

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
NOVEMBER 1, 2005

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:01 p.m. on Tuesday, November 1, 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)

ADOPTION OF AGENDA:

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

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

Noes: None

COMMUNICATIONS:

WRITTEN:

None

PUBLIC COMMENT:

None

NEW BUSINESS:

Request to discuss Anderson Hotel Project:

Mayor Messina excused himself from this portion of the meeting due to a conflict of interest.

Jim Erickson, City Manager, reviewed the Staff report.

Vice Mayor Patterson stated that in the spirit of the new Sunshine Ordinance, she wanted to make it known that she had numerous meetings with Mr. Farr, Ms. McCarthy, and other individuals involved, including phone conversations with Mr. Thomason. She has also met with Staff on this matter. She asked the speakers to adhere to the 5-minute limit for public comment and try not to make repeat comments.

Public Comment:

1. Casey Lewis – Mr. Lewis is a neighbor of Mr. Thomason. He discussed a metaphor for adding corners to project. He stated that various neighbors were in fear for their lives for coming to the Council meeting and speaking the truth.

Vice Mayor Patterson stated that Mr. Lewis had put people in a very awkward position y stating that people should be in fear of their life for speaking out on this issue. She asked Mr. Golick to address the issue of there not being survey corners to the project.

Mr. Golick stated the issue of the corners came up in discussions with the parties involved as well as Staff. The allegation is that the corners of the site were not surveyed. worked on this project. Mr. Angstadt confirmed that he personally saw the stakes on the corners on the site in question. Vice Mayor Patterson asked about the recorded survey and how difficult it would be to re-establish the stakes. Mr. Golick stated that he hoped if another survey were done, we would use the same surveyor. From survey to survey, things tend to change a little. However, it could be done. Mr. Casey stated that he understood that the homeowner put the stakes that were set up there and they were not valid, official stakes.

Council Member Smith asked Mr. Lewis what threats had been made and if they were reported to the Police Department. Mr. Lewis stated that this was not the Wild West. If someone fears for their life, he is not required to judge or require that they go to the authorities or not. Vice Mayor Patterson stated that she did not find the conversation useful. Council Member Smith stated that he was trying to get to the root of the comment about the neighbors being ‘in fear for their lives.’

Council Member Whitney asked Mr. Golick if the property had been surveyed. Mr. Golick stated that he was not sure. There were stakes on the corners of the property; however, he was not sure how the stakes got there. A Staff member (Mr. Angstadt) went to the site and saw the stakes in place.

Vice Mayor Patterson asked if Staff knew if there were survey markers/monuments in the area. Mr. Golick stated that he thought there was an alleged monument that was there, but now it cannot be found. There has been some construction in the area, so some of the monuments may now be gone. Vice Mayor Patterson stated that there are two potential remedies: 1) to have the property re-staked, or 2) to establish monuments in the area if there are none available at this time.

2. James Farr – Mr. Farr stated that various people have been discussing the stakes with Staff for nearly 22 months. He reviewed the process for establishing property corners. Staff has not answered numerous questions (in meetings and via written letters) he has asked them. He would assume there are no verifiable property corners. He just wants information on where the property line is. He just wants an answer. He stated that he is begging for compliance. He was told it was Council’s

responsibility to delegate that to Staff. He has written nearly 10 letters, filed an appeal, worked with Staff, etc. He begged Council to make the project compliant with the soils report. He wants compliance with approved plans and conditions. He gave Council copies of City documents regarding project requirements (on file). Vice Mayor Patterson informed Mr. Farr that his five minutes were up.

3. Steve Dougherty – Mr. Dougherty requested that Mr. Farr receive all 5 minutes of his time for public comment. Vice Mayor Patterson reset the timer and allowed Mr. Farr to continue for an additional five minutes.
4. James Farr - Mr. Farr reviewed the information he presented to Council. In his agreement, all he is asking for is compliance with the conditions of approval. He addressed the issues with the depth of the front porch. He stated that Staff said the porch would not exceed 8-feet in depth. The porch is now built at 11 ft. 8 inches in depth. The height of the building should not exceed 30-feet. Staff originally said the height of the building would be lower than Mr. Farr's building. The project is now 6-7 feet higher than his (Mr. Farr's) building. The width of the building exceeds 30-feet. Mr. Farr stated that Mr. Angstadt stated that if there were major window changes or major exterior elevations, it would trigger a mandatory DRC review with notification. They have now added another floor to the structure, and additional 1600 sq. ft, a number of window and door changes, and it has not triggered a review by the DRC. The siding is not redwood, as the plans dictate. There is no compliance with the project. If the soil report is not followed, the structure will not be safe. There are building code violations with this project and no one seems to care.

