

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 20, 2005

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:30 p.m. on Tuesday, September 20, 2005, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

There are five openings on the Open Government Commission.

APPOINTMENTS:

None

PRESENTATIONS:

Status of the Valero Property Tax Appeal:

Mr. Skip Thomson, Solano County Assessor, stated that the first hearing will be 10/11/05 and will last approximately two to four days. Valero's attorney is expecting the total length of the hearing to last in excess of twenty days. The county's position is that they are at \$921 million. Valero insists on keeping its value at \$600 million. The county believes that the figure of \$921 million is very close to the number (\$915 million) the County had when they hired Baker and O'Brien to do an appraisal. Baker and O'Brien was conflicted out by Valero so the County had to start the process all over again with a firm named Barnes and Flick. Valero's figure of \$600 million is not accurate. Recently, Valero filed an appeal over the valuation of the Asphalt Plant they purchased shortly after buying the refinery. They are protesting this year's valuation. The County has submitted two appraisals to Valero so far and has not yet received one appraisal from them (Valero). Valero must have their appraisal submitted by next Friday or it will not be considered as evidence in the appeal. The County is ready to go, and have been for seven months. He is leaving on December 2, 2005, and would like to have this issue concluded before he leaves office.

Mayor Messina asked where the \$1.2 billion figure raised with regards to a potential assessed value came from. Mr. Thomason stated that for 4 years, the County has been asking Valero and their legal staff for any information that would help the County in determining the value. Valero told them that they (the county) had all the information available. The dollar figure is based on the information the County had. The County then

enrolled that value. After Valero received their tax bill with that figure, they mysteriously found 19 boxes of paperwork and turned it over to the County. The information found in the 19 boxes gave the County the information to go from the estimated \$1.2 billion down to \$921 million.

Vice Mayor Patterson asked how much this has cost the City to date. Mr. Thomson stated that so far, the total is approximately \$500,000. The City and County will split the total cost. The cost will rise once the hearings begin. The County has had very few (five) major property tax appeals. The county prevails in approximately 95% of the appeals. Mr. Mark Thomason, Assistant Assessor, stated that he does not have the exact numbers regarding success ration on appeals, but could get them for Council. There was an appeal by Anheiser Busch, which the County won, which increased the value by \$144 million over four years.

Council Member Smith asked if the cost to review the information in the 19 boxes Valero found increased the cost of the appeal. Mr. Thomson stated that it definitely did. Those costs cannot be recouped if the City wins the appeal. Council Member Smith stated that many of the citizens present at the Council meeting were in attendance for labor issues being discussed later in the meeting and that the Valero property tax appeals directly affects the labor negotiations.

New Flaring Regulations:

Mr. Alex Ezersiky, Bay Area Air Quality Management District reviewed a PowerPoint presentation on the new flaring regulations for refineries.

Air Monitoring Equipment Update:

Mr. Chris Howe, Community Affairs and Government Relations, Valero, discussed the additional air quality management monitoring station. The station would be mounted on a trailer so it could be relocated if need be. The new monitoring station has been constructed and needs to be sited and located. As part of their commitment, Valero agreed to provide some financial support to determine where the station should be sited. The station may be able to be located without expending significant funds in the site assessment. Valero is prepared to invest some of that money to help get the monitoring station set up and operational. Valero will discuss the path forward with the Valero Community Advisory Panel (CAP) on 10/13.

Mayor Messina asked about the results that are obtained from the monitoring station: when will that information be available to the public and how can the public access that information? Mr. Howe stated that the information such as gaseous compounds, real-time particulate matter, laboratory analysis, etc. would be available online. Citizens should log on to www.baaqmd.gov for information.

Council Member Smith asked about possible location sites. Mr. Howe listed various site possibilities of the Community Park, Matthew Turner Elementary, Robert Semple Elementary, etc. Council Member Smith asked about the sulfur scrubber. Mr. Howe

stated that it is in the queue to be installed by 2010. It is a part of other projects they are doing as part of the Valero Improvement Project (VIP).

Vice Mayor Patterson asked why Valero's not using wireless technology. Mr. Howe stated that it is a matter of cost. She asked about the criteria for siting the air monitor. The Community Park is particularly windy and it would be a volatile situation. It would not be the best environment for the sensitive receptors. She discussed the locations of the residential neighborhoods and schools. Mr. Eric Stevenson, Air Monitoring Manager, Bay Area Air Quality Management District, stated that they must comply with state standards regarding siting criteria. It is a balancing act on where they will place the equipment. The data that they present must be sound in a scientific sense.

