

October 19, 2004

The Benicia City Council meets the 1st and 3rd Tuesday of each month at 7:30 p.m. in the Council Chambers. Copies of Council Agendas are available in the City Clerk's office on the Friday afternoon before the Council meeting.

**MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
OCTOBER 19, 2004**

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 19, 2004, 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:

Mayor Messina announced an opening for the City of Benicia's representative to the Solano Transportation Improvement Authority's (STIA) Independent Taxpayers Watchdog Committee (ITWC) For Measure A.

There are current opportunities for participation on the Audit and Finance Committee.

APPOINTMENTS:

PRESENTATIONS:

PROCLAMATIONS:

ADOPTION OF AGENDA:

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

Karen Majors, Assistant City Manager, announced a minor change to item VI-C. There was a correction to the date listed in the Resolution. A revised copy of the Resolution was handed out to Staff and Council.

Ms. Majors stated that Mr. Delgado has requested a continuance (letter on file) on item VII-A until the 11/2/04 meeting. This will allow his clients more time to respond to some issues that have arisen on the project.

Public Comment:

1. Marilyn Bardet - Ms. Bardet stated that she would prefer this item not be continued to the 11/2 meeting. That is Election Day. She would prefer the public hearing be heard on a different day.

Council asked Mr. Delgado if the public hearing could be heard at the second meeting in November. Mr. Delgado stated that he preferred to have the public hearing on 11/2/04, as it has already been delayed three times.

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, Council agreed to continue item VII-A until 11/2/04, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Campbell

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

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

Noes: None

COMMUNICATIONS:

WRITTEN:

Mayor Messina announced that Council had received an email (on file) from Kitty Griffin.

PUBLIC COMMENT:

1. Cathy Ann Hewitt - Ms. Hewitt thanked Council for instituting good government. She stated that information was not as accessible in the past as it is now. She read the City of Rio Vista's value statement. She stated that the recent changes Council has been working on are helpful. She stated that the public should be more mindful of taking care of public restrooms.
2. Jan Cox-Golovich - Ms. Cox-Golovich stated that she supports the proposed Second Street Overlay project. She volunteered her time and effort in assisting the City with putting together a plan for the gateway. There needs to be an overall plan. She suggested going to the Community Development department at either UC Berkeley or UC Davis and see if some grad students would work on this as a project. She urged the City to take this under consideration. She offered her services in whatever way she can to facilitate this.
3. Marilyn Bardet - Ms. Bardet stated that she supports the project at 1440 East Second Street with the caveat that a CEQA analysis of zoning change is done. She is concerned about the possibility of more parking spaces being added to the area. It may add to the traffic confusion. She stated that East Second Street is the central artery for bringing people to the downtown area. The proposed project development appears to be sort of like a big box on a flat pad, somewhat similar to the problem discussed at Design Review for a hotel that is planned for East Fifth Street. There would be a way in evolving some design guidelines that would come

out of a discussion like an initial study that was done for the Olsen Project. One of the concerns in that initial study was to identify impacts that, as individually considered, were limited, but when cumulatively associated, might seem considerable to the public, and should be subject to discussion. The visual effect of parking lots and the way we grade properties are two things that would affect our visual entrance and enjoyment of East Second Street as our central artery to get people downtown. We need to incorporate a design process in discussing this project and zoning change.

4. Council Member Smith announced the following events:

- **10/20/04 - Waterfront development workshop - 7:00 p.m. to 9:00 p.m. in Council chambers.**
- **10/21/04 - Chamber Mixer will be at Griffin Fitness, 1110 Rose Drive, Suite 160 from 5:30 p.m. to 7:30 p.m.**
- **10/22/04 - Opening night for Benicia Old Towne Theatre Groups 'Run For Your Life'. There will also be a champagne gala.**
- **10/27/04 - BIPA will host a speaker on the Benicia Bridge project at the Benicia Yacht Club.**
- **10/29/04 - Two dances will take place for Middle School children. 'The Spot' will be at the Vet's Hall, and there is also a dance at Benicia Middle School.**
- **10/30/04 - There will be a lot of festivities downtown; 1) costume contest at the City Park at 10:00 a.m., and 2) Halloween parade immediately following, which will start at City Park, and goes to the Waterfront, and 3) an art exhibition opening titled 'Exploring Purple Too' - for more information on the art exhibit call 747-0131.**
- **Council Member Smith encouraged everyone to go out and vote on Election Day, 11/2/04.**

5. Council Member Campbell stated that he had visited the Hearthstone Affordable Housing Project. He stated it was very nice. He asked if Public Works could check out the egress, and possibly add a turning lane, rumble strip or sign to the entrance/exit. Mr. Schiada stated that they would take a look at it and possibly refer the suggestion to the Traffic, Pedestrian and Bicycle Safety Committee.

CONSENT CALENDAR:

Mayor Messina asked if there were any items to be pulled.

