

**MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
SEPTEMBER 16, 2003**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 8:00 p.m. Tuesday, September 16, 2003, 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: Public Employee Performance Evaluation - City Manager - evaluated performance and reaffirmed further performance objectives.

Re: Conference with Legal Counsel - Existing Litigation - Wilson v. City of Benicia - direction given to staff.

Re: Conference with Legal Counsel - Existing Litigation - Madden v. Dietlein - direction given to staff.

OPENINGS ON CIVIL SERVICE AND PLANNING COMMISSION

Mayor Messina announced openings on the Civil Service Commission (4) and Planning Commission (3); applications available in the City Manager's office.

PRESENTATIONS:

FRIENDS OF BENICIA ARSENAL - WALKING TOUR

Donald Dean, President, and Belinda Smith, Secretary, Friends of Benicia Arsenal, made the presentation; non-profit organization to preserve the historic integrity of the Arsenal and promote historic tourism; in the process of development of a self-guided walking tour; future plans include virtual and docent tours; would like to work with the City on resolving crosswalk, sidewalk and Jefferson Street access issues.

Vice Mayor Campbell expressed concern about use of private property and liability issues; would like to mitigate these issues early in the process and take a less confrontational approach.

Mayor Messina requested that the Historic Preservation Commission be included in the process and used as an advisory board; proceed with all issues that do not involve private property rights.

Jim Erickson, City Manager, informed the Council that discussions have taken place with members of Friends of the Arsenal and a property owner; dialogue will continue.

Council Member Smith stated his support for the project; referred to a memo from the City Attorney on a cost estimate to analyze the title of the private property.

Vice Mayor Campbell referred to the 1975 Land Exchange Agreement; not sure about spending additional funding.

PROCLAMATIONS:

CONSTITUTION WEEK - SEPTEMBER 17-23, 2003

Mayor Messina read the Proclamation; accepted by Laurel Kinman and Connie Lawson, Daughters of the American Revolution, Chief Solano Chapter.

ADOPTION OF THE AGENDA:

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

On motion of Council Member Whitney, seconded by Council Member Smith, and unanimously carried, Agenda was adopted as presented.

COMMUNICATIONS:**WRITTEN:****PUBLIC COMMENT:**

1. Council Member Smith announced the following meetings and events: (1) September 17, 2003 - Election Forum at the Senior Center to discuss upcoming ballot measures (2) September 18, 2003 - Special Council Meeting to discuss and review projects list (3) September 27, 2003 - Dedication Ceremony for a new Benicia link to the Bay Area Ridge Trail (4) September 27, 2003 - AHA Annual Chili Cook-off to be held at St. Paul's Church.
2. David Amar, 470 West J Street, spoke on responsible dog ownership; reviewed facts surrounding a dog attack that took place on September 5, 2003; read laws that govern dog control.
3. Marilyn Bardet, 333 East K Street, announced that a citizens committee supporting Measure O has been formed; reviewed some of the needs for a new police facility; announced the following events: (1) September 25, 2003 - Open House/Informational Reception at the Inn at Benicia Bay (2) September 30, 2003 - Open House at Police Station for eastside residents (3) October 18, 2003 - Civic Center Fair - Social Service Providers will be available at the fair.
4. Danika Kavulich, 450 Mills Drive, invited the public to attend a reception for Peter Camejo, Green Party candidate for Governor, to be held on September 21, 2002 - 332 Georgia Street, Vallejo - 7:00 p.m.; referred to a previous discussion held by the Council on placing the Patriot Act on the Agenda for review.
5. Dana Dean, 503 Cambridge Drive, announced that a forum would be held on September 17, 2003 - at the Senior Center to review Statewide Measures Propositions 53 and 54 and local Measures K, M and O; stated satisfaction with the current job performance of City Manager Jim Erickson.
6. Gretchen Burgess, 28 Buena Vista, spoke on zero tolerance of animals that harm others; dog attacks are a people issue; it is a responsibility to own a dog.
7. Jon Von Landschoot, 175 West H Street, approves of job performance by the City Manager; requested an update on the hiring process for a planner with historical preservation background.

Jim Erickson, City Manager, explained that the Planning Department is small and although every attempt will be made to hire someone with a historical preservation background, a person with a broad range is needed; no recruitment at present time; contract employee has been hired currently.

8. Vice Mayor Campbell referred to an article in the Benicia Herald concerning passage of a Sunshine Ordinance; would like to see some of the suggestions in the article implemented.

Heather McLaughlin, City Attorney, stated that the City has a policy to give out records to the extent that we can; City has tried to make records and meetings as open as possible.

9. Council Member Smith announced the Chamber of Commerce Business Mixer, September 17, 2003 from 4:30 p.m. to 7:30 p.m. at the Inn at Benicia Bay.

