand on 'new urbanism.' Ms. Corbett stated that since the 1940s we have gone away from narrow streets and walkable, mixed use, compact developments and have gone to wide streets that accommodate large lots, large houses, etc. and have created with zoning codes blueprints for auto oriented society to the point where current zoning pushes us in that direction. Developers say they can't do anything else. She asked for examples of land uses and industrial sites where this has been done. Ms. Corbett discussed the Hitachi site in San Jose, which has done this. Vice Mayor Patterson asked what the typical number of charettes was for the public process. Ms. Corbett stated that it was three days, depending on what kind of public process is desired. There is no standard procedure.

Council Member Whitney asked for a hard copy of the PowerPoint Presentation. He asked if there were any books or publications on this issue. Ms. Corbett stated that it is such a new issue, nothing has been published as of yet.

Public Comment:

1. Alan Schwartzman - Mr. Schwartzman stated that there is an expanded version of this presentation done by Paul Crawford that Council may be interested in viewing. There will be a presentation on May 24th in Sacramento.
2. Marilyn Bardet - Ms. Bardet stated that this looks like a good direction to go. She asked how this relates to infill and uses. In terms of infill, you need something that is consistent with what is already in place. If you want new development that has a diversity of architectural types, you can do a form-based code that requires that. You could even do sprawl if you wanted to. Regarding uses, it is not that you throw out all of the uses, but the list that was shown in the presentation is simplified in the code.
3. Donnell Rubay - Ms. Rubay asked her to discuss historic areas and how this relates to that. Ms. Corbett stated that the historic plan should be inserted in the code in the design process so that it is consistent.
4. Vice Mayor Patterson asked Ms. Corbett to provide the website where people can review information - www.lgc.org

ANNOUNCEMENT OF CLOSED SESSION:

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

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

ADJOURNMENT:

Mayor Messina adjourned the meeting at 7:03 p.m.

**MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
MAY 17, 2005**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:30 p.m. on Tuesday, May 17, 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:

Action taken in Closed Session:

Council gave direction to Staff to settle the claim.

APPOINTMENTS:

RESOLUTION 05-60 - A RESOLUTION CONFIRMING MAYOR'S APPOINTMENTS OF MEMBERS OF THE CITY COUNCIL TO COMMITTEES

On motion of Council Member Smith, 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

RESOLUTION 05-61- A RESOLUTION CONFIRMING THE MAYORS APPOINTMENT OF KATHLEEN VAN VELSOR TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

RESOLUTION 05-62 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF GREG GARTRELL TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

Mr. Gartrell stated that he is looking forward to serving on the task force and working with Staff.

RESOLUTION 05-63 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF FRED RAILSBACK TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

RESOLUTION 05-64 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF DENNIS LUND TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

RESOLUTION 05-65 - RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF BRADFORD MACLANE TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

RESOLUTION 05-66 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF VERONICA STONE TO THE URBAN WATER MANAGEMENT PLANNING TASK FORCE TO A FULL TERM ENDING DECEMBER 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

RESOLUTION 05-67 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF BOBBI ENDERLIN TO THE HUMAN SERVICES FUND BOARD TO A FULL TERM ENDING JUNE 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 05-68 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF ANDREW O'DELL TO THE HUMAN SERVICES FUND BOARD TO A FULL TERM ENDING JUNE 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 05-69 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ANGELO CABRAL TO THE HUMAN SERVICES FUND BOARD TO A FULL TERM ENDING JUNE 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 APPOINTMENT OF RICHARD BORTOLAZZO TO THE PLANNING COMMISSION TO A TERM ENDING SEPTEMBER 30, 2008

Council Member Campbell stated that Mr. Bortolazzo is one of the brightest candidates the City has ever had for this commission. Council Member Campbell worked with Mr. Bortolazzo on the Audit and Finance Committee, where he did a very good job. However, he will not change his view on this. He wants someone from one of the environmental activist groups, Historic Preservation, or the waterfront group on the Commission. For that reason, he will vote no.

