

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
OCTOBER 18, 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, October 18, 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.

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:

1. Openings on Boards and Commissions:
 - Open Government Commission: Five terms ranging from 1-4 years
 - Housing Authority Board of Commissioners: Two tenant terms – 12/31/05 to 12/31/07
 - Library Board of Trustees: One term - 12/31/05 to 12/31/08
2. First Street Peninsula Improvement Project: Mayor Messina listed the various improvements that have been completed. He urged the public to visit the First Street Peninsula.
3. Bay Area Ridge Trail Dedication – October 29, 2005 at 10:00 a.m. at the Marina Pavilion
4. Amtrak Thurway Celebration – November 3, 2005 at 12:00 p.m. at the City Park

APPOINTMENTS:

RESOLUTION 05-159 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF HALEY BENSON AS YOUTH COMMISSION
REPRESENTATIVE TO THE PARKS, RECREATION AND CEMETERY
COMMISSION

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

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

Noes: None

PRESENTATIONS:

Caltrans I-780 Tree Removal Project:

Mr. Art Yee, Office Chief, Office of Landscape Architecture, Caltrans District 4, reviewed a PowerPoint presentation on the I-780 Tree Removal Project (hard copy on file).

Mayor Messina asked Mr. Yee if he knew what types of trees would be appropriate for this environment. Mr. Yee stated that they did not know at this time, but there would be collaboration with the City of Benicia and the Tree Subcommittee.

Council Member Smith asked if Caltrans stood by their statement that the removal of the trees does not alter the visual character of the corridor. Mr. Yee stated that they stand by that statement. Council Member Smith stated that he did not agree and it is a matter of opinion. Council Member Smith asked if Caltrans would be leaving the display at the Benicia Public Library for a while to give the citizens a chance to view it. Mr. Yee stated that he believed that could be done. Council Member Smith stated that he hoped Caltrans would indeed consult with the Tree Subcommittee and possibly the Parks, Recreation and Cemetery Commission if they (the Commission) are interested.

Vice Mayor Patterson stated that she was ‘struggling’ over the CEQA issue. She stated that she was unfamiliar with the term ‘exclusion programmatic categorical exclusion’ and asked that Mr. Yee provide Staff with the section of CEQA that he referred to. She is familiar with aspects of CEQA that have categorical exemptions. There are criteria for those exemptions, which include emergencies. The problem with having the CEQA exclusion is that you don’t have the mitigation measure which would be the replanting of the trees and you lose your leverage. She asked what portion of landscaping represents a typical budget for Caltrans. Mr. Yee stated that for Highway planting, the entire freeway landscaping budget was \$10 million per year (for California). Vice Mayor Patterson stated that her main concern was getting the replanting done. Council wants to work with Caltrans to make sure the replanting is done as soon as possible. Vice Mayor Patterson asked that Mr. Yee make sure that Staff receives the agenda for the (state) Commission meetings for this project, and that we are put on the mailing list for the Commission meetings. That way, Staff can keep on top of this project. She stated that the entrances to the freeways in Benicia were ugly with weeds and trash. She asked if we could use the Department of Conservation ‘Adopt a Highway Program’ and do something for the entrances so we can have them weeded more often. She asked if there were other creative solutions for the appearances to Benicia (including the Caltrans Corporation Yard). There is a great need for the City’s gateways to look more attractive than they currently do. Mr. Yee stated that the Highway program was an excellent program. He stated that Caltrans could involve any interested groups in that program. He stated that Mr. Ken Chandler is the new supervisor in that department and is doing a great job. He will make sure Staff has his name and contact so they can meet and go over the concerns with him.

Public Comment

1. Steve Goetz – Mr. Goetz stated that he hopes Caltrans will seek the community’s input on what types of trees to replant. He hopes Council will hold Caltrans’ feet

to the fire on the replanting issue. If Caltrans does not maintain what they replant, we will be in the same position all over again in a few years. He appreciated the Vice Mayor's comments on the legal leverage to make sure the re-landscaping is as comprehensive as it can be. Caltrans needs to look at all areas of town with regards to re-landscaping (medians, off ramps, etc.). He discussed the possibility of Caltrans using reclaimed water for freeway landscaping. He hopes the removal of the trees does not cause any erosion that goes into the estuary or State Park area.

