

August 20, 2002

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 20, 2002

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 7: 16 p.m. Tuesday, August 20, 2002.

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 Real Property Negotiators
(Pursuant to Government Code Section 54956.8)

Property: 550 East G Street

Agency Negotiator: Virgil Mustain and Chris Tomasik

Negotiating Parties: Mr. & Mrs. DeVargas

Under Negotiation: Price

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

COMMUNICATIONS:
WRITTEN COMMENT:
PUBLIC COMMENT:
None

Adjourn to Closed Session at 7: 17 p.m.

MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
AUGUST 20, 2002

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7: 35 p.m. Tuesday, August 20, 2002, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina
Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS:

Council Member Bidou requested a moment of silence for Sarah Chin, Benicia High School graduate and former Youth Commissioner, who passed away last week; a moment of silence, was taken.

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

Re: Conference with Real Property Negotiators - direction given to staff.

ADOPTION OF AGENDA:

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

Vice Mayor Campbell requested that the following changes be made to the Agenda: 1) Combine Consent Calendar Item L and New Business; 2) Pull and combine Consent Calendar Items N and O; 3) Move Council Request for New Agenda Items; hear all of these items after Communications. Additional requests were made to pull Consent Calendar Items D, G, I, J, and M.

On motion of Council Member Smith, seconded by Council Member Whitney, Agenda was adopted, as amended, by the following vote:

Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

Kitty Griffin, 236 Baker Street, stated that the interim period prior to the hiring of a new City Manager should be a time of reflection and analysis; listed the various projects that have caused controversy during the current City Manager's tenure.

Bob Craft, 323 Columbia Circle, expressed concerns about the role of the current City Manager in picking his successor; compensation should not exceed current salary; compensation should not be a bonus.

Cathy Ann Hewitt, 266 East B Street, current City Manager has done a good job; there needs to be a greater respect for the environment; last City Council meeting was too emotional; concerned about price gouging at the Farmers Market.

Marilyn Bardet, 333 East K Street, questioned whether or not the 1989 EIR for the Tourtelot Property was still valid; current City Manager should not be involved in looking for his replacement; suggested that the Assistant City Manager take over as City Manager.

CONSENT CALENDAR:

Mayor Messina requested a motion to approve the balance of the Consent Calendar.

On motion of Council Member Whitney, seconded by Council Member Smith, and unanimously carried, the following items were approved under the Consent Calendar:

Minutes of July 16, 2002

Minutes of July 30, 2002

Minutes of August 13, 2002

Check Registers for June 2002

RESOLUTION NO. 02- 127- A RESOLUTION REVIEWING THE CITY'S INVESTMENT POLICY AND GUIDELINES AND CONFIRMING ITS ADOPTION

Acceptance of the 2001-2002 Solano County Grand Jury Report without additions or comments, and submitting a letter to Presiding Judge Scott Kays advising of same.

RESOLUTION NO. 02- 128 - A RESOLUTION SUBMITTING A REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF FISCAL YEAR 2002-03 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE AND PATHWAY PROJECT

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

(END OF CONSENT CALENDAR)

RESOLUTION APPROVING CHANGE ORDER NO. 1 IN THE AMOUNT OF \$85,000 WITH DUTRA DREDGING FOR THE BENICIA MARINA DREDGING PROJECT AND AUTHORIZING THE ASSISTANT CITY MANAGER TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

Vice Mayor Campbell requested that this item be moved up on the Agenda.

Mayor Messina, Council Member Bidou and Otto Giuliani, City Manager, did not participate in this discussion due to Conflict of Interest. Vice Mayor Campbell chaired this portion of the meeting.

Virgil Mustain, Public Works Director, explained that this change order was required because there was additional material to be dredged in the Marina that was caused by sediment-laden winter runoff; estimates for the original dredging quantities were done prior to December.

Vice Mayor Campbell questioned whether or not a mistake had been made in the original quantities provided.

One concerned citizen spoke on this item.

Council took the following action:

RESOLUTION NO. 02- 129 - A RESOLUTION APPROVING CHANGE ORDER NO. 1 FOR AN AMOUNT NOT TO EXCEED \$85,000 FOR ADDITIONAL MAINTENANCE DREDGING OF THE BENICIA MARINA AND AUTHORIZING THE ASSISTANT CITY MANAGER TO SIGN THE CHANGE ORDER ON BEHALF OF THE CITY

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

Ayes: Council Members Campbell, Smith and Whitney

Noes: None

Abstain: Council Member Bidou and Mayor Messina

NEW BUSINESS

RESOLUTION APPROVING THE AGREEMENT WITH THE BENICIA HARBOR CORPORATION

Vice Mayor Campbell requested that this item be moved up on the Agenda.

