

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
AUGUST 1, 2006

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:30 p.m. on Tuesday, August 1, 2006, 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

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:

None

CLOSED SESSION:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Mills School

Negotiating Parties: City Manager/Parks & Community Services Director

Under Negotiation: Instruction to negotiators on price and terms of lease.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:31 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
AUGUST 1, 2006

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:10 p.m. on Tuesday, August 1, 2006, 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

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:

Heather McLaughlin, City Attorney stated that Staff received direction from Council regarding leasing the Mills site and will begin carrying that out.

Openings on Boards and Commissions:

- Human Services Fund Board:
 - One unexpired term to June 30, 2008
 - One full term to June 30, 2010
- People Using Resources Efficiently (PURE) Committee:
 - One immediate opening
- Civil Service Commission:
 - Three full terms to August 30, 2009
- Sky Valley Open Space Committee:
 - One full term to August 30, 2010
 - One full term to September 30, 2010
- Parks, Recreation & Cemetery Commission:
 - One full term to September 30, 2010
- Planning Commission:
 - Two full terms to September 30, 2010

Mayor Messina stated that Solano County was recognized by America's Promise Alliance as being one of the 100 Best Communities for Young People.

APPOINTMENTS:

None

PRESENTATIONS:

None

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, and Mayor Messina

Noes: None

Absent: Council Member Whitney

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Ann Hanson – Ms. Hanson represents the Benicia Historical Museum. She wanted to update Council on a few things. She discussed the ‘spitting camel float’ at the Fourth of July Parade. The Museum has a few summer interns working for its summer program. They are working with City Staff on the preservation of the fishing boat display. The Museum is now working on oral histories of people in Benicia. The first one they are working on is ‘The history of Benicia according to Ron Rice’. They made the first presentation to the Benicia Historical Society, who was very excited about that project. The Benicia Historical Society has donated money to the project and will be working with the museum on this as well.
2. Mary Wika – Ms. Wika stated that she is the owner of the Benicia Coffee Company. She has concerns with the Rose Center Project. The issues of her past appeal were important, however, it was not filed in a timely manner; therefore, the City did not address the issues she raised in that appeal. The City should have addressed her issues because when Mr. Fulton developed the Parkway Plaza in 1989, the approval was based on mitigation measures that were supposed to be completed as a part of the approval of the project. Many of the items are still incomplete and cause a burden of impact and exposure in the Rose Drive and Columbus Parkway area where the proposed Rose Center will take place. There is a similarity with the Rose Center Project. Once Mr. Fulton gained approval from the City on the Parkway Plaza Project, it was completely changed. The approved plans were changed. He added a Jiffy Lube, he took away the parking on the side of the store and put in a carwash, and he deleted parking because of the Jiffy Lube. He went into some sort of agreement with Burger King to use the parking on the east end, which has caused her a lot of problems. This caused a hardship on the other businesses in the center. They do not have adequate parking and the circulation in the center is horrendous. Now he is doing the same thing with the

set of approved plans for the Rose Center. She referenced a visual display of the approved plans and the new plans for the Rose Center. They are two entirely different projects. In the newly proposed plans, he adds a 15,000 + square foot Longs Drug Store with a drive through. He moves all the buildings in the project around. He adds an extra drive through (doubled). He takes the two retail buildings and combines it into one large building that is butted up against the west end of the project. The parking is reverted to the east end of the building, just like the Park Plaza Project. He totally overlooks the fact that the exit on Rose Drive that was to be omitted per the approved plans is put on the new plans as an entrance/exit. This is a new project that needs to go before the Planning Commission and require design review. Per the Benicia Municipal Code (BMC), it needs to be treated as a new project and requires a new application. She was concerned about a letter from the Community Development Director regarding the approval of the most recent plans. Mayor Messina informed Ms. Wika that her five minutes were up. Ms. Wika asked for additional time. She asked if she could use the other speaker's time to finish her statement. Council majority agreed to extend Ms. Wika's time to allow her to finish her statements. Ms. Wika stated (inaudible – she walked away from the microphone to point out some issues on the visual display.) She stated that the letter states that the changes are unsubstantial. The changes are not unsubstantial. She called Mr. Knox and expressed her concern. Mr. Knox reviewed the information and told her that a mistake had been made and he would be sending Mr. Fulton a letter addressing the issues.