Vice Mayor Patterson stated that she regrets that she will also be voting 'no.' Mr. Bortolazzo is the right person, but it is the wrong job. He owns quite a bit of property in town and we have an existing problem with conflict of interest. In addition to that, we have been trying to get the message across that we are seeking diversity on the Planning Commission to represent other sectors. She thinks Council has a problem in communication with the Mayor and not with Richard Bortolazzo. She too finds Mr. Bortolazzo very bright. She enjoys working with him. He has a lot to offer Benicia. She looks forward to his serving on something where it is not such a hardship for us to have decision-making. The Planning Commission needs to have someone who can participate in as many decisions as possible. The Planning Commission needs to be a microcosm of the makeup of Benicia. She regrets to vote no.

Council Member Smith stated that he too would be voting 'no.' He enjoyed his two interviews with Mr. Bortolazzo. He was pleased Mr. Bortolazzo took the time to research the General Plan. Council

Member Smith was concerned that Mr. Bortolazzo did not exactly grasp some of what the goals were. He thought that Mr. Bortolazzo could add some of his legal expertise to the commission. However, as Vice Mayor Patterson said, we are looking for diversity of expertise on the commission. This is another real estate person and another former Chamber Board Director. This is not the kind of diversity he is talking about. There are a lot of other candidates that have other professions and other things to offer. Therefore, he will be voting 'no' on this.

Council Member Whitney stated that he was confused. Based on the comments by his colleagues and what the Mayor read regarding his accomplishments it sounds like Mr. Bortolazzo does everything but walk on water. He will vote 'yes' because he thinks Mr. Bortolazzo would be an ideal member for the Planning Commission. He regrets the ongoing divisiveness of the Council.

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 Smith

RESOLUTION 05-70 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF NORMAN KOERNER TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS TO A FULL TERM ENDING JUNE 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

PRESENTATIONS:

Presentation of plaque from the Solano Land Trust in appreciation of Benicia's partnership in open space acquisition:

Brenda Gillarde, Consultant, reviewed the vision and accomplishments of the Solano Land Trust and presented a plaque to Council.

Public Works Professionals at work in Benicia:

Dan Schiada stated that the theme this year is 'Public Works is everywhere you look.' He briefly discussed various projects that the Public Works Department is involved in. He wanted to recognize the contributions of his Staff. The safety, health, and comfort of the citizens depend on them. Mr. Schiada then gave a musical video presentation on the Public Works Department.

PROCLAMATIONS:

Mayor Messina presented the following proclamations:

- National Public Works Week - May 15-22, 2005 - Dan Schiada accepted the proclamation.
- Water Awareness Month - May 2005 - Dave Wenslawski, Water Quality Technician, accepted the proclamation.

- Mills Elementary School Community Celebration - May 28, 2005 - Jane West, Principal, and Joe Garcia, PTG President, accepted the proclamation. Mr. Garcia extended an invitation to Council and the community to attend the celebration.

ADOPTION OF AGENDA:

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

PUBLIC COMMENT:

1. Russell Hughes - Mr. Hughes is a resident of Vallejo. He gave Council copies of an un-signed petition (hard copy on file) regarding citizens telling elected officials to curb suburban sprawl. He stated that the residents on Rose Drive and Bolton Circle had the same type of comments. They were concerned that they have not heard anything from Council about the project (Bordoni Ranch). They were concerned about the impact of the project. They were concerned about rodents, dirt, noise, etc. He has been going to local grocery stores trying to get Benicia and Vallejo citizens to sign the petition. Citizens have told him that the politicians in Benicia don't listen. They think that Council does not listen or care. They get more signatures in Vallejo than Benicia because of that fact. He wanted Council to know what input he had received from the community. He stated that Council does not seem to keep the citizens of Vallejo properly apprised of projects of this magnitude (Bordoni Ranch project). He wanted to give Council a heads up that their constituents are very upset with them. Regarding the Fulton project on Columbus Parkway and Rose Drive, he found that the City of Vallejo has decided not to widen Columbus Parkway. He submitted a letter (on file) providing details on this issue.

Council Member Campbell asked what was going on with the Bordoni Ranch Project. Mr. Erickson stated that Staff submitted a multi-page letter with issues and concerns about the project to everyone in the western part of the City. Council made a good effort to let the citizens know about the project.

Mayor Messina suggested an update on this item be agendaized for the next Council meeting. Our staff continues to work with Vallejo City Staff on issues with this project, including traffic issues. Council Member Campbell discussed how the same consultant (same for Benicia and Vallejo) gave the same intersection at Rose Drive and Columbus Parkway different ratings for each City. Mayor Messina stated that this item be discussed on a future agenda.

