

**August 3, 2004**

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.

**MINUTES OF THE  
SPECIAL MEETING - CITY COUNCIL  
AUGUST 3, 2004**

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:16 p.m. on Tuesday, August 3, 2004, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

**ROLL CALL:**

**Present:** Council Members Campbell, Patterson, Smith, and Mayor Messina

**Absent:** Council Member Whitney

**PLEDGE OF ALLEGIANCE:**

Mayor Messina led the pledge to the flag.

Jayne York, Deputy City Clerk, read the announcement of Closed Session.

**ADOPTION OF AGENDA:**

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

**Ayes:** Council Members Campbell, Patterson, Smith, and Mayor Messina

**Noes:** None

**Absent:** Council Member Whitney

**COMMUNICATIONS:**

**WRITTEN:**

None

**PUBLIC COMMENT:**

None

**CLOSED SESSION:**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
(Subdivision (a) of Government Code Section 54956.9)**

Name of case: Vilarrasa Associates v. City of Benicia

**ADJOURNMENT:**

Mayor Messina adjourned the meeting at 7:21 p.m.

Lisa Wolfe, City Clerk

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**MINUTES OF THE  
REGULAR MEETING - CITY COUNCIL  
AUGUST 3, 2004**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 8:00 p.m. on Tuesday, August 3, 2004, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

**ROLL CALL:**

**Present: Council Members Campbell, Patterson, Smith, and Mayor Messina**

**Absent: Council Member Whitney**

**PLEDGE OF ALLEGIANCE:**

Mayor Messina led the pledge to the flag.

**ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:**

**ANNOUNCEMENTS:**

Mayor Messina announced the action taken on Closed Session item: Vilarrasa Associates v. City of Benicia. Council directed Staff to gather more information. This item was continued until the 8/17/04 City Council meeting.

**APPOINTMENTS:**

**RESOLUTION 04-106- A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF COUNCIL MEMBER DAN SMITH TO THE WATER TRANSIT AUTHORITY COMMUNITY ADVISORY COMMITTEE**

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

**Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina**

**Noes: None**

**Absent: Council Member Whitney**

**RESOLUTION 04-107 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ROBERT PLEW TO THE HUMAN SERVICES FUND BOARD TO A FULL TERM ENDING JULY 1, 2008**

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

**Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina**

**Noes: None**

**Absent: Council Member Whitney**

**PRESENTATIONS:**

None

**PROCLAMATIONS:**

None

**ADOPTION OF AGENDA:**

Mayor Messina asked if there were any changes to the Agenda.  
There were no changes to the Agenda.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, and unanimously approved, the Agenda was adopted as presented.

**COMMUNICATIONS:**

**WRITTEN:**

Council received a letter from Jane Lauder, which is on file.

**PUBLIC COMMENT:**

1. Stephen Betz - Mr. Betz thanked Council for their assistance in providing traffic cones to be used at the corner of Riverhill Drive and 2nd Street, making it safer for the school children to cross the intersection. He asked Council to try and find funds that could be used to add some lights that would assist with pedestrian traffic issues. Mayor Messina stated that Council would refer the request to the Traffic Safety Committee.
2. Bonnie Silveria, President, Historical Society - Ms. Silveria stated that the Historical Society will kick off the Downtown Historical Tour on Friday, 8/6/04, from 6:00 to 9:00 p.m. She thanked the City, Main Street, the Historical Society, Dan Schiada, Russ Clifton, and Valero for their assistance in restoring the signs for the tour. There are still some signs that need to be worked on. She thanked Jerry Hayes for his efforts as well. Brochures for the tour can be picked up from any merchant on First Street.
3. Lance Dupree - Mr. Dupree is the Volunteer Coordinator for the Benicia Police Department, Neighborhood Watch Division. He announced that 8/3/04 is the Celebration of National Night Out. Benicia is celebrating this night by meeting with several of our Neighborhood Watch groups. This year, they have incorporated the Benicia Emergency Response Team (BERT) in the process.
4. Art Mayoff - Mr. Mayoff is a Police Volunteer, as well as a trained BERT member. The BERT training course is free. The Benicia Fire Department, through Chief Hanley, puts it on. The course lasts for six weeks. The BERT Program trains people what to do in the event of an emergency. The next BERT class will be in late winter or early spring. They will also be holding another HAM radio class for Benicia citizens. The class will be held the last week in September. For more information, contact the Benicia Fire Department.
5. Bridget McCarthy - Ms. McCarthy wanted to speak on behalf of herself and her neighbors at 143 West E Street with regards to the Anderson Hotel. They sent a letter to Council on

**7/22/04.** They received a call back from Staff to schedule a meeting. They met with Collette Meunier, Karen Majors, Bill Thomason, Jim Farr, Dan Smith, and the neighbors at 143 West E Street. Staff agreed to provide documentation on some of the questions the neighbors had. Mr. Thomason agreed to provide the neighbors with documentation pertaining to asbestos, by Tuesday, 8/10/04.