Council Member Whitney asked how long this would be used. Mr. Howe stated it would be used for approximately one year, which is typical. This way, you would get a full year of seasons' data.

Ms. Dana Dean, Valero Citizens Advisory Panel (CAP), discussed the factors that need to be considered when location is determined. The settlement calls for Valero to contribute \$45,000 to either funding weather related assessment, or a second open path monitoring system. Factors that need to be looked at when determining site placement include whether there is already other weather station equipment in place and how the open path system will play out in that particular location. These issues will hopefully be addressed at the next CAP meeting.

Benicia Emergency Response Team (BERT) and Emergency Preparedness:

Mr. Bob Mutch, Chairperson, Benicia Citizen Council Corps (BCCC), reviewed statistics on various disasters that have occurred in California. He reviewed the events that led to the formation of BERT. He discussed what the functions of BERT are. Over 200 Benicia citizens have graduated from the BERT program. He urged citizens to join BERT.

Council Member Whitney asked how many citizens they would like to be trained by BERT. Mr. Mutch stated that they would like to see BERT teams in each of the map grids. Further down the line, they would like to have a BERT trained citizen in every neighborhood. The next BERT training will be in January or February 2006. They will soon be offering a DVD-based home training program as well.

Mr. Erickson discussed recent events with regards to Hurricane Katrina. Local churches have indicated that they could find housing for approximately 10-15 families. There has not been confirmation as of yet whether or not this will happen, however, housing those families could be imminent.

Vice Mayor Patterson asked when the policy she suggested regarding paid leave for City employees who go to the affected areas would be discussed. Mr. Erickson stated that Staff could brief Council on that issue at the next Council meeting. Vice Mayor Patterson stated that she would like that on the next agenda, as well as have some choices regarding different policies discussed at the next meeting.

PROCLAMATIONS:

Mayor Messina presented a commendation to Mr. Donny Matta, All American Swimmer. Mayor Messina announced that there is a plaque mounted on the wall at the entrance to council chambers stating the fundamental rights of each member of the public per section 4.04.030 of the BMC Ordinance 05-6.

ADOPTION OF AGENDA:

On motion of Council Member Whitney, seconded by Council Member Smith, the Agenda was adopted as presented, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

1. Sue Johnson – Ms. Johnson asked Council Member Campbell why he is required to abstain from discussing the Mark Lobdell project. Council Member Campbell and Ms. McLaughlin explained the conflict of interest rule that prevents him from participating in the discussion (he lives within 500 feet of the project). Ms. McLaughlin cautioned Council that since the project in question is going to the Planning Commission on appeal, it would probably be appealed up to the Council level. In order to not prejudice themselves, Council should limit the discussion and let it go through the process.

Council Member Campbell excused himself from this portion of the discussion due to a conflict of interest.

Ms. Johnson stated that the Councilperson she voted for is not able to assist her in this very important issue because he cannot participate in the discussion. She stated that the City is not required to notify her about such a project. It is a lose/lose situation for her. This mess could have been avoided if the neighbors had been notified and the project had been reviewed from the beginning. She would like Council to consider these issues in the future. The City has some responsibility in this matter. There needs to be some chance for neighbors to have input/review on what is built in their neighborhood. She is feeling very imposed on at this point.

2. Jason Fein – Mr. Fein is a Benicia Firefighter. He discussed the impasse that has occurred with the labor negotiations for the Benicia Firefighters. He stated that he had expressed his disgust with the negotiators and now with Council. He discussed actions taken by the Employee Compensation Committee and Council's vote on those actions and recommendations. Council took action on the topic and resolved to compensate the City employees fairly, at or near the middle of each group's salary survey. The firefighter's salaries are 6-13% behind the middle of the salary survey, which is not fair or equitable. There is a morale problem with the City workforce because of this. He discussed the issue of reducing employee