Vice Mayor Patterson suggested we send the meeting notices for the Vallejo meetings to the same citizens that we sent our letter stating our concerns with the project to. She discussed the (Vallejo) Planning Commission meeting in January where this item was discussed. The City's letter of concern did not get read at that meeting. It would behoove Council to have direct contact with the Vallejo City Council. She discussed LAFCO and that their primary responsibility is to protect agricultural lands. She suggested giving Staff direction to come back ASAP with some solutions - possibly a joint meeting, or possibly a presentation by the consultant. We should send notices out to citizens that have expressed

interest in the project, as well as the citizens that the initial letters were sent to. She was quite struck by Mr. Hughes' information. It is time for Council to step up and take a leadership role in this project.

Mayor Messina suggested putting this item on the next agenda.

2. Otto Giuliani - Mr. Giuliani read the following prepared statement:

"Good evening Mayor, Council and staff. I'm Otto Giuliani. I am here this evening on the advice of legal counsel to make one last attempt to have Council Member Smith correct the record. As you surely remember, on April 19, I brought to your attention that Dan Smith a member of this City Council and speaking as a representative of this City Council uttered a blatantly false statement about Cecile Kazemi and me on BeniciaNews.com on April 08, 2005 "Putting an end to Otto Giuliani's unexplained \$30K annual stipend for Cecile Kazemi." This written publication by Council Member Smith is libelous on its face. It clearly exposes Cecile Kazemi and me to hatred, contempt, ridicule, and abusively detractive language because it explicitly suggests that in my former capacity as City Manager for the City of Benicia I played fast and loose with City tax dollars. Council Member Smith's assertion that I took part in "unexplained" public expenditures damages my integrity with regards to the public trust and harms my credibility and reputation as a competent chief executive officer.

After bringing this matter to your attention on April 19th, I demanded a public apology from Council Member Smith and a retraction of his slanderous and libelous utterances. It has been over a month and Council Member Smith has taken no action to publicly correct his actions.

On April 19th, 2005, I also requested that Council Member Whitney and Mayor Messina set the record straight. After all, they are the only remaining members of the City Council that first requested public relation services and approved the first expenditures. I want to thank Council Member Whitney for his comments on April 19, when he acknowledged that he and the City Council had indeed directed and approved the expenditures.

I would also like to point out that Council Members Campbell and Whitney were members of the City's Finance and Audit Committee and along with two members of this community reviewed and approved all expenditures for the city.

Therefore, if Council Member Smith fails to correct the record this evening and fails to publicly apologize to Cecile Kazemi and me, then any reasonable person must conclude that he published his comments with malice as an intentional attempt to injure the professional reputations of Cecile Kazemi and myself or alternatively it was an act of reckless disregard. As a Benicia City Council member, Dan Smith is provided with City budget information, materials, presentations, budget workshops and also has access to City Staff. Council Member Smith knew or should have known that his comments were clearly false and his assertion was either malicious or demonstrated reckless disregard for Cecile Kazemi and myself.

If Council Member Smith fails to correct the record this evening and fails to publicly apologize to Cecile Kazemi and me, I will file a prepared claim this evening against the City of Benicia and Council Member Smith. Council as you know this action is necessary as a precursor to litigation.

I don't want to take that action, all I'm seeking is justice and truth for Cecile Kazemi and me! I do not want to expose the City to costly legal fees, an expensive settlement or further embarrassment. I want to again turn my attention to more pleasurable and self-serving activities.

Council Member Smith, do the correct thing this evening or prepare to suffer the consequences for yourself and the City. The choice is yours!"

3. Council Member Smith announced the following events:

- 5/19 - Blood Centers of the Pacific blood drive at First Baptist Church
- 5/ 20 - BPAF presents Peppino D'Augustino at the Clocktower
- 5/21 - Benicia Historical Museum is having its 20th year celebration
- 5/25 and 6/1 - Benicia City Council having budget workshops at the Library
- 5/26 - Friends of Solano Regional Park District and Green Belt Alliance will host a community meeting to discuss a future regional park district
- 5/30 - Benicia Historical Society Annual Memorial Day Ceremony at the Military Cemetery

He then stated, "If it will save the City money, I am sorry Mr. Giuliani and Ms. Kazemi."