**6. Council Member Smith made the following announcements:**

- He thanked Council for the appointment to the Water Transit Authority Community Advisory Committee. He discussed his hopes to see ferry service to Benicia.
- On 8/4/04, at 7:00 p.m. in City Hall, there will be a special joint meeting with the Planning Commission, Design Review Commission, and Historic Preservation Commission to discuss potential changes to the commissions since the application for Certified Local Government has been submitted.
- Beginning 8/4/04, there will be a 5-week course held at the Calvary Community Church to quit tobacco. For more information call the County Health Department at 553-5890.
- First Friday on First Street will be on 8/6/04. The movie Grease will be showing on the lawn of the Capitol Building.
- On 8/13/04, the movie Pirates of the Caribbean will be showing at the City Park gazebo.
- On Saturday, 8/7/04 at 11:00 a.m., there will be a dedication of a Pony Express monument at East Second and B Street. For more information call 916-452-1971.
- Comic Mark Lundholm will perform at the Majestic Theatre on 8/6/04.
- On Sunday, 8/8/04 from 12:00-4:00 p.m., there will be a Praise in the Park event at the City Park.
- On Saturday, 8/14/04, the Peddler's Fair will be in town.
- On 8/14/04, there will be a Library Book Sale.
- On 8/14/04, the Library will host an artist's reception for Marty Jonas from 2:00-4:00 p.m.
- On 8/15/04, there will be a Benicia Performing Arts Foundation concert.

**7. Council Member Campbell thanked Staff for a great job in smoothing out potential problems at the Waterfront Festival. He discussed a recent article in the Contra Costa Times with regards to open access to public documents. He acknowledged Staff for doing everything right. City Staff had a perfect score on the test. He suggested giving them a commendation for their work. He discussed the possibility of the City bailing out Arts Benicia. They have lost a lot of money from the State. They are barely keeping their heads above water. Mayor Messina directed Staff to agendize this at a future meeting.**

8. Vice Mayor Patterson praised the Police Department for their efforts. She rode in a police car and observed their efforts on the Friday night of the Waterfront Festival. It is a very well equipped, smoothly run operation.

**CONSENT CALENDAR:**

Mayor Messina asked if there were any items to be pulled.

Vice Mayor Patterson requested item V-A be pulled.

On motion of Council Member Smith, seconded by Vice Mayor Patterson and unanimously approved, the Consent Calendar was adopted as amended on roll call by the following vote:

**Ayes:** Council Members Campbell, Patterson, Smith, and Mayor Messina

**Noes:** None

**Absent:** Council Member Whitney

**RESOLUTION 04-108 - A RESOLUTION ACCEPTING THE RECREATION AREA LIGHTING PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER AND APPROVAL OF \$15,500 FROM THE PROJECT CONTINGENCY TO FUND EXPANSION OF THE FIRE MUSEUM**

**RESOLUTION 04-109 - A RESOLUTION APPROVING AN EXTENSION OF THE LEAVE OF ABSENCE FOR THE PARKS MAINTENANCE SUPERVISOR ASSIGNED TO THE PARKS AND COMMUNITY SERVICES DEPARTMENT**

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

**(END OF CONSENT CALENDAR)**

Council took the following action:

Vice Mayor Patterson stated that she pulled the minutes of 7/20/04 because on page V-A-13, it reads 'Peter Kilkus - Sierra Club'. She stated that he is a member of the Sierra Club, however, he was not representing the Sierra Club. She proposed that it be corrected to read 'Peter Kilkus, American Watercraft Association Representative'.

On motion of Vice Mayor Patterson, seconded by Council Member Campbell, the minutes of 7/13/04 and 7/20/04 were adopted as amended on roll call by the following vote:

**Ayes:** Council Members Campbell, Patterson and Messina

**Noes:** None

**Abstain:** Council Member Smith

**Absent:** Council Member Whitney

**PUBLIC HEARINGS:**

**Vacation of the easterly end of East K Street and a segment of East 7th Street, south of East K Street:**

Dan Schiada, Public Works Director, reviewed the Staff report on this item. Mr. Schiada provided Council with revised copies of the proposed Resolution, reflecting Vice Mayor Patterson's requested

changes, clarifying language about revisions to the Resolution.

