

September 5, 2000

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
REGULAR MEETING - CITY COUNCIL
SEPTEMBER 5, 2000

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:31 p.m. Tuesday, September 5, 2000, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Councilmembers Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina asked David Perea, Drum Major, and Joyce Hernandez, Color Guard Captain, Benicia High School Panther Band, to lead the pledge to the flag.

ANNOUNCEMENT:

VISIT BY LORNE BROWN, PRESIDENT OF THE PASADENA TOURNAMENT OF ROSES
PARADE 2001 ON SEPTEMBER 8, 2000

Mayor Messina announced that Mr. Brown would be in Benicia on September 8, 2000 to meet the students of Benicia High School and tour the City; a fund raising dinner reception will be held at the Clock Tower on that evening.

APPOINTMENTS:

Mayor Messina announced the appointment of Cecile Kazime to the Human Services Board for a full term to July 1, 2004.

ADOPTION OF AGENDA:

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

On motion of Councilmember Whitney, seconded by Councilmember Bidou, and unanimously carried, Agenda was adopted as presented.

RESOLUTION NO. 00-126 - A RESOLUTION CONFIRMING MAYOR'S APPOINTMENT OF
CECILE KAZIME TO THE HUMAN SERVICES FUND BOARD FOR A FULL TERM TO JULY 1,
2004

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

Ayes: Councilmembers Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina announced the appointment of Mary Eichbauer to the Library Board of Trustees to fill an unexpired term to June 11, 2001.

RESOLUTION NO. 00-127 - A RESOLUTION CONFIRMING MAYOR'S APPOINTMENT OF MARY EICHBAUER TO THE LIBRARY BOARD OF TRUSTEES TO FILL AN UNEXPIRED TERM TO JUNE 11, 2001

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

Ayes: Councilmembers Bidou, Corbaley, Gizzi, Whitney and Mayor Messina RNoes: None

PROCLAMATION:

"POLLUTION PREVENTION WEEK"

Mayor Messina read the Proclamation; a display will be at the Library from September 18 to September 24, 2000.

ADOPTION OF AGENDA:

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

On motion of Councilmember Whitney, seconded by Councilmember Bidou, and unanimously carried, Agenda was adopted as presented.

COMMUNICATIONS:

PUBLIC COMMENT:

Mayor Messina requested that public comment pertaining to all issues on the Agenda be heard at this time.

Kitty Griffin, 236 Baker Street, spoke on the removal of Planning Commissioner, Elizabeth Patterson; issue has been blown out of proportion; this situation is not one of integrity.

Dan Smith, 365 Military East, summarized the case against the Planning Commissioner; property is in the same condition as when it was purchased; this is a political move.

James O. Milburn, 280 East J Street, spoke on misdirected power regarding the removal of Planning Commissioner.

Cathy Hewitt, 266 East B Street, spoke on removal of Planning Commissioner; violations on Yuba property owned by Benicia Industries; announced meetings pertaining to nursery schools.

Jerri Curry, 364 Columbia Circle, spoke on leash law; fines are very high; would like to see fines for those who litter and who do not pick up after their dogs.

Richard Bortolazzo, 838 First Street, Chair, Benicia Chamber of Commerce, supports Good Neighbor Agreement with Valero.

Bob Craft, 323 Columbia Circle, spoke on Good Neighbor Agreement; Air Monitoring Program lacks specificity; against amendment.

Gregg Renfrow, 1060 Jackson Street, objected to change in format of Agenda, disrespectful to the public; also spoke on removal of Planning Commissioner; dispute is over an encroachment, not a planning violation.

Marilyn Bardet, 333 East K Street, spoke on removal of Planning Commissioner; problem could have been solved without litigation.

Rich Marcogliese, General Manager, Valero Refining, supports the revisions proposed to the Good Neighbor Agreement.

Charley Duggins, 414 Larkin Drive, supports Valero Good Neighbor Agreement.

Jan Cox-Golovich, 179 Harbor Vista Court, spoke on removal of Planning Commissioner; cited Ms. Patterson's service to the City as a member and Chairperson of GPOC; questioned the legal procedure for removal.