- 4. Council Member Whitney - Council Member Whitney stated that at a prior meeting, a community member discussed the expense of contractors. He stated that the appropriate time to discuss that would be at the budget meetings. He suggested detailing the information on how much each department has spent thus far on contractors on a spreadsheet. He is looking forward to a robust conversation on this item.**

CONSENT CALENDAR:

Council pulled items VI-C, VI-E, and VI-F

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

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

Noes: None

The minutes of April 19, 2005 and May 3, 2005 were approved.

RESOLUTION 05-71 - A RESOLUTION PROVIDING FOR AND REQUESTING THE BOARD OF SUPERVISORS TO PERMIT THE REGISTRAR OF VOTERS TO PROVIDE SPECIFIED SERVICES FOR A GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 8, 2005

RESOLUTION 05-72 - A RESOLUTION TERMINATING THE DECLARATION OF EMERGENCY AND ACCEPTING THE COMPLETION OF THE EMERGENCY PURCHASE AND INSTALLATION OF HEATING AND AIR CONDITIONING UNITS AND RELATED CLEAN UP WORK FOR THE PATROL OFFICER LOCKER ROOM

IN THE POLICE DEPARTMENT

Consideration of the filing of an application for Federal Bus Grant Funding Section 5307 (For information only).

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Denial of claims against the City and referral to insurance carrier was approved for the following claims:

- 1. Grothe**
- 2. Willis**
- 3. Hewitt**
- 4. Trumbull**

Council Member Smith pulled this item because he was not comfortable rejecting the claims, especially the ones relating to the I/I project. He asked Staff for an update on the claims. Ms. McLaughlin stated the Grothe, Hewitt, and Trumbull claims are related to the I/I project. The Hewitt claim was investigated and the I/I contractor did pay off on that claim. The Grothe and Trumbull claims were investigated and found to be caused by the PG & E contractors. Both claims will be sent to PG & E. The Willis claim is a 'trip and fall' claim.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, Council approved the denial of claims against the City and referral to insurance carrier, on roll call, by the following vote:

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

Noes: None

Approval of the purchase of two (2) police vehicles:

Council Member Smith stated that the City is replacing the two police cars because they have over 90,000 miles on them. He thought cars were built to last much longer than that these days. He asked what would happen to the two cars that are being replaced. Chief Trimble stated that they would get recycled to the detective bureau or to other City departments that might need them. He stated that we do not get rid of vehicles until they have over 300,000 miles on them.

RESOLUTION 05-73 - A RESOLUTION AUTHORIZING THE PURCHASE OF TWO (2) POLICE PATROL VEHICLES FOR THE POLICE DEPARTMENT UTILIZING EQUIPMENT REPLACEMENT FUNDS

On motion of Council Member Smith, 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

Approval of an agreement with Benicia Unified School District (BUSD) for City-provided maintenance of the field at Benicia Middle School:

Council Member Campbell pulled this item because he had a few questions. He asked if we were changing the 99-year agreement to match the other joint use agreements. Ms. McLaughlin stated that it was the same except without the capital improvement provisions. The term of the agreement is for the remaining balance of the 99 years. Council Member Campbell asked about the water costs. Ms. McLaughlin stated that the existing agreement with BUSD for the Middle School field is a 'share and share alike' agreement. So, that term was carried over.

RESOLUTION 05-74 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE JOINT USE AGREEMENT WITH THE BENICIA UNIFIED SCHOOL DISTRICT TO ALLOW MAINTENANCE OF THE BENICIA MIDDLE SCHOOL FIELDS

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 Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

Discuss scope of City/Schools Revenue Options Committee - Continued from the May 3, 2005 City Council Meeting:

Jim Erickson, City Manager, reviewed the Staff report.

Vice Mayor Patterson stated that we should take advantage of Mr. Colantuono's (well-respected attorney who specializes in municipal finance and revenue) expertise. He can explain the complexities of assessments, bonds, and parcel taxes and the different voting requirements. He can go over what other communities do in terms of funding. She hopes that will be included in the approach. She is not clear if we are looking at things that the City could implement that the BUSD would not have a direct benefit, but that BUSD would benefit if the fields were included as part of the whole package. Is that clear that we will be identifying things that are exclusive jurisdiction of the City but have an overall benefit in the community? Mr. Erickson stated that was one approach, but would take direction from Council on whether that was the way to go.