**RESOLUTION 04-110 - A RESOLUTION ORDERING THE VACATION OF A PORTION OF EAST SEVENTH STREET RIGHTS-OF-WAY**

**Public Comment:**

- 1. Debbie and Mike Fallon - They have been trying to purchase the lot in question for over two years. At Staff's direction, they have had the property appraised and surveyed. Both the Fallons and their neighbors are encroaching on the property in question. They have submitted a letter to Staff requesting to purchase at least 8 feet or preferably the entire lot. They are prepared to pay fair market value. They have not been given the opportunity to do this, since the City has chosen to put the property up for public auction. Council Member Smith asked Staff to respond as to whether the Fallons have been given direction to get the survey and appraisal. Mr. Schiada said the process has been going on for over 5 years. The problem was not with the Fallons, but their neighbors, as their encroachment involves structures. The Fallons encroachment deals with a paved driveway. The City legally has to sell property for fair market value. The property has to be opened up to a public bid/proposal process in order to sell the lot as a buildable lot. Council Member Smith stated that it was his recollection that the City had previously sold surplus City land through other processes other than auctions. Mr. Schiada asked the City Attorney for direction on this. We have to make a determination as to whether the lot is a remnant piece or a buildable lot piece. This is the critical difference. Ms. Fallon asked how Staff knew it was not a buildable lot before they (Fallons) jumped through the hoops and got the appraisal and surveys completed. Vice Mayor Patterson asked Staff if the parcel meet the requirements for zoning dimension requirements. Staff stated that the parcel meets zoning requirements for a single-family lot. Mr. Schiada stated that the City could designate a portion of the lot as an easement for access. This would enable the Fallons to keep their improvements (on the encroachment) as-is. Mayor Messina suggested trying to accommodate the Fallons, and allow them the 3-foot area that they are encroaching on, and leave 50 feet for a buildable lot, and accommodate the encroachment on the other side with the structure on it. This would allow the Fallons to protect their interests. Mr. Schiada stated he would need to discuss this with the City Attorney. Vice Mayor Patterson suggested continuing this item so the City Attorney could review the information and try to accommodate the parties involved. Mayor Messina asked Staff to work with the property owners to come up with a solution that would address their easements, and still provide a buildable lot. City Attorney Heather McLaughlin stated that an easement solution could be done without going through the whole process again, but creating another parcel would have to go to the Planning Commission for approval.**
- 2. Robert Clement - Mr. Clement is Ms. Fallons father. According to his calculations, the neighbor on the opposite side was not encroaching 8 feet. He requested 8 feet, and got 8 feet. He thought the other neighbor was actually only encroaching approximately 4 feet.**
- 3. Janice Fisk - Ms. Fisk is the neighbor encroaching on the other side of the property in question. They were given a permit to build a carport 25 years ago. When discussions on this property came up, the City told them they would either need to tear down the carport down, or buy**

the encroachment property. This needs to be resolved. Whatever they decide to do, she hopes that they will still be allowed to buy their encroached area of the property.

4. Council discussed the timing on this item. It may require more than two weeks before it can be brought back to Council. Mayor Messina wanted Staff to come back with suggestions for a buildable lot. Mr. Schiada asked Council to consider parcels 3 and 4, and allow them to follow up on parcels 1 and 2 to come up with something creative.

Vice Mayor Patterson and Ms. McLaughlin clarified the changes to be made to the revised Resolution. Ms. McLaughlin stated that if Council wanted to move for the vacation of parcels 3 and 4, it would only be on East 7th, and the Resolution would be revised to delete the reference to East K Street.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, and unanimously approved, the above Resolution was adopted as amended on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina

Noes: None

Absent: Council Member Whitney

Mayor Messina clarified that Staff would look into the other two parcels and bring the information back to Council for review.

**UNFINISHED BUSINESS:**

Resolutions submitting advisory ballot measures to the voters at the November 2, 2004 Special Municipal Election pertaining to the use of the City-owned land at First Street and East B Street:

Due to a conflict of interest, Mayor Messina excused himself from this portion of the meeting. Vice Mayor Patterson chaired this portion of the meeting.

**RESOLUTION 04- - A RESOLUTION SUBMITTING AND ADVISORY MEASURE TO THE VOTERS AT THE SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 2, 2004 PERTAINING TO USING A CONSENSUS BUILDING PROCESS TO EXPLORE POSSIBLE USES FOR THE CITY-OWNED PROPERTY AT EAST B AND FIRST STREET**

**RESOLUTION 04-111 - A RESOLUTION SUBMITTING AN ADVISORY MEASURE TO THE VOTERS AT THE SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 2, 2004 PERTAINING TO LIMITING THE DEVELOPMENT OF THE CITY-OWNED PROPERTY AT EAST B AND FIRST STREET TO A WATERFRONT PARK AND COMMERCIAL DEVELOPMENT**