Mr. Golick stated that there were a number of conditions of approval for the project. He stated that he could not state that all conditions of approval have been met. It is a work in progress. Regarding the soil report and the footing for the project, Staff has told Mr. Thomason that they (Staff) need copies of the reports. To date, Staff had not received the reports. Mr. Thomason still needs to work with BCDC for project approval. Most of the approvals are in place. He met today with BCDC to discuss the outstanding approvals that are required. The DRC approved the moving of a portion of the building. Before the wing in question was moved, it was determined that due to structural problems, the wing could not be moved. They decided to move the smaller wing to the lot. The building that was moved was a little different than the one that went through DRC approval. Staff took it upon themselves to initiate design review for the building that was actually moved. To go back to the original conditions approval is difficult, because the conditions relate to a different building. Staff informed Council that the building that would be moved was different than the one that was approved.

Vice Mayor Patterson stated that we have an issue of height. She asked if that was BCDC's jurisdiction. Mr. Golick stated that the quoted 30-foot height may have come from BCDC, but he was not sure. Vice Mayor Patterson stated that the issue of the porch would have a major effect on the adjacent property (Mr. Farr's

property). Mr. Golick stated that the porch was reviewed by the DRC at 11 ft. 8 inches.

Council Member Whitney asked if the window issue raised on page 2 of the documents submitted by Mr. Farr with regards to major condition changes was accurate. Mr. Golick stated that the windows currently on the building are not what Mr. Thomason had intended. He had to put windows on to get the building ready for the winter months. He wants to install windows that met with the window standards of the HPRC. He discussed the HPRC and its window standard requirements.

5. Bridget McCarthy – Ms. McCarthy she discussed Staff’s statement about ‘a work in progress’ and debated the issue. She addressed the size of the porch. There is 55% more square footage to the building, which was not part of the original plan. That is a major change of the plan and should make it eligible to be readdressed by the DRC. She addressed the window issue and historic value issue. The addition of square footage changes the character of the building, making it not of historic value. Ms. Majors said the project would sunset in two years. We are coming up on two years. Soil documentation has yet to be provided. She wants Mr. Thomason to stop all work on the project until the issues are addressed.

Council Member Smith asked Staff why the residents were under the impression the porch would be 8 ft. not 11 ft. Mr. Erickson stated that the original drawings indicated the porch would be 8 feet. There was also documentation in the historic report that the porch had been modified over time. The DRC approved a porch that was approximately 13 feet.

Ms. McCarthy stated that multiple plans were submitted in a rushed fashion. The information keeps shifting. The plans that she has looked at do not reflect what is occurring with the project now. One issue in particular was the issue of redwood siding, which was an ‘over the counter’ approval by Staff. How can anyone know what is going on with the project if this is how decisions are being made?

Council Member Campbell asked Staff how the prior opinion (when he was Vice Mayor) stating that the building was not historic would come into play. Mr. Golick stated that in a recent study done by Carol Roan (on over 200 downtown buildings) concerns were raised whether or not the building could be considered historic because of all of the modifications over the years. Staff rec’d a letter from Mr. Thomason re: Mills Act. Staff responded by informing Mr. Thomason that he would need to hire an architectural historian to do a thorough analysis of the building. He concurs that the building may not be historic. Mr. Erickson stated that this is not a historic rehabilitation project. It is a project that can accommodate new features, such as a porch. The project speaks to a building that has historic interest. Every aspect of the building does not have historic interest.

Vice Mayor Patterson stated that if we pursue this further, we would need to hire a historic architect to advise the City.

Council Member Campbell stated that in the past, Mr. Marsh (a member of the Historic reservation Trust) gave a written explanation on the building. That is why Council came up with the decision they did.

