

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
JUNE 19, 2007

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:45 p.m. on Tuesday, June 19, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, and Mayor Messina

Absent: Council Member Whitney (arrived at 6:46 p.m.)

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENT OF CLOSED SESSION:

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

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

None

PUBLIC COMMENT:

None

CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager and Interim Human Resources Manager

Employee organization: Unrepresented employees

B. CONFERENCE WITH LEGAL COUNSEL -EXISTING LITIGATION

(Government Code Section 54956.9 (a))

City of Benicia v. Libert Cassidy Whitmore

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:46 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JUNE 19, 2007

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:00 p.m. on Tuesday, June 19, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Mayor Messina reported that Council received information from Staff.

Openings on Boards and Commissions:

- Civil Service Commission:
One full term to August 30, 2010

APPOINTMENTS:

RESOLUTION 07-62 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF PIERRE BIDOU TO THE CIVIL SERVICE COMMISSION TO
AN UNEXPIRED TERM ENDING AUGUST 30, 2010

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

RESOLUTION 07-63 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF SOPHIE PASIBE TO THE ECONOMIC DEVELOPMENT
BOARD TO A FULL TERM ENDING JUNE 30, 2011

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

RESOLUTION 07-64 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ELDON PETERSEN TO THE ECONOMIC DEVELOPMENT BOARD TO A FULL TERM ENDING JUNE 30, 2011

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

RESOLUTION 07-65 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF RON ARRANTS TO THE BOARD OF LIBRARY TRUSTEES TO AN UNEXPIRED TERM ENDING JUNE 30, 2009

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

PRESENTATIONS:

Recognition of the Benicia Police Department for Conducting Regular Tobacco Sting Operations to Reduce Youth Access to Tobacco:

Ms. Loretta Huddart-Wolfe, Solano County Health and Social Services Department, Tobacco Prevention and Education Program, presented Chief Spagnoli with a certificate.

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the Agenda was adopted as presented, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file)

PUBLIC COMMENT:

1. Bonnie Silveria – Ms. Silveria discussed the upcoming Fourth of July festivities. The Benicia Historical Society will be hosting the Tula Sister City representatives at that time.
2. Norma Fox – Ms. Fox stated that the campaign finance ordinance was at the end of the agenda. She requested Council move the item up on the agenda.
3. Joel Fallon – Mr. Fallon discussed the campaign finance ordinance. Mayor Messina informed Mr. Fallon that it was an agenda item and he would need to wait until the item was discussed to speak about it.

4. Kitty Griffin – Ms. Griffin discussed a comment made by a Council Member regarding the same citizens speaking at the Council meetings. The people who attend the meetings represent the community.
5. Council Member Whitney – Council Member Whitney discussed recent newspaper articles regarding the Mothball Fleet. He suggested Staff look into the issue. It is a huge health and safety issue with the water quality.
6. Vice Mayor Schwartzman – Vice Mayor Schwartzman suggested Staff look into the existing ordinances on the books to address issues such as the recent massage parlor incident.
7. Council Member Patterson – Council Member Patterson discussed the recent issue with the local massage parlor. She discussed the water quality issues with the Mothball Fleet. Benicia, as a city, should express its concerns and interest with regards to the Mothball Fleet.
8. Mayor Messina – Mayor Messina announced that there was an election coming up in November. The election would be for the following seats: Mayor, Council Members (2), City Clerk, and City Treasurer. Interested persons should contact the City Clerk’s office for more information.

CONSENT CALENDAR:

Council pulled items VII-I and VII-L.

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

The Minutes of May 8, 2007, May 30, 2007, June 4, 2007, and June 5, 2007 were approved.

RESOLUTION 07-66 - A RESOLUTION PROVIDING FOR AND REQUESTING THE BOARD OF SUPERVISORS TO PERMIT THE REGISTRAR OF VOTERS TO PROVIDE SPECIFIED SERVICES FOR A CONSOLIDATED DISTRICTS ELECTION TO BE HELD NOVEMBER 6, 2007

RESOLUTION 07-67 - A RESOLUTION CALLING AND GIVING NOTICE OF THE HOLDING OF A CONSOLIDATED DISTRICTS ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2007, FOR THE ELECTION OF MAYOR (1), CITY COUNCIL MEMBERS (2), CITY CLERK (1), AND CITY TREASURER (1) FOR THE CITY AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND WAIVING THE FEES FOR CANDIDATES

