

May 18, 2004

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
MAY 18, 2004**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at p.m. on Tuesday, May 18, 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, Patterson, Smith, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Announcement of action taken, if any, in Closed Session:

Mayor Messina stated that Council gave direction to the City Attorney to pursue settlement discussions in both cases.

City Manager Jim Erickson announced that the City was experiencing broadcasting difficulties. The City Council Meeting was not being broadcasted to the public. Broadcasting capabilities could resume sometime during the meeting. There was a problem with a switch at an earlier School Board Meeting. The meeting will be taped, and broadcast during the week.

Mayor Messina announced that Staff would be preparing the City Council Agendas to be ready on the Thursday prior to the Council Meetings, as opposed to the Friday before, as had been done in the past. This would give Council an extra day to review the Agenda packet.

APPOINTMENTS:

None

PRESENTATIONS:

Update on Pure Committee:

Mr. Bob Craft presented the update on the PURE Committee activities. The City, in conjunction with Valero and PURE has selected a consultant to begin work on the pilot testing for the project and preliminary design for the Ultimate Water Reuse System. CDM (the consultant unanimously selected by the team) gave a very impressive presentation that was tightly focused on the specific needs of the

team. CDM also recommended testing an alternative methodology in addition to reverse osmosis. CDM also provided the lowest bid and a greater number of contractual hours.

At the May 11, 2004 meeting, the PURE Committee met with two representatives of the Regional Water Quality Board, (1) Lila Tang, Permitting Section Head, and (2) Richard Hiatt, Permit Engineer for both the City and Valero. Preliminary discussions were held about the project. The primary intent of the meeting was to meet and establish a rapport with the Board representatives. PURE must meet strict Board permitting thresholds for both the City and Valero. The PURE team intends to maintain a good and timely working relationship with the Water Board staff to ensure regulatory issues are addressed in a methodical and defensible manner, leading to acceptable permits for the City and Valero.

Through an interview process, two students from Benicia High School, (1) Ian McCallister, and (2) Hanna Snyder (both from the Honors Chemistry Program), have been selected to participate in the pilot testing phase of the project. This should give meaningful hands-on practical science experience to these students. It is expected their participation will begin in August 2004.

Two other good-news items to report include (1) The receipt from the State of the final formal commitment papers concerning the \$75,000 Planning Grant for the Reuse Facilities, and (2) The endorsement of the project by the Northern California Salinity Coalition. This endorsement will enhance PURE's standing when applying for any future grants.

The Committee continues to discuss ways and strategies to promote outreach and public understanding of all aspects of the project as it moves forward.

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

Mayor Messina asked if there were any changes to the Agenda.

City Manager Jim Erickson requested that item V-I-C be moved up to be the first Public Hearing item to be discussed. Mr. Erickson also requested that item V-III-E be moved up to immediately follow the Consent Calendar.

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, and unanimously approved, the Agenda was adopted as amended.

COMMUNICATIONS:

WRITTEN:

None

PUBLIC COMMENT:

1. Marilyn Bardet, 333 East K Street - Ms. Bardet discussed a recent article in the paper by Mr. Will Gregory regarding Measure O. Ms. Bardet stated that Mr. Gregory did not make it clear that the referenced cost of \$24 Million included interest. Ms. Bardet stated that the Measure O Committee visited various sites, the Tiburon, and Sausalito stations. It was not clear if the sites visited included 911 centers, when they were built, etc. She urged Council to have a full-fledged discussion with the public on the meaning and the importance of having its own 911 center.
2. John Van Landschoot, 175 West H Street - Mr. Van Landschoot stated that it does not serve the public well for Council to regularly have such a tightly packed agenda. It is not in the spirit of the new open government policy. Mr. Van Landschoot stated that Council Member Whitney has expressed concern regarding the late Council meetings. He asked Council to honor the public's right to participate by either having more meetings, or managing the agendas more efficiently. It is not fair to the public.
3. Council Member Campbell asked about getting the documents on the Port Tax issue released to the public. The documents are currently listed under 'attorney-client privilege'. Council discussed the need to agendize this item. Council Member Smith questioned whether releasing the information to the public would be a violation of the Brown Act. Council agreed to put this item on the next Agenda. Council Member Campbell suggested putting native grasses at the end of First Street. Council Member Campbell asked how the detours on First Street would affect the businesses in the area. Dan Schiada, Public Works Director explained how the detours would be set up. There will be a closure at First and K Streets, but all of First Street would not be closed. There will be signs clearly describing the detours. There will also be signs stating that all businesses on First Street would be open during construction.
4. Council Member Smith made the following announcements:
 - Money Magazine recently named Benicia one of the top 50 shoreline cities in the Nation.
 - The City Council will be having a joint meeting with the School District on 5/27/04 at 8:30 a.m. at City Hall.
 - On 6/9/04, the Parks Commission will be considering a measure about the soda machines that are going into 11 of the Benicia parks.
 - Kinder Morgan will be at the 6/15/04 City Council Meeting to discuss the recent accident in the Suisun bay, where up to 60,000 gallons of diesel fuel leaked into the marsh.
 - Council Member Campbell's mention of native grasses was due, in part, to the exhibit at the Library titled 'Listening to the Prairie'. The exhibit will be at the Library through 6/8/04.
 - The Chamber of Commerce will hold its monthly mixer on 5/20/04 at Coldwell Banker from 5:30 to 7:30 p.m.

