

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
SEPTEMBER 5, 2006

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:46 p.m. on Tuesday, September 5, 2006, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Schwartzman, Whitney, and Mayor Messina
Absent: Council Members Hughes and Patterson (arrived at 6:48 p.m.)

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

OPPORTUNITY FOR PUBLIC COMMENT:

None

CLOSED SESSION:

**A. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

**Agency negotiators: City Manager, Human Resources Director, Bill Avery
of Avery & Associates**

**Employee organizations: Benicia Dispatchers Association, Benicia Police
Officers Association, Benicia Public Service Employees Association,
Professional & Confidential / Supervisory (Local 1)**

**Unrepresented employees: Police Managers, Middle Management, and
Senior Management**

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:47 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 5, 2006

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:00 p.m. on Tuesday, September 5, 2006, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Ms. McLaughlin reported that Council received a status update from Staff on labor negotiations.

Openings on Boards and Commissions:

- People Using Resources Efficiently (PURE) Committee:
One immediate opening
- Civil Service Commission:
One full term to August 30, 2009
One unexpired term to January 6, 2007
- Sky Valley Open Space Committee:
One full term to August 30, 2010
One full term to September 30, 2010

Human Services Fund Board will host a public forum at City Hall on September 11, 2006 at 7:00 p.m.

APPOINTMENTS:

RESOLUTION 06-130 - A RESOLUTION APPOINTING DANIEL J. HEALY TO THE PLANNING COMMISSION TO A FULL TERM ENDING SEPTEMBER 30, 2010

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

PRESENTATIONS:

People Using Resources Efficiently (PURE) Update - Bob Craft, Chair of PURE:

Since the last PURE report, there have been two changes in the committee: Steve Dean resigned, and the committee's former Valero representative, Don Cuffel has been replaced by Guy Young, Technical Director of the refinery.

The committee is in the midst of its CEQA evaluation phase. This was kicked off with a public workshop meeting on 7/12. To begin the workshop, the committee's engineering consultants provided an overview of the project including the why and how of the concept as well as a high-level description of the MF/RO, UV filtration and nitrification processes, including the projected siting of these components at the Wastewater Treatment Plant.

The committee's CEQA consultants then provided a full description of CEQA as it applies to the project. Members of the public (six were in attendance) raised two primary concerns. They believed that not much had been made known about the project previously. This, despite the fact that work has been ongoing since 2003 and has been well publicized. To close this perceived gap, the attendees at our workshop will receive a mailer prior to all future PURE meetings and public comment and questions will always be possible at these sessions.

Additionally, concerns were expressed about the siting of the facilities, their height, and the effect on resident sight lines. As a result, visual simulations are being developed in an attempt to show all concerned the finished look and the visual effect from off-site.

To summarize, with respect to the committee's timeline, its major benchmark is the CEQA evaluation currently underway. This should be completed by the end of October, reviewed by City and the committee in November, and circulated for public and other agency review in December. The committee's plan is to respond to comments and do a final review with certification by March of next year. The committee's goal at this point is for the project to be completed and operational by 2010 concurrent with completion and IOC of the major system upgrades at Valero. This will permit a seamless integration of the water reuse facilities and operations at Valero.

As Council knows, there are funding constraints with respect to producing a 2 MGD system. While enough funds appear to be available for at least a 1 MGD, the committee continues to look for additional funding. In June, Chris Tomasik and I met with Valero to describe our grant efforts to date and to discuss Valero – through their Sacramento government representative – assisting the committee in identifying grant opportunities and helpful contacts.

Council may also recall some elevated metal readings in the committee's three rounds of tests. A fourth round was conducted in June and as suspected, the elevated readings were

a result of faulty test equipment. A change out of equipment resulted in acceptable measurements of residual metals in the processed wastewater samples. Thus, all test readings now fall within acceptable operational parameters.

Finally, as a sidebar, early in the methodology testing phase, two students from Benicia High School were selected to help in the water testing at the treatment plant. One of the students subsequently enrolled at UCLA and her mother in a letter to Chris Tomasik, credited the project work as a very big plus for her daughter. Her daughter received 60 out of 60 on her global studies class test. As a direct result of her involvement with PURE's lab testing, the student was able to discuss water issues at a municipal and global level, as well as their relationship. The student's professor was delighted – no student had ever been awarded a perfect score on this exam.

The next PURE meeting is scheduled for 10/10/06.