Council Member Smith suggested alternative language 'to either or both of' wording in the charge of the committee (section B). We cannot discuss them in a vacuum. We have to talk about any other times we will be putting any funding mechanisms on the ballot. The district is in a bind and this agreement is one effort to fix that, and so is the Revenue Options Committee. We are seeking involvement from the business community as well. That worked well in our model for the BLT. That is how he sees this committee as well.

Council Member Whitney stated that he shares similar concerns as Council Member Smith. The idea of getting more specific is a good one. It is important that we have a buy in on this from the community.

Council Member Campbell discussed not wanting to compromise a future parcel tax.

Mayor Messina is concerned with challenge #1 - balanced budget; the alarmist activity is not productive or justified. He listed the challenges that he has issues with:

1. Committee charge - he is not sure passing cost on to citizens is the way to go. The first charge should be to come back with the joint purposes of the City and BUSD are,
2. Composition - comfortable with Council and Board Members, but not so with the business community. There should be regular citizens- a broader representation,
3. Timing - he does not think we will get answers by 7/1. The drop-dead date to have something in for the upcoming election is the end of July.

Council Member Campbell stated that regarding the revenue forecast - It is not alarmist to say that expenditures are going to be more than revenues. It is an issue to take very seriously, alarmist or not.

Vice Mayor Patterson stated that the Non-Partisan California Budget Project and the Non-Partisan Public Policy Institute of San Francisco have come out with polls demonstrating that Californians are prepared and willing to support additional revenues for what is obviously a shortage in the state for many needs. But, they want to have it specific, not general. When you use the term tax, it is kind of a dirty word. The communities will rise up and support. We need to provide the citizens with the information on whether or not we have a shortfall, and we can't do that right now. Cutting back on the watering of the median strips is only one example. We do have a revenue shortfall in order to be at 100% service levels. City Staff is keenly aware of that. It is unhelpful not to recognize that. Staff has done a lot with less. It is the community's decision. What is the most efficient way we can get this done and what is the cost. One way is to subsidize the watering of the schools. We may want to consider charging the committee with looking at the things that have a time certain, that we could take action on. We are nowhere near the possibility of having the information necessary to have a citywide assessment district before the voters. We have a lot of homework to do. In terms of composition, the City should have a habit of involving and including the stakeholders. What does it take to make up a fully represented committee for the City of Benicia? She suggested amending the committee charge to read 'The committee will include but not be limited to looking at increases in water fees, city-wide assessment district, joint parcel tax, or other user taxes.' They should seek professional information. There should be phased reporting to Council so they can act in a timely manner.

Council Member Whitney requested that Mr. Erickson set up a meeting with BUSD next week to discuss this issue. If we want to hit the July timeframe, we need to get going right away.

Council Member Smith stated that the way it was set up before was to have members from the Chamber of Commerce, BIPA, and Main Street. That makeup seemed to work.

Mayor Messina stated that he and Vice Mayor Patterson would work to make some appointments to the committee as soon as possible.

NEW BUSINESS:

Approval of an agreement with LSA Associates, Inc. for an Environmental Impact Report (EIR) for the Benicia Business Park Project and an agreement with Discovery Builders, Inc. for payment of the costs associated with preparation of the EIR:

Brenda Gillarde, Consultant, reviewed the Staff report.

Public Comment:

1. Salvatore Evola- Mr. Evola stated that he fully supports Staff's recommendations. They are excited at the point they are at with the project. The application has recently been deemed 'complete.' They are excited to keep the project moving.

Vice Mayor Patterson suggested changing the language in the agreement on page IX-A to make the provision where the site plans and drawings are made available to the public. Mr. Evola stated that he did not have a problem with that. He wants to make sure that the most accurate set of plans are available, not the various revisions. They will work with their consultants to ensure this takes place.

Vice Mayor Patterson is troubled that this is a sole-source contract based on a 5-year old RFP process. Council has heard Staff's rationale for using this process. We could start with a clean slate, have a more efficient, and better document. The first draft EIR that LSA produced generated so many comments that it ultimately was withdrawn. She does not think this is the best approach. She wants to see that the scope of work be modified to indicate that the scope of work will include specific comments from the prior EIR, especially in regards to the kind of alternatives that were requested to be analyzed. In addition to the proposed project and the 'no project' alternative, she would like to see it specifically spell out the alternatives in the comments in the draft EIR. Also, we need to expand the alternative discussion. It cannot be loosely construed.