- The Youth Commission will hold its annual picnic with the Police Department on 5/21/04, from 1:00 to 4:00 p.m. at the Benicia Community Park.
- Reach Out Benicia will have an open celebration to celebrate 10 years in the community on 5/25/04 from 5:30 to 7:30 p.m. at Inn at Benicia Bay.
- Mills Elementary School principal Ellen Blaufarb will be retiring this year. There will be a celebration on 5/28/04 in the multipurpose room at Mills, beginning at 10:00 a.m.
- The various organizations that support the Benicia Veterans Memorial Building will be unveiling of a new sign 5/29/04 from 10:00 a.m. to 1:00 p.m.
- The Historical Society will celebrate Memorial Day at the Benicia Military Cemetery on 5/31/04 at 10:00 a.m.
- The annual Arts in the Park event will be held on 6/6/047 from 10:00 a.m. to 5:00 p.m. in the City Park.

CONSENT CALENDAR:

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

Council Member Campbell requested item V-E be pulled.

On motion of Council Member Whitney, seconded by Vice Mayor Patterson, and unanimously approved, the Consent Calendar was adopted as amended.

The minutes of April 20, May 3, and May 6, 2004 were approved.

Denial of claims and referral to insurance carrier for the following:

1. Floyd Anthony Barrow
2. Pamela Barrow
3. Loretta Barrow

RESOLUTION 04-61 - A RESOLUTION SUBMITTING A REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF FISCAL YEAR 2002-03 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT

RESOLUTION 04-62 - A RESOLUTION AWARDED A CONSULTANT AGREEMENT AND TASK ORDER NO.1 FOR ENGINEERING SERVICES TO CAMP DRESSER & MCKEE, INC. FOR A COST NOT-TO-EXCEED \$407,550 FOR THE WATER REUSE PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN THE DOCUMENT ON BEHALF OF THE CITY

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 04-63 - A RESOLUTION APPROVING THE ELECTRIC PROGRAM WIND UP AGREEMENT

Council Member Campbell stated that the City would be getting \$290,000 back and asked what fund this return would be going into (General Fund or Reserve). He stated that it was a one-time non-recurring event, and it should go into the Reserve balance.

Rob Sousa, Finance Director, stated that these funds have been allocated as one-time revenue. The money will flow into the undesignated reserve fund.

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, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

NEW BUSINESS:

Verbal report on IT Panoche Status:

Kitty Hammer, Consultant for the Community Development Department, stated that the Department of Toxic Substance Control (DTSC) has not taken over the IT Panoche facility, as was reported. The IT group filed for Chapter 11 bankruptcy in 1/02. The assets of IT were sold to The Shaw Group in the bankruptcy proceedings. Out of the bankruptcy emerged something called the IT Environmental Liquidating Trust. It is an independent entity that is charged with managing IT's four closed hazardous waste disposal sites. The funding for the trust to operate on is approximately \$30 Million. The financial assurances are supposed to be sufficient to operate the sites for 30 years from the date of the post-closure permits. The DTSC is currently evaluating the financial assurances. They may determine the money will not be sufficient to last 30 years. Nevertheless, it appears there is sufficient funding, due to the efforts of the Attorney General and DTSC. When the trust finally runs out of money, the funding will need to come from the 'responsible parties' (company's that have dumped waste at the sites). IT has confirmed they do not have any plans for development at the Panoche facility.