PROCLAMATIONS:

- National Preparedness Month – September 2006
Mr. Jerry Pollard, Chair, Benicia Citizens Council Corp, accepted the proclamation and introduced local BERT members. Mr. Bob Powell, Solano County Office of Emergency Services Manager, donated brochures on safety preparedness, as well as a commercial disaster kit worth \$300.00 to the City of Benicia. Chief Hanley thanked Connor Judd, Eagle Scout, for distributing over 9,000 earthquake preparedness booklets to the citizens of Benicia.
- Literacy Awareness Day – September 8, 2006
- Pollution Prevention Week – September 18-24, 2006

ADOPTION OF AGENDA:

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Linda Jimenez – Ms. Jimenez, Solano Patients Groups, and Compassionate Coalition, discussed the issue of medical marijuana use. She extended an invitation to the September 29, 2006 Solano County Board of Supervisor's meeting.
2. Kitty Griffin – Ms. Griffin discussed development in the Arsenal. Currently the building of thirty \$750,000 homes in the Arsenal is being considered, along with 50 affordable senior homes, for a total of 80 units on one property. It will raise the same issue that has been raised in the past with respect to impact on a National Historic District. She recently met with the Director of the Solano housing non-profit group that is proposing to develop this area. One thing that impressed her was that he said that he does not trust the process because these things always

take longer than anticipated, up to months/years, and he cannot wait that long. Why does he think it will be delayed for so long? Is it possible that the controversy about who on Council could vote on the issue could slow it down? Is there something else that could add to the challenge of the process that we do not know about? Is there something else that could get into the way that we don't know about? She believes in the process. There may be some things out there that could slow down the process. She wants to know how each Council Member vote if a planned unit development (PUD) should come before Council. Is there reason to hope that Council would vote for a project in the absence of a solution to the use of that territory?

Council Member Patterson asked Staff for a routine update from Staff on the progress with the program? This is not the first time she has heard this concern. She is not expecting a detailed report, just something that is informative to Council and the public to let them know whether or not the program is on schedule and whether or not things are under control. She also asked Staff to look at policy implications of projects that continue to come forward during a planning process. She stated that she was reminded that the County and its general plan process has adopted a policy that affects projects that might come forward while the General Plan is being updated. Perhaps it would make sense for Council to consider that. She asked if Staff could bring something back to Council as soon as possible. Mr. Erickson stated this was one of the top ten priorities. The list is provided to Council on a monthly basis. If Council wishes, that list could be made available to the public as well. To the best of his knowledge, the project is on schedule. There is a September 18th start for the next set of public meetings for this process. Regarding staff input on projects brought forward in the Downtown and Arsenal areas, during the General Planning efforts. Council Member Patterson stated that she was not concerned about the Downtown area because the City has an effective land use designation. She was concerned about the Arsenal because of the uncertainties of the mixed use and so forth. Staff could separate those out, and for the projects that are coming forward are mostly dealing with the Arsenal. There is a planning tool that is available as well as policy that could be adopted that Staff might get back to Council so it could consider and possibly adopt it. Mayor Messina reminded Mr. Erickson to follow the 15-minute rule. Staff could spend a little more time than that, but if it would be prolonged efforts, he could come back to Council for approval.

3. Ann Hanson – Ms. Hanson thanked Council and Staff for their efforts in getting the roof at the Benicia Historical Museum replaced. The museum will be closed during construction to protect the artifacts. She thanked Staff for their work on the signs. She announced some of the Museum's upcoming events.

Mayor Messina stated that he had a few public comment cards. He reminded the public that this public comment portion of the agenda was for items that were not on the agenda. Council Member Patterson asked for clarification from the City Attorney regarding instances where a citizen wished to speak on multiple items that were on the agenda, there is a provision that states they can speak during the

initial public comment portion of the agenda. Mayor Messina stated that was correct.

4. Susan Street – Ms. Street thanked Council for the Opticos process. It was very exciting to be a part of it. She was one of the first interviewees. She knew that Richard Bortolazzo was interviewed right after her. She is puzzled as to why, on Wednesday night where there was no mention of his proposal. There was mention of Ms. Olson's proposal. Nobody knew anything about Mr. Bortolazzo's proposal. Now, we are hearing that he has already met with senior housing and he already has plans for 50-80 homes. How could that happen? It was not mentioned in the group meeting on Wednesday night, which she finds disturbing. Overall, it was a fabulous experience.

Ms. McLaughlin clarified that if someone wishes to speak publicly on multiple items, the Sunshine Ordinance allows that person to speak under public comment. Mayor Messina asked if that was something that required a vote by Council. Ms. McLaughlin stated she needed a minute to look that up.