Peggy Martin, 146 West E Street, agrees with report on Historic Preservation; proposed a third alternative to the plan presented.

Nancy Steele, 41 Buena Vista, spoke on removal of Planning Commissioner; there has been no changes to the existing home since it was purchased; the City is equally at fault; requested the City to reconsider; valuable member of the Commission.

Dana Dean, 503 Cambridge Drive, Good Neighbor Steering Committee, thanked Valero for inclusion in the process; feels some of the language in the amendment is weak.

Councilmember Corbaley questioned what appears to be the use of a different format this evening in reference to comments from the public; causes confusion; requested clarification on the legality.

Heather McLaughlin, City Attorney, responded that the Brown Act requires that public testimony is heard before you take action on an item; all testimony can be required up front except for items listed in the Public Hearing section.

Councilmember Corbaley commented that although the procedure may be correct, allowing public comment as the items appear on the Agenda is a long standing precedent; requested that there be further discussion on this change.

Mayor Messina stated that a discussion of this procedure can be put on the next Agenda; balances the needs of the Council and the public; moving the Communication/Public Comment section of the Agenda was done to allow the public to speak earlier in the evening.

CONSENT CALENDAR:

Mayor Messina stated he has a request from the public to pull Item F; asked if there were any other items to be pulled from the Consent Calendar.

Councilmembers Gizzi and Whitney also requested Item F be pulled.

On motion of Councilmember Corbaley, seconded by Councilmember Gizzi, and unanimously carried, the following items were approved under the Consent Calendar:

Minutes of August 15, 2000.

Denial of Late Claim and referral to insurance carrier - THOMAS.

Denial of Claims and referral to insurance carrier - PETERSON and O'BLENNIS.

Check Registers for July 2000.

RESOLUTION NO. 00-128 - A RESOLUTION APPROVING AMENDMENTS TO SUBDIVISION IMPROVEMENT AGREEMENTS FOR SOUTHAMPTON UNITS D1, D6 AND D7

RESOLUTION NO. 00-129 - A RESOLUTION ACCEPTING EAST 5TH STREET SANITARY SEWER EXTENSION AND REPLACEMENT PROJECT, AUTHORIZE CITY MANAGER TO

SIGN NOTICE OF COMPLETION, AND CITY CLERK RECORD SAME WITH SOLANO COUNTY RECORDER

RESOLUTION NO. 00-130 - A RESOLUTION ACCEPTING THE YEAR 2000 STREET OVERLAY PROJECT, AUTHORIZE CITY MANAGER TO SIGN NOTICE OF COMPLETION, AND CITY CLERK RECORD SAME WITH SOLANO COUNTY RECORDER

RESOLUTION NO. 00-131 - A RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE MASTER AGENCY-STATE AGREEMENTS FOR STATE-FUNDED TRANSPORTATION PROJECTS

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

(END OF CONSENT CALENDAR)

PURCHASE OF SEWER INSPECTION TELEVISION SYSTEM FROM 3T EQUIPMENT COMPANY, INC. IN THE AMOUNT OF \$91,207.55

Cathy Ann Hewitt, 266 East B Street, Slip #68, requested this item be pulled from the Consent Calendar.

Councilmembers Gizzi and Whitney requested this item be pulled from the Consent Calendar.

Councilmember Whitney asked for clarification on the warranty, reliability, and difficulty of operation of the camera equipment.

Virgil Mustain, Public Works Director, responded; also stated that at the present time this service is being contracted out; this will save money for the City; for lines that are over 24" a larger camera would be required and those services would continue to be contracted out.

Councilmember Gizzi asked about the bidding process; would like to see all bids be provided in the packet even if we are using bids from another agency; feels \$91,000 is too high a price; concerned about this item being heard under the Consent Calendar.

Heather McLaughlin, City Attorney, clarified the use of bids from other agencies.

Councilmember Corbaley stated this would provide substantial savings; requested this be brought back at next meeting.