Council Member Campbell asked that if the money runs out, would the City go to the company's that dumped at the site (responsible parties) or the people that initially owned the site (Benicia Industries). Ms. Hammer stated that she was not aware that Benicia Industries was involved. She said that was a question that should be asked of the DTSC. Ms. Hammer will check into this.

Vice Mayor Patterson asked what the protocol for managing the trust. What percentage of interest is being assumed for the trust? She would like this information provided to Staff, and they can get it to her. She asked that, in terms of the management of the trust, is it part of protocol to sustain that amount of money. She would be interested in this information. Vice Mayor Patterson discussed a possible conservation easement that may have been done in the past. She asked if there was a way

that conservation easement established. Vice Mayor Patterson asked Ms. Hammer to work with Staff and they could report back at the next meeting. City Manager Jim Erickson asked if Staff could have until 6/1/04 to report back on this information. Council agreed that was an acceptable date.

Council Member Whitney stated that a concern he raised a few years ago was that the waste does not dissolve. We are focusing on the wells now, but who will be focusing on them in 100 years. He asked if anyone has contacted the company's that dumped waste at the sites to let them know they could be contacted in the future, if money runs out. Ms. Hammer was not sure who had been contacted. Council Member Whitney asked if she could find this information out.

PUBLIC HEARINGS:

General Plan amendment, rezoning, and tentative map approval for 650 East N Street:

Eric Angstadt, Associate Planner, stated that a supplemental staff report on page V-I-C-39 indicates that the public noticing requirements for the tentative map were not completed as required. He asked that this portion of the Public Hearing be continued until 6/1/04.

Council Member Smith suggested continuing the entire Public Hearing until the noticing requirements are completed. City Manager Jim Erickson suggested opening the Public Hearing, so that the audience members could have a chance to speak then continue the Public Hearing until 6/1/04. Council agreed to Mr. Erickson's suggestion.

Mr. Angstadt then reviewed the Staff report summary on this item.

Public Comment:

1. Betty Russell, 650 East N Street - Ms. Russell stated that, although the project is well underway, she was not officially notified until she called Mr. Angstadt on 5/13/04 and requested a copy of the notice. She received the notice in the mail on 5/15/04. She was not notified of the Planning Commission meeting either. She stated that she had called Mr. Angstadt a few weeks ago to ask why she had not been notified, and was told that her notice was mistakenly sent to the wrong address. She feels she is deliberately being left out of the planning of this project. She does not believe any consideration has been given to the residents of the neighborhood. She discussed parking issues that she feels would be a result of the project. She feels that her privacy will be violated. She discussed possible issues with emergency vehicle access to the area. She asked Staff to explain what CEQA stands for. She hopes that whatever is built is a compliment to the neighborhood.
2. Mayor Messina asked Collette Meunier to clarify the noticing requirements. Ms. Meunier stated that residents within 300 feet of the planned project must be notified. Ms. Meunier stated that, in this case, there will be a courtesy notice that will go out, in addition to the legally required notice.
3. Council Member Whitney asked Mr. Schiada to clarify the issue of emergency vehicle access to the proposed project. Mr. Schiada said that to his knowledge, there are no restrictions. All emergency vehicles will be able to access the homes in proposed project.

4. Mr. Angstadt clarified the confusion with the address listed as 650 East N Street. He stated that the addresses for the 6 homes have not been set yet, and they simply used the 650 East N Street address as a 'placeholder' so people could have a general idea where the project would be.
5. Council Member Campbell asked Mr. Angstadt if the project met CEQA requirement 15.303. Mr. Angstadt verified that the project meets all requirements of CEQA 15.303.
6. Council Member Smith had questions on the dirt roads and paving of the area. He was astonished that Staff finds that this project qualifies for a CEQA exemption. The lack of parking spaces will impact the neighborhood. The project seems dense.
7. Vice Mayor Patterson clarified for Ms. Russell that CEQA stands for California Environmental Quality Act. The purpose of the Act is to look at the physical impacts to the environment. Infill and Urban projects typically don't deal with the environmental issues, but deal with urban issues. The problem is that we do not have a good method or system other than public noticing to have the community and neighborhood comment on what they consider will be impacts and effects.
8. Bill Lightfoot, 1374 East 6th Street - Mr. Lightfoot stated that he too did not receive a notice regarding the Planning Commission Meeting. He discussed what he thought were discrepancies in the measurements of the streets. The streets/alleys are narrower than the reports state. Facts, rather than opinions should be used in the reports. Mr. Lightfoot stressed the fact that this project would create parking issues.
9. Rick Bugey, 1351 East 6th Street - Mr. Bugey stated that the alley in question is already littered with abandoned or extra cars. Parking in this area is already limited. The new homeowners will most likely take up the parking spaces in front of his house. This would affect the sanctity of his home.
10. Terry Kenyan, 630 East N Street - Mr. Kenyan discussed the sewer that would need to be extended as a result of this project. This will affect the parking for other residents in the area of the project.
11. David Clayton, Architect for the project - Mr. Clayton stated that the project has been reviewed and approved by the Fire Department. There will be 4 parking spaces for each home being built: two spaces in each garage, and two spaces in each driveway. He stated that the parking situation had been adequately addressed.