Council Member Smith requested item VI-D be pulled.

On motion of Council Member Whitney, seconded by Vice Mayor Patterson, and unanimously approved, 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 5, 2004 were approved.

RESOLUTION 04-162 - A RESOLUTION APPROVING A PARCEL MAP FOR 619 EAST J STREET, ACCEPTING A SANITARY SEWER EASEMENT AND AUTHORIZING THE CITY CLERK TO EXECUTE THE CITY COUNCIL CERTIFICATE ON BEHALF OF THE CITY.

RESOLUTION 04-163- A RESOLUTION DECLARING ITS INTENTION TO VACATE A 10.00 FOOT WIDE PORTION OF EAST 3RD STREET AND A PORTION OF AN UNNAMED ALLEY TO THE WEST OF EAST 3RD STREET AND SETTING THE PUBLIC HEARING DATE FOR NOVEMBER 16, 2004

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

(END OF CONSENT CALENDAR)

Council took the following action:

Authorization for the City Manager to negotiate and execute a contract with Raney Planning and Management, Inc. in the amount of \$80,000 for project planning management services for the Benicia Business Park. Contract costs will be fully reimbursed to the City by Discovery Builders (Seeno). Council Member Smith wanted this item to be read. He wanted the public to know things might start happening out there. We are bringing a contract planner on board. If people want to be involved in the process, they should keep their eye out, because it will start to move through the process now.

Vice Mayor Patterson asked Ms. Majors how the City chose this firm. Ms. Meunier stated that the City had interviewed six consulting firms. Their decision was based on appropriate experience, cost, availability, and a fit with Staff.

On motion of Council Member Smith, seconded by Council Member Whitney, and unanimously approved, Council authorized, by minute order, the City Manager to negotiate the contract with Raney Planning and Management, Inc., on roll call by the following vote:

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

Noes: None

PUBLIC HEARINGS:

Public Hearing on General Plan amendment and zoning change for 1422, 1430, and 1440 East Second Street continued from October 5, 2004. The proposed mixed-use project is for 1430 and 1440 East Second Street:

Per the vote taken during Adoption of Agenda, this item was continued to 11/2/04.

Public Hearing on the environmental determination for the new Community Building and X-Park Projects in the Benicia Community Park and consideration of Resolution approving the design of the X-Park and related project improvements:

Mike Alvarez, Community Development Director, reviewed the changes to the content of the Resolution presented in the agenda packet page VII-B-7. An updated copy of the Resolution is on file. Mr. Alvarez then reviewed the Staff report on this item.

Bob Mutch, President, X-Park Committee - Mr. Mutch gave a verbal report on the status of the X-Park. As president of the X-Park Committee, he was very proud to come before Council as they discuss approval for the mitigated negative declaration and approval of the design of X-Park Benicia. Mr. Mutch stated that four-and-a-half years ago now, he was invited by his son to attend a meeting of parents and kids that thought they had what it took to get a new skate park built in Benicia, a facility that would replace the existing park next to Taco Bell. After a few meetings over the course of several months, the kids had provided their wishes and dreams to our outstanding park design architect, Zach Wormhoudt, and a preliminary design was created. The results of Zach's work were cheered by all at the time and are on display this evening. Few parks, if any, in Northern California will rival X-Park Benicia in its features, overall design and ride-ability. It is truly a unique and thoughtful design, taking into account several levels and styles of action sports, including skateboards, in-line skates and BMX bikes. He stated that from the outset, Benicia has been unique in its inclusion of BMX riders in the design of our park, a constituency that is regularly shunned and excluded because of small-minded fears of a very talented pool of skilled athletes that choose two wheels instead of four when they hit the streets. Benicia should be proud that they have included all of the action sports enthusiasts in a process that also encourages and supports kids that enjoy sports not involving bats, balls, backboards, or grass fields.

Mr. Mutch stated we should look back with awe and pride at the accomplishments of this community and this committee who, after so much time, has independently raised almost \$130,000 in cash and over \$135,000 in donated materials and labor. Together with the \$250,000 in cash donated by the city, they have over \$515,000 in the bank and are preparing for construction of X-Park Benicia. Unfortunately over the past four years, what once was a \$500,000 park has now become an \$800,000 park with costs expected to rise as every month passes. Due to record steel and concrete demand on the world market, inflation of prices for those two critical resources will continue to drive up the price of the park the longer we take to close this deal and get it built. For that reason, the X-Park Committee asks the Council not only to take a strong look at what additional public funding may be available, but also join their team as advocates to find those remaining donors in town that have yet to help their cause.