- exposure risk while driving to work. Many of the firefighters commute up to 45 minutes to work. He discussed the issue of an alternate work schedule. He asked Council to treat the firefighters fairly, compensate them fairly, and pay them the average wage.
3. John Mill – Mr. Mill works for the California Nurses Association (CNA). CNA is 100% behind the Benicia Firefighters Association.
 4. Laurie Kearns – Ms. Kearns stated that she is a registered nurse and works for Sequoia hospital in Redwood City, Ca. She has been a member of CNA for over 23 years. In order to retain and recruit firefighters and paramedics in the community, the City needs to compensate them fairly. She stated that the CNA would be back, and if anyone watches their TV's, they know it can get very interesting.
 5. Jeff Davidson – Mr. Davidson is a Benicia firefighter. He discussed the 48/96 work schedule and its benefits. It would not cost the City anything to implement this alternate work schedule. The firefighters are only asking for a one-year trial period for this work schedule. Over 30 fire departments in California are using this work schedule. He is on the labor negotiating committee. The labor negotiators did not bother to review the non-economic issues that were presented by the firefighters. They had two weeks to do so. They did not review the information until the actual meeting and only spent 15 minutes looking at it. He discussed the bereavement leave issue. The firefighters are the only employee group in the City that has to provide proof for attending an out of state funeral.
 6. Jed Matcham – Mr. Matcham is a firefighter and fully supports his coworkers in their efforts regarding labor negotiations. Mr. Matcham discussed the Valero Property Tax Appeal. He met with the City Manager and Mr. Chris Howe, Valero. The amount of taxes collected vs. what Valero states should have been collected amounts to \$11,043,907.00. If Valero wins the appeal, the City would have collected \$3,445,699 in overpaid taxes. Council and Staff have stated on numerous occasions that if Valero were successful in the appeal, the City would have to repay the \$3,445,699 from the General Fund. This is not true. He discussed AB-8. Per AB-8, the paying back of the money would come back from all jurisdictions in the County. This would equal Benicia paying back 3% of the total overpayment by Valero. If Valero wins the appeal, Benicia would have to pay back approximately \$340,000 not \$3.4 million. Mr. Howe told Mr. Matcham that Valero expects to end up with an appraisal of \$700 million - \$800 million. If Valero's appraisal comes back at \$800 million, the repayment from the City's General Fund would only be approximately \$86,000. It has been stated by Mr. Rob Sousa that the Valero Improvement Projects will offset the lost revenue. He can see the numbers as presented by the City's finance director (via spreadsheet). He provided Council/Staff with the spreadsheet in question. He does not see how Council could try and pass off a number of more than 10 times the truth. He thanked Mr. Sousa for meeting with him and for being knowledgeable, helpful, honest, and respectful. Mr. Sousa is an asset to the City. However, he (Mr. Matcham) has lost respect for Council. Over inflated numbers are being used to coerce employee groups into substandard agreements. He hopes that all information will be released in the future.

Mayor Messina stated that it would be of value to Council for the City Manager and Finance Director to take a look at the numbers presented and give Council their thoughts. If there needs to be a restatement of the numbers, it could be done at the next Council meeting.

7. Greg Peterson – Mr. Peterson discussed the labor negotiations between the City and the Benicia Firefighters. He discussed the issue of the Hazardous Materials Emergency Response Team being taken away. The members of the team put in over 280 hours of their time training for that. Regarding the more competitive marketplace, an alarming 43%, or 13/30 of the current Benicia firefighter personnel report that they are applying and testing at other neighboring fire departments. If all 13 members left, the department would lose a combined 116 years of firefighting experience, 115 years of paramedic experience, and 167 years of EMS experience. This is totally unacceptable. The apathy that the City's negotiating parties' shows towards the firefighters and the Benicia Firefighters Association is disgusting. It is hard not to take it personally. The potential of these positions being filled by entry level and inexperienced personnel may become a reality. Once again, Benicia will become a revolving door. If the Benicia Fire Department wants to be known as a stepping stone agency to bigger and better things, the City is on the right path. He asked Council to take the issues presented tonight into consideration. The citizens of Benicia deserve good, experienced firefighters.

Mayor Messina asked Staff if the City was currently recruiting for firefighters. Chief Hanley verified that they were.

Mr. Erickson stated that Council and Staff have a great deal of respect for the firefighters in the community. Negotiations are not over, they are ongoing. We are currently at an impasse. Both parties have agreed to move forward with the impasse procedure. He asked both parties involved to respect that process. He discussed various aspects of the City's Employee Compensation Policy. The Valero issue is not the only financial issue taken into account when dealing with employee compensation.