Council Member Patterson asked Staff if they could advise Ms. Wika about her appeal rights. Mr. Erickson stated that he could not advise her at this time but Staff would look into it and advise her of her rights.

3. Barbara Wood – Ms. Wood is a member of both the Benicia Bicycle Club and the Solano Transportation Authority Bicycle Committee. She has concerns about the Rose Center Project and bicycle safety. She suggested the Traffic, Pedestrian, and Bicycle Safety Committee look at this issue.
4. Karen Posey – Ms. Posey stated that she has great concerns about the exit being changed to an entrance/exit on the new Rose Center Project. When the kids get out of school, the area is very busy. Having more traffic there will be dangerous. The only caution sign on the Solano County map is on the State Park Road Bridge. She is disappointed the changes have happened.

Mayor Messina stated that Council is also concerned about the bridge. They have been working with the legislature to raise money to fix the bridge. He suggested she write a letter to her congresswoman stating her concerns about the bridge.

Council Member Patterson stated that Ms. Woods works with J.B Davis on the Solano Transportation Authority Bicycle Committee. Mr. Davis has noted several times that the City of Benicia has not put any money into the project. Ms. Posey may want to mention that in her letter to Congresswoman Wolk.

5. Jeanine Seeds – Ms. Seeds stated that she was having a difficult time understanding what Council’s job is. She does not understand why someone would even suppose they could slip such changes through the City. Do we need another Longs Drug Store? Why do people have to come in and tell Council to ‘wait a minute’? Why do some projects go through easily and some don’t. It’s like whatever a certain group wants, they get. Why is the public left in the dark? It continues to amaze her; what goes on with Council, the Planning Commission, and the Community Development Department.

Mr. Erickson stated that Staff would only approve something that was consistent with the envelope of approval for the project. He will get back to Council after he talks to Staff and Mrs. Wika to see if there is anything that is of significant difference. He does not think that is the case. There may be some issues, but he does not think there is a great departure from the original plan.

Mayor Messina stated that Staff would look into Ms. Wika’s information, review the letters, and get back to her. She should feel free to contact any Council Members with concerns or questions.

6. Jon Van Landschoot – Mr. Van Landschoot stated that there are two openings on the Planning Commission coming up. He wants Council to be inclusive in their selection of planning commissioners. There are other parts of the community that do not receive the same interview processes as others. He would like to see some more professional experience on the Planning Commission.

CONSENT CALENDAR:

Council pulled items VII-A and VII-C.

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

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

Noes: None

Absent: Council Member Whitney

Council approved the denial of the claim against the City by Laurie-Ellen Flanagan and referral to insurance carrier.

RESOLUTION 06-109 - A RESOLUTION AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

RESOLUTION 06-110 - A RESOLUTION ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR FISCAL YEAR 2006-07

ORDINANCE 06-7 - AN ORDINANCE AMENDING SECTION 3.25.130 (TELEPHONE USERS TAX), OF CHAPTER 3.25 (UTILITY USERS EXCISE TAX) OF TITLE 3 (REVENUE AND FINANCE) OF THE BENICIA MUNICIPAL CODE

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of the Minutes of July 18, 2006:

Vice Mayor Schwartzman stated that he was not at the 7/18/06 Council meeting, and needed to abstain from voting on the minutes.

Council Member Hughes stated that he too was absent from the 7/18/06 Council meeting and needed to abstain from voting on the minutes.

Mayor Messina stated that since there were only two Council Members present tonight, the minutes would be continued to the next Council meeting.

Approval of planning services amendment to the agreement with Katama Development, Inc.:

Council Member Patterson stated that there have been a number of times when people have asked why Council hires consultants. She wanted to briefly discuss the purpose for hiring this outside consultant, especially in light of the fully staffed Planning department.

Damon Gulobics, Senior Planner, stated that many of the contracts that Council has approved are sun setting. This is the only one they are asking to be continued. The special circumstance in this issue is that one of the planners is going on maternity leave. The planner will be back from maternity leave in December.