6. Bill Thomason – Mr. Thomason stated that property corners have been established three times in the past four years: 1) by the first developer of Waterfront Village, 2) he had it surveyed by ACK Engineering, and 3) by Focus Realty. Regarding conditions of approval for the soil – the part of the area they could get to was removed and compacted to what was holding up the building. It was done according to the plan, witnessed by a civil engineer, and a letter was given to the City stating that. He did more than was required with regards to the soil. They dug deeper, and super sized all materials used. They did 2.5 times what the civil engineer required. Regarding the porch - the building was moved back 19 feet, which was on the plan and another 3 ft. 6 inches to give the adjacent property owner more of a view.

Council Member Smith stated that the City made an error declaring the building not to be historic. He asked Staff if a survey report and soil report were requirements of the project. Staff confirmed that the soil report was required. One of the conditions of the report was to have the footings inspected. Staff has asked Mr. Thomason for that report but has not received it. The City does not actually require a survey report. Council Member Smith asked about the issues of the buildings height. Mr. Thomason stated that the building is built as it was approved. The first floor is 8 ft, and the second floors are 9 ft. and 8 ft, with some pitch to the roof. It might be a little taller than Mr. Farr's home, but his is only one story. Regarding the wood for the porch, Staff stated that cedar siding was a very close equivalent to redwood and was verbally Okayed. Regarding the windows, some of the vinyl windows that are there were there when the building was moved. The wood windows are expensive and he is waiting to hear back on the Mills Act issue to move forward with that. He did not receive his building permit until May 2005.

Council Member Campbell addressed the issue of height. The height limitation is 40 ft. because this is in a commercial district. Vice Mayor Patterson clarified that there is a BCDC issue. She asked Mr. Thomason to briefly review his meeting w/BCDC. He dropped off some plans, briefly reviewed what they wanted with regards to a walkway, etc. There is nothing else he can do with the height. Staff confirmed that the City would get the determination directly from BCDC.

Council Member Smith asked if we had determination on the maximum height of the building. That was something that would come from BCDC.

7. Karen Burns – Ms. Burns stated that the section that was moved is not any way shape or form like the original building. She visited the building often in the

1940s. Many termites covered the windows when the building was moved. She stated that if the neighbors did not have termites before, the most likely have them now. The building should never have been moved. There is nothing there but junk.

Vice Mayor Patterson asked Council Member Campbell about the historic listing for the building in the past. Council Member Campbell stated that Council did not follow the CEQA requirements when it was originally approved to be demolished. He referenced the Marsh Report and the multiple modifications to the building.

Council Member Smith stated that he voted in favor of the appeal that was appealing the decision to make it a non-historic structure. He was in favor of Staff stopping the project in search of three things: 1) documentation on soil, 2) height measurement, and 3) re-staking the corners.

Vice Mayor Patterson suggested that the trail of the decisions on this project has been at the counter, not the HPRC. There has never been a 'day in court' for the citizens concerned with the project. She would like the project returned to the HPRC so the community can see the project in its entirety. She wanted to hear from Council regarding the stop work issue.

Council Member Campbell stated that he did not think there should be a stop work.

Council Member Whitney did not think there should be a stop work. Mr. Thomason needs to meet the requirements of the agreement. He is confused as to why the neighbors concerns have not been dealt with. Mr. Golick stated that Staff is still asking Mr. Thomason for answers to questions. The conditions of approval that were done by the DRC relate to a different part of the building and they don't relate to the part that was moved. It is hard to comply with conditions that were imposed on a different building. Some of the answers by Staff seem to be unacceptable to Mr. Farr. Staff is giving the concerned citizens the best information they (Staff) have.

Mr. Erickson reviewed the events that led up to the building being moved as opposed to destroyed. The decision was somewhat rushed. There was not the normal precision level of review. Staff changes, etc. played a part in some of the confusion. Staff followed direction of Council in getting the building moved.

Vice Mayor Patterson stated that she would like to move on for the sake of the building and for the neighbors. Ms. McLaughlin stated that Council did not need to make a motion regarding direction to Staff unless they want to give Staff more specific direction than monitoring the project and make sure the conditions are complied with. It is clear that Council wants Staff to follow up on the foundation inspection, height of the building, etc.