5. Marilyn Bardet – Ms. Bardet also appreciated the visioning workshop. She too was surprised about the announcement that there was a project being discussed for Arsenal Ridge. She was excited the Council has supported the notion of getting a specific plan to finally decide and determine the nature of mixed use for the Arsenal. Spending \$250,000 for a specific plan in the heritage corridor is a very important commitment. Heritage tourism is very important for Benicia. It would provide an economic benefit for the entire community for a very long time. She believes that heritage tourism is almost unthinkable without an Arsenal park. She knew the ridge was an optimum place for that park because it is considered by the State of California to be a historic setting. The two residential projects that are proposed for this area of the Arsenal pose a bigger problem because they are talking about 102+ units, many of which are upscale, which provisions have not been discussed yet under mixed use. This would have a great impact on the port area, industrial user traffic, etc. The greatest problem is that we could be asked to consider PD zoning for these two projects. A PD is designed to avoid the ordinance, which should be planned for. The threat to the Arsenal's character has never been more real than now.

Mayor Messina stated that he had cards from Sabina Yates and Mary Magill, which state they want to discuss items that are on the agenda. He asked if they could wait until the items are discussed. The two citizens responded from their seats and the responses were not audible. Mayor Messina stated that it might be more beneficial, in terms of the dialogue, to speak when the items come up on the agenda. He believed there was a provision that allows a citizen to speak under public comment when they are speaking on multiple agenda items. Ms. McLaughlin stated that it was the presiding officer's discretion to grant up to 10 minutes to a speaker who wishes to speak on multiple agenda items, if they choose to speak about all items at the same time. Mayor Messina stated it would be his preference for the citizens to wait and speak when the agenda item comes up for discussion. The two citizens responded, however, they did not approach the

podium and their comments could not be heard. Mayor Messina stated that his sense was the Council would give them all the time they need to discuss their concerns when the agenda item came up for discussion.

6. George Colin – Mr. Colin lives at 857 Hanlon Way, Benicia. He stated that he is paying taxes but is not getting anything for it. He was having problems with grass being too high around his property. He submitted pictures and contact information to the City Manager. Mayor Messina stated that Mr. Erickson would look into his concerns and get back to him.
7. Bob Mutch – Mr. Mutch stated that the X-Park is getting closer to going out to bid. They are 110 days away from opening day at the park.
8. Council Member Whitney – Council Member Whitney discussed an article in the paper about the Benicia cemetery. He would like to have a discussion about improving the cemetery, maintaining it; replace the damaged head stones, etc. Also, the City received a letter from the Attorney General, which stated that the way planning commissioners were appointed in the past was the appropriate way to do it, not the way Council recently voted to handle the appointments. The reason he voted no on that item was because he felt Council did not have enough information at the time. Council sort of put the cart before the horse.
9. Council Member Patterson – Council Member Patterson asked that some thought be given to the use of public comment for comments by Council Members. It puts the rest of the Council Members at an extreme disadvantage in being able to say anything. Council Member Whitney’s comment was not complete information and that is unfortunate. Now the other Council Members cannot say anything unless it is put on an agenda, which is another hassle. There was a better way to handle this that would have been more informative to the public.

CONSENT CALENDAR:

Council pulled items VII-B, VII-J, and VII-K.

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Council approved the Minutes of August 15, 2006.

RESOLUTION 06-131 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2006/2007 AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN DOCUMENTS

ORDINANCE 06-8 - AN ORDINANCE AMENDING SECTION 17.24.030 (RS, RM AND RH DISTRICTS- PROPERTY DEVELOPMENT REGULATIONS) OF CHAPTER 17.24 (RESIDENTIAL DISTRICTS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE BY AMENDING SUBSECTION R (REDUCTION OF LOT WIDTH)

ORDINANCE 06-9 - AN ORDINANCE AMENDING SECTION 17.24.030 (RS, RM AND RH DISTRICTS- PROPERTY DEVELOPMENT REGULATIONS) OF CHAPTER 17.24 (RESIDENTIAL DISTRICTS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SUBSECTION S (FLAG LOTS)

ORDINANCE 06-10 - AN ORDINANCE AMENDING SECTION 17.12.030 (DEFINITIONS) AND SECTION 17.70.250 (SATELLITE ANTENNAS AND MICROWAVE EQUIPMENT) OF CHAPTER 17.70 (SITE REGULATIONS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO UPDATE DEVELOPMENT STANDARDS AND REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES

RESOLUTION 06-132 - A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE OAK HILL SUBDIVISION

RESOLUTION 06-133 - A RESOLUTION APPROVING THE SPECIAL FEE DEFERRAL PAYMENT AGREEMENT FOR THE RESIDENTIAL DEVELOPMENT PROJECT AT 660/670 EAST N STREET