CONSENT CALENDAR:

Mayor Messina asked if there were any requests for items to be pulled from the Consent Calendar; requests were made to pull Items A, F, G, and H from the Consent Calendar.

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

Denial of Claim and referral to insurance carrier (Stillwell).

RESOLUTION NO. 03-131 - A RESOLUTION ACCEPTING BIDS, AWARDING THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$83,484.00 TO BRUCE CARONE GRADING AND PAVING OF CONCORD, CALIFORNIA FOR SOUTHAMPTON ROAD BUS STOP RELOCATION

PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

RESOLUTION NO. 03-132 - A RESOLUTION ACCEPTING THE DISTRIBUTION SYSTEM SUPERVISORY CONTROL AND DATA ACQUISITION (SCUDA) TELEMETRY PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAID NOTICE WITH THE SOLANO COUNTY RECORDER

RESOLUTION 03-133 - A RESOLUTION ACCEPTING THE YEAR 2003 OVERLAY PROJECT, INCLUDING CHANGE ORDER NOS. 1 AND 2, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

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

(END OF CONSENT CALENDAR)

APPROVAL OF MINUTES OF SEPTEMBER 2, 2003

Council Member Whitney did not attend this meeting and abstained from the vote.

Council took the following action:

APPROVAL OF MINUTES OF SEPTEMBER 2, 2003

On motion of Council Member Bidou, seconded by Council Member Smith, the Minutes of September 2, 2003 were adopted on roll call by the following vote:

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

Noes: None

Abstain: Council Member Whitney

RESOLUTION APPROVING PROJECTS FOR FUNDING UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002 (INCLUDES REQUEST FOR FUNDING FROM TRI-CITY OPEN SPACE)

Mayor Messina requested this item be pulled from the Consent Calendar; reaffirmed those items that would be funded under this program; use of leverage money.

Mike Alvarez, Director of Parks and Community Services, pointed out a correction to the Resolution; reviewed those items that will benefit from this funding; staff recommendation for support of the contribution for the Tri-City/County Cooperative Planning Group.

Council Member Whitney stated that this funding will hopefully help to create a Solano Regional Park District.

Council Member Smith praised the list of items presented; list is very well balanced; suggested a word change.

Council took the following action:

RESOLUTION NO. 03-134 - A RESOLUTION APPROVING PROJECTS FOR FUNDING UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002, AS AMENDED

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

RECOMMENDATION FROM THE CITY MANAGER TO USE COUNCIL CHAMBERS FOR

CANDIDATE FORUMS

Council Member Smith requested that this item be pulled from the Consent Calendar; good opportunity to bring this to the attention of the public; (1) October 14, 2003 - Chamber of Commerce - Candidate's Forum - 7:00 - 9:00 p.m. (2) October 23, 2003 -PTA - School Board Candidate Forum - 7:00 - 8:00 p.m.

On motion of Council Member Smith, seconded by Council Member Whitney, and unanimously carried, to allow the use of the Council Chambers for Candidate Forums, was approved.

RESOLUTION APPROVING THE EXTENSION OF THE TENTATIVE SUBDIVISION MAP FOR BENICIA WATERFRONT VILLAGE PROJECT PLAN (STAFF RECOMMENDS CONTINUANCE TO THE OCTOBER 7, 2002 CITY COUNCIL MEETING)

Mayor Messina requested this item be pulled from the Consent Calendar; Mayor Messina did not participate in this discussion due to Conflict of Interest.

Vice Mayor Campbell chaired this portion of the meeting.

Council Member Smith requested clarification on action being taken on this item.

Council took the following action:

BENICIA WATER FRONT VILLAGE PROJECT -CONTINUATION

On motion of Council Member Bidou, seconded by Council Member Whitney, to continue to the October 7, 2003 City Council Meeting, the approval of the extension of the tentative subdivision map for the Benicia Waterfront Village Project plan, was adopted on roll call by the following vote:

Ayes: Council Members Bidou, Campbell, Smith and Whitney

Noes: None

Abstain: Mayor Messina

PUBLIC HEARINGS:

PUBLIC HEARING ON A RESOLUTION APPROVING THE GRANTEE PERFORMANCE REPORT FOR THE CITY'S HOUSING REHABILITATION REVOLVING LOAN FUND (RLF)

Colette Meunier, Community Development Director, stated that each year the City must submit an annual report to the State Department of Housing and Community Development; a public hearing is required prior to City Council approval of the report; City also entering into a contract with an outside agency to manage the RLF rehabilitation loan program.

Mayor Messina opened the Public Hearing. Legal notice was given. No written protests received. No one spoke for or against this matter.

Mayor Messina closed the Public Hearing.

Council Member Smith questioned whether or not a similar contract arrangement could be made with Vallejo Neighborhood Services to manage the Mills Act contracts.