Mr. Mutch stated that due to budget constraints last year, a \$100,000 pledge by the city was pulled back and never allocated for the 2004-05-budget year. Instead of a \$350,000 total donation by the city, only \$250,000 is being held in reserve for X-Park Benicia. He stated that the X-Park Committee is asking that the City reconsider its position on this funding given the updated financial outlook for the city. Also, if there are opportunities to shift reserve funds slated for delayed projects, X-Park is ready to use them for construction. With the coming development of the Shea and Centex homes, anticipated funds may be made available for a project currently ready to proceed to construction. Finally, the X-Park Committee requests that the city consider earmarking \$68,000 to support the construction contingency fund for the project. Since the city is providing the construction management services with existing personnel, it is felt that, while a contingency fund is important,

these dollars should not have to be provided from private donations raised through personal checks, car washes and shirt sales. Finally, as one more way to help us get the park built, we ask your direct involvement in opening the doors to those private citizens, business and corporations which might have the wherewithal to help put donations over the top, allow for formal bids to be taken and park construction to start. The X-Park Committee knocked on all the doors and, while many have welcomed them, they could use some help to open the others.

To summarize, if the original \$100,000 pledge for 2004-05 is restored and the contingency fund is covered by the city, the Committee is less than \$100,000 away from building the X-Park Benicia. Our kids could be riding in this park by next summer if we step up and make the moves necessary to close this deal. Mr. Mutch thanked the Council for considering their proposition and helping them deliver what some of the most pessimistic kids believe may never happen.

Mr. Mutch said this is a challenge that needs to be answered decisively and urgently. The kids in our community are still waiting for a place to improve their “alternative” sporting skills. In that regard, X-Park will deliver. Just as important will be the feeling of belonging that X-Park Benicia will convey to them once it is built.

Council Member Campbell asked about the referenced contingency fund. Mr. Alvarez explained the reasons for having a contingency fund.

Council Member Whitney asked if Staff had explored any of the financing options that were discussed in prior meetings. Mr. Alvarez stated that Staff is not prepared to discuss financing options at this point in time. Council Member Whitney stated that we need to get this project going now. He proposed having another meeting with the X-Park Committee to figure how we can come up with the additional funds.

Council Member Smith stated that it has been difficult watching so many skaters grow up while we have been trying to get this project off of the ground. He stated that at this point, the X-Park Committee only has 2/3 of the money needed for the park. He supports the City covering the contingency fund, but it would be more proper to approach the subject at one of Council’s mid-year budget sessions. He asked if it was possible to construct the project in phases. Mr. Alvarez stated that Staff had that discussion today. They have not received a call back from the architect as to whether or not this is possible. Staff will look at that and use that as part of their presentation to Council regarding the financing package. The park was designed as one unit, and to carve it up you would break up the design concept. Putting it into phases may require a re-design.

Council Member Campbell suggested lowering the amount of the contingency fund.

Vice Mayor Patterson stated that she hoped Council would keep to the environmental document and the approval of the design, then discuss the financing, then give direction to Staff for getting some response back on where we stand on the budget. Part of this is finding the appropriations because the amount was approved.

Dan Schiada, Public Works Director, reviewed the portion of the Staff report relating to safe access.

Council Member Campbell discussed the Joint Powers Authority agreement between the BUSD and the City. The problem with the agreement is that no one can find a signed copy. He asked if there could be an additional option of the school changing their P.E. schedule. Mr. Schiada stated that Staff could pursue that option. Mr. Schiada stated that handicap vehicle access needs to be taken into consideration. Council Member Campbell stated that there should be more options than the two listed.

Colette Meunier reviewed the portion of the Staff report relating to the environmental review/document.

Council Member Campbell asked Chief Trimble if a child had ever been hit in the crosswalk in front of the Youth Activity Center. Chief Trimble and Mr. Alvarez stated that to their recollection, a child had not been hit in the crosswalk in question. Council Member Campbell referred to a traffic study that the Public Works department did on the crosswalk by Matthew Turner. He stated that there was much less traffic at the Matthew Turner crosswalk than at the crosswalk in front of the Youth Activity Center. Mr. Schiada stated that the key things would be to have adequate signing, striping, and most importantly, a crossing guard. Council Member Campbell stated that an \$80,000 gate seems to be too expensive.

Vice Mayor Patterson stated that she understands the concerns of the Matthew Turner parents. She suggested sending the issue of the crossing to the Traffic, Pedestrian and Bicycle Safety Committee. Council would give direction to Staff in terms of what we are looking for in terms of data, information, and alternatives. There are more alternatives than what have been looked at so far.

Council Member Smith discussed the 'pink elephant' in the room, which he stated was the BUSD's discussion of possibly leasing the City one of the district sites. We will not be able to make all of these decisions in a totally informed manner until after the BUSD's 7-11 Committee provides a recommendation to its board as to what site they are interested in leasing to the City.

Council and Staff discussed the traffic flow in the Dempsey Drive area, as well as the current parking conditions at the dog park.

Council Member Whitney asked Staff why it took so long to get the information on this project to Council. Ms. Meunier stated that there were many meetings that took place, and the information is an accumulation of what took place at those meetings. Council Member Whitney stressed the importance of getting this project going, as 'time is money.'