RESOLUTION 07-68 - A RESOLUTION ACCEPTING THE PROPOSAL FOR LEGAL PUBLICATIONS FROM THE BENICIA HERALD, AWARDED THE CONTRACT FOR FISCAL YEARS 2007/2008 AND 2008/2009, AND AUTHORIZING MAYOR AND CITY CLERK TO EXECUTE SAID CONTRACT

RESOLUTION 07-69 - A RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS TO THE LOWEST RESPONSIBLE BIDDERS TO FURNISH CHEMICALS TO THE CITY OF BENICIA FOR THE TREATMENT OF WATER AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS ON BEHALF OF THE CITY

RESOLUTION 07-70 - A RESOLUTION ACCEPTING THE LAKE HERMAN DAM OUTLET STRUCTURE SEISMIC PROTECTION PHASE 2 AND SLIDE GATE REPLACEMENT PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 6, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 07-71 - A RESOLUTION ACCEPTING THE LAKE HERMAN DAM OUTLET STRUCTURE SEISMIC PROTECTION PHASE 3 AND WEIR BOX PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 2, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 07-72 - A RESOLUTION ACCEPTING THE MARINA AREA STORM DRAIN PROJECT AS COMPLETE, INCLUDING FINAL CHANGE ORDERS, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAID NOTICE WITH THE SOLANO COUNTY RECORDER

RESOLUTION 07-73 - A RESOLUTION APPROVING SALARY AND BENEFITS FOR UNREPRESENTED EMPLOYEES PREVIOUSLY COVERED IN PROFESSIONAL/CONFIDENTIAL MEMORANDUM OF AGREEMENT

RESOLUTION 07-74 - A RESOLUTION AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT WITH SOLANO COUNTY FOR FUNDING FOR AN ADOLESCENT INTERVENTION MODALITY COUNSELOR TO REDUCE THE USE OF ALCOHOL, TOBACCO, AND OTHER DRUGS AMONG CHILDREN, YOUTH AND ADULTS IN BENICIA

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Transfer of Benicia Historical Museum financial control to Museum Board of Directors: Council Member Whitney requested the item be pulled to state his total confidence with what the Museum has done to turn things around.

Public Comment:

1. Ann Hansen – Ms. Hansen spoke on behalf of the Benicia Historical Museum. Council approving this item would make things easier on the museum staff. The current Board of Directors is strong.

RESOLUTION 07-75 - A RESOLUTION TRANSFERRING RESPONSIBILITY FOR THE FINANCIAL ACCOUNTING OF THE BENICIA HISTORICAL MUSEUM TO THE BOARD OF DIRECTORS

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

Award of construction contract for Benicia High School irrigation project:

Council Member Hughes requested the item be pulled to clarify a question he had on the cost for the irrigation of the project. Mr. Alvarez discussed irrigation, as well as drainage and irrigation. The issue of turf replacement is currently being discussed at Staff level. The plan is to do the irrigation and turf replacement at the Benicia High School varsity field this year.

RESOLUTION 07-76 - A RESOLUTION ACCEPTING THE BID FOR THE BENICIA HIGH SCHOOL IRRIGATION PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO CLEARY BROS. LANDSCAPE INC. OF DANVILLE CALIFORNIA IN THE AMOUNT OF \$ 233,300, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, the above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

PUBLIC HEARINGS:

City of Benicia Landscaping and Lighting District Fiscal Year 2007-08:

Rob Sousa, Finance Director, reviewed the staff report. There was a correction to the Staff report regarding the Zone 2 – Fleetside Industrial Park (hard copy on file).

Public Hearing Opened

Public Comment:

1. Mary Francis Kelly Poe – Ms. Kelly Poe discussed concerns with the quality of landscaping in the Rose Drive area. A refurbishment plan for Rose Drive needs to be developed.

Public Hearing Closed

RESOLUTION 07-77 - A RESOLUTION ORDERING THE MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF THE DISTRICT,

CONFIRMING THE ASSESSMENT DIAGRAM, APPROVING THE ENGINEER'S REPORT AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2007-08

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the above Ordinance was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

ACTION ITEMS:

Adoption of the City of Benicia Municipal Budgets for Fiscal Years 2007-2009:

Jim Erickson, City Manager, reviewed the staff report. He briefly reviewed a PowerPoint presentation titled 'Municipal Budget Final Overview' (hard copy on file).

