

September 3, 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
SEPTEMBER 3, 2002

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 7:01 p.m. Tuesday, September 3, 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 Legal Counsel - Existing Litigation
(Pursuant to Subdivision (a) of Government Code Section 54956.9)

Name of case: 1. Guzzetti v. City of Benicia

Conference with Legal Counsel – Anticipated Litigation
(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9)

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: 04 p.m.

MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
SEPTEMBER 3, 2002

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7: 32 p.m. Tuesday, September 3, 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:

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

Re: Conference with Legal Counsel - Existing Litigation - Guzzetti v. City of Benicia - direction was given to the City Attorney to settle the case.

Re: Conference with Legal Counsel - Anticipated Litigation - Mayor Messina, Council Member Bidou, and Otto Giuliani, City Manager, did not participate in the discussion due to Conflict of Interest. Vice Mayor Campbell announced that information had been received on pending arbitration re: Marina.

SEPTEMBER 11TH COMMUNITY REMEMBRANCE ACTIVITIES

Mayor Messina announced that a Remembrance Ceremony would be held at Fire Station One on September 11, 2002, 6:45 a.m. to 7:29 a.m.; this Ceremony is open to the community.

APPOINTMENTS: SOLANO TRANSPORTATION IMPROVEMENT AUTHORITY "CITIZENS OVERSIGHT COMMITTEE"

Mayor Messina announced the appointment of Mike Lamb to the Solano Transportation Improvement Authority "Citizens Oversight Committee".

RESOLUTION NO. 02-137 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MIKE LAMB TO THE SOLANO TRANSPORTATION IMPROVEMENT AUTHORITY "CITIZENS OVERSIGHT COMMITTEE"

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

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

Noes: None

Mayor Messina announced the reappointment of Fred Deltorchio to the Civil Service Commission to fill a full term to September 3, 2005.

RESOLUTION NO. 02-138 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF FRED DELTORCHIO TO THE CIVIL SERVICE COMMISSION TO FILL A FULL TERM TO SEPTEMBER 3, 2005

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

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

Noes: None

Mayor Messina announced the appointment of Paul Ruiz to the Human Services Fund Board to fill a full term to July 1, 2006.

RESOLUTION NO. 02-139 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF PAUL RUIZ TO THE HUMAN SERVICES FUND BOARD TO FILL A FULL TERM TO JULY 1, 2006

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

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

Noes: None

PRESENTATIONS:

YOUTH MASTER PLAN AND YOUTH ACTION TASK FORCE

Cecile Kazemi, Coordinator, presented a report on the status of the Youth Action Task Force; Benicia is one of the first cities in Solano County to pass a Resolution committing to reducing rates of ATOD usage among youth and their families; listed progress to date, goals and objectives.

PROCLAMATIONS:

POLLUTION PREVENTION WEEK - SEPTEMBER 16-22, 2002

Mayor Messina read the Proclamation.

ADOPTION OF AGENDA:

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

On motion of Council Member Whitney, seconded by Council Member Bidou, Agenda was adopted, by the following vote: Ayes: Council Members Bidou, Campbell, Smith, Whitney and Mayor Messina Noes: None

COMMUNICATIONS:

WRITTEN:

Mayor Messina stated that correspondence had been received from Dana Dean and Catherine Machalinski concerning the possibility of hiring an independent expert for the Valero Refinery Improvement Project.

PUBLIC COMMENT:

Bob Mutch, 695 Knight Drive, gave an update on the status of the X-Park; thanked all that have been working on the project; read a list of donations and those items that were still needed. Council Member Whitney requested clarification on the status of the pavers and bricks fund raising effort.

Council Member Smith thanked Mr. Mutch for the excellent update.

Council Member Smith stated that he had expressed concerns about the process to pick a new City Manager; has spoken to the recruitment firm and sent them a copy of the General Plan and now happier; encouraged citizens to attend one of the two community forums to be held regarding the hiring of the new City Manager; last item on the Agenda is important for the community.

Toby Reichenberg, 1854 Shirley Drive, attended the information meeting held on the impact of the Valero Improvement Project; information very complicated and difficult to understand; supports the suggestion for an independent expert to be hired on behalf of the citizens.

Larry Fullington, 833 Clifton Court, stated that he had received a very good recommendation on the firm hired to recruit the new City Manager.

Catherine Machalinski, 1856 Shirley Drive, expressed concerns about the Valero Improvement Project; workshops are fairly well done, but information is biased; an outside independent expert is needed for real communication and trust.

Cathy Ann Hewitt, 266 East B Street, #68, stated that Community Colleges provide the opportunity to learn new skills; accurate information is important and supports the request for an outside expert for the refinery project; children need adequate nutrition and exercise.

Council Member Smith asked for clarification on the Special Council Meeting scheduled for September 10, 2002.

Otto Giuliani, City Manager, stated that the meeting had been cancelled.