Council Member Smith made a motion supporting sending it to the HPRC to review the three issues. The motion died for a lack of a second.

Council Member Campbell asked what the difference would be for the conditions for the east wing and west wing. Mr. Golick stated that the building that was moved was smaller, which allowed him to have a larger porch. There is an opportunity for more landscaping and site work with the smaller building. There was a condition that before the building was moved, the asphalt shingles needed to be removed to see what was underneath them. There are some subtle differences with where the windows are located. There is not a substantial difference between the two wings. That is why Staff felt comfortable making staff level approvals on the design changes.

Ms. McLaughlin stated that the project has already been approved.

Council Member Smith wants the HPRC to determine compliance and monitor the project.

Council Member Whitney stated that he wanted to direct Staff to follow up on the three issues and make sure there is compliance. Staff must come back and update Council on the status. Clearly, the public does not trust the City at this time with regards to the project.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 8:34 p.m.

Lisa Wolfe, City Clerk

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
NOVEMBER 1, 2005

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 8:42 p.m. on Tuesday, November 1, 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:

Action taken in Closed Session:

Ms. McLaughlin stated that Council received an update from Staff on the issues regarding negotiations with BFA.

Openings on Boards and Commissions:

- Open Government Commission: Five terms ranging from 1-4 years
- Housing Authority Board of Commissioners: Two tenant terms
- Library Board of Trustees: Two terms

APPOINTMENTS:

None

PRESENTATIONS:

Benicia Education Foundation:

Ms. Joey Baker, Benicia Education Foundation (BEF) Member, reviewed a PowerPoint presentation.

Council Member Smith encouraged citizens to read the information in BEF's newsletter.

Vice Mayor Patterson asked Ms. Baker how the BEF would go about reaching the citizens that do not have children. Ms. Baker stated that they are working on building the parent base and they will come up with a plan to reach the other citizens. Vice Mayor Patterson suggested they have the school children try the 'adopt a neighbor' approach.

PROCLAMATIONS:

Mayor Messina presented a proclamation for Lung Cancer Awareness Month – November 2005. Ms. Rolands could not be present to accept the proclamation.

ADOPTION OF AGENDA:

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

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

Noes: None

COMMUNICATIONS:

WRITTEN:

Various letters submitted (copies on file).

PUBLIC COMMENT:

1. Karen Burns – Ms. Burns questioned the process for mailing and posting notices for residents and businesses within 300 - 500 ft informing them of proposed changes affecting their property. She asked what the definition is for a home occupation business. What is to prevent a business from growing from 1-2 customers at a time to more customers more days per week and more weeks per year? What can be done if a person elects to change from a business for profit use to a non-profit use (giving lessons for free/donation)? At what point can neighbors protest? At what point is notification required? Can a residential property be used for such entities as home school, dance classes, etc.? She is not against home schooling/education. She is concerned about the misuse of a residence having adverse effects in the neighborhood. Mayor Messina asked for a copy of Ms. Burns' notes so they can address all of her questions/concerns. Ms. Burns will provide Staff with a copy of her notes on 11/2/05. Mayor Messina asked staff for a written response and update on this issue. Mr. Erickson gave Ms. Burns a copy of the Staff report that will be discussed later in tonight's meeting for her reference.
2. Todd Matthews – Mr. Matthews is a member of BFA. BFA has agreed to donate \$500.00 to the BEF. He stated that Council lacks guidance and direction on its actions and conduct. The BFA has been working without a contract for 124 days. Firefighters are working without a contract but Council is considering adding the position of a poet laureate. Council lied to the BFA regarding paying competitive wages. During recent negotiations with the state mediator, Staff rudely interrupted the negotiations and demanded the firefighters leave the room unless they were willing to pay his (person not identified by name) twenty employees overtime. The state mediator had to ask that Staff person to leave numerous times so negotiations could continue. He suggested Council do another employee satisfaction survey. Mr. Erickson held an all-employee meeting where he listed goals. Mr. Matthews reviewed the goals listed by Mr. Erickson at that meeting.
3. Tom Coleman – Mr. Coleman is a member of BFA. BFA is not just out for themselves. They provide a service to the community. He asked Council to do the right thing and settle the contract.

