

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
OCTOBER 16, 2007

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, October 16, 2007, 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:

Openings on Boards and Commissions:

- Benicia Housing Authority Board of Commissioners:
Two terms to December 31, 2009 (Tenant Openings)
- Sky Valley Open Space Committee:
Three unexpired terms to September 30, 2010
- Library Board of Trustees
One full term to November 30, 2009 (Poet Laureate)
- Open Government Commission
One full term to November 30, 2011

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

- National Adoption Month – November 2007

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. Council Member Whitney – Council Member Whitney discussed issues he has been experiencing on the campaign trail. He has heard a lot of serious concerns regarding Measure S. Originally, he understood the Measure to be revenue neutral. There is a potential to create a windfall for the City. He is no longer in support of Measure S, as he believes there would be a tax increase. He invited citizens to join him in opposing Measure S.
2. Council Member Patterson – Council Member Patterson asked Staff to address the statement regarding Measure S being a tax increase, as suggested by Council Member Whitney.

Mayor Messina stated that this item was not on the agenda. Council Member Whitney used his public comment time to state his opinion. Mayor Messina did not think it was appropriate to get into a discussion over the comments.

Mr. Erickson stated that it was Staff's opinion that Measure S would not create a windfall for the City and it would not be a tax increase for the citizens. There is language in the measure that states that Council has the right and privilege to decrease the tax rate in several circumstances. If the measure raises more money than the City was originally taking in, Staff would recommend Council take action to decrease the tax so there was true revenue neutrality.

Council Member Patterson discussed Measure S. Measure S is revenue neutral. It does not raise taxes, and it gives the City a fair playing field with the telecommunications businesses. The quality of what we want is at stake. It is up to the citizens to decide what they want.

3. Vice Mayor Schwartzman stated that the City would be hosting an informational session on Measure S at the Benicia Public Library, and encouraged citizens to attend.
4. Steve Goetz – Mr. Goetz discussed concerns with the proposed Benicia Business Park. He read a letter to Council from Benicia First into the record (hard copy on file).
5. Jerome Page – Mr. Page stated that he was a member of Benicia First. He discussed concerns with the proposed Benicia Business Park.
6. Susan Street – Ms. Street read a flyer that was sent out by Benicia First regarding the proposed Benicia Business Park.
7. Marilyn Bardet – Ms. Bardet discussed concerns with the timing when the Benicia Business Park would be discussed by Council. She discussed concerns with the proposed Benicia Business Park project. She urged Council to postpone discussions on this item until the first part of 2008.

8. Sabina Yates – Ms. Yates discussed a big box evaluator website. She discussed concerns with the proposed Benicia Business Park Project.
9. Jan Lucca – Mr. Lucca discussed concerns with the current taxi service in Benicia. He suggested changes to the current regulations. The current cab companies are not performing as required.

Vice Mayor Schwartzman wondered if some of the recent DUI's were related to the taxi issues. Mr. Lucca was certain that at least one of the recent DUI's were related to the lack of taxi service. Mayor Messina asked Staff to put the taxi issue on an early Council agenda, if not the next Council agenda.

10. Brent Street – Mr. Street discussed concerns with the proposed Fire Rescue Boat.
11. John Furtado – Mr. Furtado discussed the City's new website, the issue of broadcasting Council meetings, and possibly Board and Commission meetings on youtube.com, the proposed tourism branding, and the possibility of using Cal Poly students to help Staff with the tourism branding.

Council Member Patterson asked Staff to post the tourism branding workshop dates and times on the City's website and newspaper. She asked Staff what the status was of having the Council meetings play on the City's website. Mr. Erickson stated that the City was moving in that direction. Additional equipment would be required to make that happen.

12. John Van Landschoot – Mr. Van Landschoot discussed the issue of open space. He discussed actions taken by past and present council members with regards to open space.
13. Joe Kearns – Mr. Kearns discussed concerns with the proposed Fire Rescue Boat, sports in Benicia, and the community access channel.

CONSENT CALENDAR:

Council pulled items VII-B.

On motion of Council Member Hughes, 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

The Minutes of October 2, 2007 were approved.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Introduction of Ordinances to make minor changes to the Open Government Ordinance:

Council Member Patterson asked Staff to clarify section 4.08.090.

ORDINANCE 07- - AN ORDINANCE AMENDING SECTION 4.04.050 (DEFINITIONS) OF CHAPTER 4.04 (IN GENERAL) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO CLARIFY THE FUNDAMENTAL RIGHTS

On motion of Council Member Patterson, seconded by Council Member Whitney, the above Introduction and First Reading of an Ordinance was approved, on roll call by the following vote:

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

ORDINANCE 07- - AN ORDINANCE AMENDING SECTION 4.16.030 (DECLARATION OF OPEN GOVERNMENT AWARENESS) OF CHAPTER 4.16 (ETHICS) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO UPDATE THE LANGUAGE TO REFLECT CITY EMPLOYEE TRAINING PRACTICES

On motion of Council Member Patterson, seconded by Council Member Whitney, the above Introduction and First Reading of an Ordinance was approved, on roll call by the following vote:

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

ORDINANCE 07- - AN ORDINANCE AMENDING SECTION 4.16.110 (GIFTS) OF CHAPTER 4.16 (ETHICS) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO MAINTAIN CONSISTENCY WITH STATE REQUIREMENTS

On motion of Council Member Patterson, seconded by Council Member Whitney, the above Introduction and First Reading of an Ordinance was approved, on roll call by the following vote:

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

PUBLIC HEARINGS:

None

ACTION ITEMS:

Adoption of a resolution authorizing emergency water line repair work on Viewmont Street south of Casa Grande Street:

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

Council and Staff discussed the fact that this repair was an anomaly, the current inspection program, and funding for the repair. Staff will provide Council with a report on the current inspection program.

