

May 19, 1998

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.

#### SPECIAL MEETING - CITY COUNCIL

MAY 19, 1998

A special meeting of the City Council of the City of Benicia was called by Mayor Jerry Hayes at 7:00 p.m. Tuesday, May 19, 1998.

Council minutes for May 5, 1998

#### CITY CLERK ANNOUNCEMENT OF CLOSED SESSION

Linda S. Purdy, City Clerk, stated the Benicia City Council meeting is called to order and announced that the Council will immediately convene in Closed Session to discuss the following:

#### CLOSED SESSION

Conference With Legal Counsel - Existing Litigation  
(Subdivision (a) of Government Code Section 54956.9)  
Name of Case: Sontag v. City of Benicia

Conference With Legal Counsel - Anticipated Litigation  
Significant exposure to litigation  
(pursuant to Subdivision (b) of Section 54956.9)  
Three (3) Claims: Camden, Hamilton, Walker

Notice was duly given twenty-four hours prior to the meeting by the City Clerk.

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Jerry Hayes at 7:33 p.m. Tuesday, May 19, 1998, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

#### ROLL CALL:

Present: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes  
Absent: Councilmember Corbaley

#### PLEDGE OF ALLEGIANCE

Mayor Hayes led the pledge to the flag.

#### ANNOUNCEMENTS:

Mayor Hayes announced action taken in Closed Session, as follows:  
Conference With Legal Counsel - Existing Litigation  
Sontag v. City of Benicia - direction to staff (City Attorney)  
Conference With Legal Counsel - Anticipated Litigation  
Three (3) Claims - Camden - direction to staff (City Attorney)  
Hamilton - direction to staff (City Attorney)

Walker - direction to staff (City Attorney)

**DTSC WORKSHOP RE: I.T. CLOSURE PLAN**

Mayor Hayes announced Workshop will be held Thursday, May 21, 1998 at 7:00 p.m. - 9:00 p.m. at the Benicia Library.

Mayor Hayes announced that there are openings on various Commissions and urged citizens to apply.

**ADOPTION OF AGENDA:**

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

Otto Giuliani, City Manager, stated Item VII.C., Consideration of an Appeal of the Planning Commission's Denial of a Zoning Text Amendment regarding convenience markets, has been pulled by Appellant and postponed until June 2.

Councilmember Cox-Golovich requested Items VIII and IX be switched in order.

Councilmember Gizzi stated he is not on the Healthy Benicia Task Force and wanted to clarify that.

On motion of Councilmember Cox-Golovich, seconded by Councilmember Gizzi, and unanimously carried, Agenda was adopted, as amended.

**CONSENT CALENDAR:**

Mayor Hayes stated he has a request from the audience to pull Item M.

On motion of Councilmember Gizzi, seconded by Councilmember Cox-Golovich, and unanimously carried, (Councilmember Corbaley absent) the following items were approved under the Consent Calendar:

Minutes of May 5, 1998.

Check Registers for April 1998.

Monthly Investment Reports for February and March 1998.

Denial of Claims and referral to insurance carrier - WALKER, HAMILTON, THOMPSON.

**RESOLUTION NO. 98-62 - A RESOLUTION ORDERING THE VACATION OF A PORTION OF AN EASEMENT ADJACENT TO DOMINIC COURT**

Authorization to advertise for bids - Annual Street Slurry Seal Project (98) and Annual Street Overlay Project (98)

**RESOLUTION NO. 98-63 - A RESOLUTION AMENDING AND RESTATING DEFERRED COMPENSATION PLAN IN FORM OF THE ICMA RETIREMENT CORPORATION DEFERRED COMPENSATION PLAN AND TRUST**

RESOLUTION NO. 98-64 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR CITY OF BENICIA LANDSCAPING & LIGHTING DISTRICT, FISCAL YEAR 1998-1999

RESOLUTION NO. 98-65 - A RESOLUTION APPROVING PUBLIC WORKS MAINTENANCE COSTS SPENT ON EMERGENCY WORK DURING THE 1997-1998 WINTER STORMS AND AUTHORIZING AN APPROPRIATION OF \$80,000 FROM THE GAS TAX FUND RESERVES