Council and Staff discussed the following budget issues: balanced budget, Marina Enterprise Fund, Certificate of Participation, Fire Rescue Boat, traffic issues at Columbus Parkway and Rose Drive, weed abatement, part-time BERT coordinator, funding for Staff training, and allocated and unallocated reserve accounts.

Public Comment:

1. Ann Hansen – Ms. Hansen discussed the Benicia Historical Museum's need for City funding.
2. Dan Clark – Mr. Clark inquired about the funding for the Arts. Mr. Sousa confirmed that the current funding was \$76,170. The first year of the next budget, it would be \$96,170. The amount would be \$96,170 for the second year in the next budget cycle. The increase amounts to \$20,000 each year, for a total increase of \$40,000.
3. Mr. Gill – Mr. Gill discussed the Benicia Old Towne Theatre Group. He would like the City to build a performing arts center some time in the future.
4. Joel Fallon – Mr. Fallon spoke in opposition of a fire boat.
5. Jon Van Landschoot – Mr. Van Landschoot suggested having a 19% reserve instead of a 20% reserve and using the 1% towards the Arts. He was opposed to a fire rescue boat.
6. David Galligan – (president, Benicia Historical Museum) – Mr. Galligan discussed the need for City funding for the Benicia Historical Museum.
7. Shoshana Nurik – Ms. Nurik requested Council consider increasing funding to the Arts in the future.
8. Citizen – The citizen thanked Council, on behalf of the Benicia High School SAGE Team for putting the traffic signal in the budget.
9. Gretchen Burgess – Ms. Burgess spoke in support for funding for the Arts and history in Benicia.

Council Member Hughes recommended using the overage in the 20% reserves to fund an additional \$20,000 per year to the Benicia Historical Museum. Council approved funding the additional \$20,000 per year, for the two-year budget. However, Staff is to come back to Council with suggestions on long term funding ideas for the museum.

Mayor Messina suggested Staff look into the following items for future discussion:

- Suggestions on how the City could look at funding long term needs for the Benicia Historical Museum
- BERT Coordinator

RESOLUTION 07-78 - A RESOLUTION ADOPTING THE MUNICIPAL BUDGETS FOR FISCAL YEARS 2007-2008 AND 2008-2009

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, the above Resolution was adopted as amended (including the additional \$20,000 for the Benicia Historical Museum), on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Mayor Messina called for a 5-minute break at 9:25 p.m.

The meeting resumed at 9:30 p.m.

Introduction and first reading of an ordinance to establish a voluntary expenditure ceiling for candidate elections by adding Chapter 1.28 (Voluntary Expenditure Limits for all Municipal Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code:

Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

1. Mary Roberts – Ms. Roberts spoke in support of a voluntary expenditure limit.
2. Norma Fox – Ms. Fox spoke in support of a voluntary expenditure limit. However, the proposed limit is too high and incentives should be included. She was opposed to the ‘opt out’ clause.
3. Sabina Yates – Ms. Yates requested the original proposed ordinance from May 15, 2007 be brought back. She discussed the issue of recusal.
4. Scott Strawbridge – Mr. Strawbridge discussed the rhetoric and innuendo going on in Benicia about this issue. He has not seen any proof that any of the Council Members did anything wrong. He is considering running for City Council. He supported putting caps on PACs, additional reporting, but would not agree to a voluntary contribution/spending limit. He would prefer to use media sources for campaigning and not go door-to-door.
5. Kathy Kerridge – Ms. Kerridge spoke in support of a voluntary expenditure limit, however the limit is set too high. She would like to see low limits on PAC contributions. If there are large contributions made to someone’s campaign, that Council Member should recuse himself/herself from voting on issues involving that person, business, etc. She would like to see City sponsored candidate forums.
6. Mary Magill – Ms. Magill expressed frustration with the events leading up to tonight’s meeting with regards to this item. This is an important issue to the citizens and it has been discarded by three of the Council Members.
7. Kitty Griffin – Ms. Griffin spoke in support of a voluntary expenditure limit. She discussed the idea of tracking votes, recusal, and a donation cut off date.