2. Mary Frances Kelly Poh – Ms. Kelly Poh stated that she too wants Council to hold Caltrans' feet to the fires with regard to the replanting issue. She is concerned because the Tree subcommittee is going to be proposing a list of trees that are both appropriate and inappropriate for planting in Benicia. While the list will contain native trees, it will also contain trees that are not native to Benicia. Caltrans should not plant all of the same type of trees. The Tree subcommittee is concerned about the health of other trees in the community. PG & E has created some problems with the trees on West J Street. There are palm trees that have been scalped. Either the poles need to be made higher, or the wires need to be placed underground. She wondered what the City could do to ensure the wires go underground.

Linking Land Use Policy to Nutrition & Health:

Ms. Lisa Feldstein, Senior Policy Director, Public Health Institute, Land Use and Nutrition Education Program, reviewed a PowerPoint presentation (hard copy on file).

Update on People Using Resources Efficiently (PURE) Committee Activities:

Mr. Bob Craft, Chair, PURE Committee, reviewed the following report:

Progress on the project continues at a measured rate due to various complexities. On October 11, 2005 the committee made two important decisions, both of which were in concert with Staff recommendations.

After considerable review and discussion, PURE recommends the siting of all system components at the City's Waste Water Treatment Plant. The concept of siting various system components at the refinery was thoroughly studied, but in the end it was determined that neither of the possible sites at Valero were feasible due to either 1) Significant additional costs because of topographical considerations, or 2) siting of the components would not be compatible with other refinery activities or configuration.

The co-location of all major system components, i.e. the MF/RO, UV and the nitrification piece will, in the final analysis, greatly simplify operations from the City's viewpoint and probably mitigate the potential for system upsets at both City and Refinery facilities. The physical proximity of the components will permit more cohesive system integration with other parts of the Wastewater Treatment Plant. Future plans and requirements of the City site were considered and PURE and City Staff feel that the site will accommodate all requirements until total system build out or as far out as 100 years with this particular site.

PURE's second major decision at the meeting dealt with the selection of the appropriate nitrification process. PURE's consultant examined eleven options and screened these down to six for detailed consideration.

The committee selected a nitrifying trickling filters system. This decision and recommendation were based on a combination of factors including an economic analysis, ability to meet full system capacity requirements, energy requirements, proven technology in use in the local area, process reliability, and ease of operation and implementation.

A motion supporting both key decisions was passed unanimously by the PURE Committee.

PURE's next major step is another round of toxicity testing. This has now been funded for about \$155,000 and testing is expected to occur in early November. PURE must get acceptable results using an approved testing methodology if it is to obtain regulatory permits going forward. Absent acceptable results, PURE would not have a viable project. The committee is closely following testing and the associated methodologies being performed for East Bay MUD for similar projects involving Chevron and Conoco-Phillips.

Shortly, the committee will also be doing a required environmental analysis. An RFP for that work has gone out. In early November a PURE subcommittee, including City and Valero representatives, will select the firm to do this analysis.

PURE's expectation to complete all preliminary design work in the first quarter of 2006.

The next scheduled PURE Committee meeting will be on December 13, 2005.

PROCLAMATIONS:

Mayor Messina presented the following proclamations:

- Red Ribbon Week – Officer Jeff Harris, Benicia Police Department, accepted the proclamation.
- Domestic Violence Awareness and Prevention Month – Ms. Jesy Yturalde, SafeQuest Solano, accepted the proclamation.

ADOPTION OF AGENDA:

On motion of Council Member Smith, seconded by Vice Mayor Patterson, 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:

Various written communications were presented to Council (hard copies on file with the original Agenda packet).