RESOLUTION 06-134 - A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE WATERFRONT VILLAGE SUBDIVISION

RESOLUTION 06-135 - A RESOLUTION ACCEPTING THE BIDS FOR THE CAMEL BARN MUSEUM RE-ROOFING PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO WESTERN ROOFING SERVICES OF SAN FRANCISCO IN THE AMOUNT OF \$149,996, AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY, AND APPROPRIATING \$34,000 FROM THE GENERAL FUND RESERVE

RESOLUTION 06-136 - A RESOLUTION AUTHORIZING A THREE-YEAR RENEWAL AGREEMENT WITH INTER-TEL LEASING INC. FOR TELECOMMUNICATIONS AND VOICEMAIL EQUIPMENT

RESOLUTION 06-137 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER AN AGREEMENT WITH HARRIS COMPUTER SYSTEMS TO PROVIDE UTILITY BILLING SOFTWARE AND REMOTE TECHNICAL SERVICES FOR INTERNET ACCESS AND PAYMENT APPLICATIONS FOR A COST NOT-TO-EXCEED \$260,790 AND APPROPRIATING AN ADDITIONAL \$15,210 EACH FROM THE WATER AND WASTEWATER FUNDS

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Authorization of staff to proceed with applications for Supplemental Environmental Projects:

Council Member Whitney stated that he asked for this to be brought forward because while participating in the Citizen's Advisory Panel (CAP), it occurred to him that there are a lot of instances at Valero where they have violation notices (VN's). Those end up being dollars; those dollars go to the Air District and never come back to the community. Supervisor Silva went to the Air Board with Council Member Whitney to present a proposal asking for a portion of those dollars to come back to the community so it could mitigate the impacts of the refinery. The approach the Air Board suggested creating the separate programs, and having Supervisor Silva take them to the Air Board. The City would then be in line to have some of the dollars go towards mitigating the effects of the refinery.

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, Council authorized Staff to proceed with applications for Supplemental Environmental Projects, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Award of Construction Contract for the West 7th Street Sidewalk Safety Project and update on Urban Stream Restoration Proposal:

Council Member Patterson pulled this to discuss some proposed changes. In doing the repair, it would be a temporary repair, but we also need to have a long-term solution because the erosion and stream bank stabilization problem will most likely continue. Coupled with the long-term solution was also the idea of fulfilling the General Plan Goal of 2.15 – to create a protected landscaped sidewalk for West 7th Street between I-780 and Military West. She would like guidance from Staff on two things. The minor correction on page VII-J-3 – fourth full paragraph – in reference to Anne Riley; Dr. Riley is a Staff person with the State/San Francisco Regional Water Quality Control Board. She came with another Water Board staff person to a Planning Commission meeting to provide a brief presentation on why the kind of drainage structural improvements being contemplated now don't last. The whole discussion of her being a 'consultant' should be stricken. She would like to move to approve, conditioned on direction to Staff. The condition would be to direct Staff to prepare a concept and a process that includes the public to a level of detail suitable for funding from grants such as those provided by Proposition 84 (should it pass) the small stream restoration programs and other urban stream restoration programs available within a certain time period (to be discussed) linking such program to traffic calming to fulfill the General Plan Goal of 2.15 and program 2.15(g).

Mr. Erickson stated that Staff believes it has direction ultimately to move forward with this kind of study and evaluation and come back to Council. If the City embarks on a process such as suggested, it would be expensive, especially if it is City driven. The alternative would be to wait on the majority of that work until we have an application for development. Staff thinks that the property owner would come in with an application for

some residential development. At that time, there could be a cooperative effort – there could be a condition of approval, etc. He does not want to get too far ahead of ourselves and do something prematurely.

Council Member Whitney asked Mr. Schiada if the repair that is being contemplated was considered a permanent fix. Mr. Schiada stated that the repairs that will be put in there will prevent any further erosion that would affect the sidewalk on the street sections or points where the City is focusing its efforts. The City is improving the sections that have damages and providing protection to prevent further damages. The City is working on the fix to make it a safe sidewalk so it can be maintained as a safe access for the school kids. Council Member Whitney stated that when this was brought forward in a prior budget cycle, his main concerns were health and safety. Council Member Patterson discussed the restoration portion, which is a good idea; however, he is not sure if he wants to tie the health and safety to that. He would rather take care of the health and safety concerns and then move into the restoration, if that is how Council wants to go.

Council Member Hughes stated that he agreed with Council Member Whitney. When this was brought forward earlier, it was based on public safety issues. It sounds like this will resolve the public safety issue. He does not disagree that the longer-term project is worth looking at. However, Council took a lot of time and went through a process of identifying priorities. To add to Staff's plate right now would take resources away from what has already been prioritized. It is something that could be looked at in the future.