4. Carl Lunstead – Mr. Lunstead reviewed the personnel hired/lost during the past two contract terms. He asked what the cost was for recruiting, hiring and training firefighters. Morale is low and continues to fall. Mayor Messina asked Staff to obtain the cost of training and add it to the list of information that is to be provided to Council.
5. Bill Royal – Mr. Royal stated that he is doing everything in his power to fix up his property (195 East D Street). He is an excellent builder and is looking forward to remodeling his building. He has been prohibited by Staff to bring his proposal forward. There were issues with what shade of white his building could be painted. The HPRC is doing illegal things. He would like to be on the next Council agenda to discuss what the HPRC is doing. They wanted to perform an illegal search of his property. When he did not allow the search, he was taken off the next HPRC agenda. He asked for a chance at the next commission (HPRC) meeting to present his project. He reviewed the requirements for a building being deemed ‘historical.’ He wants to remodel his building in the Queen Anne style.

Mayor Messina asked Ms. McLaughlin to respond to some of Mr. Royal’s questions. Mr. Royal will submit his questions in writing to Mr. Erickson. Mr. Royal will bring them to the City Manager’s office on 11/2/05. Staff will respond to Council in writing on Mr. Royal’s issues.

Vice Mayor Patterson stated that Council and Staff are not punching bags and asked if Staff could respond to some of the statements made by Mr. Royal.

Mr. Erickson stated that with regards to building safety codes, there are various concerns with fire and safety, occupancy, etc. Staff had concerns with the safety of the occupants of the units in question. A reason why he was denied to be on the agenda was due to Mr. Royal’s denial to allow Staff to inspect the units in question. Mr. Golick stated that there are a number of life safety issues, where one of the units is definitely uninhabitable. It is possible that a second of the four units is also uninhabitable. There are also zoning issues. Because of the pending winter season, Staff gave Mr. Royal authority to apply for a building permit to do some structural repairs to the roof, as well as re-shingle it. However, there are still concerns regarding the life safety issues.

Council Member Campbell stated that it should be put on the DRC agenda so it could be looked at. Vice Mayor Patterson stated that Council should not skip around the processes that have been established. Ms. McLaughlin stated that ‘inhabitability’ is not a Planning Commission issue. That decision was made by the building inspectors. We are trying to get a completed application from Mr. Royal so it can be presented to the HPRC. If the application is submitted, he can obtain a permit to do the work on the roof. Ms. McLaughlin stated that unless Council directs Staff to do otherwise, they would take it through the standard process of having the HPRC do the approval.

Mayor Messina stated that in terms of direction to Staff, he has a conflict of interest.

Vice Mayor Patterson stated that Council has heard issues tonight dealing with incomplete application process. She suggested having the application completed, and then it could be put on the agenda. It is the applicant's responsibility to submit a completed application.

Campbell suggested Mr. Royal submit an application. Mr. Royal stated that he has been given five different applications. How can he comply? Mr. Royal stated that Mr. Golick keeps giving him different sets of rules. He compared Mr. Golick to Darth Vader and stated that he was messing his life up. Council Member Campbell stated that he would personally check on this for him. Mr. Royal stated that he would do anything to comply.

Council Member Whitney stated that he is interested in hearing what Mr. Royal has to say, but he should not verbally beat Staff up, insult them, and call them names. Mr. Royal stated that he has the right to speak his opinion and mind. He can prove Mr. Golick is a bad guy.

6. Denise Costanza – Ms. Costanza discussed complaints against police officers. She reviewed how Lieutenant Mike Daley told her to handle complaints against police officers. Currently, all complaints are handled by the Police Department, which makes it difficult for people to submit complaints in fear of recourse. She suggested the City form an independent oversight committee to handle the complaints. Cities such as Ferndale have such committees. The committee should contain at least one retired Benicia police officer. She has no qualms with the Benicia Police Department. The current procedures lack any independence or neutrality. She stated that many different Staff, Council, etc. directed her on where to go to speak with someone in order to start such an independent oversight committee.

Mayor Messina stated that if all other resources have been exhausted, they could go to the City Manager for information. He also suggested that she could contact himself or any other Council Members. Ms. Costanza stated that if that is the case, she hoped that someone would let the Police Department know they should refer citizens to the City Manager.