PUBLIC COMMENT:

1. Todd Matthews – Mr. Matthews is the President of the Benicia Firefighters Association (BFA). BFA voted unanimously to turn down the most recent offer by the labor negotiators. They are now back to square one. He listed the names of Firefighters that have left the Benicia Fire Department to go to other cities. He asked Council to do the right thing, fulfill its promise, pay the Firefighters the average wage, and prevent fifteen more Firefighters from leaving the Benicia Fire Department.

Council Member Smith asked if any of the cities listed were smaller than Benicia. Mr. Matthews stated that Petaluma may be close to Benicia's size.

2. Tom Coleman – Mr. Coleman stated that he has been a firefighter for 24 years. He discussed the current negotiation situation. A pattern has evolved that singles out the strongest most organized labor group, build a cookie cutter approach, and fit that group into that cookie cutter. There is an insult built into that process, which generated a great deal of animosity in the group. The Benicia Fire Department is losing qualified individuals. If Council wants the citizens of Benicia served the way they deserve to be served, they need to figure this thing out.

Council Member Smith asked Mr. Coleman asked if he knew the starting salary of a Benicia Firefighter. Mr. Coleman stated that he did not want to get into a debate with Council on that issue. Council Member Smith asked if Mr. Coleman would argue that the current starting salary was \$57,000 with a benefit package of approximately \$15,000-\$20,000. Mr. Coleman stated that he would not argue that point.

3. Carl Lunstead – Mr. Lunstead is a Benicia Firefighter. He commented on statements made by City Staff and certain Council Members seeking re-election. A candidate seeking re-election made the statement that the Benicia Firefighters are not required to do the same things as other fire departments. He finds that comment insulting and uninformed. Also, there are 30 Firefighters not 44. They are required to hold the same degree of training and certification as other city's Firefighters are required to have. Mr. Lunstead described various injuries that Benicia Firefighters have suffered in recent months. He stated that contrary to what one of the Council Member's continues to say, the Firefighters are not seeking to compare their salaries with communities larger than Benicia. They are simply trying to hold Council to what it agreed to and pay them the average wage. He discussed the labor negotiations of the Police managers that will be discussed later in tonight's meeting.
4. Doug Segulyeb – Mr. Segulyeb is a paramedic with the Benicia Fire Department. He listed concerns he has with the status of labor negotiations. He described a recent call he and his partner went on that involved a 3-year-old child. He is

concerned for the future safety of the public. No other bargaining group in Benicia is as far behind their comparable salary listing as the Firefighter's are. If Council is serious about public safety, it needs to tell the negotiators to address the Firefighter's concerns.

5. Jared Matcham – Mr. Matcham stated that many Firefighters are discouraged with their employment in Benicia. Half of the Firefighters are testing in other jurisdictions. He listed various aspects of the labor negotiations that he is unhappy about (i.e. sick leave, post-retirement medical insurance, career advancement, etc.).
6. Joel Dinsdale – Mr. Dinsdale is a former Benicia Firefighter. He left the Benicia Fire Department to go to the Vallejo Fire Department. He discussed the differences in the wages and benefits between the cities. The Firefighters always give 100% of themselves while on duty.

Council Member Smith asked if it was correct that Mr. Dinsdale left the Benicia Fire Department to go to Vallejo because of better promotional opportunities. Mr. Dinsdale stated that was correct. Council Member Smith stated that would always be the case.

7. Steven Morgan – Former Benicia Firefighter, currently working as a Firefighter in the Livermore/Pleasanton area. He discussed the importance of loyalty, courage, and respect. He could not afford to continue working in Benicia. He had to leave the Benicia Fire Department to support his family. He wished Council would support the Firefighters and do the right thing.
8. Tim Winfield – Mr. Winfield stated that the offer has always been there for any Council member to attend any training that the Fire Department offers. It is obvious that Council does not have a clue as to what the Firefighters do. He encouraged Council to join them during any of their training exercises so they can educate themselves on what it is that the Firefighters do.
9. Bridget McCarthy – Spoke on behalf of the neighbors of 143 East E Street regarding the Anderson Hotel. They have submitted a letter to Council/Staff requesting to be on the 11/1 Council agenda. She would like a response to her question. They have not received any response from City Staff on their questions regarding the project. They have brought up issues with building codes and non-compliance of the project. They are entitled to a response on the issues they have raised. Staff stated that it is on the tentative agenda for November 1, 2005. Ms. McCarthy asked that she be notified when the item will be on the agenda. Staff has met with Mr. Farr. Ms. McCarthy asked that she be contacted and notified when the item will be on the Council agenda.

