

November 5, 2002

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
NOVEMBER 5, 2002

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. Tuesday, November 5, 2002, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENTS:

Mayor Messina announced an opening on the Historic Preservation Commission, eligibility for this appointment is limited to current Planning Commissioners; announced an opening available on the Economic Development Board; applications may be obtained at the City Manager's office.

APPOINTMENTS:

URBAN GROWTH BOUNDARY COMMITTEE

Mayor Messina announced the appointments of Bob Berman, Larry Fullington, Jon Van Landschoot, Bonnie Silveria and Bill Tanner to the Urban Growth Boundary Committee.

RESOLUTION NO. 02-181 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF BOB BERMAN, LARRY FULLINGTON, JON VAN LANDSCHOOT, BONNIE SILVERIA AND BILL TANNER TO THE URBAN GROWTH BOUNDARY COMMITTEE

The above Resolution confirming the Mayor's appointment was adopted on roll call by the following vote:

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

Noes: None

PROCLAMATIONS:

BRIDGING THE GAP; WALKING TOWARDS A CURE FOR CANCER

Mayor Messina read the Proclamation; accepted by Christina Moore, Lisa Richardson, Karen Williams, Raquel Dubon, Dena Hospodka, Melissa Wright, Christie Schwartz, Maureen McIntosh, Debi Thurin and Amy Reza.

LUNG CANCER AWARENESS MONTH - NOVEMBER 2002

Mayor Messina read the Proclamation.

ADOPTION OF AGENDA:

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

On motion of Council Member Whitney, seconded by Council Member Smith, and unanimously carried, Agenda was adopted as presented.

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

James O. Milburn, 280 East J Street, commented on the possibility of revisiting the subject of redevelopment for certain areas of the city; in a previous election sixty percent of voters cast a no vote against redevelopment.

Vice Mayor Campbell announced a meeting to be held on November 25, 2002 in Fairfield to discuss the California Public Records Act.

CONSENT CALENDAR:

Mayor Messina asked if there were any requests for items to be pulled from the Consent Calendar; requests to pull Items B, E, G, H and J were made.

On motion of Council Member Whitney, seconded by Council Member Bidou, and unanimously carried, the following items were approved under the Consent Calendar:

Minutes of October 15, 2002, October 22, 2002, October 29, 2002 and October 30, 2002.

RESOLUTION NO. 02-182 - A RESOLUTION ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR 2002-03

RESOLUTION NO. 02-183 - A RESOLUTION APPROVING THE LOAN COMMITMENT LETTER TO SOLANO AFFORDABLE HOUSING FOUNDATION IN AN AMOUNT NOT TO EXCEED \$550,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE LETTER AND EXECUTE THE LOAN AGREEMENT
RESOLUTION NO. 02-184 - A RESOLUTION ACCEPTING THE MILITARY EAST OVERLAY PROJECT, INCLUDING CHANGE ORDERS NO. 1 THROUGH NO. 4, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

ORDINANCE NO. 02-4 - AN ORDINANCE AMENDING OR ADDING VARIOUS CHAPTERS OF TITLE 15 BUILDINGS AND CONSTRUCTION AND PROVIDING FOR CERTAIN AMENDMENTS REQUIRED TO ADDRESS LOCAL CONDITIONS

ORDINANCE NO. 02-5 - AN ORDINANCE ADOPTING THE 2001 CALIFORNIA FIRE CODE PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE, HAZARDOUS MATERIALS OR EXPLOSION; PROVIDING FOR THE ISSUANCE OF PERMITS ESTABLISHING A DIVISION OF FIRE AND LIFE SAFETY AND PROVIDING OFFICERS THEREFOR AND DEFINING THEIR POWERS AND DUTIES BY AMENDING CHAPTER 8.28, FIRE PREVENTION AND LIFE SAFETY CODE, TITLE 8, HEALTH AND SAFETY, OF THE BENICIA MUNICIPAL CODE

Waive the reading of all ordinances introduced and adopted pursuant to this Agenda.