Mayor Messina stated that he is concerned about retaining current employees as well as recruiting future employees. He asked Mr. Erickson if the City was experiencing similar issues with morale in other areas that is affecting our ability to recruit. Mr. Erickson stated that currently, employee turnover is historically about the same, or a little less than it has been in the past, and is not extraordinary.

8. Christine Alexander – Ms. Alexander stated that she has signed up through four organizations to house a family (victim of Hurricane Katrina) that wants to come to Benicia. She asked for confirmation from Staff regarding the statement that local churches have offered to house some victims of the hurricane. She stated that she could only house whomever she takes in for a short period of time. She had a release form that should be signed by the people that are taken in. If you don't have them sign it, they could stay in your home for as long as they want.

9. Bonnie Silveria – Ms. Silveria stated that the parking program on First Street is doing well. She appreciates Staff’s efforts.
10. Mary Eichbauer – Ms Eichbauer is a member of the Benicia Library Board of Trustees. She expressed her support of the proposed Poet Laureate item.
11. Tim Winfield - Mr. Winfield discussed the issue of labor negotiations between the Benicia Firefighters and the City. It is unfortunate that we have gotten to the point of an impasse.
12. Council Member Smith announced the following upcoming events:
 - 9/22/05 – Chamber of Commerce monthly after-hours mixer at the Inn at Benicia Bay.
 - Farmers Markets held on Thursdays through October
 - 9/24 - Arts Benicia will host its 13th annual auction
 - 9/25 - Bridging the Gap Walking Towards a Cure walk
 - 9/29 – Candidates’ forum to be held at the Senior Center
 - 10/1 – ‘Enchanted Camelot’ party and contest at the Clocktower

Mayor Messina called for a 5-minute break at 9:13 p.m.
 The meeting resumed at 9:19 p.m.

CONSENT CALENDAR:

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

Ayes: Council Members Patterson, Smith, and Mayor Messina
 Noes: None
 Absent: Council Members Campbell and Whitney

The minutes of September 6, 2005 were approved.

The monthly investment reports for April through June 2005 were accepted.

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

Adoption of annual increases for the Capital Improvement License Tax, the Park Land Dedication Fee, and the Library Book Fee:

Rob Sousa, Finance Director, reviewed the Staff report.

Public Hearing Opened

Public Comment:

None

Public Hearing Closed

RESOLUTION 05-151 - A RESOLUTION ADOPTING INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE TAX FOR CONSTRUCTION OR ALTERATION OF SINGLE-FAMILY RESIDENCES, MULTIPLE-DWELLING STRUCTURES, AND COMMERCIAL OR INDUSTRIAL FACILITIES

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina
Noes: None

RESOLUTION 05-152 - A RESOLUTION ADOPTING AN INCREASE IN THE PARK LAND DEDICATION FEE

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina
Noes: None

RESOLUTION 05-153 - A RESOLUTION ADOPTING AN INCREASE FOR THE LIBRARY BOOK FEE

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina
Noes: None

UNFINISHED BUSINESS:

Approval of the Benicia Transit Short Range Transit Plan (SRTP) for Fiscal Years 2006-2015:

Rob Sousa, Finance Director, briefly reviewed the Staff report. Mr. John Andoh, Transit Manager, reviewed the Staff report and a PowerPoint presentation. There were three pieces of additional material submitted for Council's review: 1) page 3-1 of the City of Benicia SRTP Final Report, 2) Appendix I 'Intermodal Transportation Station Assessment', and 3) Appendix J 'Relevant Transit Related Issues from 1999 General Plan.'

Council Member Campbell expressed his pleasure with Mr. Andoh's efforts. His work has been amazing. He hopes Mr. Andoh will remain with the City for a long time.

Vice Mayor Patterson seconded Council Member Smith and noted the outstanding work of 'Dr.' Andoh. She discussed the goals and spirit of the plan. She had comments on page E-5 of the executive summary of the plan. She recommended: 1) changing the last bullet striking 'the northeast', 2) after 'reevaluate' add 'through broad based public participation', 3) add 'in conjunction the City of Benicia Resolution 04-50', and 4) if appropriate, put in parenthesis, reference to Appendix I. Mr. Andoh stated that those changes could be made.