Council Member Smith requested this item be on the 11/1 agenda.

Vice Mayor Patterson stated that she understood from Staff that this item would be on the 11/1 agenda.

10. Jim Farr – Mr. Farr stated that it was frustrating to hear what the Firefighters are going through. He is also frustrated with Staff as well. He is asking for compliance with the conditions of approval and the State Building Code. He has

spent over 60 days of his time begging the City Manager for compliance with the conditions of approval at 153 West D Street. It is shameful how some City officials conduct their business and waste the taxpayers' money.

11. Marilyn Bardet – Ms. Bardet stated that you couldn't put a dollar price on the level of service that the Firefighters provide. She considers Firefighters to be heroes. She is concerned that we have no medical services in Benicia. We are lucky that there have not been any major accidents at the refinery. We should not get into a position of putting dollar figures on the services of the Firefighters. She is glad that Caltrans has picked up the ball on the tree removal project. She hopes as the bridge project comes along, the tree removal project will progress at lightning speed. She is thankful to the City, Valero, and the Bay Area Air Quality Management District for supporting the City getting an air quality monitoring program.
12. Greg Petersen – Mr. Petersen stated that he is deeply disturbed, disgusted, and flabbergasted at some of the comments made at the City Council Candidate Forums. He stated that obviously, Council Member Smith does not have any idea what the Firefighters do. He wished the citizens could see Council Member Smith rolling his eyes when the Firefighters come up to comment on their concerns with the labor negotiations. Mayor Messina cautioned Mr. Petersen that the Public Comment portion of the meeting could not be used to verbally attack any of the Council Members.
13. Jim Erickson – Mr. Erickson stated that the City does respect the Firefighters. The City and the Firefighters are currently in mediation. There is a very competent third-party mediator involved in the process. The parties agreed to a 'mediator's recommendation.' Both the City and the Firefighters have made compromises. Unfortunately, the Firefighters disagreed with the recommendations, which is unfortunate. Mr. Erickson wants to continue talking and proceed. There are perhaps some misunderstandings of positions. There would be profit in getting the discussions going again. With regards to the Police managers, there is not a 14% increase. He briefly discussed the Police management reorganization.
14. Scott Hansen – Mr. Hansen discussed some of the 'compromises' that the City has made with regard to labor negotiations. The offerings made by the City are meager and insulting. Staff continues to interrupt the Firefighters during negotiations and they are being treated like children. Council is not taking the Firefighters seriously.
15. Jason Fein – Mr. Fein discussed the proposed increase for the Police managers. It is more than the 1.5% quoted by Staff. He discussed Hurricane Katrina. Several Benicia Firefighters submitted applications to aid the victims of Hurricane Katrina. Their applications were not processed. That speaks to the state of employer/employee relationship at this time. The City failed to abide by the Fair Labor Standards Act for two years, knowingly doing it for one year. This cost the City and the employees tens of thousands of dollars. This highlights Staff and Council's lack of willingness to demonstrate integrity. It demonstrates the City's general willingness to break the law. There is a general unwillingness to follow labor laws. He asked the citizens to remember all of this when they go to vote.

16. Arthur Porter – Mr. Porter encouraged Council to attend a firefighter training session. He required the assistance of the Firefighters earlier this year. They saved his life. You cannot pay enough money for the services the Firefighters provide. He asked Council to do the right thing, analyze the problem, and look at the needs of the City. This issue is above dollars and cents.