Linda Lewis, 282 West I Street, in favor of hiring of an independent expert for the Valero Improvement Project; no expansion plan for the sulfur scrubber.

Bob Craft, 323 Columbia Circle, community would be well served by an independent unbiased person; concept deserves consideration.

Marilyn Bardet, 333 East K Street, grateful for the respect shown for the process concerning the Police Station and Messina/Lopes Project; requested a firm answer on a doing a new EIR for the Tourtelot Project; supports the concept of an independent expert for the refinery project.

Council Member Whitney announced improvements that will be made to the CAN System; stated that there will be two new sirens, portable alert monitors for the schools, connection to the Contra Costa System, dispatch center upgrade and additional public education.

CONSENT CALENDAR:

Mayor Messina asked if there were any requests for items to be pulled from the Consent Calendar.

Vice Mayor Campbell requested Item E be pulled from the Consent Calendar; willing to approve Item D- Denial of Claim and referral to insurance carrier - Gardyn, however would like a Closed Session scheduled for the next meeting to be given additional information.

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

Minutes of August 20, 2002

Check Registers for July 2002

Monthly Investment Reports for April through June, 2002

Denial of claim and referral to insurance carrier (Gardyn)

RESOLUTION NO. 02- 140 - A RESOLUTION APPROVING AN ENCROACHMENT AGREEMENT WITH THE PROPERTY OWNER, LIDIA WOYTAK, OF 401 FIRST STREET AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

RESOLUTION NO. 02- 141 - A RESOLUTION APPROVING AN ENCROACHMENT AGREEMENT WITH THE PROPERTY OWNERS, CHRIS AND LORRI TRINGALI, OF 907 WEST 6TH STREET AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

RESOLUTION NO. 02- 142 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2002/2003 AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN DOCUMENTS

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

(END OF CONSENT CALENDAR)

RESOLUTION ADOPTING THE SOLANO COUNTY CODE REGARDING DANGEROUS ANIMALS

Vice Mayor Campbell requested that this item be pulled from the Consent Calendar; questioned several of the sections and suggested changes be made regarding fines, penalties and permits given for dangerous animals.

Heather McLaughlin, City Attorney, stated that it was her intention to revise this entire section (Animal Code) of the Benicia Municipal Code by the end of the year; suggested passing this Code in addition to the City's current code until then.

Council took the following action:

RESOLUTION NO. 02-143 - A RESOLUTION ADOPTING ARTICLE 1V, DANGEROUS ANIMALS, OF CHAPTER 4, ANIMALS AND FOWL, OF THE SOLANO COUNTY CODE

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, Smith, Whitney and Mayor Messina

Noes: None

PUBLIC HEARINGS:

RESOLUTION APPROVING THE GRANTEE PERFORMANCE REPORT FOR THE CITY'S HOUSING REHABILITATION REVOLVING LOAN FUND (RLF) IN REFERENCE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT

Brenda Gillarde, Principle Planner, stated that this report was filed annually; loan provided funds to owners and renters for housing rehabilitation.

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

Mayor Messina closed the Public Hearing.

Council took the following action:

RESOLUTION NO. 02-144 - A RESOLUTION APPROVING THE GRANTEE PERFORMANCE REPORT FOR THE CITY'S HOUSING REHABILITATION REVOLVING LOAN FUND

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

RESOLUTION APPROVING THE CLOSEOUT REPORT FOR TECHNICAL ASSISTANCE GRANT (99-STBG-1421) IN REFERENCE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT

Brenda Gillarde, Principal Planner, stated that funds from this Grant enabled Solano Affordable Housing to conduct pre-development studies and prepare design and construction drawings for the 56-unit Rockridge affordable housing project.

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- 145 - A RESOLUTION APPROVING THE CLOSE OUT REPORT FOR TECHNICAL ASSISTANCE GRANT 99-STBG-1421

On motion of Council Member Bidou, 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

ADOPTION OF COST OF LIVING INCREASES FOR SPECIFIED CITY FEES:

ADOPTING A FEE INCREASE FOR LIBRARY BOOK FEES

ADOPTING A FEE INCREASE FOR PARKLAND DEDICATION

ADOPTING A FEE INCREASE FOR CAPITAL IMPROVEMENT LICENSE TAX

Otto Giuliani, City Manager, stated that these fees are adopted on a yearly basis; if fees are not adopted on a yearly basis raises would be substantial.

Council Member Smith questioned the amount of the Library Book Fee; appears to be calculated differently and a high percentage than other fees.

Alan Nadritch, Finance Director, stated that amounts are rounded off to the nearest dollar.

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

Cathy Ann Hewitt, 266 East B Street, stated that it made sense to do the increases on a yearly basis.

Mayor Messina closed the Public Hearing.