Council Member Patterson stated that because what she is proposing is a winning strategy for the City that would address the long-term public health and safety issues associated with the lack of restoring the urban stream, the winning strategy is that by anticipating the planning funds that are available for this (especially in Proposition 84), the sooner the City could have something in concept, the better position the City would be in to take advantage of everything. If the City waits five years, it is quite likely the funds would be exhausted from the bonds, just like in Propositions 20, 40, and 50. The City has been dealing with the issues on West 7th Street since the early 1990's, and we have gone through three propositions, and the City has yet to take advantage of any of the funds that were available. Now the public health issue is that there is erosion that will take place, which is bad in terms of water quality. The Safety issue is that these repairs don't last. The City can decide to do something about it now, or it can let future generations deal with it. What she proposed is to go ahead with the award of the contract, but to give direction to Staff to begin to get prepared and have the concept in a manner that the City could take advantage of existing money and potential future money. It would be a winning situation. The property owner may be willing to work with the City on this.

Vice Mayor Schwartzman asked how long it would take to craft a concept. Council Member Patterson stated that a concept could be created in a month's time. Vice Mayor Schwartzman stated that he likes the idea of getting the creek restored, however he is not sure he wants it tied to this repair. No one knows if Proposition 84 will pass. If it would only take a month or two, it would seem to him we should be prepared. It may be better

to keep it separated. Council Member Patterson suggested that Council could say that Staff should have the concept ready within a 6-month time period.

Council Member Whitney asked Council Member Patterson to clarify the language changes she was requesting. Council Member Patterson stated that in addition to moving to adopt the Resolution, Council would give direction to Staff to prepare a concept and a process that includes the public to a level of detail suitable for funding from existing grants such as the Small Streams Restoration and Urban Streams Restoration Programs, and others, and possibly provided by Proposition 84 (should it pass) within a 6-month time period linking the concept to traffic calming pursuant to General Plan Goal for 2.15.

Vice Mayor Schwartzman stated that he was not fond of the reference to traffic calming. He would rather see Council put this forth, move this along, get this fixed, and give direction to Staff that if Proposition 84 passes, that within 6 months, Council would want to have a concept, especially for the stream restoration. He understands the traffic calming issue; it's not that he is not in favor of that, however it is getting more complicated.

Council Member Whitney asked Mr. Schiada if Staff could pick up and run with the timeframes that are being discussed. Mr. Schiada stated that staff does not have the in-house expertise for preparing a concept for an urban stream restoration project. A consultant would have to be hired. He does not have a good feel for the cost at this time. He is a little concerned that there would need to be funding allocated in order to proceed.

Council Member Patterson stated that she does not think a consultant would need to be hired. That level of expertise is not necessary. It is planning concept, not engineering concept.

Mayor Messina stated that he was comfortable with the current version. He would prefer to wait to see what happens with Proposition 84 before the concept issue is dealt with.

Vice Mayor Schwartzman stated that he pulled this because of money. In the past, with other projects, it seems that Council has had to approve budget figures, then re-approve additional funds, and in some cases, approve more funds on top of that. He asked Mr. Schiada for his confidence level with this project. Mr. Schiada stated that originally when funds were set aside for this project; it was estimated at \$75,000. What this shows is that Staff did not have the in-house expertise to come up with a seat of the pants estimate to get the money put in the budget to accommodate this unanticipated project. Some unique construction methods will be used that will cost money. This is something that needs to be done. He feels comfortable that the money Staff is asking for in this report will be sufficient to complete the project because Staff put in some contingency funds to accommodate minor change orders that could occur. He shares the enthusiasm for a restoration project, the City needs to make sure it gets some support that there is a good estimate when applying for funds for the restoration.

On motion of Council Member Patterson, seconded by Mayor Messina, Council did not

approve the amended resolution, with a condition directing Staff to prepare a concept plan, seeking technical assistance from the San Francisco Regional Water Quality Control Board, to a level of detail suitable for funding from existing grants such as the Small Streams Restoration and Urban Streams Restoration Programs, and others, and possibly provided by Proposition 84 within a 6-month time period, on roll call by the following vote:

Ayes: Council Member Patterson

Noes: Council Members Hughes, Schwartzman, Whitney, and Mayor Messina

Council Member Hughes clarified that it is not that he does not think it is a good idea, but approving it would send a mixed message to the Staff regarding use of resources, labor, and budget.