Mayor Messina, Council Member Bidou and Otto Giuliani, City Manager, did not participate in this discussion due to Conflict of Interest. Vice Mayor Campbell chaired this portion of the meeting.

Karen Majors, Assistant City Manager, reviewed the previous relationship between the City and the Benicia Harbor Corporation; Memorandum of Understanding was developed to help promote a better working relationship between the parties and accomplish a set of established goals; stated that a meeting had been held the prior evening to explain the rate increase to the berthers.

Vice Mayor Campbell asked what the cost would be to break the lease with the Benicia Harbor Corporation; requested the status of the Tide Gate and Marina storm drain; suggested the possibility of a committee to review maintenance problems.

Heather McLaughlin, City Attorney, clarified the procedures and cost of terminating the lease agreement.

John Ash, Benicia Harbor Corporation, explained the previous dredging episode and how it would be handled this year; dredging will be conducted on schedule.

Roger Williams, Benicia Harbor Corporation, clarified current and future Marina berthing fees.

Eight concerned citizens spoke on this item.

Council Member Whitney expressed concerns about the notification process for the meeting with the boat owners; dredging performance has been poor; all parties could do better; Benicia Harbor Corporation has a right to make a profit, but must also provide service; defer this item to the first meeting in September.

Council Member Smith clarified the amount of rent the Benicia Harbor Corporation would be paying to the City; advance notice of meetings seems to be a chronic problem; would like the MOU to contain a clause on how the dredging account will be managed and a provision to create a three member committee to review problems; agrees with the rent increases but not ready to support MOU tonight.

Vice Mayor Campbell stated support for the MOU; would like a better complaint system; review raises on a yearly basis; defer the vote on this item for two weeks in order to obtain additional input.

Consensus of the Council was to defer this item to the first meeting in September.

Vice Mayor Campbell called for a break at 9:52 p.m.
Mayor Messina reconvened the meeting at 10:06 p.m.

RESOLUTION APPOINTING OTTO GIULIANI AS INTERIM CITY MANAGER
SELECTION OF AN EXECUTIVE SEARCH FIRM TO CONDUCT THE RECRUITMENT FOR A
NEW CITY MANAGER

Vice Mayor Campbell requested that this item be moved up on the Agenda.

Mayor Messina stated it was the job of the Council to select the next City Manager; process needs to be followed; spoke to various cities that have used Bob Murray and Associates, the proposed executive research firm; Town Meetings will be held and additional community input will be solicited; recommended support.

Three concerned citizens spoke on this item.

Council Member Smith stated that he had not had enough time to research the proposals; would like to postpone decision; make this an apolitical process.

Council Member Bidou stated support for the proposed Resolutions; move ahead tonight.

Council Member Whitney expressed support for the proposed Resolutions; each Council Member votes as an individual; allow Mr. Giuliani to stay on as Interim City Manager.

Vice Mayor Campbell supports retaining Mr. Giuliani; good at bringing out the issues.

Council Member Smith proposed that the Council consider the hiring of a "Range Rider", a veteran City Administrator that temporarily takes over during the search for a new City Manager; the League of California Cities endorses this concept; this approach enables the recruitment period to be above reproach.

Council took the following actions:

RESOLUTION NO. 02 - 130 - A RESOLUTION HIRING OTTO GIULIANI AS THE INTERIM
CITY MANAGER

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

Ayes: Council Members Bidou, Campbell, Whitney and Mayor Messina

Noes: Council Member Smith

On motion of Council Member Bidou, seconded by Council Member Whitney, selection of the executive search firm Bob Murray and Associates, to conduct the recruitment for a new City Manager, was adopted, by the following vote:

Ayes: Council Members Bidou, Campbell, Whitney and Mayor Messina

Noes: Council Member Smith

COUNCIL REQUEST FOR NEW AGENDA ITEMS:

DISCUSSION REGARDING DATE TO HEAR THE APPEAL FROM DONNELL RUBAY TO PLANNING COMMISSION APPROVAL OF NEGATIVE DECLARATION, USE PERMIT AND PROJECT APPROVAL OF JULY 2002

Vice Mayor Campbell requested that this item be moved up on the Agenda; would like to be fair to both applicant and appellant.