Vice Mayor Patterson stated that she was concerned about the process of noticing. She asked the Community Development department to re-notice the project. The citizens should have adequate time to voice their concerns to the Planning Commission. There needs to be proper dialogue between the citizens and the Planning Commission. Vice Mayor Patterson suggested holding an extra evening community meeting to accommodate discussion with the citizens.

Council Member Smith asked Staff to clarify whether emergency vehicle access was a problem with this project. Mr. Angstadt clarified that emergency vehicle access was not a problem, and the Fire Department had reviewed and approved the project. Council Member Smith asked if there were other

proposed projects in the area. Mr. Angstadt confirmed that there was another project in the works at this time.

Council Member Whitney stated that the noticing requirement of notifying residents within 300 feet of a project is inadequate. He asked if there were provisions for exceptions in this law. Ms. Meunier stated that the City does not have the flexibility built into the process to accommodate wider noticing of residents.

Vice Mayor Patterson suggested rewording some of the conditions listed on page VI-B-12, #10 of the agenda packet. She suggested it should include bios wells and materials. Condition #8 on the previous page should be reworded to include a schedule. Landscaping also needs to be addressed, and standards should be set. There should be a survivability period for the landscaping. She asked Staff to clarify the issue of aluminum-clad windows.

Both Staff and the Applicant agreed that they would make time to accommodate a meeting that the citizens could be more involved in.

Council agreed to continue the Public Hearing until 6/15/04.

Approval of the Final close out report for CDBG 2000 Technical Assistance Grant which provided housing need assessment and analysis of converting publicly owned housing to tenant-based assisted development:

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

Vice Mayor Patterson asked Ms. Gillarde to provide an update on the effects of the Bush Administration's cutting funds for section 8 housing vouchers and the percentage of section 8 vouchers. Vice Mayor Patterson also asked for clarification on a portion of agenda packet pages VI-A-6 and VI-A-7 regarding 'conversion to section 8'. She would like an explanation as to how this works. She stated that this information did not need to be provided that evening, but she would like the questions answered in the near future.

RESOLUTION 04-64 - A RESOLUTION APPROVING THE CLOSE OUT REPORT FOR TECHNICAL ASSISTANCE GRANT 00-STBG-1561

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, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

Vacating a portion of West 6th Street between West K Street and Military West:

Dan Schiada, Public Works Director, reviewed the Staff report summary on this item.

Council Member Smith clarified that this vacation is to accommodate the expansion of the building that the Benicia Fitness Center is in.

RESOLUTION 04-65 - A RESOLUTION ORDERING THE VACATION OF A 12.51 FOOT WIDE PORTION OF WEST 6TH STREET BETWEEN WEST K STREET AND MILITARY WEST

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

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

Noes: None

UNFINISHED BUSINESS:

None

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

The meeting resumed at 9:20 p.m.

NEW BUSINESS:

Update on the Mills Act:

Toni Haughey, Historic Preservation Commission Chair, reviewed the recent update on the Mills Act. She wanted to celebrate the renewal of the Mills Act. The HPC has been working on the updates for 3 years. Ms. Haughey reviewed how the Mills Act came about, and what it does. It is an actual tax reduction, not a refund. The value of the property is based on a potential income of the property, not the purchase price. The property owner must maintain the building and make any repairs or additions in accordance with the Department of Interior Standards for Treatment of Historic Properties. For every \$4.00 tax reduction to the owner, the City only gives up \$1.00 of revenue. She urged all historic property owners to meet with a City Planner to see if this will work for them. Applications must be received by 12/31/04 to qualify for the 2005-06 tax year.