Public Comment:

1. Roger Grossman - Mr. Grossman stated that his son has been waiting for this park for 4 years. The kids deserve this park. He urged Council to be strong advocates for the park. He stressed the importance of getting the project going, as the costs are continually rising.

2. Kelly Bratcher, Site Council Chairperson, Matthew Turner School - Ms. Bratcher stated that Council should take some time to think about the issue of safe crossing at Matthew Turner. She stated that the school does not have crossing guards during school hours. The park is used a lot by the school during school hours. She stated that the school uses the park more than has been stated by Council. Mr. Alvarez stated that if the school were using the park more than they originally agreed to, he would have to discuss this with the school.
3. Cathy Ann Hewitt - Ms. Hewitt stated that the children should be allowed to use the park. She stated that we need to make sure the children are safe. She is sure the differences can be worked out. She wants to see the X-Park project to go forward.
4. Monica Hartinger - Ms. Hartinger stated that she is concerned that the kids using the skate park will be of driving age. They will not be used to driving at slow speeds. She is concerned for the safety of the Matthew Turner students. She stressed the importance for speed bumps.
5. Bob Mutch - Mr. Mutch stated that 16-year old children would be in school during the day. They will not be driving to the skate park. He thinks we need to step back and think about common sense.

Mayor Messina clarified that it is understood that the traffic mitigation measure is still a live topic, regardless of the votes taken on tonight's Resolutions, and will be discussed further. Recommendations will be brought back to Council before any action is taken.

Council Member Campbell wants a third option added, which would be to work with the BUSD on possible scheduling changes.

Vice Mayor Patterson stated that she hoped the options would be more open-ended, to include such possibilities as speed bumps, etc.

Public Comment:

1. Kelly Bratcher - Ms. Bratcher stated that the Matthew Turner Site Council is in no way opposed to the X-Park. She wanted to clarify that she did not say anything about expanded use, or that they were using the Community Park more than they agreed to. She stated that they use field #1. She is well aware that 16-year old children will be in school during school hours, but there will be other counties that come to town to use the skate park.
2. Todd Bigelow, owner of Round Table Pizza - Mr. Bigelow stated that the X-Park project needs to go forward. It is important that the kids get a sense that the project is moving forward. He stated that kids are always skating and biking in the Southampton Shopping Center, and patrons will eventually get hurt. The kids need somewhere to go. We need to keep the project moving forward at the same time the problems are being addressed and figured out. He encouraged Council to keep the project moving forward so the kids don't get discouraged.

Vice Mayor Patterson complemented Staff on their choice of consultants and the direction that they gave to the consultant on preparing the environmental document. She asked Mr. Berman, Nichols-Berman Environmental Planning (consultant on project), to clarify a sentence on page VII-B-43. In

reference to page VII-B-55, Vice Mayor Patterson wanted to make sure that we are doing bioswales. And to state publicly that we are, under direction of Public Works, going to be looking at bioswales as a way to take the storm water for vegetation. With regards to page VII-B-61, she wanted to address amplified music. She discussed the City's current way of dealing with amplified music. Vice Mayor Patterson suggested having an added mitigation, or possibly having Staff help develop a user-friendly guide for people who will be using amplified music at the park(s). Mr. Berman stated that he did have experience with documents dealing with amplified music. Vice Mayor Patterson stated that hour after hour of really loud music is unfortunate. It forces the resident to have to call the Police Department or have a window closed or have the people turn the music down. Vice Mayor Patterson stated that we ought to have some sort of provision, either in the document, or say in the public hearing that it is a response to a concern.

Mayor Messina asked if it was possible to address that as direction to Staff. When we get to the point when the community center is built, and we are renting it out, we will have policy and procedures. He asked if Council could address it in terms of that venue or that document, in terms of hours of use, decibel level, or any other constraints that we want to make.

Vice Mayor Patterson stated that in the details, yes. The general direction is that it would be appropriate to say that it was identified. The response would be a user-friendly program for ensuring that the amplified music would be under the standards and code of the City. If that is part of the record, she thinks the way we can do the environmental response is just indicating that. It is the minutes of this meeting that indicate that there has been a response to that, and that you don't have to amend the documents at all.

Mr. Alvarez stated that his department has read the environmental documents. They have worked with Mr. Berman regarding specific guidelines with respect to noise control. He asked if it were Council's belief that Staff would have to control the noise level where the complainant is, Staff would be pulled away from the venue to go to the complainant area. Vice Mayor Patterson stated that she would be dancing in the street with joy if the current practice were to control the noise at the source. If that is what Staff is recommending, that would be great. Mr. Alvarez stated that the noise level at the source would be louder than the level where the complaint is from. Vice Mayor Patterson suggested having a user-friendly attachment that goes with the permit. That is the purpose of the mitigation measure, so that the people that have the music understand precisely, rather than a lot of standards that confuse the best of us. Mr. Alvarez stated that Staff provides the ordinance to the users at all special events, but not to rentals. That is something that they will adopt immediately. They will give a copy of the noise ordinance to all rentals.