Council took the following actions:

RESOLUTION NO. 02-146 - A RESOLUTION ADOPTING AN INCREASE IN THE LIBRARY BOOK FEE

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, Campbell, Smith, Whitney and Mayor Messina

Noes: None

RESOLUTION NO. 02-147 - A RESOLUTION ADOPTING AN INCREASE IN THE PARK LAND DEDICATION FEE

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

RESOLUTION NO. 02-148 - 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 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

Mayor Messina called for a break at 8:49 p.m.
Mayor Messina reconvened the meeting at 8:55 p.m.

REPORTS FROM CITY MANAGER:
FINANCIAL OVERVIEW OF FISCAL 2001-2002 AND PROPOSED 2002-2003 BUDGET
ADJUSTMENTS

Otto Giuliani, City Manager, stated that the City is in a very sound financial condition; listed revised numbers for the General Fund Overview; the budget adjustments have been reviewed by the Audit and Finance Committee; State funding could change after the November elections and advised caution.

Mayor Messina stated that he would like to see the reserve amount changed from 15% to 20%.

Council Member Smith stated that there has been economic repercussions since September 11, 2001; has been assured that there is additional funding for BERT training; would like the extension of the swimming pool season to be kept in mind for later funding; would like to match the Community effort and provide additional funding of \$40,000 for the X-Park.

Otto Giuliani, City Manager, stated that there were adequate funds to take the swim season to next years budget review.

Vice Mayor Campbell supported raising the reserve to 20%; wait until the State has resolved their budget crisis; subject of the pool was going to be addressed at the next Parks, Recreation and Cemetery Commission meeting; provide funding for X-Park on an installment basis.

Council Member Bidou complimented the staff; agrees with raising the reserve to 20%; wait to make budget adjustments until after State elections.

Council Member Whitney supports additional funding for the X-Park; suggested setting up meeting and obtaining accurate numbers for that funding;

Three concerned citizens spoke on this item.

Council Member Smith made a motion to pass the Resolution with amendments to give an additional \$40,000 to X-Park funding and raise the reserve amount to 20%.

Motion died for lack of a second.

Otto Giuliani, City Manager, encouraged a meeting with all parties concerned with the X-Park; get actual numbers; other methods of funding other than use of the General Fund.

Council took the following action:

RESOLUTION NO. 02-149 - A RESOLUTION AMENDING THE 2002-2003 MUNICIPAL
BUDGET, AS AMENDED

On motion of Council Member Bidou, seconded by Council Member Whitney, the above Resolution was adopted, as amended, by the following vote:

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

Noes: None

CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING FOR THE FICAL YEAR ENDED JUNE 30, 2001

Otto Giuliani, City Manager, offered congratulations to Alan Nadritch, Finance Director, and his staff; eleventh year this award has been presented to the City.

NEW BUSINESS:

RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A CONTRACT WITH CONCEPT MARINE ASSOCIATES OF OAKLAND, CA FOR THE DEVELOPMENT OF PLANS AND SPECIFICATIONS FOR THE WEST 9TH STREET LAUNCH RAMP AND RESTROOM IMPROVEMENTS IN THE AMOUNT NOT TO EXCEED \$71,345

Otto Giuliani, City Manager, explained grant funding has been received for this project; this contract will allow the project design to move forward.

Council took the following action:

RESOLUTION NO. 02- 150 - A RESOLUTION APPROVING THE CONTRACT WITH CONCEPT MARINE ASSOCIATES OF OAKLAND, CALIFORNIA FOR DEVELOPMENT OF PLANS AND SPECIFICATIONS FOR THE WEST 9TH STREET LAUNCH RAMP AND RESTROOM IMPROVEMENTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

On motion of Council Member Smith, 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 REQUEST FOR NEW AGENDA ITEMS:

DISCUSSION OF VALERO CAP MEMBER'S REQUEST FOR INDEPENDENT EXPERT

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

Council Member Smith reviewed testimony from citizens, letters and e-mails received and the request from a member of the Valero CAP for an independent expert to review documents; approximately \$10,000 would be needed; would give the citizens a measure of reassurance.

Council Member Whitney stated that since he represented the Council on the CAP the matter should have been brought to his attention directly by Council Member Smith; feels this discussion is premature; wait until EIR and CEQA Review has been done; discussion and any recommendation should be done at the CAP meetings.

Mayor Messina stated that the process was important; allow the CAP to function; Valero Refinery does not hire consultants they are hired by the City and prepare documents; Council Member Whitney should bring item to CAP and than bring back a report to the Council.

Council Member Smith apologized to Council Member Whitney; had spoken to another Council Member prior; does not have the confidence in the CAP; pro Refinery bias; need for an independent expert.

Vice Mayor Campbell would like two opinions; supports Council Member Smith's position, but allow CAP to review first and report.

Mayor Messina confirmed that consensus was for Council Member Whitney to bring item to attention of the CAP and report back to the Council.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 10:00 p.m.

Linda S. Purdy, City Clerk