(END OF CONSENT CALENDAR)

Approval of check registers for September 2002.

Mayor Messina requested that this item be pulled from the Consent Calendar; requested clarification on whether or not the Audit and Finance Committee had reviewed the check registers.

Alan Nadritch, Finance Director, confirmed that the Audit and Finance Committee had reviewed and approved the check registers.

On motion of Mayor Messina, seconded by Council Member Whitney, check registers for September 2002, were approved by the following vote:

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

Noes: None

RESOLUTION AWARDED THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$239,997.75 TO W. BRADLEY ELECTRIC OF NOVATO FOR THE EAST 2ND/EAST S STREET/HWY 780 TRAFFIC SIGNAL PROJECT AND APPROPRIATING \$141,297.75 FROM TRAFFIC MITIGATION FUND RESERVES

Belinda Smith, 347 Goldenslopes Court, requested this item be pulled from the Consent Calendar; has followed this project since 1991; questioned if closing of S Street was still part of the Plan; expressed concerns over the lack of public notice of this project.

Dan Schiada, Assistant Director of Public Works, stated that since this project was within the state right-of-way Caltrans had done the soil analysis, traffic study and permitting; this signalizes the existing configuration; closing of S Street is no longer part of the solution; grant funding has been obtained for a portion of the costs.

Council Member Whitney requested clarification on the public notice process.

Otto Giuliani, City Manager, stated that it was the standard rule to notify area residents; staff had "dropped the ball" on this notification.

Council took the following action:

RESOLUTION NO. 02-185 - A RESOLUTION ACCEPTING THE BIDS, AWARDED THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$239,997.75 TO W. BRADLEY ELECTRIC OF NOVATO FOR THE TRAFFIC SIGNAL INSTALLATION - EAST SECOND STREET AND I-780 WESTBOUND RAMPS PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY, AND APPROPRIATING \$141,297.75 FROM THE TRAFFIC MITIGATION FUND RESERVES

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 Bidou, Campbell, Smith, Whitney and Mayor Messina

Noes: None

RESOLUTION APPROVING THE APPROPRIATION OF \$85,000 FROM THE GENERAL FUND RESERVES FOR PREPARATION OF AN EIR FOR THE MARINA AREA STROM DRAIN PROJECT, APPROVING TASK ORDER NO. 6 WITH ENVIRONMENTAL SCIENCE

ASSOCIATES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE TASK ORDER ON BEHALF OF THE CITY

Vice Mayor Campbell requested that this item be pulled from the Consent Calendar; stated that the documentation presented by Dr. Ralf Carter (provided by the Attorneys for the Benicia Harbor Corporation) did not give enough statistical analysis and back-up to warrant an environmental study; questioned the qualifications and credentials of Dr. Carter, the timeliness of the report and predictions made that have not been proven valid; will support an EIR to give the City a defensible position in the future.

Council Member Bidou stated his agreement with Vice Mayor Campbell; will not be held hostage by a threat of a lawsuit; will vote no on the Resolution.

Mayor Messina stated that there has been no discharge of water into the Marina in the last seven months; citizens have expressed concerns; EIR will help address those concerns and prove that the City is not damaging the Marina.

Council Member Smith stated that sound legal advice had been given; City will have strongest case if an EIR is done.

Council took the following action:

RESOLUTION NO. 02-186 - A RESOLUTION APPROVING AN APPROPRIATION OF \$85,000 FROM THE GENERAL FUND RESERVES FOR THE PREPARATION OF AN EIR FOR THE MARINA AREA STORM DRAIN PROJECT, APPROVING TASK ORDER NO. 6 WITH ENVIRONMENTAL SCIENCE ASSOCIATES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE TASK ORDER ON BEHALF OF THE CITY

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

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

Noes: Council Member Bidou

RESOLUTION APPROVING AN APPROPRIATION NOT-TO-EXCEED \$75,000 FROM THE GENERAL FUND RESERVES FOR THE INSTALLATION OF IMPROVEMENTS TO CORRECT THE B STREET DRAINAGE PROBLEM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

Vice Mayor Campbell requested that this item be pulled from the Consent Calendar; asked for an explanation to be given.