Approval to execute Mills Act contracts with the property owners of 185 East D Street and 401 First Street:

Mayor Messina excused himself from this portion of the meeting due to a conflict of interest. Vice Mayor Patterson chaired this portion of the meeting.

RESOLUTION 04-66 - A RESOLUTION DIRECTING CITY MANAGER TO NEGOTIATE AND EXECUTE MILLS ACT CONTRACTS FOR 185 EAST D STREET AND 401 FIRST STREET IN THE CITY OF BENICIA

Eric Angstadt, Associate Planner, reviewed the staff report summary on this item.

Public Comment:

1. Jane Lauder, 176 West H Street - Ms. Lauder stated that she was speaking on behalf of the applicants of 401 First Street, the Union Hotel. This is the longest tenured hotel in the City of Benicia. She is glad to hear the Mills Act incentives are being offered. She urged Council to

approve the Resolution on this item. She agreed with Mr. Van Landschoot's comments on the public's right to participate in the Council Meetings. She did not understand why Council allowed the IT Panoche agenda item to be moved ahead in the agenda.

2. Patrick Ward, 230 West K Street - Mr. Ward stated that that evening was an opportunity to celebrate reintroducing the Mills Act back into Benicia. Historic rehabilitation is a tough-go. It requires time, patience, money, and, a lot of unexpected surprises. Historic preservation pays huge dividends to cities. He stated he was grateful to Reed Robbins for bringing the idea of the Mills Act to Benicia 10-years ago. He was grateful to Council, Staff, and HPC, who are now proactively promoting preservation through the Mills Act use. He supports the City becoming a CLG. He hopes that, while the City goes through the process of becoming a CLG, and changing the HPC, that it thinks in terms of overcoming obstacles, not creating obstacles.

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, Patterson, Smith, and Whitney

Noes: None

Abstain: Mayor Messina

Approval to execute a Mills Act Contract with the property owners of 230 West K Street:

Vice Mayor Patterson excused herself from this portion of the meeting due to a conflict of interest.

RESOLUTION 04-67 - A RESOLUTION DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 230 WEST K STREET IN THE CITY OF BENICIA

Eric Angstadt, Associate Planner, reviewed the staff report summary on this item.

Public Comment:

1. John Van Landschoot, 175 West H Street - Mr. Van Landschoot stated that Patrick Ward epitomizes the Mills Act. He single-handedly, along with the HPC, has brought the Mills Act back to Benicia.

Council Member Smith stated that the City owes a huge debt to Mr. Ward for his legal expertise in this action. He was a great resource to Staff and the HPC.

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

Abstain: Vice Mayor Patterson

Certified Local Government application and Historic Preservation Commission structure reorganization:

Collette Meunier, Community Development Director, reviewed the staff report summary on this item.

Council Member Campbell stated that the City needs to have customer-friendly building and planning. There are potential problems with having an outside consultants and engineers. He would prefer that if we do hire a consultants or engineers, they be paid on a project basis as opposed to an hourly basis. Council Member Campbell stated that he has concerns with having the Planning Commission perform design review. If this is the case, maybe they should meet more than once per month, or possibly have a sub-committee to address these issues.

Public Comment:

1. John Van Landschoot, 175 West H Street - Mr. Van Landschoot stated that it sounded like Council may be making some decisions tonight that could become the 'details', yet there has not been any public outreach yet. He has issues with much of the document in question. One suggestion was that people from the HPC and DRC be folded into one commission. This could take up to 3 years. There are people out there that are qualified that could be on the commission. Qualifications are very important. This will ensure the correct decisions are made, based on the law regarding people's homes and property, not on personal preferences. Mr. Van Landschoot has issues with the lack of required qualifications for the commission. He thinks it would be a disaster to get rid of the current DRC. He hoped no binding decisions would be made that evening.

Vice Mayor Patterson clarified that her vision was that Council would say to forward the staff report to the DRC and HPC for a joint discussion. It would be beneficial to get input from the Commissioners on the blending of the Commissions. She would like to amend paragraph 2a to include that there may be other duties in addition to their current duties.

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, and unanimously approved, Council voted to amend paragraph 2a so that it reads 'prepare all necessary legislation to have a new 7 member HPC with design review authority and other duties within the Historic Districts' on roll call by the following vote:

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

Noes: None

Vice Mayor Patterson stated that she looked forward to being able to have the reorganization of the DRC and HPC accomplished ASAP, but no later than October 2004.