Vice Mayor Patterson stated that it was unclear to her about the consistency with the adopted park master plan. There was a lack of analysis. On page VII-B-59, she is looking for some sort of assessment that this is consistent with our parks master plan. Mr. Alvarez assured Council that this project is consistent with the parks master plan. However, the master plan will have to be modified to show where the new community center will go. Vice Mayor Patterson asked Mr. Berman if they had, in the preliminary review, looked at alternative sites for the community center. Mr. Berman stated that they had not.

Council Member Smith asked the City Attorney if Council wanted to refer the Dempsey Drive crosswalk issue to the Traffic, Pedestrian and Bicycle Safety Committee, do they need a motion? Ms. McLaughlin stated it could be done by motion. Council Member Smith stated that we want to get the skate park built in 2005. It might be possible to restore its previously pledged \$100,000, or cover the contingency fund, or both. However, he would be loath to take those kinds of actions in the absence of the City Manager and the Finance Director. He suggested giving direction to Staff that if we are not going to have another mid-year budget review in a timely manner, we should agendaize these funding considerations. There are two key issues that have not been resolved yet to him; 1) whether phasing is possible, and 2) what the school district will do regarding leasing the City a site.

Council Member Whitney stated that he was prepared to make a motion to adopt Resolution adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program, with the amendment that Vice Mayor Patterson suggested regarding the administrative record with the questions and responses.

RESOLUTION 04-164 - A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM FOR THE COMMUNITY BUILDING AND X-PARK PROJECT

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

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

Noes: None

Vice Mayor Patterson motioned that the issue of the Dempsey Drive crosswalk issue be sent to the Traffic, Pedestrian and Bicycle Safety Committee for their review, with Staff information to determine other solutions to the safety issue. The Committee is to bring their recommendations back to Council.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, and unanimously approved, Council agreed to refer the Dempsey Drive crosswalk issue to the Traffic, Pedestrian and Bicycle Safety Committee for review, on roll call by the following vote:

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

Noes: None

RESOLUTION 04-165 - A RESOLUTION APPROVING THE DESIGN OF THE X-PARK AND RELATED IMPROVEMENTS

On motion of Council Member Smith, seconded by Council Member Whitney, and unanimously approved, the above Resolution was adopted on roll call by the following vote:

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

Noes: None

Vice Mayor Patterson clarified what Council wanted, in terms of information from the Traffic, Pedestrian and Bicycle Safety Committee. It is data on safety on the intersections that were compared

in the environmental document and some direct results from other communities with safety issues in crossing, including the use of the flag crossing at Berkeley, and the raised pedestrian walkway, but not limited to those suggestions. If they can come up with a better solution for less than the \$76,000 price tag, that would be good. Council Member Smith stated that a manual gate should also be one of the Committee's considerations.

Public Hearing on a Resolution authorizing the expenditure of the Supplemental Law Enforcement Services Fund (SLESF) created by Senate Bill 823. Funds may only be used for front line police services such as hiring an additional police officer. Chief Trimble reviewed the Staff report on this item.

Public Comment:

1. Cathy Ann Hewitt - Ms. Hewitt stated this is a great idea. She discussed previous successes of the Police Department.

RESOLUTION 04-166 - A RESOLUTION AUTHORIZING THE EXPENDITURE OF THE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND SB 823

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

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

Noes: None

Mayor Messina called for a 7-minute break at 9:27 p.m.

The meeting resumed at 9:35 p.m.

UNFINISHED BUSINESS:

Continued item from October 5, 2004 agenda: Consideration of Task Order for services to be provided by Cullen-Sherry Engineers to identify and describe the northwest boundary of the Community Park and to prepare a topographical map of the same area.

Karen Majors, Assistant City Manager, and Heather McLaughlin, City Attorney, reviewed the Staff report on this item.

Council Member Smith stated that the master plan for the Community Park does not include this project. This is a private enterprise project. He stated that this was originally proposed that the applicant would pay for half of the study. That is still a good idea. When they come up with half of the money, he could support the City matching the funds. Since it is a private project, and it's not part of the parks master plan, he does not see spending the money to determine a topographical border that we don't need otherwise.

Vice Mayor Patterson stated that there are a lot of things that need to be done. This is not part of our capital improvement project list. We need to take a look at the master plan. She is not of a mind to provide the kind of money that is necessary for this survey, particularly after we have just heard the need for every dime the City can spare for the completion of the X-Park. On principal, she has a problem with it. On the order of things being done, this is not the correct way of going about a

proposal for a project.