Dan Schiada, Assistant Public Works Director, stated that funding is needed in order to clear the outlet channel for drainage into the straits; approvals have been received from all regulatory agencies, but BCDC (application pending); work will take approximately two weeks, with two drain inlets to be installed to prevent the current ponding problem.

Council took the following action:

RESOLUTION NO. 02-187 - A RESOLUTION APPROVING AN APPROPRIATION NOT-TO-EXCEED \$75,000 FROM THE GENERAL FUND RESERVES FOR THE INSTALLATION OF IMPROVEMENTS TO CORRECT THE B STREET DRAINAGE PROBLEM AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

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

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

Noes: None

RESOLUTION ACCEPTING THE MARINA DREDGING PROJECT, AUTHORIZING THE ASSISTANT CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

Mayor Messina, Council Member Bidou and Otto Giuliani, City Manager, did not participate in this discussion due to Conflict of Interest. Vice Mayor Campbell chaired this portion of the meeting.

Dan Schiada, Assistant Public Works Director, stated that the City's portion of the dredging had been completed; additional dredging had been done in difficult to reach areas in cooperation with the Benicia Harbor Corporation.

Council Member Whitney asked if soundings had been done to verify the numbers.

Dan Schiada, Assistant Public Works Director, stated soundings had been done and the numbers verified.

Council took the following action:

RESOLUTION NO. 02-188 - A RESOLUTION ACCEPTING THE BENICIA MARINA MAINTENANCE DREDGING PROJECT, AUTHORIZING THE ASSISTANT CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAID NOTICE WITH THE SOLANO COUNTY RECORDER

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, Smith and Whitney

Noes: None

Abstain: Council Member Bidou and Mayor Messina

REPORTS FROM CITY MANAGER:

RESPONSE FROM PLANNING COMMISSION ON DOWNTOWN PARKING

Mayor Messina requested clarification on Conflict of Interest.

Heather McLaughlin, City Attorney, stated that due to the Mayor's pending project on First Street he would need to recuse himself during this discussion. Vice Mayor Campbell chaired this portion of the meeting.

One concerned citizen spoke on this item.

Otto Giuliani, City Manager, requested specific direction from the Council; City parking lots are under utilized; stated that if a broad scoped study were required he would request hiring a consultant.

Council Member Smith asked what it would cost to pave the E Street lot; fees are fifteen years old and need to be reviewed; concurs with requests made by the Planning Commission.

Council Member Bidou stated there were two issues to be reviewed; giving incentives to businesses on First Street and the use of existing lots if paved.

Council Member Whitney requested that the fees be reviewed and an estimate of the demand for parking be done.

Consensus of the Council was to give direction to staff to review the requests of the Planning Commission including possible incentives to businesses on First Street and a parking plan.

MARINA DREDGING REPORT BY ASSISTANT CITY MANAGER

Mayor Messina, Council Member Bidou and Otto Giuliani, City Manager, did not participate in this discussion due to Conflict of Interest. Vice Mayor Campbell chaired this portion of the meeting.

Michael Throne, Senior Civil Engineer, reported on the number of days left in this dredging episode; percentage dredged by the Benicia Harbor Corporation; scheduled berths to be dredged; anticipates if this schedule is maintained that the work will be completed within the allotted time.

Vice Mayor Campbell questioned whether or not the Benicia Harbor Corporation had taken and provided soundings to the City.

Michael Throne, Senior Civil Engineer, stated that data from the Benicia Harbor Corporation had not been received and that the City would do their own soundings.

Council Member Whitney requested that an update be provided on the maintenance of the Marina and dock areas.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 8:39 p.m.

Linda S. Purdy, City Clerk