Council Member Smith asked, in reference to page IX-A-7, when are we going to begin the agreement with Amtrak to send its throughway service to Solano Square? Mr. Andoh stated that it would begin on 10/31. Mr. Andoh then listed each of the transfer points for the links to the various transit services. If the Vallejo Route stops going to Sun Valley Mall, Benicia would develop a new transit route that would go to Sun Valley Mall/Diablo Valley College. Council Member Smith asked when signage would be completed for the lot at Industrial Way and Park Road. Mr. Andoh stated that they are currently working on construction of the bus stop. Once that is completed, the parking lot needs to be acquired so that a park and ride lot can be developed. That is currently a year or two out. The bus stop improvements should be completed in the next month or two. Council Member Smith asked if the set of eight deficiencies noted in the plan by the FTA had been addressed. Mr. Andoh reviewed the status of each of the deficiencies. All items have been addressed and information on each was forwarded to the FTA.

Ms. McLaughlin stated that she was not sure Council could take the supplemental (hand outs) information received by Staff tonight into consideration, with regards to the newly adopted Sunshine Ordinance.

Mayor Messina had concerns with the longer routes. Citizens will take whatever means of transportation that is quicker, cheaper, and easier. Regarding senior citizens and citizens with disabilities, door to door service needs to be addressed. He asked Staff if there would be any negative ramifications if Council had to delay a decision on this item to review the information presented (via handout) by Staff tonight. Mr. Andoh responded to the Mayor's concerns with regards to door-to-door service. He stated that the due date for the plan is 9/30.

Public Comment:

1. Alan Schwartzman – Mr. Schwartzman had questions on schedule changes. He asked if there would be any changes that would limit the school kids from using the busses to get to and from school. Mr. Andoh stated that service would be provided and the children would be able get to and from school on time.

Vice Mayor Patterson stated that there has not been a lot of public testimony at previous meetings regarding this item. The information handed out tonight is not new since it is from existing documents, such as the General Plan. However, it may be the wise thing to do to delay this item until the first Council meeting in October to remain true to the newly adopted Sunshine Ordinance.

Council Member Campbell quoted a section of the Sunshine Ordinance. In the event of special or extenuating circumstances, the item could be voted on and pass with a 2/3 vote. The special circumstance would be the items need for approval by 9/30.

Mr. Sousa stated that the City has already received one extension from MTC on this item. There is no guarantee that we would receive a second extension. Mr. Andoh asked if the plan could be approved as is, and hold off on voting on the additional materials and changes until the next meeting.

Council Member Smith stated that the information presented in the handout were all preexisting documents (excerpts from the General Plan and a previously passed Resolution) and does not think it violates the Sunshine Ordinance. He suggested approving the plan as is and voting on the appendices at the 10/4 Council meeting.

Ms. McLaughlin stated that there are circumstances that would enable Council to vote tonight.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, Council approved the Benicia Transit Short Range Transit (SRTP) for Fiscal years 2006-2015, with the exception of the additional materials provided on 9/20 (to come back at the 10/4 Council meeting), on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina

Noes: None

NEW BUSINESS:

Contribution to Bay Area Water Forum:

Dan Schiada, Public Works Director, reviewed the Staff report.

Mayor Messina stated that the Solano Water Authority (SWA) voted against supporting this because they participate through other agencies. He was concerned about 'double-dipping.'

Vice Mayor Patterson stated that she was appointed by ABAG to represent a portion of Solano County and the City of Benicia at the Bay Area Water Forum. Several water districts have contributed in excess of \$10,000 as well as provided staff. They have not found it to be 'double-dipping.' The reason for the reluctance (by SWA) has more to do with the potential dilution of their grant request. It is an unfortunate vote and perhaps could be taken up again. The City has a lot to gain. The funding would be to show good faith effort for something that is important for the Bay Area in terms of water planning. We compete with some very large water districts in the state. Because we are not a single water district, we have to be particularly mindful of working and collaborating together. One of the benefits to Benicia is that we have one project that is of interest in terms of water recycling. We would get better publicity. She thinks that with a small investment, we might be able to show our participation in this kind of regional approach to water management and might even be able to get some additional funds for the project. It is a small amount of money in terms of the overall cost of the task force and water forum, but it would be a prudent investment for the City.

Council Member Smith stated that ABAG is attempting to get 40% of the cost of the forum contributed by local agencies. If not enough local agencies step up there is a chance the forum might not take place.