On motion of Council Member Smith, seconded by Council Member Campbell and unanimously approved, the above Resolution was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, and Smith

Noes: None

Absent: Council Member Whitney

Abstain: Mayor Messina

**RESOLUTION 04-112 - A RESOLUTION SUBMITTING AN ADVISORY MEASURE TO THE VOTERS AT THE SPECIAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 4, 2004 PERTAINING TO LIMITING THE USE OF THE CITY-OWNED PROPERTY AT EAST B AND FIRST STREET TO A PARK INCLUDING LOW IMPACT RECREATIONAL ACTIVITIES, COMMUNITY EVENTS AND FESTIVALS**

On motion of Council Member Campbell, seconded by Council Member Smith, and unanimously approved, the above Resolution was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, and Smith

Noes: None

Absent: Council Member Whitney

Abstain: Mayor Messina

City Attorney Heather McLaughlin reviewed the Staff report on this item. Ms. McLaughlin distributed updated maps to Council and Staff, (one of which was provided by Kitty Griffin) as well as copies of emails from Susan Street and Kitty Griffin with suggestions for this item, and alternate language (suggested by Vice Mayor Patterson) that incorporates policies from the General Plan that could be included in the ballot pamphlet. Ms. McLaughlin stated that the current estimate for adding four measures on the ballot (1 for the Business License Tax increase and 3 for the Waterfront Park Ballot Measures) is approximately \$45,000. Vice Mayor Patterson asked Ms. McLaughlin to review the documents that were distributed to Council. Ms. McLaughlin reviewed the information in Ms. Street's email.

Ms. Street made the following suggestions for changes to the ballot question language:

The consensus building process: Ms. Street suggested calling it 'publicly-owned land' as opposed to 'City-owned land'. Another suggested change was to state 'from First Street to the Harbormaster's office' as opposed to 'from the Spit to the Harbormaster's office'.

The limited development question: Ms. Street suggested the question read 'Shall the City Council plan the approximately 5.1 acres of publicly-owned land south of East B Street, from First Street to the Harbormaster's office as follows: 1. up to (1.02 or 1.51 or 1.87) acres for commercial development along First Street and 2. the rest of the land, (approximately 4.08 or 3.59 or 3.23) acres, for a waterfront park along B Street, as shown on the map in the Voter's pamphlet?'

The Protect Our Waterfront measure: - Ms. Street suggested the question should read 'Shall the City Council implement the proposed Waterfront Park Initiative that establishes the public-owned land south of East B Street, from First Street to the Harbormaster's office, as a Waterfront Park, with the uses including low impact recreational activities, community events and festivals, as shown on the map in the Voter's pamphlet?'

Ms. McLaughlin then reviewed the key points of Ms. Griffin's email.

Ms. Griffin regretted not being able to attend the meeting. She would like to have at least one of the maps for limited development, having the development scattered so it includes the Marina and Spit area and preserves more of the view. In the development options proposed in the staff report, the development is concentrated in a single area, including the triangle, and not on the outside edges. She also thinks it would be better to say 1/10 or ¼ instead of measuring the acreage. That is why it is

important to include the map. Her other point was that the City has received a lot of grant money to develop a fisherman's park on the Spit. There is also support for a restaurant on the Spit. She wants to make sure the grants the City has taken are not a barrier to that. Ms. McLaughlin stated that any development on the Spit would have to maintain public access. Ms. Griffin would like the City to flush out what its ideas are of limited development. She would like the City to have amenity specific limited development scenarios. She asked if it would be possible to have a multiple-choice measure. Ms. McLaughlin stated that this was not possible. Ms. Griffin also asked whether having the ballot question on the community process is necessary.

Council Member Campbell asked Ms. McLaughlin to clarify the cost of the election. Ms. McLaughlin stated that the Registrar of Voters quoted the City \$3.00 per voter, across the board for each ballot measure, which is how she came up with the estimate of \$45,000. Council Member Campbell asked Staff if they had figured out the acreage on the existing Marina Green. Mr. Schiada stated that it was approximately 1.6 acres.

Council Member Smith asked if the Spit was included in the 5.1 acres. Staff stated that yes the Spit was included.

Mr. Erickson clarified that since the City had received grant funds from the State for the Spit, it would have to pay the State back if it was used for commercial use. The present grant monies received is approximately \$500,000 to \$600,000.

Ms. McLaughlin reviewed the handout given to Council that references the General Plan (on file).