Mayor Messina stated that the golf-training center is a good idea for the community. However, he does not like spending public money for private enterprise. With respect to the current projects of the X-Park and community center, we don't know where the Community Park ends and where the Lake Herman open space begins. Staff confirmed that we do in fact, 100% know that the above projects are within the Community Park boundary. Mayor Messina stated that, in terms of the proposed golf-training center, we don't know if it is within the boundaries. Staff clarified that we know where the line is in terms of our land use maps, but we don't have a prepared topographical map that shows where the line is.

Vice Mayor Patterson stated that this is an inchworm approach to development. We don't know if this project is desirable. We can find out what the community thinks through a public process. The process should be done comprehensively, not bit-by-bit, such as having the City pay for a survey. We need to have a package presented to the City that includes the concept, data, etc. That enables the community to work with the Commissions. She is cautious about not doing this incrementally. If the person promoting this project wants to spend their money to do the survey to give them enough security that they can go forward with the next step, that is fine. It is inappropriate for public money to be spent in this manner, unless we had a master plan that indicated that, an environmental document that provided us with information, and that we had it on our capital improvement plan.

Council Member Whitney asked Staff if the topographical survey would benefit the City, regardless of whether the golf course goes in or not. Mr. Schiada stated that it would provide a bit of information for something else that could be planned for in this area. Council Member Whitney stated it would be nice to know where the line is. He proposed the City allocate up to \$6,000, and the applicant would match those funds.

Public Comment:

1. Cherie McCammon, Applicant - Ms. McCammon stated that they have been trying to find out where the boundary is for quite some time. It is hard to put a package together if they don't know that it can be done because of the uses. She has no problem with paying for half of the survey, if they know for sure that they are within the Community Park. She asked if she would have some say in the engineer that does the survey, since she is paying for half. Mr. Schiada stated the requirements necessary for the survey to be done. She stated that if she has the assurance that this is something we want done, she is willing to pay for half of the survey. However, she would prefer to pay her half after we have gone through the process. Council discussed the best way to guarantee that, if we pay for half of the survey, the applicant would be able to come up with the other half. Ms. Majors stated there were various ways to come to agreement on the terms. Mayor Messina stated that this was a detail that could be worked out by staff.

Council agreed that the City and the applicant would each pay for half of the topographical survey (\$6,000 each).

On motion of Council Member Whitney, seconded by Council Member Campbell, Council approved the amended Task Order for services to be provided by Cullen-Sherry Engineers to identify and describe the northwest boundary of the Community Park and to prepare a topographical map of the same area, on roll call by the following vote:

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

Noes: Vice Mayor Patterson

NEW BUSINESS:

Request for General Fund - Development Fee Waiver of \$7,167.55 from Bill Thomason for a single-family residence located at 1208 East 5th Street and moved to 584 Military East:

Heather McLaughlin verified that there were no conflicts for any Council Members on this item.

Karen Majors, Assistant City Manager reviewed the Staff report on this item.

Council Member Campbell brought an error to Staff's attention stating that the numbers listed (\$6,177) was approximately \$1,000 off. Ms. Majors confirmed that the reason for the error was that the traffic impact fees were not accounted for on the \$6,177 number. The correct fee is \$7,167.55.

Public Comment:

1. Bill Thomason urged Council to approve the fee waiver and support historic restoration.

Council Member Whitney asked Staff about their statement that the building may be eligible for consideration for the California Register of Historic Resources. He asked Staff if their recommendation would change if the building were on the Historic Register. Ms. Majors stated that it was possible they would change their recommendation. However, the building is on its third move. Ms. Majors and Ms. Meunier discussed the Mills Act.

Council Member Campbell stated that if we want people to restore buildings, we have to give them some incentives. He discussed the Mills Act. He stated that some (not necessarily all) of fee waiver might be worth thinking about.

Council Member Smith stated that Mr. Thomason is aware of the Council's support of his historic preservation efforts. In this case, the City has facilitated his project for the rezoning and the plan development approval that was granted. He offered a motion to waive the Capital License Fee of \$862, but not the Park Land Dedication Fees or the Traffic Impact Fees.

Vice Mayor Patterson stated that she would second the motion because first of all, we are going through a process of identifying properties and expanding the district. The second reason is that we made a commitment in the General Plan to pay more attention to the East side. This is an excellent investment in achieving those goals.

Council Member Campbell stressed the importance of being consistent with the way we handle the deferral and waiver of fees in these types of incidents.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, Council agreed to waive the capital license fee for a single-family residence located at 1208 East 5th Street and moved to 584 Military East, on roll call by the following vote:

Ayes: Council Members Campbell, Patterson and Smith

Noes: Council Member Whitney and Mayor Messina

Consideration of a Resolution establishing a comprehensive gateway entrance overlay district: Colette Meunier, Community Development Director, reviewed the Staff report on this item.