Vice Mayor Patterson asked Ms. McLaughlin about the legal limitations for Council to respond to statements made under public comment. Ms. McLaughlin reviewed the rules of the Brown Act. Short answers are okay. Anything more must be agendaized at a future or special meeting. Vice Mayor Patterson wants to make sure that Council has a clear comprehensive fire union 'complaint' list so that when Council is in Closed Session, they can address all concerns raised tonight. Vice Mayor Patterson asked Mr. Erickson to clarify the labor negotiations and fair practices. Mr. Erickson stated that Council gave Staff direction to negotiate with the labor groups. Vice Mayor Patterson stated that Council could at any time decide to meet in closed session to discuss issues raised that needed to be discussed. Mr. Erickson stated that Staff had not received any requests from Council in the past month to revisit the initial direction it gave Staff with regards to negotiations. Mr. Erickson stated Staff met with Council approximately 2-4 weeks ago in Closed Session (at staff's request) to update them on the progress of negotiations. Vice Mayor Patterson stated that Council couldn't discuss issues raised in public comment that have not been put on the official business agenda (by law). Also, we have a process and procedure that does not allow Council to enter into discussion with labor negotiations. It is an awkward situation and is kind of strange, but those are the rules that Council is operating under.

17. Alan Schwartzman – Mr. Schwartzman discussed the Anderson Hotel project. He discussed the overall issue of compliance. There are workers working on the Harbor Walk Project on Sundays (they are not supposed to be). There are other issues on compliance with the Harbor Walk Project discussed. He would like to see the discussion on enforcing compliance with projects. He discussed the issue of eucalyptus trees. Maybe the City needs to be more lenient with the specimen trees.
18. Arlan Williams – Mr. Williams stated that maybe the Firefighters need to ask for a 'readjustment' instead of a raise (referring to the Police management item). The cookie cutter approach is not working. They are not trying to tear the Fire Department apart; they are trying to make it better. He discussed the health benefits of the Firefighters.
19. Rick Santini – Mr. Santini discussed the labor negotiations. He wanted to make it very clear that the City Staff clearly understands what the Firefighters are asking for. All the Firefighters want to continue working for the City. It is up to Council to make it right.
20. Council Member Smith addressed some recent campaign literature he received in the mail last week. The literature does not give real facts it uses scare tactics. Contrary to what the literature says, the City does not have a high rate of employee turnover. The City has a balanced budget. The City has a healthy reserve to protect the City's financial security. The funds being used are City

funds. He is disappointed that City employees would sign their name and spend their money on such a misleading and inaccurate hit piece. He then announced the following events:

- Farmers Market is held on Thursdays
 - 10/20 - Chamber Mixer at Solano Bank
 - 10/21-11/12 – BOTTG will present ‘On Golden Pond’ on Fridays and Saturdays
 - 10/23 – BPAF’s final show of the year at the Clocktower
 - 10/29 – Benicia’s Downtown Halloween Festivities – parade, costume contest, and decorated pet contest
 - The League of Women Voters Campaign Forum will be rebroadcast on 10/22 and 11/5
 - 10/19 and 10/26 – Presentations on the renovation project at the County Fairgrounds
21. Council Member Whitney acknowledged Mr. Alvarez and Mr. Knight for the floor repairs at the Camel Barns. The repairs are completed on 10/18. Now the City can get started on the roof repairs.
22. Mayor Messina thanked Council Member Smith with regards to the comment on the low employee turnover rate. He disagreed with Council Member Smith’s characterization that we have a balanced budget. When the operating expenditures and revenues do not match, it is not balanced.

Council Smith asked Staff if the operating budget and expenditures matched. Mr. Erickson stated that they matched. The capital projects are financed with some of the reserves.

23. Vice Mayor Patterson commented on the contract negotiations. This Council is in a different economic mode than when negotiations were done five years ago. All contracts should be representative of the economic conditions. Let’s hope with prudent leadership we will be able to get out of some of the difficulties we have with the economy and that we can have the same kind of stability with our contracts.

Mayor Messina called for a 5-minute break at 9:45 p.m.

The meeting resumed at 10:00 p.m.

CONSENT CALENDAR:

Council pulled items VII-C, VII-D, and VII-E.