RESOLUTION NO. 98-66 - A RESOLUTION OPPOSING PROPOSITION 224 (STATE-FUNDED DESIGN AND ENGINEERING SERVICES INITIATIVE CONSTITUTIONAL AMENDMENT)

RESOLUTION NO. 98-67 - A RESOLUTION ACCEPTING THE GRANT DEED FOR 548 EAST G STREET IN SETTLEMENT OF THE EMINENT DOMAIN CASE

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

(END OF CONSENT CALENDAR)

AMENDMENT NO. 3 TO THE AMENDED AND RESTATED AGREEMENT WITH THE TOXICS ASSESSMENT GROUP (TAG) TO PERFORM CONSULTING SERVICES Dick Lubin, 867 Channing Circle, requested this item be pulled from the Consent Calendar.

Marilyn Bardet referred to the amendment to the Agreement and asked for clarification regarding additional funding.

Otto Giuliani, City Manager, stated the City will come back to the Council if there is an overage of the Contract.

Dick Lubin, 867 Channing Circle, addressed his remarks mainly to Councilmember Messina; State does not always act in the best interest of the City, nor does it keep public informed; would like to retain the services of Ms. Sparks.

Heather McLaughlin, City Attorney, referred to a DTSC meeting scheduled for May 22, 1998 to discuss the future schedule. It will take more than a year to remediate. Changes were made to the amendment wording.

Council took the following action:

RESOLUTION NO. 98-68 - A RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE AMENDMENT NO. 3 TO AMENDED AND RESTATED AGREEMENT WITH TOXICS ASSESSMENT GROUP (TAG) TO PERFORM CONSULTING SERVICES On motion of Councilmember Gizzi, seconded by Councilmember Cox-Golovich, the above resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: Councilmember Corbaley

PUBLIC HEARINGS:

AMENDMENTS TO THE PROGRAM GUIDELINES OF THE COMMUNITY DEVELOPMENT BLOCK GRANT HOUSING REHABILITATION PROGRAM John Bunch, Planning Director, introduced Brenda Gillarde, new Principal Planner, who spoke on the three amendments added to facilitate the handling of this Program.

Councilmember Messina questioned how members are chosen. He would like appointments to come back to Council for final approval.

John Bunch, Planning Director, clarified that the initial members were appointed by Council.

Mayor Hayes opened the Public Hearing. Legal notice was given. No written protests received.

The following person spoke:

James O. Milburn, 280 East J Street, asked where the greater need is - renovation or rehabilitation. Council should appoint members.

Mayor Hayes closed the Public Hearing.

The Program guideline for replacing Committee members was amended to allow the Council to make the final appointment(s).

Council took the following action:

RESOLUTION NO. 98-69 - A RESOLUTION APPROVING AMENDMENTS TO THE PROGRAM GUIDELINES OF THE COMMUNITY DEVELOPMENT BLOCK GRANT HOUSING REHABILITATION PROGRAM

On motion of Councilmember Messina, seconded by Councilmember Cox-Golovich, the above resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: Councilmember Corbaley

MARINA GREEN PROJECT - USE PERMIT AMENDMENT AND EXPENDITURE OF FUNDS

Otto Giuliani, City Manager, gave a report. After site inspection, it has been determined that more soil would improve project. Syar Industries will provide soil if City will transport it. The soil has been tested.

Mayor Hayes opened the Public Hearing. Legal notice was given. No written protests received.

The following persons spoke:

James O. Milburn, 280 East J Street, spoke on testing of the soil; approves of this project.

Bill Thomasson, 408 Turner Drive, asked if City will pay for the area to be restripped - approximately \$500. Grass has grown back.

Michael Alvarez, Parks and Community Services Director, stated that our Contractor will deliver the soil, rough grade and compact the site, which will include the restripping.

Mayor Hayes closed the Public Hearing.