Mayor Messina asked Vice Mayor Patterson what is driving this issue. Vice Mayor Patterson stated that the gateway at East Second Street precipitated the interest. When she started looking at some of the issues associated with that project, she went to the General Plan. The plan has a program with urban design guidelines for the whole City. She discussed a class she and Staff recently attended. One of the cautionary notes they learned is that cities should not try and do urban design guidelines for the entire city. We erred in the General Plan. Common sense would guide us to the historic areas and the entryways. This resolution helps us do that. There was extensive discussion on urban design when the General Plan was addressed three years ago. Part of the resolution is to begin to have the process that we can implement other goals and policies in the General Plan that relate to urban design. The community is a hotspot in the Bay Area. There was an article in the magazine San Francisco Focus, which stated that Benicia had the highest increase in property values of any city in the Bay Area, and that Benicia is considered the most desirable place for families. There is a lot of pressure on Benicia for change. This is a very important thing to begin to have in place. She is sensitive and respectful to the issue that Staff has raised that in their mind, this is not a specific priority item. Staff has offered ways how we can begin to do this. She stated it was reasonable that this could be discussed at the Commission level, but that the actual work for doing urban design guidelines would have to wait for us to go through the budget and look at our priority list. She is asking for a compromise and a hybrid approach to this because of the urgency.

Mayor Messina stated that in terms of setting priorities, the Council has a lot of big projects on its plate. He is more concerned with the cost and how to fit it in. In terms of the resolution, he can fully support the concepts that we are trying to establish. He is trying to figure out how we can establish something meaningful that we can use in a realistic timeframe, realizing we have other priorities and also trying to be mindful with the dollars involved. He is not sure of how to fit it into the priorities.

Vice Mayor Patterson responded by stating a Council Person from Napa spoke at the last ABAG meeting. They were having trouble with mixed-use zoning. By providing urban design guidelines, they overcame difficulties they were having in the community. That is what has happened to Benicia: We've gotten stuck and are not able to move forward on mixed-use zoning. This is a tool for the City to advance. There is a phasing approach that we can take. There was a suggestion tonight that we could cooperate with UC Davis on this issue. The Council needs to think about decisions that have been made recently. We need to make a strong statement with the entrances to the City. The Council needs to figure out how to do this in an economical way and a way that would be consistent with the preparation for the 2-year budget.

Council Member Smith stated that he was not happy at all with what was proposed for our western gateway entrance. He hopes we can get this done in time to impact other projects. He asked Staff if referring this to the appropriate Commissions would require Staff time (preparing reports, etc.). Ms. Meunier stated it would require some Staff time, however it would be limited. Council Member Smith stated that the City has an excellent process in place with our work plan and priorities that the City has developed since the last election. He does not want to usurp that. He thinks it needs to come back to Council for review as to where to insert it into the priority list.

Mayor Messina asked Staff what, on the priority list, would get bumped if this were inserted on the priority list. Ms. Majors stated that Staff would have to take a look and see.

Council Member Whitney stated that clearly, if this were on the original priority list, he would have supported it. However, a lot of time and energy was put into the priority list. To insert something at this point needs to be thought out. He is open to the suggestion of using grad students from UC Davis. Maybe we can tentatively schedule a workshop or a way of introducing this to the community.

Mayor Messina asked Vice Mayor Patterson if she was comfortable with asking staff to 'noodle' this and bring it back to Council at the second meeting in November to let us know if some/all can be accomplished.

Vice Mayor Patterson stated that it is an excellent idea. She is respectful of the priority list. She will make her case stronger as to why she thinks it should be there. In the meantime, she would like Staff to start working with the Commissions, and then Ms. Majors could come back at the 11/16 meeting and give a better understanding of the complexities and what the program might look like.

Council Member Smith stated that the timing might be difficult, as some of the Committees have already met for the month. Ms. Majors stated that Staff might need a little time.

Public Comment:

1. Marilyn Bardet - Ms. Bardet stated that what is distinctive about our town is that everything is very compressed. We need the small town quality of Benicia. She discussed Mr. Thomason's project. The Tree Committee will address our entrances to town. Whatever solutions we come up with for East Second Street, she hopes we will not allow so much more visible parking that we lose the sense of what the street was about in years past. She honors what Elizabeth is trying to do to get ahead of the problem.

Mayor Messina stated that direction to Staff is clear, and this will be discussed at the 11/16 Council meeting.

Discussion of cancellation of second City Council meeting in December:

Vice Mayor Patterson stated that she would like to cancel the meeting, as she will not be able to attend.

Council Member Whitney stated that in keeping with the Sunshine Ordinance that we are trying to

move forward, given the proximity of the meeting date to the holidays, there would be a lot of people gone.