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

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

Noes: None

The minutes of October 4, 2005 were approved.

Council approved the denial of the following claims against the City and referral to insurance carrier:

1. Samuel Paggi
2. Liberty Mutual

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approve the July 1, 2005 to June 30, 2006 amendments to the Labor Agreement with the Benicia Police Management Group:

Mayor Messina asked if the cost for this item was pre-programmed into the budget. Mr. Erickson stated that was correct. Any salary adjustments, salary, re-grading, etc. are not included in this MOU. Those changes would come back to Council for approval.

RESOLUTION 05-160 - A RESOLUTION APPROVING THE JULY 1, 2005 TO JUNE 30, 2006 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA POLICE MANAGEMENT GROUP

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

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

Noes: None

Approval of purchase and installation of new police and fire computer-aided dispatch and records storage computer:

Chief Trimble stated that this is the computer that would prioritize calls. It is not a computer for communications.

Council Member Campbell stated that Council had allocated \$84,000 for this computer and Staff got it for \$34,580, which saved the City \$48,000.

Council Member Whitney asked if Staff had planned for future growth or expansion. Ms. Sandy Ayalah stated that the system in question has three times as large as the system the City currently has. This computer will last for a minimum of three years with regards to upgrades, etc. We are currently two years behind on IBM software. The memory can be increased if need be. Council Member Whitney had questions on tape backups/archives. We are currently backing up every night. We do not have a system in place for tape storage. He suggested Staff take a look at having a fire safe on site for tape storage.

RESOLUTION 05-161 - A RESOLUTION APPROVING THE PURCHASE AND INSTALLATION OF A NEW POLICE AND FIRE COMPUTER AIDED DISPATCH AND RECORDS STORAGE COMPUTER (AS400 MIDFRAME COMPUTER) AND APPROPRIATING THE FUNDS FROM THE EQUIPMENT REPLACEMENT FUND

On motion of Council Member Whitney, 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

Approval of request to CalPERS to allow David Golick to work in excess of 960 hours this year:

Jim Erickson, City Manager, briefly reviewed the Staff report.

Mayor Messina clarified that the City is not paying for additional PERS costs associated with this.

Vice Mayor Patterson asked why the City did not go for reinstatement of Mr. Golick's status from retirement to full time status. Mr. Erickson stated that there are some disadvantages for Mr. Golick if he were to do that. He discussed what we would do if PERS did not allow the exemption. We would ask Mr. Golick to cut back his hours but continue to direct the department.

Council Member Whitney asked if Staff had considered hiring someone qualified that could work full time. Mr. Erickson stated that while doing the search, Staff had approximately 25 or so qualified candidates that applied.

Council Member Campbell asked how staffing the rest of the Community Development was going. Mr. Erickson stated that an associate planner was starting on Monday and an assistant planner would be starting very soon. A third position has yet to be filled. Staff may recommend we fill that position in a different way than had previously been considered.

RESOLUTION 05-162 - A RESOLUTION REQUESTING PERS AUTHORIZE DAVID GOLICK TO EXCEED 960 HOURS AS A RETIREE TO ALLOW HIM TO WORK FOR THE CITY OF BENICIA AND TO FILL AN URGENT NEED

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

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

Creation of the office of Benicia poet Laureate – continued from October 4, 2005 City Council meeting:

This item was continued to the November 1, 2005 City Council meeting.

Council discussed the reasons and issues with continuing this item.

Council Member Smith stated that he wanted to make a motion to approve this item.

Mayor Messina stated that per the Sunshine Ordinance, there would be issues since there was not any packet information in the agenda.

Vice Mayor Patterson stated that if we put 'continued' in bold print we have to go with that.

Public Comment:

1. Ms. Mary Eichbauer – Ms. Eichbauer is the president of the Library Board of Trustees. She stated that the Library Board visited this item at their last meeting. They did not find anything wrong with it that made them change it. They looked at other jurisdictions that have Poet Laureates. They believe they have set up the perfect criteria for this position.

