

September 17, 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 17, 2002

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 7:02 p.m. Tuesday, September 17, 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 - Anticipated Litigation  
(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9)

1 Claim: Gardyn

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

Name of Case: Vilarrasa v. City et al

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 17, 2002

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:33 p.m. Tuesday, September 17, 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, Whitney and Mayor Messina  
Absent: Council Member Smith

**PLEDGE OF ALLEGIANCE:**

Mayor Messina led the pledge to the flag.

**ANNOUNCEMENTS:**

Mayor Messina announced that Council Member Smith was absent due to a death in his family.

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

Re: Conference with Legal Counsel - Anticipated Litigation - Gardyn - staff gave a briefing.

Re: Conference with Legal Counsel - Existing Litigation - Vilarrasa v. City et al - Council provided direction to the City Attorney.

Mayor Messina announced openings on the Civil Service Commission, Human Services Fund Board, and Parks, Recreation and Cemetery Commission; applications are available in the City Manager's office.

**APPOINTMENTS:**

Mayor Messina announced the appointment of Richard Bortolazzo to the Human Services Fund Board to fill an unexpired term to July 1, 2005.

**RESOLUTION NO. 02-151 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF RICHARD BORTOLAZZO TO THE HUMAN SERVICES FUND BOARD TO FILL AN UNEXPIRED TERM TO JULY 1, 2005**

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

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

Noes: None

Absent: Council Member Smith

Mayor Messina announced the appointment of Robert Plew to the Human Services Fund Board to fill an unexpired term to July 1, 2004.

**RESOLUTION NO. 02- 152 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ROBERT PLEW TO THE HUMAN SERVICES FUND BOARD TO FILL AN UNEXPIRED TERM TO JULY 1, 2004**

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

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

Noes: None

Absent: Council Member Smith

**PRESENTATIONS:**

**MEMORIAL 9/11 & LET US NEVER FORGET & QUILT**

Sandy Shipper, Sue Sweeney, Delores Wilks and members of the Carquinez Strait Stitchers, presented a quilt commemorating the events of September 11, 2001.

**ADOPTION OF AGENDA:**

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

Otto Giuliani, City Manager, stated that Consent Calendar - Item B –Denial of Claim was being continued until the October 1, 2002 meeting at the request of the City Attorney.

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

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

Noes: None

Absent: Council Member Smith

**COMMUNICATIONS:**

**WRITTEN:**

**PUBLIC COMMENT:**

Theresa Petrellese, 692 Knight Drive, Solano-Live Youth Council Representative, explained the campaign of compliancy checks for alcohol sales to minors that had been conducted in Benicia; three stores that had been cited are no longer selling alcohol; thanked the Benicia Police Department.

Linda Lewis, 282 West I Street, requested that questions, asked previously concerning three new items to be acquired by the Valero Refinery, be answered; read a list of the items.

Council Member Whitney requested that the questions be provided to the City Manager so that they can be answered.

Vice Mayor Campbell commented on the current limited use of the water slide at the pool and possibility of closing it when not in use; consider closing the pool on Sundays.

**CONSENT CALENDAR:**

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

Mayor Messina restated the deferral of Item B – Denial of Claim to the next meeting. Vice Mayor Campbell requested that Items D and E be pulled.

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 14, 2002

Minutes of September 3, 2002

**RESOLUTION NO. 02- 153 - A RESOLUTION AMENDING THE CITY'S CONFLICT OF INTEREST CODE**

**RESOLUTION NO. 02-154 - A RESOLUTION APPROVING THE APPLICATION FOR WILDLIFE CONSERVATION BOARD FUNDS FOR THE FIRST STREET PENINSULA IMPROVEMENT PROJECT**

**RESOLUTION NO. 02-155 - A RESOLUTION APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE LOCAL AGENCY GRANT PROGRAM-FISCAL YEAR 2002-2003 UNDER THE HABITAT CONSERVATION FUND PROGRAM OF THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE FIRST STREET MARSH RESTORATION PROJECT**

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

(END OF CONSENT CALENDAR)

RESOLUTION APPROVING THE PURCHASE OF 550 EAST G STREET FOR A TOTAL COST NOT TO EXCEED \$321,000 AND AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE PURCHASE

Vice Mayor Campbell requested this item be pulled from the Consent Calendar; requested that this item be explained.

Otto Giuliani, City Manager, stated that with the purchase of this property a City-controlled buffer zone between the Wastewater Treatment Plant and the adjoining residential area would be completed; will be utilized as an affordable rental unit for a city staff member that meets the qualifications for low income housing.

Council took the following action:

RESOLUTION NO. 02-156 - A RESOLUTION APPROVING THE PURCHASE OF 550 EAST G STREET FOR A TOTAL COST NOT TO EXCEED \$321,000 AND AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE PURCHASE

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, Whitney and Mayor Messina

Noes: None

Absent: Council Member Smith

RESOLUTION ACCEPTING THE OFFER TO PURCHASE SURPLUS CITY PROPERTY FOR DEVELOPMENT OF MARKET-RATE SINGLE-FAMILY HOMES FROM BENICIA HOLDING, INC.