On motion of Vice Mayor Patterson, seconded by Council Member Whitney, Council voted to cancel the second City Council meeting in December, on roll call by the following vote:

Ayes: Council Members Patterson, Smith, and Whitney

Noes: Council Member Campbell and Mayor Messina

REPORTS FROM CITY MANAGER:

Informational Report on Measure R:

Karen Majors, Assistant City Manager, discussed the recent pamphlet that was sent out to citizens in the mail. Ms. Majors and Mr. Erickson wrote the informational pamphlet and desktop published by Teri Davena and Anne Cardwell. It was an opportunity to provide information on this issue to the public. Ms. Majors listed the various organizations that she and Mr. Erickson have presented the information to. They are talking about State Proposition 1A and Measure R. She stated that they are trying to get the information out to the community so they understand the need for the Measure.

Council Member Campbell asked if the City Attorney thought Council could write a letter in support of the Measure, sign it, and have it published in the paper. Ms. McLaughlin stated that each individual Council Member could write a letter, but they could not do it jointly, as it may violate the Brown Act.

Vice Mayor Patterson stated that it might be necessary to call a Special Council Meeting to discuss this issue.

Council Member Smith stated that he could not support calling a Special Council Meeting. He suggested each Council Member writing separate letters.

Mayor Messina stated that he has concerns with the pamphlet and writing letters, that we are dancing a fine line between campaigning and providing information. He does not want to cross the line. In terms of use of public time, staff, and funds we have to be careful on how we do this.

Ms. McLaughlin stated that each Council Member could write a letter to the paper on their own time.

Ms. Majors verified that the pamphlet passed the City Attorney's test of meeting government code.

REPORTS FROM CITY COUNCIL COMMITTEES:

1. **Mayors' Committee Meeting - Mayor Messina stated that the 1/20/05 has been cancelled.**
2. **Arsenal Restoration Advisory Board - Council Member Campbell - Next meeting date: 11-17-04.**
3. **Association of Bay Area Governments (ABAG) - Vice Mayor Patterson - Next meeting date: Not scheduled.**

4. **Audit & Finance Committee - Council Member Campbell and Vice Mayor Patterson - Next meeting date: 10-22-04.**
5. **Carquinez Strait Preservation Trust - Council Member Smith - Next meeting date: Currently inactive.**
6. **City Employee Compensation Committee - Council Members Campbell and Whitney - Next meeting date: Not scheduled**
7. **First Street Revitalization Committee - Council Members Campbell and Smith - Next meeting date: 10-27-04.**
8. **League of California Cities - Council Member Smith - Next meeting date: 12-04.**
9. **People Using Resources Efficiently (PURE) - Next meeting date: No scheduling information available. Council Member Whitney stated that the cold-eye review (third party report) is almost ready. In the very near future, he hopes to have a report for Council that will tell us what is and is not working at the refinery.**
10. **Police Station and Civic Center Restoration Committee - Council Member Smith and Mayor Messina - Next meeting date: Not scheduled.**
11. **School District Liaison - Council Members Smith and Whitney - Next meeting date 12-2-04 - (Note: Time changed to 7:00 p.m.).**
12. **Sky Valley Area Open Space - Vice Mayor Patterson and Council Member Campbell - Next meeting date: 11-10-04. Vice Mayor Patterson reported that they organized themselves. They have selected a Chair and Vice Chair. The Committee will do its own work. It is an amazing Committee. They are looking at developing recreational or management plans for City-owned property. They will make sure the next meeting date is published so the public can attend.**
13. **Solano EDC Board of Directors - Vice Mayor Patterson - Next meeting date: 11-23-04.**
14. **Solano Transportation Authority (STA) - Mayor Messina - Next meeting date: 12-8-04. Mayor Messina stated that the Transportation for Livable Communities Plan (TLC) and the Solano Countywide Pedestrian Plan is included in the Agenda packet. He encouraged Council to review the plans. Also the I-80/680/780 Major Investment Corridor Study is in the Agenda Packet. He encouraged Council to review the study.**
15. **Solano Water Authority/Solano County Water Agency - Mayor Messina - Next meeting date: 11-1-04.**
16. **Sunshine Committee - Council Member Campbell and Vice Mayor Patterson - Next meeting date: No further meetings.**
17. **Traffic, Pedestrian and Bicycle Safety Committee - Vice Mayor Patterson and Council Member Campbell - Next meeting date: 10-21-04. Vice Mayor Patterson stressed that the public should attend, as this is a very important meeting. The Committee is looking at proposed downtown parking improvements including angled parking for First Street and the 100 blocks of D, F, and H Streets. They will also be reviewing the City's noise regulation relating to transportation and**

other aspects. They will be looking at the City's truck routes and truck regulations. The traffic accident history at Military and First Street will be reviewed per the request of a citizen.

18. Tri-City and County Regional Parks and Open Space - Council Member Whitney - Next meeting date: 12-13-04.

19. Valero Citizens Advisory Board - Council Member Whitney - Next meeting date: 11-16-04.

20. Youth Action Task Force - Council Members Smith and Whitney - Next meeting date: 10-27-04.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:05 p.m.

Lisa Wolfe, City Clerk