Council Member Smith stated that he does not agree or endorse the method of reorganizing the DRC and HPC that has been proposed. Vice Mayor Patterson clarified that the issues being discussed dealt with the duties of the Commissioners. Council Member Smith wanted Staff to be clear that the motions being made are regarding duties, not membership.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, and unanimously approved, Council directed Staff to draft an application to the State Office of Historic Preservation requesting CLG status for the City of Benicia, on roll call by the following vote:

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

Noes: None

This item will come back to Council as a Resolution once the application has been drafted.

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, and unanimously approved, Council gave direction to Staff to move forward with the recommendations b, c, and d in paragraph 2 of the staff report on page VIII-B-1 of the agenda packet, on roll call by the following vote:

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

Noes: None

Establishment of the Sky Valley Open Space Committee:

RESOLUTION 04-68 - A RESOLUTION ESTABLISHING THE SKY VALLEY OPEN SPACE COMMITTEE

Collette Meunier, Community Development Director reviewed the staff report summary on this item.

Council Member Campbell had issues with the allotment of 10 hours of Staff time that was referred to in the Budget Information section of the staff report. He stated there would need to be something in the wording that reflects 'to increase staff time to more than an average of 10 hours per month, it will need to be approved by Council'. He also had a concern regarding the line 'City residency would not be a requirement for membership'. He stated that if there were two equal applicants, one a resident, one not, he hoped that the resident would be chosen.

Council Member Smith supports the recommendations.

Council Member Campbell asked what the terms of the Committees would be. Ms. Meunier stated that if the Committee has an ongoing role, the terms should be set up so that 3 would be 4-year terms 2 would be 2-year terms (initially, then they would be replaced by 4-year terms).

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

Application for Regional Measure 2 (RM2) Funding for the Park/Industrial Intersection and Park-and-Ride Facility Project:

RESOLUTION 04-69 - A RESOLUTION SUBMITTING A REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF REGIONAL MEASURE 2 FUNDING FOR THE PARK/INDUSTRIAL INTERSECTION AND PARK-AND-RIDE FACILITY PROJECT

Dan Schiada, Director of Public Works, reviewed the staff report summary on this item.

Council Member Campbell asked for clarification on the funds for the Intermodal Transportation

Station (ITS). He asked if the funds need to be tied to a train station. Council Member Smith stated that the STA staff told him that the train would have to be a part of the ITS package.

Vice Mayor Patterson stated that she was told by Darryl Hall stated that it is the State Transportation Improvement Project (STIP) money that is possibly in jeopardy when they get around to appropriating funds in 2007, if a train is not included in the project. This does not apply to the RM2 money. The funds are not in jeopardy if the site changes.

Vice Mayor asked that in the future, Council receive a more thorough explanation about the value of a Park-and-Ride, and the \$1.5 million that the City will be spending on that feature.

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

Verbal report regarding a meeting between the Vice Mayor, EDB members, and SOS representatives:

Karen Majors, Assistant City Manager, stated that at the 5/4/04 the EDB presented their recommendations that the Staff and City Council engage in a community consensus process to determine what, if any development should occur on City-owned property that runs from the Benicia Harbor Master's office to the First Street Spit. There was a group consisting of the Vice Mayor, 2 EDB members, and several SOS members that would meet to see if there would be any opportunity to compromise. This meeting took place on 5/10/04. While the group agreed on a problem statement, which was essentially a disagreement about the process on who controls the waterfront. Beyond agreement on that problem statement, members of SOS made it clear that they did not want to consider other uses beyond open space in their ballot initiative, nor did they want to delay moving their initiative forward. SOS members agreed to discuss the 5/10/04 meeting with their members, which took place on 5/17/04. They agreed to meet later in the week if their membership wanted to change the position that was taken on 5/10/04. Ms. Majors spoke with Susan Street on 5/18/04, and the SOS group concurred with their position. Ms. Majors does not believe additional conversations with SOS would be fruitful at this point. Although, SOS was anxious to be open and inclusive with the plans they have for their initiative. Given the situation, Ms. Majors wanted to bring the EDB's recommendation back to Council at the 6/1/04 Council Meeting for Council to determine whether or not to move forward with the recommendation, or to table it, or do something in-between.

Council Member Smith asked if there were any discussion of limitations or restrictions on the piece of land that SOS was going to address. Ms. Majors stated that SOS planned to carve out a piece of land that includes a little bit more than the depot.