Council Member Hughes stated that his concern, after looking at the contracts, that we will not get to the end of the maternity leave, and have to extend the contract again. Mr. Gulobics stated that it was his understanding that this would be the last contract Council would be approving for the Planning Department for a long time. The department is fully staffed. This should be the last contract for staffing in this department for a long time.

RESOLUTION 06-111 - A RESOLUTION APPROVING THE AMENDMENT TO THE CONSULTANT AGREEMENT IN THE ADDITIONAL AMOUNT OF \$40,000 WITH KATAMA DEVELOPMENT, INC. FOR PLANNING SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

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

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

Noes: None

Absent: Council Member Whitney

PUBLIC HEARINGS:

None

ACTION ITEMS:

Authorization of a contract for the implementation program for the Arsenal and Downtown areas:

Heather McLaughlin, City Attorney, stated that this is the item that three of the four Council Members present have conflicts on. Those Council Member's either need to step down, or draw straws to get three Council Members to participate.

Council Member Patterson stated that this was an important item, and needs to be taken care of in a timely manner. She supports the idea of drawing straws. In speaking with the FPPC, it became clear that Council would need to draw straws, cards, or whatever method it chooses.

Ms. McLaughlin stated that she had all of the spades from a deck of Care Bear cards. She stated that the FPPC suggested the process of drawing cards. She explained how the process worked. She presented the City Clerk with the spade cards. The City Clerk shuffled the deck of cards and presented them to Council Member Patterson, Vice Mayor Schwartzman, and Mayor Messina. Council Member Patterson drew a queen of spades. Vice Mayor Schwartzman drew a 4 of spades. Mayor Messina drew the jack of spades. Vice Mayor Schwartzman drew the lowest card, and therefore will not participate in the discussion. He excused himself from this portion of the meeting.

Damon Golubics, Senior Planner, reviewed the Staff report.

Public Comment:

1. Bonnie Silveria, President, Benicia Historical Society – Ms. Silveria read the following prepared statement: ‘The goal of the Historical Society is to preserve the history and heritage of our city for future generations. Most recently, the Society’s efforts have been devoted to specific restoration and preservation projects that serve to enhance the historic integrity of our Downtown Historic District. Our projects include, but are not limited to, the Southern Pacific Depot Restoration, the Von Pfister Adobe project, the Downtown Walking Tour, and the future Shoreline Path of History.

On behalf of the Board of Directors of the Benicia Historical Society, I respectfully ask you to accept the staff recommendation and proposal relating to a comprehensive planning study of Benicia’s Historic Districts.

Our Downtown Historic District, the Yuba Historic District, and the Arsenal Historic District have been targeted with controversial development proposals that have created divisions in our historic preservation and our economic development communities. A complete and thorough study incorporating the significance of our historic treasures can help bring our community together and unify our vision of the future.

We urge you to accept this proposal for a planning study and underscore the importance of including the Historic Yuba property, which contains the oldest industrial buildings west of the Mississippi River.

We appreciate the City Council's continuing support of historic preservation in our community. Your approval of this study will demonstrate that commitment to all of our citizens once again. We look forward to working together to preserve our past in future projects.'

2. Marilyn Bardet – Ms. Bardet thanked Ms. Silveria for a very formal presentation. She stated that she was supportive of Council taking this responsibility on. She trusts the public will give a real challenge to the professional's to come up with a plan that is as community driven as the General Plan was. That was a model of how we could work together. She appreciates how much money the City will spend on this. She is worried about the arts community. She stated that we need a cultural commission that knows the arts community better.
3. Jon Van Landschoot – Mr. Van Landschoot stated that this planning process would bring maturity and cultural development to the HPRC. It will be an inclusive process. It is called for in the General Plan. It will be money well spent.

Council Member Hughes stated that Council had identified this as one of its top ten priorities. He is happy and excited to see this moving forward. The scope of work is very comprehensive. He is optimistic that this project will pull the community together, rather than ripping it apart, which has happened in the past. The concern he has with this type of project is that they tend to experience 'scope creepage'. He wants Staff to ensure that does not happen with this project. We are spending a lot of money, but don't want to spend more than we need to. He is in full support of moving forward with this.