Vice Mayor Schwartzman stated that he thought this was an important project, however he wants to wait and see what happens with Proposition 84. Also, he would perhaps like to bring this back, upon the passage of Proposition 84 so Council knows there is that particular aspect to move forward on.

RESOLUTION 06-138 - A RESOLUTION ACCEPTING THE BIDS FOR THE WEST 7TH STREET SIDEWALK SAFETY PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO W.R. FORDE ASSOCIATES OF RICHMOND, CALIFORNIA, IN THE AMOUNT OF \$294,521.50, APPROPRIATING \$268,200 FROM THE GAS TAX FUND RESERVES FOR THE CONSTRUCTION, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

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

Ayes: Council Members Hughes, Schwartzman, Whitney, and Mayor Messina

Noes: Council Member Patterson

Award of consultant agreement for engineering services for the next planned phase of the Inflow and Infiltration (I/I) Improvement Program:

Vice Mayor Schwartzman asked for clarification on whether or not there was still 4 years left on the current revision of the plan. Mr. Schiada stated that when the 5-year plan was done, the two significant projects were the \$12.5 million I/I Pipeline Improvement Project and the \$7.5 million upgrade to the Wastewater Treatment Plant. Now that those are completed, Staff wants to re-evaluate some of the pipelines, flows, and hotspots to see if the City is still on track to stay with the projects that were in the 5-year plan, or are there other projects that are of more priority now.

RESOLUTION 06-139 - A RESOLUTION APPROVING THE CONSULTANT AGREEMENT FOR ENGINEERING SERVICES FOR THE NEXT PHASE OF THE INFLOW AND INFILTRATION IMPROVEMENT PROGRAM WITH CAMP DRESSER & MCKEE, INC. FOR A NOT-TO-EXCEED COST OF \$116,853, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Approval of Human Services Fund Board monitoring of Cultural Arts Grants - Continued from July 18, 2006 City Council meeting

Rob Sousa, Finance Director, reviewed the Staff report.

Council Member Patterson stated that she was troubled by the direction of this. She suggested the following changes to the language of the Resolution: Add a final whereas (before Section 1: Board Created - listed on page IX-A-5) stating 'whereas, the General Plan goal is to increase public awareness of cultural resources and activities will be furthered with continued City funding of cultural activities.'

Section 16: 'cultural Arts Program Defined' should read 'a cultural arts program for the purposes of this resolution, shall be those programs or activities which support and promote the arts as a major element in Benicia's community identify (Goal 3.6, pg. 109) encompassing the cultural arts, fine arts, theater arts, and other closely related fields that improve the quality and enjoyment of life by Benicia residents of all ages.' She stated that she was also concerned about the qualifications of the board members. The selection process needs to be addressed in the regulations they are reviewing.

Mayor Messina stated that he did not want to limit the selection process.

Council Member Hughes agreed with Mayor Messina on the issue of member qualifications. It should be opened up to all citizens and the most qualified of the candidates should be chosen.

Vice Mayor Schwartzman stated that he was okay with the 'whereas'. He wants to keep the selection process open, but encouraged the Mayor to appoint the most qualified candidates. He asked if the board would be changing its name. Mr. Andy O'Dell talked about the issue of a name change. It is not necessary. He suggested that if Council wanted the name changed, it could be the 'Human Services and Cultural Arts Board.'

Council Member Hughes stated that he would rather the issue of a name change go back to the HSF Board for discussion.

RESOLUTION 06-140 - A RESOLUTION AMENDING THE HUMAN SERVICES FUND AND HUMAN SERVICES FUND BOARD AUTHORIZATIONS IN THE CITY OF BENICIA

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Expression of support for Proposition 84 on the November 2006 Ballot:

Dan Schiada, Director of Public Works reviewed the Staff report. Council Member Patterson reviewed a PowerPoint presentation (hard copy on file).

Mayor Messina asked Ms. McLaughlin about the issue of ethics and spending tax dollars to express support – has Council crossed the line where it has misused public funds or resources? Ms. McLaughlin verified that Council was allowed to adopt resolutions in support of ballot measures or opposing ballot measures. .

RESOLUTION 06-141 - A RESOLUTION EXPRESSING SUPPORT FOR PROPOSITION 84: CLEAN WATER, PARKS AND COASTAL PROTECTION BOND

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

INFORMATIONAL ITEMS:

Reports from City Manager.

Reimbursement of City Council Members for travel expenses for trips to Benicia's Sister City:

Jim Erickson, City Manager, reviewed the Staff report.

