

September 4, 2001

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 4, 2001

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 7:00 p.m. Tuesday, September 4, 2001.

CITY CLERK ANNOUNCEMENT OF CLOSED SESSION

Linda S. Purdy, City Clerk, stated the Benicia City Council Meeting is called to order and announced that the Council will immediately convene in Closed Session to discuss the following:

CLOSED SESSION

Conference with Legal Counsel-Existing Litigation  
(Subdivision (a) of Government Code Section 54956.9)

Name of Case: City of Benicia v. Patterson

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

MINUTES OF THE  
REGULAR MEETING - CITY COUNCIL  
SEPTEMBER 4, 2001

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:45 p.m. Tuesday, September 4, 2001, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Bidou, Corbaley, Gizzi, 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, re: Existing Litigation-City of Benicia v. Patterson - gave direction to Attorneys and Council Representatives (Council Member Gizzi and Mayor Messina) for settlement conference.

Mayor Messina announced the formation of the Benicia Transit Citizen's Advisory Committee; applications are available in the City Manager's office.

APPOINTMENTS:

Mayor Messina announced the reappointment of Annie Lloyd to the Parks, Recreation and Cemetery Commission to fill a full term to September 17, 2005.

RESOLUTION NO. 01-142 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF ANNIE LLOYD TO THE PARKS, RECREATION AND CEMETERY COMMISSION TO FILL A FULL TERM TO SEPTEMBER 17, 2005.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the appointment of Dave Layton to the Parks, Recreation and Cemetery Commission to fill an unexpired term to July 6, 2002.

RESOLUTION NO. 01-143 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF DAVE LAYTON TO THE PARKS, RECREATION AND CEMETERY COMMISSION TO FILL AN UNEXPIRED TERM TO JULY 6, 2002

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the reappointment of John Blunt to the Civil Service Commission to fill a full term to September 3, 2004.

RESOLUTION NO. 01-144 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF JOHN BLUNT TO THE CIVIL SERVICE COMMISSION TO FILL A FULL TERM TO SEPTEMBER 3, 2004.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the reappointment of Ted Todd to the Civil Service Commission to fill a full term to September 3, 2004.

RESOLUTION NO. 01-145 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF TED TODD TO THE CIVIL SERVICE COMMISSION TO FILL A FULL TERM TO SEPTEMBER 3, 2004.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the appointment of Tony Borges to the Finance and Audit Citizen's Committee.

RESOLUTION NO. 01-146 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF TONY BORGES TO THE FINANCE AND AUDIT CITIZEN'S COMMITTEE.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the appointment of Larry Fullington to the Finance and Audit Citizen's Committee.

RESOLUTION NO. 01-147 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF LARRY FULLINGTON TO THE FINANCE AND AUDIT CITIZEN'S COMMITTEE.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the appointment of John Woods to the Finance and Audit Citizen's Committee.

RESOLUTION NO. 01-148 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOHN WOODS TO THE FINANCE AND AUDIT CITIZEN'S COMMITTEE.

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

PROCLAMATIONS:

POLLUTION PREVENTION WEEK - SEPTEMBER 17-23, 2001

Mayor Messina read the Proclamation; accepted by Virgil Mustain, Public Works Director.

BENICIA PUBLIC LIBRARY'S FAMILIES FOR LITERACY PROGRAM 10 YEAR ANNIVERSARY

Mayor Messina read the Proclamation; accepted by Sandy Kirkpatrick, FFL Program Coordinator.

OVARIAN CANCER AWARENESS MONTH

Mayor Messina read the Proclamation.

ADOPTION OF AGENDA:

Mayor Messina asked if there were any changes to the Agenda; stated that he had a request from a Council Member to move Item XII - New Business to be heard prior to Item XI - Unfinished Business.

On motion of Council Member Gizzi, seconded by Council Member Whitney, and unanimously carried, Agenda was adopted as amended, moving Item XII - New Business prior to Unfinished Business.

COMMUNICATIONS:

WRITTEN COMMUNICATIONS:

PUBLIC COMMENT:

Richard Bortolazzo, 846 Dorset Way, commented on the development process in Benicia; stated that it was his observation that there were those that opposed every new project proposed; pointed out inaccuracies in a petition that is being circulated against the Jefferson Park project.

James O. Milburn, 280 East J Street, read his poem on humility.

Scott Goldie, 686 Vincent Court, Pacific Bay Homes, Senior Vice President, stated that the petition that was being circulated was misleading; read carefully before signing; threatened private property owners and their rights.

John Woods, 355 West N, thanked Mayor Messina for his appointment on the Finance and Audit Committee.

Council Member Whitney commented on the Habitat for Humanity Project; suggested that the citizens go see the houses that are being built.

CONSENT CALENDAR:

Council Member Bidou requested Item VII - G be pulled due to his abstention for Conflict of Interest.

