

July 7, 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

July 7, 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, July 7, 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

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

MINUTES OF THE REGULAR MEETING- CITY COUNCIL JULY 7, 1998

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Jerry Hayes at 7:30 p.m. Tuesday, July 7, 1998, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

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.

ANNOUNCEMENTS

Mayor Hayes announced action taken in Closed Session, as follows:

Conference With Legal Counsel - Existing Litigation re: Sontag v. City - gave direction to staff.

APPOINTMENTS:

Mayor Hayes announced the reappointments of David Wagner and Jeff Tusing to the Design Review Commission, Mike Ioakimedes to the Economic Development Board, Sharon Anderson and Phyllis McKeever to the Housing Authority, Jack Fine to the Parks, Recreation and Cemetery Commission and Lee Syracuse and Elizabeth Murphy to the Human Services Fund Board.

Council took the following actions on a single roll call vote:

RESOLUTION NO. 98-84 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENTS OF DAVID WAGNER AND JEFF TUSING TO THE DESIGN REVIEW COMMISSION FOR FULL TERMS

The above resolution confirming the Mayor's reappointments was adopted on roll call by the following vote:

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

Noes: None

RESOLUTION NO. 98-85 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF MIKE IOAKIMEDES TO THE ECONOMIC DEVELOPMENT BOARD FOR A FULL TERM

The above resolution confirming the Mayor's reappointment was adopted on roll call by the following vote:

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

Noes: None

RESOLUTION NO. 98-86 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENTS OF SHARON ANDERSON AND PHYLLIS MC KEEVER TO THE HOUSING AUTHORITY FOR FULL TERMS

The above resolution confirming the Mayor's reappointments was adopted on roll call by the following vote:

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

Noes: None

RESOLUTION NO. 98-87 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF JACK FINE TO THE PARKS, RECREATION AND CEMETERY COMMISSION FOR A FULL TERM

The above resolution confirming the Mayor's reappointment was adopted on roll call by the following vote:

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

Noes: None

RESOLUTION NO. 98-88 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENTS OF LEE SYRACUSE AND ELIZABETH MURPHY TO THE HUMAN SERVICES FUND BOARD FOR FULL TERMS

The above resolution confirming the Mayor's reappointments was adopted on roll call by the following vote:

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

Noes: None

PRESENTATION:

PROMOTION OF ACTING SUPERVISOR/FIELD TRAINING OFFICER, DAVE WATSON, TO SERGEANT

Otto Giuliani, City Manager, gave a brief history of Mr. Watson's service.

The Oath of Police Ethics was given to Sergeant Watson by Police Chief Giuliani.

Sergeant Watson introduced his family and thanked his friends and co-workers.

PROCLAMATION:

"PARKS AND RECREATION MONTH" JULY 1998

Mayor Hayes read the Proclamation and presented it to Larry Melandez, Chairman, Parks, Recreation and Cemetery Commission.

ADOPTION OF AGENDA:

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

Otto Giuliani, City Manager, informed Council there were some clerical errors in the staff report of Item D and a change on the second page of Item M under the Consent Calendar.

Otto Giuliani, City Manager, explained that Councilmember Messina had requested an item be added under Reports From City Council Committees - Traffic Safety Committee - and due to an oversight, it had been omitted. Under the Brown Act it is legal to add this to this Agenda for a report only.

Councilmember Cox-Golovich had also requested an item be added under New Business - Special Event Fees - for discussion. Because of the Brown Act, this item will have to be postponed until the next meeting.

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

CONSENT CALENDAR:

Mayor Hayes stated he has requests from the audience to pull Items H and L; asked if there were any other changes to the Agenda.

Councilmember Messina requested Item D be pulled.

Councilmember Cox-Golovich requested Item H be pulled.

Councilmember Corbaley requested Item K be pulled.

On motion of Councilmember Gizzi, seconded by Councilmember Corbaley, and unanimously carried, the following item were approved under the Consent Calendar:

Minutes of June 16, 1998.

Monthly Investment Report for April 1998.

RESOLUTION NO. 98-89 - A RESOLUTION AUTHORIZING CITY TO APPLY FOR 1998-99 TRANSPORTATION DEVELOPMENT ACT TRANSIT ASSISTANCE FUNDS

RESOLUTION NO. 98-90 - A RESOLUTION AUTHORIZING FILING OF A GRANT WITH METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF "FIVE PERCENT RESERVE" BRIDGE TOLL FUNDS FOR FISCAL YEAR 1998-99

Annual Report to consider changing Sewer Service Charge for the Sewer Enterprise.