Vice Mayor Patterson stated that ABAG Water Forum is a policy group. The technical folks are the water districts. The water districts have a lot of history with making decisions about water management that are not always coordinated with policy folks,

councils, boards of supervisors, and people that deal with land use. One of the major issues in the state is to have better coordination between water districts and the land use decision makers. The water districts are developing better ways of having public participation. It is still recognized that they are still short of having the kind of public participation that land use planning decisions have. There will be an opportunity to get the policy makers and the water district managers together to talk at the water forum. Solano County Water Agency staff has not been attending the meetings. Technical staff is just not there. Other districts have people in attendance. We are trying to say that we need to be a part of the regional water management thinking to achieve our goals. The program was funded in part through Cal-Fed. One of the reasons the Water Forum is asking for the voluntary contribution is because the state budget reduced Cal Fed's budget in the extreme. This contribution will provide a little self-interest help for Benicia. It would be a bit foolish for us not to recognize that.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, Council agreed to approve the contribution to the Bay Area Water Forum, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson, and Smith

Noes: Council Member Whitney and Mayor Messina

Approval of changes to the City of Benicia Investment Policy:

Rob Sousa, Finance Director, reviewed the Staff report.

Mayor Messina had questions with the term 'yield.' He asked about the policy goals. Ms. Gay Eichoff, Regional Director, MBIA Asset Management, stated that the first three goals are the same and they have added a few to enhance the overall protection. Ms. Eichoff stated that would always consider the safety and liquidity first before any of the other goals. Mayor Messina had questions on the term of the policy. Ms. Eichoff stated that the extension to five years is in line with state code. The decision to choose maturities that long would be very much dependant with current market rate environment. The policy provides parameters they can use but it does not mean it will go that long. Mr. Sousa explained how the investment portfolio is set up. Mayor Messina stated that he would like to put restrictions on the percentages on the securities that would be five years. Ms. Eichoff stated that it could be done. Ms. Eichoff stated that the reference on agenda page X-B-10 to 10 years is referring to the collateral, not the securities.

Changes will be made to the policy language on the total amount of securities and they will put percentages on the five years. MBIA will present two or three ideas for Staff and Council to review before the change is made.

RESOLUTION 05-154 - A RESOLUTION REVISING THE CITY'S INVESTMENT POLICY AND GUIDELINES AND CONFIRMING ITS ADOPTION

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

Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina
Noes: None

Mayor Messina clarified that changes to the policy will be brought back for Council's consideration at a future meeting.

Creation of the office of Benicia Poet Laureate:

Diane Smikahl, Library Director reviewed the Staff report.

Public Comment:

1. John Woods – Mr. Woods posed questions regarding the proposed Poet Laureate Program. He is concerned that there is nothing stated in the policy regarding obscenities, profanity, etc. that may be offensive to the public. There needs to be a statement to that effect in the policy. He provided a large stack of information obtained via the Internet, to the Library Director that could be considered 'substantial information' and the item may need to be delayed to consider the information.

Ms. McLaughlin clarified the language in the Sunshine Ordinance pertaining to substantial/supplemental information received from the applicant or public regarding an agenda item.

Mayor Messina stated that he wants to respect the rules of the Sunshine Ordinance.

Vice Mayor Patterson stated that this is a wonderful issue for the Open Government Commission to take a look at and make a recommendation. However, because we have the language we do, and because we have a citizen who is relying on that language, she suggested continuing the item.

Council Member Smith stated that the Library Board of Trustees reviewed other cities' policies on Poet Laureate positions. He stated that he is not interested in adding language that would 'smack of censorship.' The board did its homework and did it carefully. This position would add a sense of class and culture to many of our City events. He does not see that the additional materials presented will make a difference.

Council Member Whitney stated that this does not discount the work the Library Board has done. However, Mr. Woods raised an issue that Council should address.

Council Member Campbell clarified the wording as 'substantial supplemental information.' Council can either take a break and read the information or continue the item to the next Council meeting.

Vice Mayor Patterson stated that this is an opportunity for the Open Government Commission to review and tweak the language.

After discussion, Council decided to continue this item to the next Council meeting so they could review the information provided by Mr. Woods.

Approval of the Parks and Community Services Department Nutrition and Health

Mission Statement:

Mike Dotson, Community Services Superintendent, reviewed the Staff report.