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

Minutes of August 14, 2001

(The above minutes reflect the absence/abstention votes of Council Member Bidou and Mayor Messina due to - Conflict of Interest)

Minutes of August 21, 2001

Approval of Check Registers for July 2001

RESOLUTION NO. 01-149 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BENICIA AND THE CITY OF MARTINEZ RELATIVE TO THE BENICIA BRIDGE EXPANSION PROJECT

RESOLUTION NO. 01-150 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2001/2002 AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN DOCUMENTS

INTRODUCTION AND FIRST READING OF ORDINANCE NO. 01 - AN ORDINANCE ADDING A NEW CHAPTER 1.32 (CLAIMS FOR MONEY OR DAMAGES) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

RESOLUTION NO. 01-151 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO PCS SITE AGREEMENT ALLOWING SPRINT SPECTRUM, L.P. TO CO-LOCATE COMMUNICATION FACILITIES (METRO PCS) AT THE R-1 WATER RESERVOIR SITE LOCATED AT 1471 PARK ROAD AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE MEMORANDUM OF LEASE, SUBJECT TO THE APPROVAL

BY THE CITY ATTORNEY, AND DIRECTING THE CITY CLERK TO RECORD THE MEMORANDUM OF LEASE

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

(END OF CONSENT CALENDAR)

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT IN THE AMOUNT OF \$450,000 TO BERRYMAN AND HENIGAR OF PLEASANTON FOR PLAN CHECK AND CONSTRUCTION INSPECTING SERVICES ON THE VALERO COGENERATION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT AGREEMENT WITH VALERO

Council Member Bidou requested this item be pulled due to a Conflict of Interest.

Council took the following action:

RESOLUTION NO. 01-152 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSULTANT CONTRACT WITH BERRYMAN AND HENIGAR OF PLEASANTON AND TO APPROVE PAYMENT AGREEMENT BETWEEN THE CITY OF BENICIA AND VALERO REFINING COMPANY - CALIFORNIA (VALERO) FOR PLAN CHECK AND CONSTRUCTION INSPECTION ON THE VALERO COGENERATION PROJECT SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

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

Ayes: Council Members Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Abstain: Council Member Bidou

NEW BUSINESS:

RESOLUTION APPROVING THE CONTRACT CHANGE ORDER IN THE AMOUNT OF \$50,067 TO CALIFORNIA COMMERCIAL POOLS FOR THE RE-PLASTERING OF THE DIVE POOL AT THE JAMES LEMOS SWIM CENTER

At the request of a Council Member this Item had been moved up on the Agenda.

Otto Giuliani, City Manager, explained the reasons for the change order.

One concerned citizen spoke on this item.

Council took the following action:

RESOLUTION NO. 01-153 - A RESOLUTION APPROVING CONTRACT CHANGE ORDER IN THE AMOUNT OF \$50,067 WITH CALIFORNIA COMMERCIAL POOLS FOR RE-PLASTERING OF THE DIVE POOL AT THE JAMES LEMOS SWIM CENTER

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Council Member Bidou noted in reference to Consent Calendar, Item VII -A- Minutes of August 14, 2001 that the City Clerk had recorded an abstention vote for both Mayor Messina and himself due to Conflict of Interest.

UNFINISHED BUSINESS:  
CONSIDERATION OF A RESOLUTION APPROVING THE TENTATIVE MAP FOR THE  
BENICIA WATERFRONT PLANNED DEVELOPMENT PROJECT

Mayor Messina stated that he and Council Member Gizzi had a Conflict of Interest on this item and would not participate in the discussion. Vice Mayor Bidou conducted the discussion.

Otto Giuliani, City Manager, stated that the staff had met with the developer to discuss the proposal to provide maintenance by either a Homeowners Association or through the CC &Rs; changes had been made to the wording of the Resolution to insure that there would be a mechanism that would address the City's concerns about perpetual maintenance; escrow deadline facing the developer.

One concerned citizen spoke to this item.

Council Member Corbaley expressed concerns about perpetual maintenance; asked if there were any other options available; questioned what leverage the City would have to be sure it's concerns were met.

Heather McLaughlin, City Attorney, stated that there were other options; staff has met with BCDC and the Developer to explore.

Don Reber, Braddock and Logan, Developer, stated that a joint maintenance agreement with the homeowners could solve the problem; a Homeowners Association would not serve the public.

Council Member Corbaley requested that the Resolution be changed to include that this item would be brought back to the Council for approval before the Final Map is approved and recorded.

Council took the following action:  
RESOLUTION NO. 01-154 - A RESOLUTION APPROVING A TENTATIVE SUBDIVISION MAP  
FOR THE BENICIA WATERFRONT VILLAGE PROJECT (PLN 2000-56), AS AMENDED.

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

Ayes: Council Members Bidou, Corbaley and Whitney

Noes: None

Abstain: Council Member Gizzi and Mayor Messina

ADJOURNMENT:

Vice Mayor Bidou adjourned the meeting at 8:35 p.m.

Linda S. Purdy, City Clerk