**Public Comment:**

1. Brent Street - Mr. Street thanked Staff and Council for their continued efforts in trying to make Benicia a great place to live. He feels that POW has been misrepresented on several fronts. It was formed because the directive to the EDB never mentioned open space. They decided to use the initiative process to alert the public to what was going on. The real consensus will come in March when the people vote to rezone the park to Waterfront Park. The first weekend, POW gathered 25% of the signatures that they initially received on their initial attempt.
2. Mike Ioakimedes - Mr. Ioakimedes discussed the possibility of the bridge toll being raised to \$4.00. He discussed the recent arguments against increasing the sales tax initiative. He read a recent article in the San Francisco Chronicle by Tom Steinbach, Greenbelt Alliance. The article was about building more housing in Cities. He discussed the need to revitalize the downtown area. He discussed whether or not we want a public consensus on the Waterfront Park issue. He stated that if the City wants to reach out to the community, they need to create a mechanism so that it can find out what the community wants.
3. Susan Street - Ms. Street stated that she is not 'married' to any particular words in the changes she suggested in her email, she just thinks that all three measures need to reference the same land, in the same way, etc. She stated that POW has collected 725 signatures in four

days for their initiative. She had a question on how the ballot arguments and rebuttals are handled. Ms. McLaughlin stated that would be discussed in the next agenda item.

4. **Jeanine Seeds** - Ms. Seeds stated that she participated in helping POW collect the 725 signatures. She had a question on the map listed in the agenda on page VII-A-16. She wanted it made clear that the marshland was marked as part of the park, when it should not have been.
5. **Corrine Oaks** - Ms. Oaks is the Director of the Chamber of Commerce. She stated that the Chamber's Board unanimously voted to support placing an advisory measure on the November 2004 ballot pertaining to the use of the City-owned land on First and East B Streets. Ms. Oaks stated that the Chamber is in favor of supporting an advisory measure to the voters pertaining to limiting development of the City-owned property at East B and First Streets to a Waterfront Park and commercial development as detailed in the City of Benicia's General Plan.
6. **Charles Maddux** - Mr. Maddux stated that going forward with the advisory measures is just going to confuse people. They are not binding, so what will it accomplish? This area is probably the most important area that we should put a park in. The Resolutions will not solve anything. If we do not have an area such as this, where will we have functions such as the Waterfront Festival? Mr. Maddux commented on two Council Members who were at the EDB meeting that appeared to support commercial development in this area. He questioned the appropriateness of the two Council Members being involved in the Resolution process for this item. Council Member Campbell asked Mr. Maddux if he (Mr. Maddux) was referring to him (Council Member Campbell). Vice Mayor Patterson stated that she was not comfortable with the conversation at this time, and felt it would be more productive to go through the process, and Council Member Campbell's position on the subject would then become clear.
7. **Gretchen Burgess** - Ms. Burgess stated that it was previously proposed to Council to develop a website where people could go for information on the subject. Citizens would be able to comment and give recommendations to the City. It would be a tool for the City to use for years to come. Three or four different sides could provide their arguments and input. It would be a project developed and maintained by Benician's. This would be the community reaching out to the community. It could prevent the expenditure of \$10,000 to \$20,000 on consultant fees. The cost would be approximately \$5,000. Mr. Tony Shannon originally presented this.
8. **David Ernst** - Mr. Ernst stated that the Council directed the EDB to come up with a proposal for this item. He wanted to know what part the EDB will be taking on this issue. He wanted to know how much will be spent on consultants for this issue. He feels that when restaurants and shops are built close to the water, it limits people from enjoying that part of the City. How many people would be able to afford to go to such a restaurant?
9. **J.B. Davis** - Mr. Davis stated that the Council gave the EDB a mandate to go out and come up with a development plan and go out for a request for proposal. As a group, the EDB decided that was too rash, and too much of a blank check. The EDB decided not to go after the maximum amount of development, but to try and find some level of development, through the consensus process, that would allow them to come up with a good plan that was

acceptable to the whole City. Mr. Davis reiterated Mr. Ioakimedes' comment that we need to respect the urban growth boundary realities and urban infill.

Vice Mayor Patterson stated that the reality is that we have an initiative process that is underway and will be on the ballot in March. Council has been trying to make decisions on which way to go. There was a general consensus at the last meeting that it made sense to have two or three advisory measures that would help provide information for people to clarify what some people are thinking in terms of consensus, development, and the POW proposal. Vice Mayor Patterson wanted to poll the Council to get an idea of how they want to proceed. Vice Mayor Patterson asked Council if they wanted to go forward with advisory measures: Council Members Campbell and Smith voted yes. She asked Council if they want to go forward with three advisory measures:

Council Member Smith explained his position. He views the advisory measures and a few workshops would be a great advantage to the public to make an educated vote in March. He supports not putting the consensus process on the ballot. He discussed spending \$12,000 to \$15,000, which would include setting up the Internet poll that was discussed by Ms. Burgess. He suggested putting on the POW measure. Vice Mayor Patterson asked Council Member Smith to hold off on explaining his position until the vote on how many advisory measures to put on the ballot was completed.