Council took the following actions:

RESOLUTION NO. 98-70 - A RESOLUTION APPROVING A USE PERMIT FOR MARINA GREEN GRADING

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

Ayes: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: Councilmember Corbaley

RESOLUTION NO. 98-71 - A RESOLUTION APPROVING THE EXPENDITURE OF FUNDS FOR THE MARINA GREEN PROJECT

On motion of Councilmember Messina, seconded by Councilmember Cox-Golovich, the above resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: Councilmember Corbaley

REPORTS FROM CITY COUNCIL COMMITTEES

REPORT REGARDING MAY 1, 1998 YOUTH FORUM - HEALTHY BENICIA TASK FORCE  
Councilmember Cox-Golovich gave a short overview of the Forum.

Mayor Hayes reminded everyone of the five minute rule and that the Curfew Ordinance is not on the Agenda.

Seventeen concerned teens and adults expressed their views and made suggestions. Some of the items brought up were lack of entertainment and transportation; heavy handed law enforcement; and a need to find a location for the youth and teens to congregate.

ESTABLISH CITY'S COMMITMENT TO ITS YOUTH

Councilmember Cox-Golovich read her proposed Resolution; stated it was purely symbolic and made a motion to approve, seconded by Councilmember Gizzi.

Councilmember Gizzi cited the three current resources available - Healthy Benicia Task Force; Youth Commission; Benicia Youth Action Task Force. A lot of the issues brought up boil down to a lack of funding.

Councilmember Cox-Golovich stated that the underlying theme for teens is dignity and respect.

Mayor Hayes pointed out that the City does have a certain structure in place; the need for funding; would like to hear more from the youth.

Councilmember Messina stated that it might be more appropriate to change the wording to "the City Council urges the citizens of Benicia to pledge themselves.

Councilmember Cox-Golovich disagreed about the language change because it changed the meaning of the sentence.

Councilmember Messina restated the change "NOW, THEREFORE, BE IT RESOLVED that the City Council pledges to-"

Councilmember Cox-Golovich agreed to the word changes and amended her motion.

Councilmember Gizzi seconded the amended motion.

One concerned citizen spoke.

Council took the following action:

RESOLUTION NO. 98-72 - A RESOLUTION ESTABLISHING THE CITY OF BENICIA'S COMMITMENT TO ITS YOUTH

On motion of Councilmember Cox-Golovich, seconded by Councilmember Gizzi, the above resolution was adopted on roll call by the following vote:

Ayes: Councilmembers Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: Councilmember Corbaley

Mayor Hayes called for a break at 9:34 p.m.

Mayor Hayes reconvened the meeting at 9:44 p.m.

REPORTS FROM CITY MANAGER:

ARTICLE IN NEWSPAPER

Otto Giuliani, City Manager, referred to and read a portion of San Francisco magazine article that complimented City of Benicia.

WAREHOUSE IN THE INDUSTRIAL PARK IN VIOLATION OF THE ZONING ORDINANCE, DUE TO ACTIVITIES INVOLVING MUSIC REHEARSAL, CONCERTS AND LIVE/WORK USE  
Councilmember Gizzi stated he has been advised to abstain on this issue and left the Council Chambers.

At the request of Councilmember Cox-Golovich, Otto Giuliani, City Manager, provided a summary of events describing zoning violations occurring at 367 West Channel Road and prior warnings from Planning Department and Police Department.

Fifteen concerned teens and adults expressed their views and made suggestions.

Mayor Hayes stated that those who conceived this idea should be complimented, but the rules were not followed. The Police Department had been lenient. The problem can be solved by respecting each other's views and working together.

PUBLIC COMMENT:

Colin Helmuth, 170 West G Street, commended Councilmember Cox-Golovich.

Cathy Hewitt spoke on Economic Development; City and school budgets are not in good shape.

George Whitney, 540 Military East, referred to his past complaints; has not received a response from the City - he wants a written response; he was not notified of a Design Review hearing.

James O. Milburn, 280 East J Street, read his statement about his life as a youngster.

Adrian Heym, 150 Rankin Way, spoke on his opening up the batting cages three years ago. He went through the process, got zoning change approved.

ADJOURNMENT:

Mayor Hayes adjourned the meeting at 11:02 p.m.

Linda S. Purdy, City Clerk