Council Member Smith stated that this is the second time this has been on the agenda. It was agendaized for the Library Board five times. He cautioned anyone drawing any conclusions from the Staff recommendations on the agenda. He is ready to proceed. He offered a motion to proceed and adopt the resolution on the poet laureate. The motion died for lack of a second.

Mayor Messina had comments on the use of the term 'indemnity' in the agreement. Ms. McLaughlin stated that indemnity might not be appropriate in this case. It probably does not belong in the agreement. He had questions regarding the poet laureate performing duties when there is no compensation. Ms. McLaughlin confirmed this is a non-issue. The duties are vague and non-ceremonial.

Approval of lease agreement with Cingular Wireless for installation of communication facilities on City-owned property north of Lake Herman Road – continued from October 4, 2005 City Council meeting:

This item was continued to the November 1, 2005 City Council meeting.

Council Member Whitney stated that he is concerned with the issue of Staff time. We need to carefully weigh what we are asking Staff to do.

Vice Mayor Patterson discussed the location of the proposed tower. It is in clear view of Lake Herman. It is not a tiny box. One could fit six refrigerators in the box. We should be aware that it is our scenic corridor. We need to protect that scenic corridor. She stated she hoped Cingular would have some inspiration to address the issue of landscaping and be creative. She wants Staff to find out from the County if it is part of their scenic road element. Cingular can hear this discussion and offer to do something significant. Ms. McLaughlin stated that if it is in the scenic road element, we could ask the County to do more landscaping or screening to hide or camouflage the box. When Staff follows up with Cingular, they could address that.

Council majority would support asking for additional landscaping if the applicant paid for it. Mr. Schiada stated that Staff may need additional time to address the concerns, and it may not be able to be brought back until November 15, 2005.

Approval of the proposed revisions to the Parks and Community Services Department Nutrition and Health Mission Statement – continued from September 20, 2005 City Council meeting:

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

Council Member Smith clarified the events that prompted this issue. He stated that this Mission Statement is partially a result of renegotiation of a city park vending machine contract to change to a healthier variety of beverages. Mr. Dotson reviewed the locations within the City where vending machines were located.

Mayor Messina has questions on how the policy would be reviewed and enforced. Mr. Dotson stated that it would be re-evaluated twice a year by the sports committees. There are currently Youth Commission events where these policies have been implemented. Mayor Messina stated that he would like to see these policies enforced at after-school events as well. Mr. Dotson stated that would be done. It is currently being enforced at the Kids Kaleidoscope Program as well as the snack bar at the James Lemos Pool. Healthy snacks include fruit, juices, granola bars, water, diet sodas, etc.

RESOLUTION 05-163 - A RESOLUTION APPROVING THE PARKS AND COMMUNITY SERVICES NUTRITION AND HEALTH MISSION STATEMENT

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

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

Approval of changes to the City of Benicia investment policy – continued from the September 20, 2005 City Council meeting:

Rob Sousa, Finance Director, reviewed the Staff report.

Mayor Messina asked why diversification was listed as the fourth priority. Ms. Gay Eichoff, MBIA, clarified the level of priority.

Council Member Campbell asked for specifics on the City's currently portfolio. Mr. Sousa stated that the City currently has \$40 million in the Local Agency Investment Fund (LAIF), approximately \$6 million in government agencies and approximately \$2 million in CD's. We will be moving \$30 million of our portfolio that we will refer to as our core funds. We will have \$10 million minimum available to cover the City's cash flow (that figure could go as high as \$20 million). LAIF is paying a little over 3% right now.

Ms. Eichoff discussed the 2-year weighted average maturity and why it was chosen. It allows for flexibility in the rising rate environment.

Mr. Sousa reviewed some video slides on maturity analysis and risk/return.

Council Member Campbell clarified that we are not losing money, we are just not making as much as we could right now.