Brenda discussed the CEQA requirements. She discussed reasonable/feasible alternative requirements.

Vice Mayor suggested adding in the scope of work that the new EIR will 'refer to the original draft EIR comment letters on alternatives and discuss. Some alternatives could be dismissed from further CEQA analysis in the EIR discussion.' All of the previous alternative comments and letters to the EIR be addressed.

Vice Mayor Patterson discussed the issue of grading. Grading is the radical transformation of an exquisite landform. It is one of the reference points in the General Plan is about how the landform is the backdrop to the City of Benicia, and what distinguishes Benicia. On the alternatives, we need to look at the General Plan for walkability and sustainability. We should be clear that the alternatives are getting at the implementation of the General Plan. She would like to see the EIR do an SB610 and SB221 water supply analysis (water supply assessment for development).

Mr. Evola stated that they could make the modifications and keep the project moving.

Mr. David Clore, LSA, Principal in charge on the project - stated there is sufficient flexibility in the scope of work. Nothing would prevent them from going into the specifics that have been discussed. There are lots of options in terms of the alternatives. They can work with Staff on that. We should look at alternatives that will take care of the physical impacts that come from the project.

Mayor Messina stated that we can include these in the scope of work and the applicant will pay for them.

Vice Mayor Patterson expressed disappointment that Mr. Clore is not more involved, as she respects his work. Mr. Clore stated that nothing would reach Council until he has reviewed and approved the information.

Specifics regarding SB610 and SB221 requirements were discussed.

RESOLUTION 05-75 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTING AGREEMENT WITH LSA ASSOCIATES, INC. FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BENICIA BUSINESS PARK PROJECT AND AN AGREEMENT WITH DISCOVERY BUILDERS, INC. FOR PAYMENT OF THE COSTS ASSOCIATED WITH THE EIR

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

Council Member Whitney asked Mr. Evola if Discovery Builders would pay for the cost of the two community discussions (approximately \$15,000), as a show of goodwill. Mr. Evola stated that he would agree to pay the costs in order to keep the project moving forward.

Mayor Messina called for a break at 9:29 p.m.

The meeting resumed at 9:36 p.m.

Approval of Tree Sub-Committee's proposed policy elements that will serve as a guideline for revisions of the existing Tree Ordinance:

Mike Alvarez, Parks and Community Services Director, reviewed the Staff report.

Public Comment:

1. Annie Lloyd and Alyson Fleck, Tree Subcommittee Members - Ms. Lloyd stated that it has been a great opportunity working on the subcommittee. They have accomplished a great deal.

Ms. Fleck stated that working on the subcommittee has been rewarding. There have been quite a few people involved in the subcommittee. There have been 8-12 people at each meeting.

Council Member Campbell wanted to know what they would be doing about 'views.' Ms. Fleck stated that the City Attorney would be addressing views. It is a legal issue, not something they are equipped to address. She stated that if the resolution is passed, they could begin working on the ordinance.

Vice Mayor Patterson stated that the issues of what trees are suitable to not block views could be addressed in the 'therefore' section of the ordinance. Ms. Fleck discussed tree placement and the list that has been suggested. It will be refined as they move forward.

Ms. Lloyd stated that another part of their work is to form an educational component. A list of trees will not be the only guideline for people to use. They will have a document that people can refer to find out what tree is appropriate for the spot they will be planting on.

Council Member Smith thanked Ms. Lloyd and Ms. Fleck for their time and service to the City. He asked about #8 (education) in the 'therefore's'. He wanted to know how it was going to be carried out and what the cost was. Mr. Alvarez discussed the education process (public access channel, brochure, etc.) Many tree removals are the product of a lack of education. Council Member Smith wants to make sure that we use more than one form of education. His suggestions included the City's website, notices in the water bills, quarterly guides as suggested by Staff.

2. Greg Gartrell - handed out a revised copy of the proposed resolution. He reviewed his suggested changes (copy on file).
3. Marilyn Bardet - Ms. Bardet briefly served on the tree subcommittee. She is concerned that many trees are plagued with mistletoe, especially on East Third Street. She discussed how the City of Carmel goes to great lengths to preserve trees. She hopes we could tackle the problem of the mistletoe and help the diseased trees.