Vice Mayor Schwartzman stated that it was his inclination that this was not really City business. It fosters good will. It was his understanding that anyone from the City of Benicia that goes to Tula is hosted, fed, and basically it is free trip, with the exception of airfare. He could not support reimbursement for travel expenses to Benicia's sister city. Vice Mayor Schwartzman asked Mr. Erickson how much time he spent on this issue. Mr. Erickson confirmed he spent approximately 1.5 hours researching this item. Vice Mayor Schwartzman asked if this item fell under the '15 minute rule'. Mr. Erickson confirmed it did. Vice Mayor Schwartzman stated that Council should keep that in mind in the future and be more cognizant of Staff's time. He would not have spent Staff's time on this. Something like this should come forward in a suggestion so Council could decide whether or not Staff should spend time on it.

Council Member Whitney stated that he agreed w/the Vice Mayor regarding the money. Although this is a worthy cause, he is not in favor of this.

Council Member Patterson stated that was a little harsh on the City Manager. She had expressed an interest in going. She did not think the expenses would be paid. She had some assurances that it would be, so she asked the City Manager and his response was that it was sort of related, we have this sister city relationship. She asked him to pursue this to see what other policies were in other cities. She did not want the City to do something that was inconsistent with what other cities were doing. Mr. Erickson's good

judgment was to do the survey and to find out what other cities were doing. With some surprise, it was found that most cities have a policy and don't support this. It would help the City to, in the future, adopt a simple policy on this so that such instances would be clear in the future. Staff should not be taken to task on this issue. The way it evolved, it made a lot of sense that they did the research on this.

Mayor Messina talked discussed when the Tula Sister City relationship was formed; this was part of the original proposal. He believes the money would be better spent on other things than travel expenses. He does not want to spend City money on this. He suggested having a short policy that precludes such spending in the future and bringing that policy back for review within six months or so.

Council Member Patterson stated that what the Mayor said is the exact reason that the City needs to have a policy. The memory is lost. There was no memory in the City with regards to the formation of the program. People can go away, but the policy would be on the books. For that reason, she totally supports the Mayor's position.

Council Member Whitney stated that there should be a policy in place for this for clarity's sake.

Mr. Erickson provided updates on issues raised at the last Council meeting. He stated that Staff received a list of concerns from Ms. Wika. This item will be on the 9/19 Council meeting. The football field at BHS looks magnificent.

Ms. McLaughlin stated that Benicia Harbor Corporation lawsuit has been settled, per Council's direction at the last Closed Session meeting. The changes to the Planning Commission Ordinance regarding the appointment process would be on the September 19 Council meeting. Mayor Messina suggested putting the changes on the consent calendar.

COMMENTS FROM COUNCIL MEMBERS:

Acknowledgement of efforts to keep the Suisun/Fairfield Amtrak Station open:
Council Member Patterson reviewed the letter that was sent out regarding the Suisun/Fairfield Amtrak Station.

Consideration of an ordinance amending Chapter 1.28 (Voluntary Expenditure Limits for All Municipal Elections) of Title 1 (General Provisions) of the Benicia Municipal Code:
Vice Mayor Schwartzman reviewed his reasons for bringing this item forward.

Consideration of an ordinance adding Chapter 1.36 (Voluntary Code of Fair Campaign Practices) to Title 1 (General Provisions) of the Benicia Municipal Code:

Consideration of an ordinance adding Chapter 1.40 (Clean Money Contributions and Reporting for All Municipal Elections) to Title 1 (General Provisions) of the Benicia Municipal Code:

Council Member Whitney stated that he wholeheartedly supports items XI-B and XI-C. With regards to XI-D, the direction the state legislation was going was probably the right

direction. He welcomes the discussion, but does not think where we have gone is far enough. If you do the math, it comes to approximately \$7,500.00 per candidate. It is difficult to spend that little, however he was willing to say that is where we need to be.

Mayor Messina stated that discussion should be held off until the item is brought back. Right now, Council needs to decide if it wants to bring these three items back for discussion.

Public Comment:

1. Sabina Yates – Ms. Yates stated that the acoustics in the room have improved. She can hear much more clearly. She has over 200 signatures regarding campaign contributions. She agrees with all three items coming back for discussion.
2. Mary Magill – Ms. Magill discussed the issue of big money looking like political bribery. Good leadership is dependent on trust. Trust goes away when big money comes in. The three items on tonight’s agenda are not addressing ‘clean elections’ but they are more ‘fair elections.’ Elections need to be both clean and fair. She stated that the group ‘Benicia Citizens for Fair Elections’ would like to be included in the discussions on these issues. The group has gathered many ordinances from other cities that Benicia could use when drafting its election ordinances.
3. Norma Fox – Ms. Fox stated that she too was concerned about the newspaper article regarding tonight’s agenda items. She understood there would be a public workshop before something was formulated on these subjects. She requested that be done – sponsor a Saturday workshop so citizens could have input on these issues. ‘Benicia Citizens for Fair Elections’ have gathered a lot of information on spending – she urged Council to check out their website to view the information. Mayor Messina informed Ms. Fox that her 5 minutes were up.