Mr. Erickson stated that Staff might not have realized that they could direct citizens to the City Manager's office for assistance. Chief Trimble stated that there was a pamphlet available that explains the policy, but it may need to be revised to reflect current practices.

Council Member Smith thanked Ms. Costanza for coming and reiterated that any citizen could contact the City Manager for assistance.

7. Mark Stevens – Mr. Stevens is a Firefighter. He spoke about the current labor negotiations between the Firefighters and the City. Council has chosen a path that

- will severely compromise the welfare of the citizenry as well as jeopardize emergency response. Council does not consider the Fire Department a priority. The attitude has always been 'we will fix it next year.' He stated that he thinks Council perceives the issue of Firefighters leaving the department a threat tactic, which it is not. Two Firefighters recently attended an orientation at a department that will be hiring ten firefighters. The lack of experience in new personnel could have a negative effect. Council's actions jeopardize Benicia's safety. Council has confirmed they don't want to fix what is wrong. The Benicia Fire Department used to have a boat for water rescue. There is a lack of backing on Council's part. He thinks the damage done at this point is irreparable.
8. Tim Winfield – Mr. Winfield discussed the Community Preservation Officer position. He hopes Council sees the true emotions of the Firefighters. He hopes they ask themselves why this situation is occurring. He urged them to do the right thing.
 9. Lisa Santini – Ms. Santini is the sister of a Firefighter and is a Benicia resident. A family member needed the assistance of the Benicia Fire Department this past weekend. She urged Council to give the BFA a fair contract. It is imperative that Council takes this issue seriously. The City cannot afford to not take this seriously. She does not feel comfortable knowing that half of the Firefighter's might be leaving the department.
 10. Bill Thomason – Mr. Thomason supports the Firefighters. He submitted a letter to Mr. Golick concerning one of the three surveys done on the 153 West E Street.
 11. Council Member Smith stated that Council takes the Benicia Firefighter's very seriously. Council met last night in Closed Session to discuss the status of negotiations. Council asked many questions. He hopes to reach resolution on the negotiations soon. He stated that it is extremely cynical and political of the Mayor to continue to defy and not appoint an Open Government Commission that was approved by every member of the Council except for him (the Mayor). Council Member Smith announced the following upcoming events:
 - BOTTG continues to offer 'On Golden Pond' on Friday and Saturday evenings at 8:00 p.m. and Sundays at 4:00 p.m.
 - 11/3 and 11/14 – Meetings in Vallejo and Benicia (respectively) concerning the Sky Valley Cordelia Hills public access.
 - 11/12 – Benicia Historical Museum will host a pasta and wine tasting event
 - 11/19 – VOENA will perform at the Camel Barn (Benicia Historical Museum)
 - Benicia Ballet Academy will perform 'The Nutcracker' at Hogan High School
 12. Jim Erickson – Mr. Erickson provided an update on the status of the labor negotiations with the Benicia Firefighters. Staff is looking forward to the 11/14 negotiations and they hope to be creative in what is presented.
 13. Greg Petersen – Mr. Petersen stated that he is personally involved in negotiations. There was no tentative agreement. There was a mediator offered agreement. The mediator told them 'it was the best they would get.' They only agreed to take the

offer back to BFA. They did not tentatively agree to it. They are here for the long haul.

14. Jason Fein – Mr. Fein announced that the Firefighters are sponsoring the Make a Wish Foundation ‘Bowl Across the Bay’ event. It will be held on 11/12 at Danville Bowl. For more information, contact (800) 464-9474. The ‘Toys for Tots’ program will kick off on Thanksgiving. He was disturbed that when a 20-year veteran Firefighter was speaking tonight, only two Council members were paying attention. He found that to be disgusting. They need to take the Firefighters seriously. He heard rumors that Council was sanctioned from talking with the Firefighters. If that is true, he would like to know where that information came from.

CONSENT CALENDAR:

Council pulled items VII-B, VII-C, and VII-F

On motion of Council Member Smith, seconded by Council Member Whitney, 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

The Minutes of October 18, 2005 were approved.