Vice Mayor Campbell requested that this item be pulled from the Consent Calendar; stated that he had a Conflict of Interest.

Council took the following action:

RESOLUTION NO. 02-157 - A RESOLUTION ACCEPTING THE OFFER OF \$915,000 FROM BENICIA HOLDING, INC. TO PURCHASE SPECIFIED SINGLE FAMILY RESIDENTIAL BUILDING LOTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AGREEMENT AND ESCROW DOCUMENTS TO COMPLETE THE SALE

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, Whitney and Messina

Noes: None

Absent: Council Member Smith

Abstain: Council Member Campbell

REPORTS FROM CITY MANAGER:

MAYOR'S COMMANDANT'S RESTORATION FUND

Otto Giuliani, City Manager, reported that the only increase to the fund last month was \$195 from calendar sales; total fund to date \$44,364.59.

REPORTS FROM CITY COUNCIL COMMITTEES:

BI-MONTHLY COMMITTEE REPORTS

#### MAYOR'S COMMITTEE MEETING

Mayor Messina stated that the next meeting would be held on September 18, 2002; homeland security would be one of the topics of discussion.

#### ARSENAL RESTORATION ADVISORY BOARD (RAB)

Vice Mayor Campbell reported that an educational outreach program for school-aged children was being planned.

#### AUDIT & FINANCE COMMITTEE

Vice Mayor Campbell stated that the Committee was continuing to look into ways to generate revenue.

#### BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

Mayor Messina stated that the Minutes of the last meeting were available in the City Manager's office; no other report given.

#### NORTHERN AREA OPEN SPACE

##### OPEN SPACE EASEMENT:

Mayor Messina reported that it appeared that the negotiations with Syar Industries and IT Corporation for conservation easements would not be successful.

Council Member Whitney stated that the discussions were stalled.

##### URBAN GROWTH BOUNDARY:

Mayor Messina stated that direction should be given to the City Attorney to pursue the various options for a ballot measure; stated that the City Council could adopt a Resolution without a vote of the people but it could be changed by the next Council; suggested a Workshop be held on this matter.

Heather McLaughlin, City Attorney, clarified the various options available to the City; CEQA requirements if the Measure is city sponsored or citizen sponsored; important that the City provide a foundation for the Measure that is defensible and that conforms to the General Plan and Zoning Ordinances.

Consensus of the Council was to have a Workshop on this matter as soon as possible.

#### SCHOOL DISTRICT LIAISON

Council Member Bidou stated that an update would be given at the next meeting on the flashing crosswalk installed at the High School.

#### SOLANO TRANSPORTATION AUTHORITY (STA)

Council Member Bidou stated that Minutes of the last meeting were put in the Council mailboxes.

#### YOUTH ACTION TASK FORCE

Council Member Bidou referred to the presentation made at the last Council meeting; no further additions; process is slower than anticipated.

#### SEDCORP BOARD OF DIRECTORS

No report given.

#### SOLANO WATER AUTHORITY

Mayor Messina stated that a review of the budget was scheduled; Minutes of the meeting available in the City Manager's office.

#### TRI-CITY AND COUNTY OPEN SPACE

Council Member Whitney stated no meetings had been held; looking at the possibility of having a Regional Park System.

#### VALERO CITIZENS ADVISORY PANEL (CAP)

Council Member Whitney stated that there would be a meeting held in October; he will get answers for the questions asked earlier by a citizen.

#### NEW BUSINESS:

##### REPORT BY ASSISTANT CITY MANAGER ON MARINA DREDGING

Mayor Messina, Council Member Bidou and Otto Giuliani, City Manager, did not participate in this discussion due to Conflict of Interest.

Vice Mayor Campbell chaired this portion of the meeting; requested clarification as to whether a quorum was required.

Heather McLaughlin, City Attorney, stated that this portion of the meeting was for information only; no action could be taken.

Karen Majors, Assistant City Manager, gave a report on the status of the dredging at the Benicia Marina; City has completed their portion of the dredging; final cost for the City's portion of the dredging \$325,007; summarized plans by the Benicia Harbor Corporation for the continuation of the dredging.

Council Member Whitney questioned whether or not current soundings had been taken and the sandbar in the outer channel dredged.

Michael Throne, Sr. Civil Engineer, stated that two sets of soundings had been done and findings were as expected; sandbar had been dredged to the proper depth.

Vice Mayor Campbell asked for a clarification of final costs and the timeline for sending a default notice to Benicia Harbor Corporation if the dredging does not start on time.

Karen Majors, Assistant City Manager, stated that a default letter would be sent if work does not begin; discussions had taken place with the City's dredger to perform the work if Benicia Harbor Corporation does not comply.

#### ADJOURNMENT:

Mayor Messina adjourned the meeting at 8:25 p.m.

Linda S. Purdy, City Clerk