Mayor Messina discussed interest rates, risks, and strategies at length. He asked Ms. Eichoff if we could quantify risk. Ms. Eichoff stated that the longer you go out the more risk there is. Mr. Sousa re-reviewed the risk/return slides and figures. He stated that if the City had to liquidate its entire portfolio, we could lose approximately \$150,000. Ms. Eichoff reminded Council that the nature of the contracts with the advisors is non-discretionary, which means that as market conditions change and the portfolio manager makes recommendations, they will be brought to the finance committee for approval. Nothing would be done without the committee's authorization. Mayor Messina asked how this is managed so that Council is aware of what is going on and exercise judgment. Ms. Eichoff stated that there are several layers of oversight. The information is put into their computers so that warnings go off. Also, in MBIA's corporate office, there is an internal compliance committee that monitors every individual portfolio to be sure that they are in compliance at all times with each individual investment policy. Mr. Sousa stated that the investment policy is restrictive about how we report our investment program. They are required to report to the Audit and Finance Committee once per month. Mr. Sousa and the Assistant Finance Director will conduct the day-to-day activities. They will be under the daily oversight of the City Treasurer. The investment advisors have very detailed reports on every transaction made. Once the Audit and Finance Committee has seen that report, they will give a quarterly report, which will be forwarded to Council for final approval.

Vice Mayor Patterson asked Staff to give the highlights of what Mr. Oscar Reyes, Jr. (City of Fairfield) did with regards to their program (how long they have been doing this, the benefits, general standards, etc.). Mr. Sousa stated that Fairfield used a small portion (approximately \$10 million) of their portfolio to see how an independent advisor would fare against their internal management. They have over \$200 million and three different investment advisors assisting them. The city of Napa has a similar story. All of the testimonies received from other cities were favorable. No one had entered into an arrangement that had caused them to suffer what they felt was a performance less than LAIF. We are expecting a performance much greater than LAIF. Vice Mayor Patterson stated that a) a number of cities have done this, b) our neighbor, Fairfield has done this successfully, and c) we have declining revenues and we need to take a look at this in the total context. If we don't do this, we have no choice but to cut back. We have certainty in declining revenues. We have certainty because of the federal and the state governments cutbacks. We are confronting the reality that we would go in to deficit mode if we don't look for additional revenue. This is a way to gain additional revenue for the long range.

Council Member Campbell asked for a quick explanation of LAIF. Mr. Sousa stated that one of the strongest benefits is that the City would not be subjected to the rapid swings in the market as it has been in the past few years. Reporting will play a big role in this. We need to stay short term for a while to cover any potential loss from a rapid swing in the market. We have seen a rapid increase in the market in the past twelve months. The investment advisors have the ability to go out and assess the risk of investing in a climate such as this where he does not.

RESOLUTION 05-164 - A RESOLUTION REVISING THE CITY'S INVESTMENT POLICY AND GUIDELINES AND CONFIRMING ITS ADOPTION:

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

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, Council agreed at 11:36 p.m. to adjourn and continue the remaining agenda items to the next Council meeting, on roll call by the following vote:

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

Noes: Council Member Campbell

Policy for Noticing Planning and Building Applications – continued from October 4, 2005 City Council meeting:

Continued to the next Council meeting

Discussion of policy for City assistance to disaster victims – continued from October 4, 2005 City Council meeting:

Continued to the next Council meeting

NEW BUSINESS:

Acceptance of a \$15,000 donation from Syar Foundation for the purchase of Automatic External Defibrillators (AED):

Continued to the next Council meeting

Consideration of Council Member Campbell's recommendations regarding the FY 2005-06 and FY 2006-07 Budgets – continued from the October 4, 2005 City Council meeting:

Continued to the next Council meeting

Discussion of Vice Mayor Patterson's proposed Grading Ordinance amendments – continued from the October 4, 2005 City Council meeting:

Continued to the next Council meeting

REPORTS FROM CITY MANAGER:

Review of proposed joint use agreements with the Benicia Unified School District (BUSD) – continued from October 4, 2005 City Council meeting:

Continued to the next Council meeting

REPORTS FROM CITY COUNCIL COMMITTEES:

For information only

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:37 p.m.

Lisa Wolfe, City Clerk