RESOLUTION NO. 98-91 - A RESOLUTION AMENDING CERTAIN PORTIONS OF THE PARKS, TRAILS AND OPEN SPACE MASTER PLAN DATED JULY 1997

RESOLUTION NO. 98-92 - A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH BID ADVERTISEMENT FOR THE EAST B STREET SEWER LIFT STATION RENOVATION PROJECT AND AUTHORIZING APPROPRIATION OF \$33,255 FROM WASTEWATER ENTERPRISE FUND AND \$75,000 FROM INFLOW/INFILTRATION (I/I) PROGRAM LINE ITEM IN FUND 070

1998 SLURRY SEAL AND STREET OVERLAY PROJECTS - AWARD OF CONTRACTS -

RESOLUTION NO. 98-93 - A RESOLUTION ACCEPTING BIDS AND AWARDED CONSTRUCTION CONTRACT FOR 1998 SLURRY SEAL PROJECT IN THE AMOUNT OF \$42,040.05 TO BLACKTOP, INC.

RESOLUTION NO. 98-94 - A RESOLUTION ACCEPTING BIDS AND AWARDED CONSTRUCTION CONTRACT FOR 1998 STREET OVERLAY PROJECT IN THE AMOUNT OF \$317,719.00 TO BRUCE CARONE GRADING AND PAVING

RESOLUTION NO. 98-95 - A RESOLUTION APPROVING THE JANUARY 1, 1997 THROUGH DECEMBER 31, 1999 AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING WITH BENICIA POLICE OFFICERS ASSOCIATION

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

(END OF CONSENT CALENDAR)

SERVICE AGREEMENT FOR TRANSIT ADVERTISING WITH CITY BUS ADVERTISING AND AUTHORIZING FINANCE DIRECTOR TO EXECUTE AGREEMENT

Councilmember Messina requested this item be pulled from the Consent Calendar for clarification.

Alan Nadritch, Finance Director, explained this type of advertising.

Councilmember Gizzi suggested putting the funds into General Fund instead of the Transportation Fund.

Otto Giuliani, City Manager, suggested changing the wording in the first WHEREAS to increase its revenue stream.

Council took the following action:

RESOLUTION NO. 98-96 - A RESOLUTION AWARDDING A SERVICE AGREEMENT FOR TRANSIT ADVERTISING WITH CITY BUS ADVERTISING, AS AMENDED, AND AUTHORIZING FINANCE DIRECTOR TO EXECUTE AGREEMENT

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

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

Noes: None

ESTABLISH RULES OF PROCEDURE FOR CONDUCT OF CITY COUNCIL MEETINGS

James O. Milburn, Stuart Posselt, John P. Woods, Jack Hanstein, and Councilmember Cox-Golovich requested this item be pulled from the Consent Calendar.

Otto Giuliani, City Manager, spoke on previously agendaed items. This would alleviate repetition of items that have had healthy discussion. Once a decision has been made, the item would not be brought back for one year.

Councilmember Cox-Golovich spoke on whether or not this would be a violation of Brown Act.

Heather McLaughlin, City Attorney, stated there is a potential for a problem. An item could be brought up under Public Comment. Brown Act prevents a position being given, but could be minimally discussed.

James O. Milburn, 280 East J Street, commented on the right to speak and time limits.

Stuart Posselt, 423 York Drive, questioned article in Benicia Herald; disservice to citizens.

John P. Woods, 355 West M Street, feels Council members should be able to put items on for discussion.

Jack Hanstein, 77 Denfield, opposed to recommendations; restricting access from public on an unpopular issue.

Larry Fullington, 833 Clifton Court, spoke on adding additional restrictions that are not necessary.

Cathy Hewitt, 266 East B; not enough debate - do not discourage public.

Mary Francis Kelly-Poh, 643 Windsor Drive, is opposed to changes; it is a chance to fine tune mistakes.

Councilmember Cox-Golovich recognizes need for protocol; staff does a lot of work prior to Council direction; cites the protocols of the City of Buenaventura for possible review before deciding on this issue.

Council expressed their views and concerns.

Otto Giuliani, City Manager, and Heather McLaughlin, City Attorney, explained that this Resolution was the consideration of two previous Resolutions, basically a housecleaning issue.

Councilmember Corbaley made a motion to adopt Resolution Establishing Rules Of Procedure, as set forth in Exhibit A, with the last two sentences, paragraph 2 of Part B deleted.

Council took the following action:

RESOLUTION NO. 98-98 - A RESOLUTION ESTABLISHING RULES OF PROCEDURE FOR CONDUCT OF CITY COUNCIL MEETINGS, AS AMENDED

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

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

Councilmember Corbaley proposed a minute action to continue to the next meeting the issue of agendizing matters that have been previously decided by the Council within the preceding 12 months.