Council Member Campbell supports having two advisory measures on the ballot, and removing the community consensus process from the ballot.

Council Member Smith continued explaining his position. He would like to see the POW measure on the ballot. He thinks the other measure should read something to the effect of 'Shall the City Council create a 3.3 acre waterfront park on the Spit and the First Street Green area, and leave 1.8 (1.51 + .28 near the Harbormaster's office) acres of the land for limited commercial development.' He stated that he is completely in support of rezoning that land as a park. He is not completely in support of the 5.1 acres of it.

Council Member Campbell stated that he just wanted the 1-acre Historic Triangle, the first option.

Vice Mayor Patterson stated she is supporting the advisory vote because it will help add information for the community to process and digest for consideration of the real ballot measure in March. To the extent that the development alternative is clear and gives an option to the community to think about what development would be like, she could go with either one, (Smith's, Campbell's or Ms. Griffin's). She wants to have the advisory measure talk about development.

Council Member Campbell stated that the Historic Triangle has already had buildings on it before. It is one place where a permanent Farmers Market, Performing Arts Center, restaurant, or nothing could be put. The area is more than double the size of the current park. When you add in the 18.6 acres (the land required be set aside for wetlands, per the 25th amendment to the BCDC permit), 95% of the area from First Street to Fifth Street will be wetlands, open space or a park. It is a logical continuation of the plan to revitalize First Street, and still leave the majority of the land open space for anyone who wants public access.

Vice Mayor Patterson asked Ms. McLaughlin if the measure could be written in such a way to indicate preferred areas of development, but suitable, or something like that. Ms. McLaughlin stated that sure, and it could give a total acreage that would be developable. Vice Mayor Patterson stated that the measure could read that the general location of development, but it could vary.

Council Member Smith stated that he has two problems. The way the Historic Triangle is currently constructed, we give up the corner of B and First. That is a very valuable piece of land. He asked Council Member Campbell how he felt about including the .28 acres near the Harbormaster's office. Council Member Campbell stated that he was not fond of the idea of doing that. Historically, buildings have occupied the Triangle. The view corridors make sense the way Ms. Griffin stated it. To a large extent, he acknowledged that POW could pretty much get their way. He is trying to find an option where there can be compromise. Vice Mayor Patterson suggested using 'approximately 1 acre' in the language. Ms. McLaughlin stated the language could be used.

Council Member Smith asked if Council could discuss whether or not a facilitator would be used for the public workshops. Vice Mayor Patterson stated that she was in favor of having 1-3 City sponsored workshops. Staff recommended (in a prior Staff report) that the expertise needed for such a workshop would be done best by an outside facilitator. She supports having such a consultant/facilitator for the public workshops. Vice Mayor Patterson stated that she also supports the concept of having a website and Internet polling.

Council Member Smith suggested using the language 'Shall the City Council create a 4-acre Waterfront Park, leaving 1-acre of the currently zoned commercial land for limited commercial development on First Street.' Ms. McLaughlin asked for the allowance to wordsmith the language, and use the map on page VII-A-10, and insert language to show 'in the general area'. Vice Mayor Patterson requested that Ms. McLaughlin be consistent with the language as requested by Ms. Street. Ms. McLaughlin suggested using 'City-owned' in the language, since the City owns the property. Vice Mayor Patterson gave direction to Staff to look to the General Plan for guidance for the ballot argument. Ms. McLaughlin asked if Council wanted the measures to call out the Spit or the Depot. Council agreed that the measures should call out the Spit.

On motion of Council Member Smith, seconded by Council Member Campbell, Council unanimously agreed to revise the Resolution to include the above language for the ballot argument, on roll call by the following vote:

**Ayes:** Council Members Campbell, Patterson, and Smith

**Noes:** None

**Absent:** Council Member Whitney

**Abstain:** Mayor Messina

Council gave direction to Staff to look into getting a proposal to have 1-3 facilitated workshops and how to set up having an interactive website that would provide information and having voting capability, by the first meeting in September.

**Public Comment:**

1. Susan Street - Ms. Street suggested removing the Spit from the advisory vote.

Council discussed the possibility of removing the Spit from the language.

Council Member Smith summarized by saying that his motion is being revised to use the same wording as before, but they will use 4.25 acres as the total amount and the one that leaves the Historical Triangle acre would say 'create a 3.25 acre (approximately) waterfront park.

On motion of Council Member Smith, seconded by Council Member Campbell and unanimously approved, Council agreed to revise the prior Resolution language, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, and Smith

Noes: None

Absent: Council Member Whitney

Abstain: Mayor Messina

Vice Mayor Patterson called for a 5-minute break at 10:20 p.m. to allow the City Attorney to come up with a summary of what has occurred thus far.