Colette Meunier, Community Development Director, stated that she was unaware of this group, but could look into a similar arrangement, if directed.

Council took the following action:

RESOLUTION NO. 03-135 - 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

REPORTS FROM CITY MANAGER:

Mayor Messina stated he would have a Conflict of Interest on Item C; requested an update on a meeting to be held with dog owners concerning the dog park.

CAN SYSTEM STATUS REPORT

Ken Hanley, Fire Chief, stated that significant changes and improvements had been made to the system were as follows: (1) a new protocol (same as adopted by Contra Costa County) has been developed (2) 19 new pre-program messages have been developed (3) new siren location map will be in place within two months (4) research done to identify alert devices for simple indoor business and home use (5) Public education campaign developed - Valero Refinery to fund cost of the campaign (6) staff has been attending meetings in Contra Costa County to coordinate efforts.

Council Member Smith questioned the terminology used in Message 8; would like phrasing changed.

Jim Erickson, City Manager, stated that this was just a draft and the wording could be reviewed.

Two concerned citizens spoke on this item.

SETTLEMENT AGREEMENT TO RESOLVE THE APPEAL OF THE NOTICE AND ORDER TO DEMOLISH THE BUILDING AT 710 WEST I STREET (SAM'S HARBOR)

Colette Meunier, Community Development Director, reviewed the actions taken to date; a final settlement agreement has been negotiated that is satisfactory with all parties; upon execution of the agreement the appeal will be withdrawn; this is an information item only.

Council Member Bidou expressed concern about the oversight of the cleanup of the property.

Vice Mayor Campbell would like to see the Agreement signed prior to the October 7, 2003 Council Meeting.

MARINA FINANCE, MAINTENANCE AND DREDGING UPDATE

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

Karen Majors, Assistant City Manger, reviewed the three components of the report (1) finance (2) maintenance and (3) dredging; questions about some of the financial calculations have arisen and a request has been made to the Benicia Harbor Corporation (BHC) for more information; a request for a rate increase has been received; maintenance level is acceptable; guidelines from Cal Boating on dock listing have not been received; BHC has begun to address this issue with the installation of torsion bars; a ten-year dredging permit has been given verbal approval; City dredging will begin on October 13, 2003; City is responsible for dredging of 15,000 cubic yards and BHC 500 cubic yards.

Vice Mayor Campbell stated that a rate increase was predicated on dock maintenance, dredging and customer service.

Karen Majors, Assistant City Manager, stated that she has not received any complaints from the boat owners this year.

Council Member Smith questioned whether or not the loan with Cal Boating could be renegotiated and the amount of dredging required to be done by the BHC.

Council Member Whitney asked about the level of landscaping and weed control maintenance required and dock listing; would like the Parks and Community Services Director to walk the docks.

Four concerned citizens spoke on this item.

Council Member Smith requested that when comparing marinas for the possible rent increase, that like marinas are surveyed.

Vice Mayor Campbell questioned insurance and liability issues; suggested contacting State Legislators for their possible intervention in the renegotiation of the Cal Boating loan; send a customer satisfaction survey to Marina berthers.

**REPORTS FROM CITY COUNCIL COMMITTEES:
BI-MONTHLY COMMITTEE REPORTS**

MAYOR'S COMMITTEE MEETING

Mayor Messina reported that the Mayor's concerns continue to be mega-dairies in Solano County.

ARSENAL RESTORATION ADVISORY BOARD

No report given.

AUDIT AND FINANCE COMMITTEE

No report given.

BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

No meeting held - no report given.

LEAGUE OF CALIFORNIA CITIES

Council Member Smith gave a brief review of this years conference and resolutions that were considered.

NORTHERN AREA OPEN SPACE

No report given.

SCHOOL DISTRICT LIAISON

No meeting was held. Council Member Smith spoke on some of the items that will be discussed with the School District in the future.

SEDCORP BOARD OF DIRECTORS

No report given.

SOLANO TRANSPORTATION AUTHORITY (STA)

Council Member Smith reported that discussions were held at the last meeting concerning a congestion management program, RFP's sent out for a railroad crossing feasibility study.

SOLANO WATER AUTHORITY

Mayor Messina stated that there is a Solano County effort to protect endangered species; on going effort to deal with flood control issues.

TRI-CITY AND COUNTY OPEN SPACE

Council Member Whitney stated that the Committee has not met recently; on going talks with P.G. and E officials.

VALERO CITIZENS ADVISORY PANEL (CAP)

Council Member Whitney reported that with the change in management at the Refinery the public meeting had been postponed.

YOUTH ACTION TASK FORCE

Council Member Smith announced that the next meeting would be held on September 17, 2003; reports will be made on Community Services, consideration of a Tobacco Ad Resolution, future youth activities; students have requested more music venues.

ADJOURNMENT:

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

Linda S. Purdy, City Clerk