Vice Mayor stated that her suggestion would be to clarify, at the next Council Meeting, what the choices are. Her hope was for the purpose of having a dialogue with SOS, was that instead of a 'you or

them' it would be a 'you and them' approach. Vice Mayor Patterson said this was not successful. She stated that SOS is creating a dialogue on their terms. It changes the EDB task. She would like this to be discussed at the next Council Meeting, with a Staff recommendation.

Public Comment:

1. Bob Mutch, 695 Knight Drive - Mr. Mutch stated he was at the meeting in question. He was not surprised, but he was disappointed. The SOS group did not come to discuss options and alternatives; they came to state what the rules would be. Assuming that they proceed, it is his hope that it is an honest and responsible campaign in favor of their initiative. Mr. Mutch stated that it is critical that the City continues to discuss what will happen with the property at the end of First Street. Community discussion and a community consensus process are vital. However, there needs to be citizens that come to the table that are willing to listen, and not just demanding to talk. It is time to finish the conversation on this issue, and move forward. Whether it is no development or some development (defined), it needs to be decided.

Council Member Smith asked Staff to comment on the prospect of a City sponsored ballot measure, different than the one being done by the citizens. Ms. Meunier stated that to do this, the City would have to go through a CEQA process, or a mitigated declaration. The time constraints would preclude the initiative from getting on the November ballot.

Council Member Campbell stated that an advisory vote does not run into CEQA issues, and this could possibly meet the 8/3/04 deadline.

REPORTS FROM CITY COUNCIL COMMITTEES:

Police Station and Civic Center Restoration Committee:

Comments from the Chair/Vice Chair:

Chairperson Bonnie Silveria gave a brief history on how this Committee came to be formed. She quoted the Resolution that was passed, approving the formation of the Committee. The Committee started meeting in January, and finished meeting at the end of May 2004. There were over 500 man-hours put in to this Committee. Danika Kavulich, Vice Chair of the Committee then reviewed the recommendations that the Committee made to the Council (See Agenda page X-A-1-2). Ms. Silveria concluded by stating that it was a pleasure working with Ann and Margie on this Committee. She then thanked all Committee members for their time and efforts. Ms. Silveria stated that she requested (in a letter to Council) that a steering/sub committee be derived from this Committee to follow through the process, after Council concludes their deliberations. It is important to continue the public outreach process with this project.

Public Comment:

1. Bob Mutch, 695 Knight Drive - Mr. Mutch thanked Ms. Silveria and Ms. Kavulich for their efforts on this Committee. He enjoyed working with them. It is important for everyone to realize that the overall outcome of the Committee's work is a recognition that they found out that most of them agreed on more things than they disagreed on. The general feeling is that

the City needs a new police station. He requested that Council does not forget that the Civic Center restoration still needs to be resolved.

Chief Trimble thanked everyone involved in the Committee for his or her efforts. This portion of the Agenda was continued to the 6/1/04 City Council Meeting. He stated that someone needs to do an analysis of what the Committee has recommended, and come up with a new master plan for building a new police facility. He asked Council to give Staff direction for him to start the process of finding an architectural firm to work on the plan.

Mayor Messina stated that Council has to be comfortable with the recommendations of the Committee. He discussed the idea of having a new facility that housed dispatch, patrol functions, and holding cells. The existing Police Station would be used for the non-essential functions. LEED Certification is a no-brainer, and is definitely something Council wants to pursue. Historic Integrity was also considered a no-brainer. In terms of the cost, this is the area where the group has the most divergence. Regarding the need to look at a new direction, there needs to be public oversight, something along the lines of a 'public watchdog'.

Council Member Smith stated that the group was most divided on what the maximum price of the bond issue ought to be. Another issue they were divided on was the concept of an essential services facility. However, the only other alternative was to build a much larger facility. He wished the LEED recommendation in the Committee's statement were a bit stronger. There is definitely a feeling of the Committee that it would struggle to get a significantly different recommendation than the prior project if other architects were not considered. Regarding a 'public watchdog', he would not support winnowing down the committee. He would prefer to extend the invitation to all prior members.

Council Member Campbell asked if a new architect is chosen, does that mean that the City will be walking away from a good portion of \$1.2 million. Mayor Messina stated that is partly true. He is not sure what percentage the City would walk away from. Council Member Campbell suggested approaching this from a direction where cost drives the design and function.