On a motion of Councilmember Corbaley, seconded by Councilmember Gizzi, the minute action was approved by the following vote:

Ayes: Councilmembers Corbaley, Cox, Gizzi and Mayor Hayes
Noes: Councilmember Messina

OPPOSE REDUCTION IN THE VEHICLE IN LIEU FEES

Councilmember Corbaley requested this item be pulled from the Consent Calendar; wanted our citizens to know that reduction of fees would adversely affect the City.

Council took the following action:

RESOLUTION NO. 98-98 - A RESOLUTION OPPOSING ANY REDUCTION IN THE VEHICLE IN LIEU FEES

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

Ayes: Councilmembers Corbaley, Cox-Golovich, Gizzi, Messina and Mayor Hayes
Noes: None

CHANGE ORDER FOR STRUCTURAL STRENGTHENING OF THE APPARATUS BUILDING FOR THE NEW FIRE STATION

James O. Milburn, 280 East J Street, requested this item be pulled from the Consent Calendar; in favor of Resolution.

Council took the following action:

RESOLUTION NO. 98-99 - A RESOLUTION APPROVING A CHANGE ORDER FOR STRUCTURAL STRENGTHENING OF THE APPARATUS BUILDING FOR THE NEW FIRE STATION FOR AN AMOUNT UP TO \$49,259.37

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

Ayes: Councilmembers Corbaley, Cox-Golovich, Gizzi, Messina and Mayor Hayes
Noes: None

Mayor Hayes called for a break at 8:54 p.m.

Mayor Hayes reconvened the meeting at 9:04 p.m.

PUBLIC HEARINGS:

ORDERING MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, INSTALLATION OF IMPROVEMENTS IN ZONE 4 - EAST 2ND STREET, CONFIRMING THE DIAGRAM AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR FISCAL YEAR 1998-1999

Mayor Hayes read specific instructions that are legally required.

Virgil Mustain, Public Works Director, read his required statement.

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

No one spoke for or against this item.

Mayor Hayes closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 98-100 - A RESOLUTION ORDERING MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, INSTALLATION OF IMPROVEMENTS IN ZONE 4 - EAST 2ND STREET, CONFIRMING THE DIAGRAM AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR FISCAL YEAR 1998-1999

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

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

Noes: None

PARK LAND DEDICATION FEE

Michael Alvarez, Parks and Community Services Director, stated that the fees are based on land values and need to be adjusted; last increase 1992.

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, decided not to comment at this time.

Mayor Hayes closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 98-101 - A RESOLUTION APPROVING THE ADJUSTMENT OF THE PARK LAND DEDICATION FEE

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

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

Noes: None

INCREASES FOR CAPITAL IMPROVEMENT LICENSE TAX FOR CONSTRUCTION OR ALTERATION OF SINGLE-FAMILY RESIDENCES, MULTIPLE DWELLING STRUCTURES AND COMMERCIAL OR INDUSTRIAL FACILITIES

Alan Nadritch, Finance Director, gave a report. Fees are based on the C.P.I. for San Francisco Region.

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, against increase.

Michael Escobosa, 704 Primrose, in complete disagreement; citizens are overtaxed.

Mayor Hayes closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 98-102 - A RESOLUTION ADOPTING INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE TAX FOR CONSTRUCTION OR ALTERATION OF SINGLE-FAMILY RESIDENCES, MULTIPLE DWELLING STRUCTURES AND COMMERCIAL OR INDUSTRIAL FACILITIES

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

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

Noes: None

ADJUSTMENT OF LIBRARY BOOK FEE

Alan Nadritch, Finance Director, gave a report.

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

The following person spoke:

John P. Woods, 355 West M Street, opposed.

Mayor Hayes closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 98-103 - A RESOLUTION APPROVING THE ADJUSTMENT OF THE LIBRARY BOOK FEE

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

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

Noes: None

REPORTS FROM CITY MANAGER:

DISCUSSION REGARDING CANCELLATION OF AUGUST 4, 1998 CITY COUNCIL MEETING
Otto Giuliani, City Manager, suggested cancelling the meeting.

Consensus of the Council was to CANCEL August 4, 1998 City Council meeting.

REPORTS FROM CITY COUNCIL COMMITTEES:

Councilmember Messina added this item on the Agenda; spoke on improvement of traffic patterns around the schools. The School District will also spend money.

Councilmember Cox-Golovich asked for the status report on a possible new stop light at the High School.