Council Member Whitney thanked Vice Mayor Patterson and the members of the subcommittee. He discussed the possible volume of trees in the city. He is not sure how we will tackle the issue of inventory. Safety should be #1. He suggested sending the reso back to Staff for revisions.

Mr. Alvarez reviewed the current tree removal policy.

4. Mary Frances Kelly Poe - Ms. Poe discussed the tree inventory issue. The list will not be minutely detailed. She does not think it will take a year to finish this plan. She discussed the cork oak trees in the Industrial Park. As it turns out, they are half the age they were generally thought to be. She discussed the eucalyptus tree that was recently cut down off of First Street (behind Treasury Commons). She discussed the fact that trees are being cut down because they are reaching maturity and people are not equipped to take care of them.
5. Allison Fleck - Ms. Fleck discussed public safety. If it is possible to keep a tree and ensure public safety, a tree will not be cut down. She discussed the issue of the tree inventory. She stated that the City has a good inventory of trees on city property.

6. Council Member Whitney stated that it was his feeling that the 'public safety' section needed to be amped up a bit.
7. Annie Lloyd - Ms. Lloyd discussed urban forestry. She stated that there needs to be a level of education in the community on this issue.

Council Member Smith wants to go point by point on Mr. Gartrell's proposed resolution and fix the resolution tonight. Many of Mr. Gartrell's comments address Council Member Whitney's concerns.

Vice Mayor Patterson discussed private/public trees. She suggested we are out of touch with what other communities are doing with tree ordinances. This resolution is a baseline for the future updated ordinance. Mr. Gartrell's comments would be more appropriate in an ordinance as they are very detailed. We need to make the future ordinance work for Benicia but not get too much into the details with the resolution.

Council Member Whitney stated that for the most part, he agrees with all of Mr. Gartrell's revisions, except #9.

Council Member Campbell stated that he agreed with Council Member Whitney.

Council Member Smith made a motion to implement Mr. Gartrell's proposed changes except for the one regarding the #9 and #13.

Mr. Alvarez estimated that Staff is spending 10 hours per month on this subcommittee. He expects the level of Staff involvement will remain the same each month.

Vice Mayor Patterson quoted page IX-B-3 with regards to staff time and enforcement of tree removal permits.

Mayor Messina wanted to go forward as long as Staff's time is limited to 10 hours per month.

RESOLUTION 05-76 - A RESOLUTION SUPPORTING ESTABLISHMENT OF A COMPREHENSIVE TREE PROGRAM FOR THE CITY OF BENICIA

On motion of Council Member Smith, seconded by Vice Mayor Patterson, 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

Approval of proposed General Fund budget adjustments for FY 2004-05:

Rob Sousa, Finance Director, reviewed the Staff report.

Council Member Campbell wanted to remind Council that there is money out there that will be coming in. We assumed we were going to have a balanced budget and a surplus, and now in the last quarter of our fiscal year, we are going to have a deficit.

RESOLUTION 05-77 - A RESOLUTION AMENDING THE 2004-2005 MUNICIPAL BUDGETS

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

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

Noes: None

REPORTS FROM CITY MANAGER:

Report on San Francisco Bay Conservation and Development Commission (BCDC) Proposed Update of the Commission's Public Access Design Guidelines:

Jim Erickson, City Manager discussed BCDC's update of the Commission's Public Access Design Guidelines. He wanted to know if Council wanted him to come back and brief the Council on what BCDC is doing.

Mayor Messina suggested Council obtain a copy of the brochure detailing the guidelines. Vice Mayor Patterson stated that the guidelines are user friendly. They are along the lines of form-based zoning. It would be great to take a look at them.

Council Member Smith stated that Council should have the information available to them. It would allow them to make future decisions more easily.

Messina suggested bringing the guidelines back at a future meeting to be voted on.

Report on status of Benicia Unified School District and City of Benicia Joint Use Agreements:

Jim Erickson, City Manager, stated that at the 5/3/05 Council meeting Council suggested changes be made to the agreement. The City Attorney made the changes and submitted them to BUSD. BUSD will review the changes on 5/19. On 5/19 BUSD will also be considering an MOU with the City regarding the BHS upper field. Action on the Joint Use Agreement will be taken at a later date (meeting has not been scheduled). If they authorize a MOU, he suggested Council schedule a special meeting to address what the district proposes, possibly at their budget meeting on 5/25.