RESOLUTION 07-116 - A RESOLUTION AUTHORIZING COMPLETION OF EMERGENCY WORK TO REPAIR THE WATER LINE AND STREET PAVEMENT SECTION ON VIEWMONT STREET SOUTH OF CASA GRANDE STREET

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

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

On motion of Vice Mayor Schwartzman, seconded by Council Member Whitney, Council approved the appropriation of \$200,000 from the Water Enterprise undesignated fund reserves to pay for the estimated costs of the repair work, on roll call by the following vote:

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

Authorization of appropriation from the General Fund Un-appropriated Reserve and award of Architectural Design Consultant Contract for Mills Community Center Improvement Project:

Mike Dotson, Assistant Director, Parks and Community Services, reviewed the staff report.

Council and Staff discussed the City's savings for using in-house staff for some of the work, current status of the project, alternative entrance, community meetings regarding the project, cost of remediation, City Staff hours spent on project, current budget reserve, funds at risk if Measure S does not pass, Valero property tax dollars, certificates of participation, budget surplus, contacting various organizations in the community to participate in the community meetings, and long-term planning for the community center.

Public Comment:

1. Mark Hall – Mr. Hall discussed the rules in the current proposal, traffic issues, and the need for the City to get the details right the first time.
2. Marilyn Bardet – Ms. Bardet discussed the issues of parking, and adding an additional wing in the cement foundation where the portables used to be.
3. Christi Tenret – Ms. Tenret discussed the importance of the neighbors' concerns being heard. She appreciated being included in the neighborhood discussions.

Council discussed concerns with the proposed funding for the contract, contacting Valero to request payment on the property tax settlement, and possibly authorizing \$80,000 to get the architecture work started.

Mr. Erickson suggested Staff report to Council in a few weeks on the issue of the Valero property tax settlement agreement. Staff was confident that the City would receive payment from Valero in the near future.

Council Member Hughes suggested proceeding with the architectural contract as proposed.

RESOLUTION 07-117 - A RESOLUTION AUTHORIZING THE APPROPRIATION OF \$80,000 FROM THE GENERAL FUND RESERVE FOR THE PURPOSE OF CONTINUED RESTORATION WORK AND TO HIRE A DESIGN ARCHITECT FOR THE MILLS COMMUNITY CENTER IMPROVEMENT PROJECT

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

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

Noes: Mayor Messina

RESOLUTION 07-118 - A RESOLUTION ACCEPTING THE BID FOR ARCHITECTURAL DESIGN SERVICES FOR THE MILLS COMMUNITY CENTER IMPROVEMENT PROJECT, AWARDED THE ARCHITECTURAL DESIGN CONSULTANT CONTRACT TO NOLL AND TAM OF BERKELEY, CALIFORNIA IN THE AMOUNT OF \$128,303, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSULTANT CONTRACT ON BEHALF OF THE CITY

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

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

Noes: Mayor Messina

Mayor Messina called for a 5-minute break at 9:08 p.m.

The meeting resumed at 9:15 p.m.

Consideration of a study session to review proposed Tree Ordinance:

Mario Giuliani, Management Analyst, Parks and Community Services, reviewed the staff report.

Public Comment:

1. Allison Fleck, Chairman, Tree Committee – Ms. Fleck discussed what the Tree Committee had been working on. The Tree Committee would like Council to hold a study session to review the proposed Tree Ordinance.
2. Steve Goetz, Member, Tree Committee – Mr. Goetz thanked Council and Staff for their support.

Council Member Patterson asked the Tree Committee how they felt the study session should be noticed. The Tree Committee members stated that the wider the noticing the better. The committee would like the notice published in the newspaper and on the City's website.

Mayor Messina suggested posting the staff report, ordinance, and notice on the City's website.

Mr. Erickson suggested scheduling the study session as soon as possible.

Council directed Staff to provide at least two weeks notice for the study session, and follow through on all of the other outreach suggestions.

INFORMATIONAL ITEMS:

Reports from the City Manager:

Council Member Committee Reports:

1. Mayors' Committee Meeting (Mayor Messina) - Next Meeting Date: October 17, 2007
2. Association of Bay Area Governments (ABAG) (Mayor Messina) - Next Meeting Date: Fall General Assembly, Friday, October 26, 2007 at the Oakland Marriott City Center from 8:30 a.m. to 2:00 p.m.
3. Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes) Next Meeting Date: November 9, 2007
4. League of California Cities (Mayor Messina) - Next Meeting Date: TBD
5. School District Liaison (Council Members Whitney and Hughes) - Next Meeting Date: December 6, 2007
6. Sky Valley Area Open Space (Council Members Patterson and Whitney) - Next Meeting Date: November 7, 2007
7. Solano EDC Board of Directors (Mayor Messina) - Next Meeting Date: November 15, 2007
8. Solano Transportation Authority (STA) (Mayor Messina) - Next Meeting Date: December 12, 2007
9. Solano Water Authority/Solano County Water Agency (Mayor Messina) - Next Meeting Date: November 8, 2007
10. Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes) - Next Meeting Date: October 18, 2007
11. Tri-City and County Regional Parks and Open Space (Council Member Whitney) - Next Meeting Date: December 10, 2007
12. Valero Community Advisory Panel (CAP) (Council Member Hughes) - Next Meeting Date: October 25, 2007
13. Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney) - Next Meeting Date: October 24, 2007
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson) - Next Meeting Date: October 22, 2007

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 9:31 p.m.

Lisa Wolfe, City Clerk