NEW BUSINESS:

CALL FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 3, 1998 AND REQUESTING SOLANO COUNTY BOARD OF SUPERVISORS TO PERMIT REGISTRAR OF VOTERS TO PROVIDE SPECIFIED SERVICES (SHALL CITY CLERK AND CITY TREASURER BE APPOINTIVE)

Otto Giuliani, City Manager, stated that this was an economic issue; by eliminating the City Treasurer position and combining the City Clerk and Deputy City Clerk into one position, the City will save money; must be voted on by citizens of Benicia in an off election year.

Five concerned citizens expressed their views.

Councilmember Corbaley spoke about the potential cost savings; deciding on the merits of the issue; question should go before the voters.

Councilmember Messina commented on the perception of an elected office; provides checks and balance; \$16,000 cost of election.

Councilmember Cox-Golovich stated that the elected status of these jobs should be preserved at all cost.

Councilmember Gizzi stated that the City Clerk's position requires qualifications, should be appointed; there are compelling reasons to bring issue to voters.

Mayor Hayes emphasized that this was a tough issue; streamline government; put before the voters.

Councilmember Corbaley moved adoption of the Resolution Calling For A Special Municipal Election To Be Held November 3, 1998 And Requesting Solano County Board Of Supervisors To Permit Registrar Of Voters To Provide Specified Services In Connection With This Special Election, seconded by Councilmember Gizzi.

Council took the following action:

RESOLUTION NO. 98-104 - A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 3, 1998 AND REQUESTING SOLANO COUNTY BOARD OF SUPERVISORS TO PERMIT REGISTRAR OF VOTERS TO PROVIDE SPECIFIED SERVICES (SHALL CITY CLERK AND CITY TREASURER BE APPOINTIVE)

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

Ayes: Councilmembers Corbaley, Gizzi, Messina and Mayor Hayes

Noes: Councilmember Cox-Golovich

Heather McLaughlin, City Attorney, clarified that the Impartial Analysis is a separate document that is done by the City Attorney; Council can form a Committee to write ballot arguments. Citizens or a Committee of citizens could be formed to write the arguments for or against the Measures.

Councilmember Messina asked for a clarification on the Council's position if they write the ballot argument supporting appointing the positions.

Heather McLaughlin, City Attorney, stated if a ballot argument was done, the Council would be taking a position.

Councilmember Messina made a motion whether or not to participate in an argument either for or against; proposed that we have the impartial analysis, but as a Council we don't take a position for or against it.

Mayor Hayes asked if there was a second to the motion; stated motion will die for lack of a second.

Councilmember Gizzi stated in the case of the City Clerk, he would be prepared to be behind writing an argument in favor of that, but is willing to listen to more arguments on the position of City Treasurer.

Councilmember Gizzi made a motion that Council get behind a ballot argument in favor of making the position of City Clerk an appointed position, seconded by Councilmember Corbaley.

Motion made by Councilmember Gizzi, seconded by Councilmember Corbaley, passed by the following vote:

Ayes: Councilmembers Corbaley, Gizzi and Mayor Hayes

Noes: Councilmember Cox-Golovich and Messina

Councilmember Corbaley clarified Council has agreed, by majority vote to write a ballot argument in support of the Measure proposing that the City Clerk position be appointive rather than elective.

Mayor Hayes requested direction from Council to write a ballot argument on the issue of whether the City Treasurer be elected or appointed - either in favor or oppose it, or none at all.

Councilmember Gizzi made a motion to direct staff to prepare that ballot argument in favor of appointment of City Treasurer, subject to the approval of the full Council on July 21st, seconded by Councilmember Corbaley, passed by the following vote:

Ayes: Councilmembers Corbaley, Gizzi and Mayor Hayes

Noes: Councilmembers Cox-Golovich and Messina

PUBLIC COMMENT:

James O. Milburn, 280 East J Street, read his comments.

Michael Escobosa, 704 Primrose, spoke regarding election; on public hearings - should have no limits to anyone; accident on Highway 780 and road conditions; need to do more for youth.

David Burgess, 128 Ardmore Way, spoke re: Special Election should have pro and con arguments on each issue; mistake if the Council takes a position.

Cathy Hewitt, 266 East B, spoke on Special Meeting last Monday; would like to know status of budget; broken windows downtown on July 4th; trash at Solano Square and Marina.

Councilmember Gizzi wanted to clarify election - it is required by law to bring the issue to the people.

ADJOURNMENT:

Mayor Hayes adjourned the meeting at 10:48 p.m.

Linda S. Purdy, City Clerk