Council Member Patterson asked Mayor Messina to clarify what he meant when he told Ms. Fox during the initial public comment portion of the meeting when he told her she could have all the time she needed to discuss her concerns. Mayor Messina asked Ms. Fox if she needed more time to discuss her concerns.

Ms. Fox stated that she hoped Council and the public would visit the group’s website at <http://benicia.fair.elections.googlepages.com>

4. Kitty Griffin – Ms. Griffin stated that there does need to be a discussion on this. During the last election, there was a lot of wasted money spent on glossy flyers that were sent out. The main thing that needs to be addressed is how you have an election where the money does not influence the vote.
5. Council Member Hughes stated that he too spent a lot of money on his campaign, which he is neither ashamed nor proud of. He fully supports having workshops for these items.
6. John Woods – Mr. Woods stated that when you restrict the amount of money a candidate can spend, you automatically give the edge to the incumbent. He is concerned about the concept of voluntary campaign expenditure limits. With all of the restrictions, being a treasurer for a candidate is pretty much a full time job.

7. Bob Craft – Mr. Craft stated that he favors a discussion on the campaign finance issues and perhaps an ordinance. He wants the discussion to happen before the language for the ordinance is crafted.
8. Marilyn Bardet – Ms. Bardet stated that she agreed with Mr. Craft. She hopes the information goes in the newspaper before the language is crafted. A public forum would be helpful. She discussed the success of Rosie Switzer’s campaign for School Board. She did not spend a lot of money and had a successful campaign.
9. Susan Street – Ms. Street echoed Marilyn’s and Bob’s comments. It is crucial we stay a small town. She urged Council to hear the wisdom of the people in town.

Council Member Patterson stated that as she was saying last March, on proposing that Council have an ordinance re-adopting the ordinance that we had adopted for voluntary campaign expenditure limits and also that it develops a program that deals with and addresses some of the issues with outside money and independent sources and PACS. She wondered why she was never contacted by any Council Members to form a partnership on this, an obvious question. She also wondered what has changed that all of the sudden, we have these measures. In the newspapers, it was noted that the comment was made that it was because the legislation was not passing. In order for this to get on the agenda to have Council reconsider what she proposed last January, it had to be before the legislative session was over, plus we have Prop 89, which is a more detailed version of the AB583 – Clean Money Campaign Ordinance and statutes for state offices. She wanted to encourage and request to have a community workshop. There was a discussion in March about having that community dialogue. The League picked up on that and had that community dialogue. She had asked that the City sponsor that, but it was not approved. We are now hearing again from the community that they want to be in the loop of the design of whatever it is that the City is going to do. It is confusing to use a document such as the FPPC’s act as a basis for a local ordinance. We are already covered by state statutes. We want to have specific things that apply to Benicia. She would like to have a workshop, or two or three to find out what the community wants. She will live by the will of the public’s request.

Vice Mayor Schwartzman stated that the reason he did not contact Council Member Patterson was because of a potential Brown Act violation. He was in contact with another Council Member on this.

Council Member Whitney stated that he does not want this to be Council’s ordinance. He wants it to be the people’s ordinance. He has no issues with having a study session. It does not need to be rushed through. The City should take its time and come up with a good product.

Council Member Hughes supports a workshop and would like to move forward with that.

Mayor Messina stated that he would work with the City Manager to come up with some workshop dates. This will take some staff time. He will provide an update at the next council meeting.

Public Comment:

1. Susan Street – Ms. Street asked if Council were to organize a workshop on these issues, how will it avoid the Brown Act? Could Council meet with the public? Mayor Messina stated it would be structured like the workshops that have been done in the past, in an informal setting.

Council Member Patterson motioned to direct Staff to work with the Mayor to schedule more than one workshop to discuss the three issues. At least one of the workshops should be on a Saturday.

Council Member Hughes stated that he did not think Council needed to schedule a specific number of meetings. One meeting should be scheduled, see where it goes, and schedule more if necessary.

Council Member Whitney stated that he agreed with Council Member Hughes.

Vice Mayor Schwartzman stated that he thought it would take two meetings. One of the meetings should be on a weekend.

Mayor Messina stated that they would schedule one meeting, and more if necessary.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 9:51 p.m.

Lisa Wolfe, City Clerk