8. Mike Ioakimedes – Mr. Ioakimedes suggested the Open Government Commission review the elections after they occur and make recommendations. This is not an issue that will be fixed tonight. He discussed the public’s lack of interest in voting.
9. Bonnie Silveria – Ms. Silveria discussed various campaign issues. She would like Council to figure this issue out so the rules are clear before the campaign season begins.
10. Gretchen Burgess – Ms. Burgess discussed the issue of lack of respect.
11. Jon Van Landschoot – Mr. Van Landschoot discussed various quotes, excuses, and solutions. A solution would be to have a citizen’s committee to deal with this issue.

Council Member Patterson made a motion to adopt the ordinance with a spending limit of \$.65 per voter. Any fines would be put into a fair campaign fund.
The motion died for lack of a second.

ORDINANCE 07- - AN ORDINANCE AMENDING CHAPTER 1.28 (VOLUNTARY EXPENDITURE LIMITS FOR ALL MUNICIPAL CANDIDATE ELECTIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

On motion of Vice Mayor Schwartzman, seconded by Council Member Patterson, Council did not approve the above Introduction and First Reading of an Ordinance, with a spending limit of \$1.00 voter and any fines would be put into a fair campaign fund, on roll call by the following vote:

Ayes: Council Members Patterson and Schwartzman

Noes: Council Members Hughes, Whitney, and Mayor Messina

Introduction and first reading of an ordinance to regulate campaign financing of City candidate elections by adding Chapter 1.40 (Campaign Disclosure in Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code:

Heather McLaughlin, City Attorney, and Steve Churchwell, Consultant, reviewed the staff report.

Public Comment:

1. Norma Fox – Ms. Fox submitted letters signed by concerned citizens in support of a stronger ordinance such as the one proposed on May 15, 2007 (on file).
2. Kathy Kerridge – Ms. Kerridge discussed the issue of PAC contributions.
3. Bob Craft – Mr. Craft discussed the need for more frequent (weekly) reporting, and the need to have the reports on the City’s website. He would prefer candidates file a pre-election campaign statement on the Friday before the election. He would like the candidates to start filing in October before the election.
4. Scott Strawbridge – Mr. Strawbridge supported the concept of reporting. He did not see the issue with post campaign donations.
5. Kitty Griffin – Ms. Griffin did not think the additional reporting period would make much of a difference.
6. Norma Fox – Ms. Fox discussed the issue with post campaign contributions.

Mayor Messina suggested adopting the proposed ordinance, with the change that the City Clerk's office shall post the reports to the City's website within two working days.

ORDINANCE 07- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING A NEW CHAPTER 1.40 (CAMPAIGN DISCLOSURE IN CANDIDATE ELECTIONS) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

On motion of Mayor Messina, seconded by Council Member Whitney, the above Introduction and First Reading of an Ordinance was approved as amended, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina.
Noes:

INFORMATIONAL ITEMS:

Continued

Council Member Committee Reports:

1. Mayors' Committee Meeting (Mayor Messina) - Next Meeting Date: June 20, 2007
2. Association of Bay Area Governments (ABAG) (Mayor Messina) - Next Meeting Date: October 26, 2007
3. Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes) Next Meeting Date: July 6, 2007
4. League of California Cities (Mayor Messina) - Next Meeting Date: July 25-27 - Mayors & Council Members Academy-Executive Forum
5. School District Liaison (Council Members Whitney and Hughes) - Next Meeting Date: August 9, 2007
6. Sky Valley Area Open Space (Council Members Patterson and Whitney) - Next Meeting Date: To be determined
7. Solano EDC Board of Directors (Mayor Messina) - Next Meeting Date: July 26, 2007
8. Solano Transportation Authority (STA) (Mayor Messina) - Next Meeting Date: July 11, 2007
9. Solano Water Authority/Solano County Water Agency (Mayor Messina) - Next Meeting Date: July 12, 2007
10. Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes) - Next Meeting Date: July 19, 2007
11. Tri-City and County Regional Parks and Open Space (Council Member Whitney) - Next Meeting Date: To be determined
12. Valero Community Advisory Panel (CAP) (Council Member Hughes) - Next Meeting Date: July 26, 2007
13. Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney) - Next Meeting Date: June 27, 2007
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson) - Next Meeting Date: June 25, 2007

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:41 p.m.

Lisa Wolfe, City Clerk