Mayor Messina did not participate in this discussion due to Conflict of Interest.

Vice Mayor Campbell chaired this portion of the meeting.

Heather McLaughlin, City Attorney, stated that due to information received from the FPPC earlier in the day, Council Member Bidou needed to recuse himself due to Conflict of Interest.

Council Member Smith questioned the statutory requirements; concerned that holding a special meeting would give the appearance of preferential treatment.

Steve Messina, Applicant, stated that he was willing to do whatever the City determines is the right course of action; prefers the hearing to be sooner rather than later.

Donnell Rubay, Appellant, stated that it was important for everyone to be acquainted with the Historic Conservation Plan before the hearing; September 10, 2002 would be an acceptable date.

One concerned citizen spoke on this item.

Consensus of the Council was to give direction to staff to schedule the hearing for September 10, 2002.

Denial of claims and referral to insurance carrier.

Van Why

Wilson

Dietlein

Pinole Valley Trucking

Council Member Smith requested that this item be pulled from the Consent Calendar; requested that no action be taken on the Van Why claim; needs more information; denial of this claim sends the wrong message to disabled residents.

Heather McLaughlin, City Attorney, explained the circumstances surrounding this claim; this is the next step in the process and will allow the claimant to get proper representation.

On motion of Council Member Whitney, seconded by Council Member Bidou, Denial of claims and referral to insurance carrier, was approved, by the following vote:

Ayes: Council Member Bidou, Campbell, Whitney and Mayor Messina

Noes: Council Member Smith

RESOLUTION APPROVING THE ISSUANCE AND SALE OF WATER REVENUE BONDS IN THE AMOUNT OF \$10,855,000 FOR THE PURPOSE OF REFUNDING CERTAIN WATER REVENUE OBLIGATIONS OF THE CITY

Mayor Messina and Otto Giuliani, City Manager, requested that this item be pulled from the Consent Calendar; explained that this would provide significant savings to the City.

Council took the following action:

RESOLUTION NO. 02-131 - A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS FOR THE PURPOSE OF REFUNDING CERTAIN WATER REVENUE OBLIGATIONS OF THE CITY, AND RELATED MATTERS

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

Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

RESOLUTION ACCEPTING BIDS, AWARDING THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$108,759.08 TO EVANS GRADING AND PAVING OF FORESTHILL AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY FOR THE MILITARY EAST OVERLAY PROJECT

Vice Mayor Campbell requested that this item be pulled from the Consent Calendar; congratulated the staff for a job well done.

Council Member Smith did not participate in this discussion due to Conflict of Interest.

Council took the following action:

RESOLUTION NO. 02- 132 - A RESOLUTION ACCEPTING THE BIDS, AWARDING THE CONSTRUCTION CONTRACT FOR THE MILITARY EAST OVERLAY PROJECT IN THE AMOUNT OF \$108,759.08 TO EVANS GRADING & PAVING OF FORESTHILL, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

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

Ayes: Council Members Bidou, Campbell, Whitney and Mayor Messina

Noes: None

Abstain: Council Member Smith

RESOLUTION ACCEPTING THE RANCHO BENICIA SEWER REPLACEMENT PROJECT, INCLUDING CHANGE ORDERS 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

Vice Mayor Campbell requested this item be pulled from the Consent Calendar; recused due to Conflict of Interest.

Council took the following action:

RESOLUTION NO. 02-133 - A RESOLUTION ACCEPTING THE RANCHO BENICIA SEWER REPLACEMENT PROJECT, INCLUDING CHANGE ORDERS 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

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

Ayes: Council Members Bidou, Smith, Whitney and Mayor Messina

Noes: None

Abstain: Council Member Campbell

RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE CALIFORNIA STATE LIBRARY'S PUBLIC LIBRARY SERVICES FOR PEOPLE WITH DISABILITIES GRANT
This item was pulled from the Consent Calendar in error.