Mayor Messina stated that with regards to the draft that was passed from BUSD to Council, there was a change that was not discussed clearly that had to do with scheduling provisions. He stated that he thought BUSD would control the schedule during school hours and that the City would control the districts facilities during non-school hours and on non-school days. He wants it to say 'the district shall schedule district facilities during normal school hours on school days. The City shall schedule district facilities during non-school hours on school days and on non school days. He wanted to discuss what happens if a site is sold, etc. regarding the termination clause. He suggested shortening the termination period to 60 days.

Council Member Smith stated that Council needs to have another joint meeting with BUSD to formalize the agreement and to celebrate the work that has been done on the agreement so far.

Council Member Campbell agrees with Mayor Messina regarding the scheduling.

Council agreed to have the Mayor contact the School Board to set up a joint meeting to go over the agreement and to celebrate the work that has been done. If the district approves the MOU, Council will schedule a Special Meeting to address it.

REPORTS FROM COUNCIL COMMITTEES:

- 1. Mayor's Committee Meeting (Mayor Messina) - Next meeting date: May 18, 2005**
- 2. Arsenal Restoration Advisory Board (Council Member Campbell) - Next meeting date: June 22, 2005**
- 3. Association of Bay Area Governments (ABAG) (Vice Mayor Patterson) - Next meeting date: October 27, 2005**
- 4. Audit and Finance Committee (Council Member Campbell and Vice Mayor Patterson) - Next meeting date: May 20, 2005 - Meeting Cancelled**
- 5. Carquinez Strait Preservation Trust (Council Member Smith) - Next meeting date: Council Member Smith stated that they met earlier this month and elected a new President of the Board. They discussed the vacancy in the Executive Director's position. It is a paid position.**
- 6. First Street Revitalization Committee (Council Members Smith and Campbell) - Next meeting date: May 25, 2005**
- 7. League of California Cities (Council Member Smith) - Next meeting date: August 8, 2005**
- 8. Police Station and Civic Center Restoration Committee (Council Member Smith and Mayor Messina) - Next meeting date: Not scheduled**
- 9. School District Liaison (Council Members Smith and Whitney) - Next meeting date: July 21, 2005**
- 10. Sky Valley Area Open Space (Vice Mayor Patterson and Council Member Smith) - Next meeting date: May 2005 (exact date to be determined)**
- 11. Solano EDC Board of Directors (Vice Mayor Patterson) - Next meeting date: May 26, 2005**
- 12. Solano Transportation Authority (STA) (Mayor Messina) - Next meeting date: June 8, 2005**
- 13. Solano Water Authority/Solano County Water Agency (Mayor Messina) - Next meeting date: June 9, 2005 - Mayor Messina stated that he received the Integrated Regional Water Plan and Strategic Plan. Staff will make copies for all Council Members that are interested in the document.**
- 14. Sunshine Committee (Council Members Campbell and Patterson) - Next Meeting date: Not scheduled**
- 15. Traffic, Pedestrian and Bicycle Safety Committee (Vice Mayor Patterson and Council Member Campbell) - Next meeting date: July 21, 2005**

- 16. Tri-City and County Regional Parks and Open Space (Council Member Whitney) - Next meeting date: June 13, 2005. Council Member Whitney stated that the joint meeting between the committee and the Solano County Board of Supervisors has been scheduled for May 31, 2005. Council Member Smith asked that the details on the meeting place and time be relayed by Staff to all Council Members.**
- 17. Valero Community Advisory Panel (CAP) (Council Member Whitney) - Next meeting date: August 4, 2005 - The draft report was received and the panel sent it back with revisions. Vice Mayor Patterson asked if Council Member Whitney knew anything about the fine imposed by the EPA. Council Member Whitney stated that he talked to Supervisor Silva. Valero was pushing to have the violation notices funded back into the community. It was approximately \$95,000. He will get back to her when he finds out answers to her questions.**
- 18. Youth Action Task Force (Council Member Whitney) - Next meeting date: May 25, 2005**

ADJOURNMENT:

Mayor Messina adjourned the meeting at 10:53 PM

Lisa Wolfe, City Clerk