Council Member Whitney asked about putting diet drinks in the vending machines. It has been suggested that artificial sweeteners worse than the sugar in the regular drinks. Mr. Dotson stated that he does not have any information on that at this time.

Vice Mayor Patterson stated that California senate bills SB-12 and SB-965 and SB-281 all deal with the nutrition issue. She suggested Council either send this statement back and strengthen it, or consider her alternate language that takes the SB's into account.

Council Member Smith stated that diet soft drinks are not nutritionally beneficial and milk is difficult to put in the vending machines due to its expiration date. He would like the community to commit to offering healthy snacks in the concession stands. That is spelled out in the Resolution but not in the mission statement. He would be in favor of supporting making it a stronger policy.

Mayor Messina agreed that the SB's should be incorporated. He asked Mr. Alvarez if the Mission Statement was in any way binding. Mr. Alvarez stated that it is not binding in the sense of an ordinance; it is more or less seeking cooperation. All of the groups involved have expressed interest in this issue. The Parks, Recreation and Cemetery Commission did not discuss the issue of binding vs. not binding, but stuck to discussion on the statement itself. It wanted to promote healthy choices. They want to offer healthy alternatives, but not 'only' hardy choices.

Mr. Mark Hughes, Parks, Recreation and Cemetery Commission Member, reviewed how the commission went about coming up with the mission statement.

Vice Mayor Patterson suggested adding 1) 'whereas the State of California has found that the state has the second highest rate of overweight and low income children due to poor diet and physical inactivity and whereas the Benicia General Plan promotes healthy communities', and 2) furthermore in light of newly enacted legislation SB-12 and SB-965 the Benicia City Council directs the Parks and Community Services department to update City policies to reflect the legislative purposes.' She suggested sending the mission statement back to the commission to be reworked.

Council Member Smith stated that he was not comfortable with the clause with saying California is the second worse state with regards to 'overweight and low income children

due to poor diet and physical inactivity.’ However, he would be comfortable with the statement referencing the two senate bills.

Mr. Alvarez stated that the commission would like to look at the proposed changes before Council votes them on.

No action was taken on this agenda item.

At 11:35 p.m., Council Member Whitney stated that in light of the late hour, Council should hear the public comments on the remaining agenda items, and then adjourn. The community is asleep.

Ms. McLaughlin clarified that Council must allow the members of the public talk at tonight’s meeting on the items that Council would be continuing.

On motion of Council Member Whitney, seconded by Council Member Campbell, Council agreed to adhere to the Sunshine Ordinance, hear the public comments on the remaining agenda items, then continue those agenda items, on roll call by the following vote:

Ayes: Council Members Patterson, Smith, Whitney, and Mayor Messina

Noes: Council Member Campbell

Public Comment:

1. Belinda Smith – Ms. Smith stated that she was at tonight’s meeting on behalf of the Friends of the Benicia Arsenal. She was not sure what good it would do to speak on the item if it was not going to be presented or discussed. She cannot respond to issues with the item when it has not been presented. Ms. Smith wanted to respond or discuss item X-E (Discussion of proposed Arsenal Master Plan Committee.’

Ms. McLaughlin read a description of agenda item X-E.

Ms. Smith stated that the Friends of the Benicia Arsenal would be pleased to support anything that would help to clarify any issues in the Arsenal with regards to development. She asked that whatever the committee is that it have some ‘teeth’ to it and that it could be time specific. She would like to see some consideration for addressing how outreach could be conducted and what would be sufficient so this could actually move forward. She has a fear that this could go on forever and by the time they are finished there would be irreparable damage to the Arsenal.

Mayor Messina asked if there was any public comment on the remaining agenda items. There was no further public comment.

The remaining agenda items were continued to the next meeting.

Discussion of proposed Arsenal Master Plan Committee:
Continued to the next Council meeting.

REPORTS FROM CITY MANAGER:
Review of progress toward resolving differences with Benicia Unified School District (BUSD) regarding the proposed Joint Use Agreement:
Continued to the next Council meeting.

Update on status of Revenue Options Committee:
Continued to the next Council meeting.

REPORTS FROM CITY COUNCIL COMMITTEES:
Continued to the next Council meeting.

ADJOURNMENT:
Mayor Messina adjourned the meeting at 11:41 p.m.

Lisa Wolfe, City Clerk