Council took the following action:

RESOLUTION NO. 02- 134 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA STATE LIBRARY PUBLIC LIBRARY SERVICES FOR PEOPLE WITH DISABILITIES PROGRAM GRANT FOR FISCAL YEARS 2002/2003 AND 2003/2004 AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN DOCUMENTS

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

Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

PUBLIC HEARINGS:

RESOLUTION APPROVING THE SUBMITTAL OF A STATE REVOLVING FUND (SRF) LOAN APPLICATION IN THE AMOUNT OF \$9,999,000 FOR THE INFLOW/INFILTRATION (I/I) PROJECT AND DESIGNATING THE CITY MANAGER AND THE DIRECTOR OF PUBLIC WORKS AS AUTHORIZED REPRESENTATIVES OF THE CITY OF BENICIA

RESOLUTION APPROVING AMENDMENT NO. 2 TO THE MASTER AGREEMENT FOR CONSULTANT SERVICES AND TASK ORDER 9 AT A COST NOT-TO-EXCEED \$1,080,00 WITH CAROLLO ENGINEERS FOR THE FINAL ENGINEERING DESIGN SERVICES ON THE INFLOW/INFILTRATION (I/I) IMPROVEMENT PROJECT

Otto Giuliani, City Manager, gave a report outlining the project; placed on Agenda for a Public Hearing so that public comment can be made.

Mayor Messina opened the Public Hearing. No written protests were received.

Mayor Messina closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 02-135 - A RESOLUTION APPROVING SUBMITTAL OF A STATE REVOLVING FUND LOAN APPLICATION IN THE AMOUNT OF \$9,999,000 FOR THE INFLOW/INFILTRATION (I/I) IMPROVEMENT PROJECT AND DESIGNATING THE CITY MANAGER AND THE DIRECTOR OF PUBLIC WORKS AS THE AUTHORIZED REPRESENTATIVES OF THE CITY OF BENICIA

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

Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

Council took the following action:

RESOLUTION NO. 02- 136 - A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE MASTER AGREEMENT FOR CONSULTANT SERVICES AND TASK ORDER NO. 9, AT A COST NOT-TO-EXCEED \$1,080,000, WITH CAROLLO ENGINEERS FOR FINAL ENGINEERING DESIGN SERVICES FOR THE INFLOW/INFILTRATION IMPROVEMENT PROJECT

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

Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

REPORTS FROM CITY MANAGER:

MAYOR'S COMMANDANT'S RESTORATION FUND

Otto Giuliani, City Manager, announced the amount of funds raised from the sale of the Benicia's Treasures Calendar; total amount received in the Restoration Fund to date is \$44,169.59.

REPORTS FROM CITY COUNCIL COMMITTEES:

BI-MONTHLY COMMITTEE REPORTS:

MAYORS' COMMITTEE MEETING

Mayor Messina stated that the next meeting would be held on August 21, 2002.

ARSENAL RESTORATION ADVISORY BOARD

Vice Mayor Campbell stated that the next meeting would be held at the Benicia Library on August 21, 2002.

SEDCORP BOARD OF DIRECTORS

Vice Mayor Campbell reported that at the last meeting a vote was taken to support the ½ cent Sales Tax Issue that would be on the November ballot; fund raising for this issue was occurring; discussion held on the possibility of the closure of Travis Air Force Base.

AUDIT & FINANCE COMMITTEE

Council Member Whitney stated that a review of past and future budgets was held; Otto Giuliani, City Manager, attended meeting.

TRI-CITY COUNTY REGIONAL PARK AND OPEN SPACE

Council Member Whitney stated that a new map had been prepared and that the name had been changed to Sky Valley-Cordelia Open Space; large portion of PG & E property had been acquired; looking into the possibility of a Regional Park.

VALERO CITIZENS ADVISORY PANEL (CAP)

Council Member Whitney announced that there would be a workshop held on September 21, 2002 to discuss Water and Air Emission Issues at the Valero Refinery; regular meeting of the CAP would be held on August 22, 2002 at the Benicia Library.

BAY CONSERVATION AND DEVELOPMENT COMMISSION

Mayor Messina reported that the City had received \$5300.00 from BCDC.

SOLANO WATER AUTHORITY

Mayor Messina stated that a discussion was held regarding the Solano County Grand Jury Report concerning flood control.

SCHOOL DISTRICT LIAISON

Council Member Smith stated that a meeting would be held on September 18, 2002.

SOLANO TRANSPORTATION AUTHORITY

Council Member Bidou reported that no meetings were held this month.

YOUTH ACTION TASK FORCE

Council Member Bidou announced that he had requested that Cecile Kazemi, Director, make a presentation to the City Council at the next meeting.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:31 p.m.

Linda S. Purdy, City Clerk