Vice Mayor Patterson stated that if Council takes the Resolution and adopt it, and it is amended at the next meeting, it would incorporate the recommendations that the Committee has provided, and give direction for a peer review. That will give direction to the redesign. An RFP for a new architect could then be completed. The peer review would be the scope of work that would be given for the RFP. Vice Mayor Patterson discussed the standards for conducting a peer review. Mayor Messina stated that the group (Committee) was split on the idea of a peer review. Vice Mayor Patterson discussed the benefits of having a peer review. Vice Mayor Patterson suggested amending the Resolution Council adopted so that it includes the recommendations from the Committee, and add some aspect about the extension of the Committee, or extension of the steering/sub-committee.

Council Members and Staff had extensive discussion whether a peer review or a needs assessment would be more effective.

Public Comment:

1. Danika Kavulich stated that peer review was being discussed with regards to two different things, the site assessment, and the design. She stated that the Committee did not want to do a peer review of the design. Any peer review that the Committee considered was on the site assessment.
2. Bonnie Silveria stated the Committee held back because of money. Early on, they wanted to do some of these things, but money came into play. They did not feel they (the Committee) had the money to do this type of thing. They felt that Council would need to make this type of decision, since it involved 'big bucks'.
3. Bob Mutch stated that a big question in the minds of some of the Committee members was how a peer review of a needs assessment would be done. It would take 18 months. Cost was also a major concern of the Committee.

Mayor Messina stated that he would prefer to go in another direction. He would like to possibly get a consensus of the Council to go ahead with a new essential services building, and rebuild the existing police building for the offices. This would make it a smaller project. A dollar amount should be set. For an essential services building, the cost could be set at \$4 million. (\$400/square ft. x 10,000 sq. ft) It should be discussed with the architects that they would have a budget of \$400/sq. ft. In terms of a process, don't look at it as a peer review, but someone coming in to review the information we have, and hit the objective. Vice Mayor Patterson stated that the City needs to rebuild the relationship with the community on this issue. She believes the process is the path that will get us to the community's acceptance for the needed police station. The next step is looking at the needs assessment. She reviewed the value of having a peer review.

Council Member Smith stated that the Mayor is correct. Council should make the jump and endorse the essential services facility suggestion. The peer review should be limited to the departments that were suggested be put in the essential services building (patrol, holding, and dispatch).

Council Member Campbell stated the driving issue with this project is cost.

Vice Mayor Patterson suggested forming a sub-committee from the current Committee that could work on the RFP's.

Chief Trimble stated that Council has not mentioned once, the police profession. Being told by Council where the buildings would be, etc, without asking Staff about the police profession and what they need is not appreciated. The police profession needs to have some say about the way the building is put together and how it functions, so they can provide the needed services. He does not want the building designed by the dais. The building needs to have the functionality of police services for the next 40 years.

Vice Mayor Patterson stated that it is unhelpful to challenge the Council and Committee about looking at things differently. She understands his frustration. Chief Trimble clarified that he was misunderstood. He wanted to express the need for Council and the Police to work together on this issue.

Mayor Messina suggested that due to the late hour, additional discussion on this item should be deferred until the next Council meeting.

On motion of Council Member Smith, seconded by Mayor Messina, and unanimously approved, Council directed staff to look at preparing an RFP for a \$4 million essential services building. The motion was approved on roll call by the following vote:

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

Noes: None

Vice Mayor Patterson asked Mayor Messina if they should come up with a mechanism to continue the Committee's role in this. Mayor Messina prefers to form a sub-committee of the smaller group, let them try to work it through, and present the findings to the larger group. Council supported that direction to Staff. Council agreed to go along with Ms. Silveria's suggestions (in her memo) of having 5 members on the sub-committee. The members that Ms. Silveria suggested were also agreed upon.

Council Member Campbell summarized that Council is trying to get this issue on a March 2005 ballot; cost is driving the project; Staff and the sub-committee will work on RFP's for new architects.

Chief Trimble clarified that the cost to perform the retrofits on the existing police building would be approximately \$2.5 million.

On motion of Mayor Messina, seconded by Council Member Campbell, and unanimously approved, Council directed staff to look at preparing an RFP not to exceed \$4 million essential services building, and \$2.5 million for the existing retrofits to the current Police Station. The RFP should incorporate the recommendations by the Police Station and Civic Center Restoration Committee, with the exception of recommendation E – Cost. The motion was approved on roll call by the following vote:

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

Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 12:07 a.m. on 5/19/04.

Lisa Wolfe, City Clerk