The meeting resumed at 10:27 p.m.

Ms. McLaughlin summarized the ballot language to be used in the advisory votes:

For the limited development option: 'Shall the City Council create an approximate 3.3 acre waterfront park, with the remainder 1 acre left for limited commercial development on the City-owned property along First Street from the depot to East B Street to the Harbormaster's office as shown in the general area on the map in the voter's pamphlet.'

Resolution setting priorities for filing written arguments regarding various City measures for the November 2, 2004 Special Municipal Election:

Mayor Messina returned for this portion of the meeting.

#### **RESOLUTION 04-113 - A RESOLUTION SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING VARIOUS CITY MEASURES FOR THE NOVEMBER 2, 2004 SPECIAL MUNICIPAL ELECTION**

Ms. McLaughlin reviewed the Staff report on this item.

Council discussed the fact that Council could only write one argument for and one argument against a ballot measure. At least one, but not more than five people must sign the argument.

Regarding the Business License Tax measure, no one has submitted an argument against the measure. Vice Mayor Patterson stated she would like the Council to have an argument for the measure. Council agreed that the City Attorney could draft an argument for Council, and Council could then review/revise it if necessary. Ballot arguments must be submitted by 8/13/04. City Manager Jim Erickson stressed the importance of having citizens sign the arguments as well. Council Member

Campbell suggested having the City Manager and the Mayor sign the arguments. Ms. McLaughlin suggested Council be the ones' to sign the arguments. Council Member Smith initially suggested he and/or Council Member Campbell work with the same group that has been working on the Business License Tax issue to come up with the argument on this issue. Vice Mayor Patterson stated that she supports that, but wants to make sure that the argument points out that it is fair, how we compare to other communities in the county, and that it also recognizes the indexing aspect. Council agreed that the Mayor and Council Member Smith would work with the Business License Tax Committee on the ballot argument.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

**Ayes:** Council Members Campbell, Patterson, Smith, and Mayor Messina

**Noes:** None

**Absent:** Council Member Whitney

Mayor Messina excused himself from this portion of the meeting, due to a conflict of interest.

Vice Mayor Patterson asked if her colleagues wanted to have Council involved in writing support for the two advisory measures.

Council Member Smith recommended that it be a combination of a couple Council Members and EDB. Members of POW should write the pro-argument for the advisory measure for no development.

Vice Mayor Patterson suggested Council leave it neutral. She would prefer not to have it on record not supporting either one of the measures.

Council then returned to discussing Unfinished Business item A.

On motion of Council Member Smith, seconded by Council Member Campbell, and unanimously approved, Council agreed to include the argument presented, including policy 2.12.3, on roll call by the following vote:

**Ayes:** Council Members Campbell, Patterson, and Smith

**Noes:** None

**Absent:** Council Member Whitney

**Abstain:** Mayor Messina

#### **NEW BUSINESS:**

Resolution establishing Police Towing Administrative Fee of \$125 for vehicles towed incident to an arrest and \$75 for all other towed vehicles:

#### **RESOLUTION 04-114 - A RESOLUTION ESTABLISHING A POLICE TOWING ADMINISTRATIVE FEE**

Rob Sousa, Finance Director, reviewed the Staff report on this item.

Vice Mayor Patterson asked Staff about setting up a fee increase/decrease on an index basis, so that it would not always need to come to Council for approval. Ms. McLaughlin stated that Staff is in the process of creating a master fee resolution that would include the adjustment. The adjustments would happen automatically.

Mayor Messina suggested increasing the fees to ensure all expenses are covered. It may also dissuade people from breaking the law.

Vice Mayor Patterson suggested rounding the costs up to \$130 and \$75 respectively. The costs could be increased when the fee study is completed.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, and unanimously approved, the above Resolution was adopted as amended on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina

Noes: None

Absent: Council Member Whitney

Resolutions authorizing actions that will allow the creation of the McAllister Area Assessment District and stating intentions for the financing and construction of improvements within the district:

Mr. Sousa reviewed the Staff report on this item.

Vice Mayor Patterson asked Staff if the City could be specific in terms of the public infrastructure improvements to spell out the traffic calming measures, and bioswales and other best management practices for storm water management in addition to Water Use Efficiency (WUE).

Mr. Erickson stated that he feels it is beyond the time to be asking for additional improvements beyond the scope of the policies that were included in the tentative map. There was a contribution of \$250,000 for traffic calming measures. This could be applied to benefit this subdivision.

Mr. Schiada discussed the drainage system.