Mayor Messina requested that the staff provide the additional information and delay one Council meeting.

This item was referred to staff and deferred to the next meeting.

REPORTS FROM CITY MANAGER:

GOOD NEIGHBOR AGREEMENT WITH VALERO REFINING COMPANY

Councilmember Bidou stated that due to conflict of interest he would be stepping down and abstaining from this discussion.

Otto Giuliani, City Manager, gave a report; the Good Neighbor Agreement had been previously approved; direction was given to staff to continue negotiations with representatives of Valero to obtain enhancements to certain areas of the Agreement; stated those areas.

Councilmember Corbaley commented on the Agreement; responsibility of the City to protect the citizens; asked if there was more public comment.

Two concerned citizens expressed their views.

Councilmember Gizzi stated that this Agreement represented a policy statement offered in good faith and encouraged the community to look at it for what it has, not what it does not have.

Richard Marcogliese, General Manager, Valero Refining, explained the air monitoring program.

Councilmember Corbaley requested a change be made on page 4 of the Agreement and the word "may" be changed to "shall"; found the explanation of the NOX Reduction Credit Program provided by Valero very helpful and asked if a similar presentation could be made and televised for the public.

Council took the following action:

RESOLUTION NO. 00-132 - A RESOLUTION AMENDING THE GOOD NEIGHBOR AGREEMENT WITH VALERO REFINING COMPANY

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

Ayes: Councilmembers Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Abstain: Councilmember Bidou

UNFINISHED BUSINESS:

CONSIDERATION OF REPORT AND RECOMMENDATIONS FROM THE HISTORIC PRESERVATION COMMITTEE

Otto Giuliani, City Manager, reviewed the staff report; Historic Preservation Advisory Committee recommended the expansion of Parks, Recreation and Cemetery Commission and Design Review Commission by adding members with either historic expertise or interest.

Seven concerned citizens expressed their views.

Councilmember Gizzi stated that the proposed Resolution seemed to short cut the process; cited advantages to having a separate commission; will not support the Resolution.

Councilmember Corbaley objected to the premise of the staff report; neither of the present commissions have time for Historic Preservation; supports a separate commission.

Councilmember Whitney expressed concern about losing focus down the road; supports the creation of an additional commission.

Councilmember Bidou stated the object is to promote Historic Preservation; not opposed to another commission, but would like an avenue that would provide results; bring back at another meeting.

Mayor Messina stated he was not against the Resolution as presented; need to restore and preserve our Historic assets; would like to see something in the next budget that addresses this subject; Council consensus was to hold off on this item and continue; staff to bring back a proposal for Council consideration for a separate group that would focus on historic preservation.

PRESENTATION BY THE MAYOR OF CERTIFICATES OF APPRECIATION TO THE HISTORIC PRESERVATION COMMITTEE FOR COMPLETION OF ITS MISSION

Mayor Messina read the Certificates of Appreciation.

Mayor Messina and the members of the City Council presented Certificates of Appreciation to the members of the Historic Preservation Advisory Committee.

Mayor Messina called for a break at 10:29 p.m.
Mayor Messina reconvened the meeting at 10:38 p.m.

NEW BUSINESS:

DISCUSSION OF REMOVAL OF PLANNING COMMISSIONER

Mayor Messina asked if there was any additional public comment.

Two concerned citizens expressed their views.

Mayor Messina read a statement regarding the legal action taken against Ms. Elizabeth Patterson, Planning Commissioner. Cited Section 2.52.110 of the Benicia Municipal Code, which provides for the removal of a Planning Commissioner by four affirmative votes of the City Council.

Mayor Messina asked for a vote of the Council to approve the removal of Elizabeth Patterson as a member of the Planning Commission effective immediately.

Roll call vote passed as follows:

Ayes: Councilmembers Bidou, Gizzi, Whitney and Mayor Messina

Noes: Councilmember Corbaley

ADJOURNMENT:

Mayor Messina adjourned the meeting at 10:40 p.m.

Linda S. Purdy, City Clerk