

May 27, 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 27, 1998

A special meeting of the City Council of the City of Benicia was called to order by Mayor Jerry Hayes at 7:03 p.m. Wednesday, May 27, 1998, in the Commission Meeting Room, City Hall, 250 East L Street.

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

Council minutes for May 19, 1998

Council minutes for May 5, 1998

#### ROLL CALL:

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

Absent: None

#### PLEDGE OF ALLEGIANCE

Mayor Hayes led the pledge to the flag.

#### UNFINISHED BUSINESS:

#### REQUEST BY BENICIA POLICE LIEUTENANTS TO JOIN THE BENICIA POLICE OFFICERS ASSOCIATION (BPOA) (CONTINUED FROM SPECIAL CITY COUNCIL MEETING OF TUESDAY, APRIL 28, 1998)

Otto Giuliani, City Manager, gave a synopsis of the April 28, 1998 meeting. Additionally, as directed by Council, there were two meet and confer sessions, the first on May 4, 1998 and the second on May 12, 1998. During these meetings, it was requested that the Police Lieutenants provide examples of other agencies where management employees have been allowed to rejoin non-management labor bargaining groups. Also requested were copies of any appropriate labor law cases that would support this request. Two Labor Attorneys were contacted and it was their opinion that it would be inappropriate to place Managers in a non-management bargaining unit. A private sector court case was cited.

It was staff's opinion that it would set a bad precedent to allow the Lieutenants to become a part of the BPOA, but suggested to allow them to form their own bargaining group.

Brian Dolin, Attorney representing the Lieutenants, cited two agencies - Berkeley and Oakland - where the ranking officers were allowed to be members of the POA.

Councilmember Messina questioned whether or not it would be valid to have two separate contracts; must maintain the line between management and non-management.

Brian Dolin, Attorney, stated that he felt that there were new issues brought up at this meeting; hearsay testimony from other attorneys unfair; contracts are fluid and flexible documents; let the Lieutenants in the BPOA and if there were problems in the future, they could be let out; court case does not apply to this situation.

Councilmember Corbaley stated the court case cited was directly on point; principal issue is conflict of interest; decertification unfair labor practice and cannot be done unilaterally, but must be done through petition process.

Councilmember Cox-Golovich questioned how this would benefit the citizens of Benicia.

Councilmember Gizzi stated it was important for the Lieutenants to remain part of the management staff and be able to set policy for the Department; major issues are conflict of interest and the moral dilemma it poses.

Councilmember Gizzi made a motion to support staff's recommendation.

Mayor Hayes requested a clarification of motion:

City Council to deny the Appeal by the Benicia Police Lieutenants to leave the City's Middle-Management Bargaining Group to join the BPOA, and approve the recommendation that the Police Lieutenants be allowed to leave City's Middle-Management Bargaining Group and form their own sworn Officer Bargaining Group.

On motion of Councilmember Gizzi, seconded by Councilmember Corbaley, to support recommendation of staff to deny Appeal passed by the following vote:

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

Noes: Councilmember Messina

Absent: None

NEW BUSINESS:

WORKSHOP ON RULES AND PROCEDURES AND CONFLICT OF INTEREST

Heather McLaughlin, City Attorney, explained that after review there are problems in the rules and procedures; changes need to be made; looked at by Otto Giuliani, City Manager, and Linda S. Purdy, City Clerk.

Discussion was held on absentee voting by telephone; conflict of interest; Political Reform Act - real property section.

Heather McLaughlin, City Attorney, stated that these changes will be brought back as an Agenda item at a future date.

Councilmember Messina suggested bringing this up to all Boards and Commissions.

ADJOURNMENT:

Mayor Hayes adjourned the special meeting at 8:56 p.m.

Linda S. Purdy, City Clerk