RESOLUTION 05-165 - A RESOLUTION APPROVING CHANGES TO THE JOB DESCRIPTION FOR THE CLASSIFICATION OF WASTEWATER TREATMENT PLANT SUPERINTENDENT

RESOLUTION 05-166 - A RESOLUTION APPROVING CHANGES TO THE JOB DESCRIPTION FOR THE CLASSIFICATION OF SENIOR PLANNER AND ESTABLISHING THE SALARY RANGE

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Denial of the claim against the City by Maria Daffon and referral to insurance carrier:
Council Member Smith wants to see documentation from Staff that the transportation company is addressing this. Ms. McLaughlin stated that she has asked for documentation. She does not have it yet. Council agreed to continue this item until Staff receives the information. This item was continued.

Approval of changes to the job description for Community Preservation Officer:

Vice Mayor Patterson stated that the job description does include knowledge about fire code and enforcement. Although it is not a full-time position, it gives us a chance to share the future staff person with all the code enforcement needs of the City.

RESOLUTION 05-167 - A RESOLUTION APPROVING CHANGES TO THE JOB DESCRIPTION FOR THE CLASSIFICATION OF COMMUNITY PRESERVATION OFFICER

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

Approval of Mills Act contract for property at 123 West D Street:

Mayor Messina excused himself from this portion of the meeting due to a conflict of interest. Vice Mayor Patterson chaired this section of the meeting.

David Golick, Interim Community Development Director, reviewed the Staff report.

Appellant:

Mr. Greg Davis – Mr. Davis stated that he was told tonight by a member of the HPRC that they had not come to a final decision about double-paned windows. He hopes Council will move this item along. He has been working on this for two years.

Vice Mayor Patterson clarified that Mr. Davis was not appealing the replacement of the windows. He is simply trying to get approval for the Mills Act.

Mr. Golick stated that the decision on the double-paned windows was made last week.

Public Comment:

Bill Thomason – Mr. Thomason had questions on the issue of windows. He has a lot at stake on this issue. Is the issue of double paned vs. single-paned something that is left up to the HPRC?

Mr. Golick stated that the HPRC favors single-paned windows. They are not ruling out double-paned windows. Single-paned windows are not less energy efficient than double-paned windows, but double-paned windows attenuate street noise. The HPRC wants Staff to come out with a pamphlet that says that if the windows are being replaced, in most cases if they are single-paned, they could be approved at Staff level.

RESOLUTION 05-168 - A RESOLUTION DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 123 WEST D STREET IN THE CITY OF BENICIA

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, and Whitney

Noes: None

Abstain: Mayor Messina

Vice Mayor Patterson called for a 7-minute break at 10:20 p.m.
The meeting resumed at 10:33 p.m.

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

Creation of the office of Benicia Poet Laureate – continued from October 18, 2005 City Council meeting:

Diane Smikahl, Library Director, reviewed the Staff report.

Public Comment:

1. Mary Eichbauer – Ms. Eichbauer reviewed why there is a need for a Poet Laureate. There is little to fear and much to gain with this appointment.

Mayor Messina asked if the office was an honorary or appointed office. Ms. Eichbauer asked what the term ‘honorary’ would do to the position. Ms. McLaughlin stated that we would be adding the word ‘honorary’ before the word ‘office.’

RESOLUTION 05-169 - A RESOLUTION AUTHORIZING CREATING THE OFFICE OF BENICIA POET LAUREATE

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

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

Noes:

Approval of lease agreement with Cingular Wireless for installation of communication facilities on City-owned property north of Lake Herman Road – continued from October 18, 2005 City Council meeting:

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

Vice Mayor Patterson stated that the county’s comment regarding ‘scenic road’ troubled her. She was satisfied with the other responses to Council’s questions from the last Council meeting. She asked Staff why the City’s Water Enterprise Fund is to receive the franchise amount of money. Mr. Schiada stated that the tower that is owned by PG &E is located on land that is owned by the Water Enterprise Fund. Vice Mayor Patterson asked if Staff would provide some funding for the Sky Valley Open Space Committee for staffing to look at the watershed functions as one of the methodologies for providing protection.

Mayor Messina stated that the committee should come back to Council to ask those questions. He asked that it be put on the December agenda for consideration.