Phil Rafta, Centex Homes - Mr. Rafta stated that they have final maps on D6 and D7 improvement plans. All engineering is complete. They are out there doing the work right now. They have expended tremendous funds for the cleanup. They will, of course, work with Staff on issues. They will meet all best practices during construction.

#### **RESOLUTION 04-115 - A RESOLUTION OF INTENTION TO MAKE ACQUISITIONS AND IMPROVEMENTS**

On motion of Council Member Smith, seconded by Council Member Campbell, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina

Noes: None

Absent: Council Member Whitney

**RESOLUTION 04-116 - A RESOLUTION PRELIMINARILY APPROVING ENGINEER'S REPORT AND DIRECTING ACTIONS WITH RESPECT THERETO**

**On motion of Council Member Smith, seconded by Council Member Campbell, and unanimously approved, the above Resolution was adopted on roll call by the following vote:**

**Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina**

**Noes: None**

**Absent: Council Member Whitney**

**REPORTS FROM CITY MANAGER:**

**Mr. Erickson discussed a recent article in Comstock Business regarding Turnkey Technologies.**

**Update on the relocation of the Anderson Hotel, 153 West E Street:**

**Mayor Messina excused himself from this portion of the meeting due to a conflict of interest. Vice Mayor Patterson chaired this portion of the meeting.**

**Eric Angstadt, Associate Planner reviewed the Staff report on this item.**

**Council Member Campbell asked what the neighbor's complaints were. Mr. Angstadt stated that the tenants felt they were left out of the notification process. He stated that Staff spent approximately one hour of the recent meeting educating the residents on the notification and project procedures. Most of their complaints dealt with construction activities that took place with the demolition of Mr. Thomason's old residence. All concerns were discussed and addressed at the recent meeting with the neighbors.**

**Council Member Smith stated that he was at a portion of the recent meeting. The concerns he heard were: (1) that the project was out of character for the neighborhood, and was ugly, (2) whether it was given allowances or variances as a historic structure, and (3) there was concern whether there would be adequate parking for type of use (Bed and Breakfast). Council Member Smith stated that he was pretty sure that the first two concerns were addressed, but the parking may not have been addressed. Mr. Angstadt stated that the parking issue has been taken care of. The Planning Commission had authorized 6 parking places for the Bed and Breakfast.**

**Marina Report:**

**Mayor Messina returned for this portion of the meeting.**

**At 11:35 p.m., Mayor Messina suggested that the informational report on the Marina be continued to the next meeting.**

**The Reports from City Council Committees were continued from the last meeting. Council discussed hearing the report from the Police Station and Civic Center Restoration Committee.**

**On motion of Vice Mayor Patterson, seconded by Council Member Smith, and unanimously approved,**

**Council agreed to hear the Marina Report and the report on the Police Station and Civic Center Restoration Committee, on roll call by the following vote:**

**Ayes: Council Members Campbell, Patterson, Smith, and Mayor Messina**

**Noes: None**

**Absent: Council Member Whitney**

**Karen Majors, Assistant City Manager reviewed the staff report on this item.**

**Mayor Messina stated that he wants the Marina to stand on it's own. It is not appropriate for the City to subsidize the Marina operations from the General Fund. Council needs to do what is required to transfer the expenses to the Benicia Harbor Corporation, and ultimately, the berthers. In terms of options to negotiate with the Harbor Corporation to take over the dredging, that would be the appropriate direction to go. In terms of trying to create other methods of dredging, that should be looked at only if we are not successful with Benicia Harbor Corporation. He discussed the possibility of following the practices of the Martinez Marina as another option.**

**Vice Mayor Patterson stated that the Marina contributes to the economic welfare of the community. Regarding the dredging situation, dredging is on its way out. She supports that Council pursue, to the degree that is possible, a collaborative communication with Benicia Harbor Corporation, and build on the information that we have about the alternatives to dredging. The purposes would be reducing the City's costs and ultimately turning the responsibilities over to the Benicia Harbor Corporation.**

**Council gave direction to Staff to begin negotiations with Benicia Harbor Corporation regarding a plan that they will bring back to Council for review.**

**REPORTS FROM CITY COUNCIL COMMITTEES:**

- 1. Police Station and Civic Center Restoration Committee - Council Member Smith stated that the Committee has been pursuing the six recommendations that they (the Committee) had previously made. He was pleased to report that they may have found a way to address one of Police Department's concerns; that the if a separate essential services facility was built, it would create a disparate command situation, as opposed to it all being in one continuous building. They are looking at a continuous structure to the current police station that would meet the concerns about the holding cells and earthquake concerns. Staff is working on a solution to this.**

**ADJOURNMENT:**

**Mayor Messina adjourned the meeting at 11:50 p.m.**

**Lisa Wolfe, City Clerk**