Council Member Patterson stated that she wanted to move to approve the contract for the reasons the consultants are professionals who have a fair amount of experience in communities with form based codes. We can actually go and see the fruits of their efforts. We have a professional staff for the planning department, which is first rate. She is terribly impressed with the Planning Commission and its discussions on planning issues. We have this opportunity to come together as a community, and avoid the past controversy. We very much need to make the economic development investment, as well as protect our historic and arts community.

On motion of Council Member Patterson, seconded by Council Member Hughes, Council authorized, by motion, a contract for the implementation program for the Arsenal and Downtown areas, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, and Mayor Messina

Noes: None

Abstain: Vice Mayor Schwartzman

Absent: Council Member Whitney

INFORMATIONAL ITEMS:

Reports from the City Manager:

Oral report regarding Benicia Unified School District (BUSD) Board use of City Council Chambers for School Board Meetings:

Mr. Erickson stated that BUSD and the City were working on a proposal to bring the School Board to Council Chambers for its regular meetings. BUSD is not happy with the facility it is currently using. They are pretty far along in negotiating terms. In the City's opinion, the BUSD should pay the City the costs it would incur in producing television for them. BUSD's activity cannot interfere with the City's activity in Council Chambers. This is another opportunity for BUSD and the City to work together cooperatively.

Mayor Messina stated that typically the City has tried to work closely with BUSD to help each other out.

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot stated that it would be better if the School Board could use Council Chambers. This would be a win-win for both sides.

Mr. Erickson stated that this is similar, but not within the JUA. He may come back with amendments to the agreement for Council's approval.

Oral Report providing update on maintenance of fields at three school sites:

Mr. Erickson stated that Staff has successfully taken over maintenance of three school fields. Maintenance is ongoing. The work to date has been successful. Mr. Alvarez stated that this has been working very well. Cooperation has been great since the beginning. Access has been worked out at all facilities. They have aerated and fertilized the Robert Semple field. They fixed a leak at Robert Semple that was caused by a blocked pipe. They are working on the field at Joe Henderson. The BHS football field is in pristine condition and is ready for use. They have made some improvements to the lower field (baseball). The major improvements to the turf will be made next summer.

Council Member Patterson congratulated Mr. Alvarez, Public Works, and Parks and Community Services departments for their efforts. To bring the fields to a level of quality is excellent. She received a number of emails and phone calls regarding the removal of trees by Mary Farmar on Military West. She wanted to know what the City's involvement/role was with this. She is extremely unhappy about the trees being cut down. She hopes there is a good replanting program.

Mr. Erickson stated that the City does not take care of the trees, only the fields. The removal of trees, trimming of trees, etc. is not the City's responsibility, it is BUSD's. The schools are exempt, by state law, from requiring tree removal permits. Mr. Alvarez stated BUSD consulted with the City on replanting of the trees. The City is looking into a replanting plan for BUSD. The City will assist BUSD as much as possible.

Vice Mayor Schwartzman suggested that since the City's role is not in the maintenance of the trees, the City should not get too involved with the replanting. Otherwise, we could start assuming some other responsibilities, which could open up an issue that we may or

may not want to open up. For suggestions on what they may want to plant, that's fine, but it should be on their nickel. Basically, since BUSD did not consult the City on the tree removal, they should probably take it upon themselves to do pretty much all the work on the replanting.

Mr. Alvarez stated that he made that very clear to the Superintendent that the City did not want to be responsible for planting or developing a planting list. The City would be glad to assist in the review of the plans.

COMMENTS FROM COUNCIL MEMBERS:

Vice Mayor Schwartzman stated that with the recent changes to the ethics laws, he wanted to report on his trip for FEMA training (with Council Member Hughes). The training was primarily on earthquakes, but covered other topics as well. They were in class Monday through Thursday. Regardless of how prepared you can be things can fall apart quickly in a disaster. He took notes and would like to correlate them with Council Member Hughes' notes. Various City Staff attended the training as well. The training was valuable. He hopes he never has to use it.

Council Member Hughes stated that the FEMA staff did a great job. It was very educational and informative. He learned a lot. He came away with two things; Benicia has done a fine job with its emergency training and disaster preparedness planning efforts. He is more impressed now than he was when he left. He reiterated that one could never be totally prepared for all disasters. It would be beneficial for Staff and Council to pull together their notes on the training.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 8:09 p.m.

Lisa Wolfe, City Clerk