RESOLUTION 05-170 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE LEASE AGREEMENT DOCUMENTS ALLOWING CINGULAR

WIRELESS TO INSTALL COMMUNICATION FACILITIES ON CITY-OWNED PROPERTY (ASSESSOR'S PARCEL NO. 0181-230-02-0) LOCATED NORTH OF LAKE HERMAN ROAD

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

Policy for Noticing Planning and Building Applications - continued from October 18, 2005 City Council meeting:

Jim Erickson, City Manager, reviewed the Staff report.

Mayor Messina referenced the Zucker Report. The software the City has was supposed to be capable of capturing and disseminating information. A large number of problems would be addressed if the community were better informed. He suggested supplying Council with a monthly list of what projects are out there.

Council Member Smith discussed the difference between noticing property owners and residents. He suggested noticing both; however, he is concerned about costs. He would like to know the approximate costs.

Mr. Golick reviewed the current noticing procedures. There are ways of reducing the costs. There are also ways for the City to control the costs.

Council Member Whitney asked about a program called 'Metro Scan.' Mr. Golick stated that there is a cost involved with the software installation. However, after that, the process would be much easier than what is currently being used.

Council Member Campbell asked about 'proof of notice.' He discussed 'view issues.' Mr. Golick stated that you couldn't tell what is going on with view corridors, etc. until you really get into the application. When the application is reviewed, issues such as views come to light. View issues are becoming more prevalent in the community. Mr. Golick discussed various ways of noticing (A-frame signs, certified mail, postings on poles, etc.). Depending on what is used as a trigger mechanism, there could be roughly 100 cases where noticing would need to occur.

Vice Mayor Patterson stated that you get more certainty when it (noticing) is done in-house. Council should err on the side of making it as obvious as possible. She likes Council Member Campbell's idea of getting it to a discretionary level. One approach the City could consider is using the grading/slope requirements when dealing with the view issue. Our current ordinance is probably not accurate and a little revision might help. There are good examples in other Bay Area communities of how noticing could be done. She likes using the standard of the 'substantial improvement.' Anything over 50% of assessed valuation would require the noticing. She would like to see what other communities do.

Mayor Messina suggested Staff try and get some of the things done with the resources we have.

Vice Mayor Patterson asked if it was an automatic or manual tracking system. Mr. Golick stated that it was a manual tracking system. She suggested Staff add some columns on the report so the information could be tracked. The report could use the 'hidden column' function when printed for distribution. She stated that the research Mr. Golick did on other communities was a good foundation to start from.

Council Member Smith stated that he was interested in Mr. Golick's comment that the applicant would be responsible for the cost of noticing. He was intrigued by the Vice Mayor Patterson's 'valuation improvement standard.'

Mayor Messina stated that Council would like to see to see what Staff tries out. Council does not want Staff to spend a lot of time/money. Council will provide feedback on what Staff brings back. Staff will work on refining the current document that is being used. Staff will have something to show Council in one month. Mayor Messina stated that with regards to the issue of notification, Council would be interested in Staff's thinking on some of the issues that the Vice Mayor brought up.

On motion of Council Member Whitney, seconded by Council Member Smith, Council voted at 11:37 p.m. to hear item X-A, and continue the remaining agenda items to the next Council meeting, on roll call by the following vote:

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

Noes: None

Discussion of policy for City assistance to disaster victims - continued from October 18, 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 from October 18, 2005 City Council meeting:

Jim Erickson, City Manager, reviewed the Staff report.

RESOLUTION 05-171 - A RESOLUTION ACCEPTING A DONATION OF \$15,000 FOR THE PURCHASE OF AUTOMATIC EXTERNAL DEFIBRILLATORS FROM THE SYAR FOUNDATION:

On motion of Mayor Messina, 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

Consideration of Council Member Campbell's recommendations regarding the FY 2005-06 and FY 2006-07 Budgets - continued from October 18, 2005 City Council meeting:

Continued to the next Council meeting

Discussion of Vice Mayor Patterson's proposed Grading Ordinance amendments – continued from October 18, 2005 City Council meeting:

Continued to the next Council meeting

REPORTS FROM CITY MANAGER:

Review of proposed joint use agreements with Benicia Unified School District (BUSD) - continued from October 18, 2005 City Council meeting:

Continued to the next Council meeting

REPORTS FROM CITY COUNCIL COMMITTEES:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:40 p.m.

Lisa Wolfe, City Clerk