

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
NOVEMBER 15, 2005

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:15 p.m. on Tuesday, November 15, 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 Patterson, Smith, and Mayor Messina

Absent: Council Members Campbell (arrived after Closed Session started) and Whitney

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).

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

COMMUNICATIONS:

WRITTEN:

None

PUBLIC COMMENT:

None

CLOSED SESSION:

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)**

Name of case: Togonon v. City of Benicia

ADJOURNMENT:

Mayor Messina adjourned the meeting at 7:17 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
NOVEMBER 15, 2005

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:30 p.m. on Tuesday, November 15, 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, and Mayor Messina

Absent: Council Member Whitney

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 authorized the waiver of the Attorney-Client Privilege in respect to this case (Togonon v. City of Benicia) for advice received from Liebert Cassidy Whitmore Law Firm.

Openings on Boards and Commissions:

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

The Solano County LAFCO will be holding a public meeting regarding the Bordoni Ranch annexation on 12/12/05 at 6:00 p.m. in the Board of Supervisor's Chamber at the County Government Center in Fairfield.

APPOINTMENTS:

RESOLUTION 05-172 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF ATIBA MURPHY TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS TO A FULL TERM ENDING DECEMBER 31, 2007

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

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

Noes: None

Absent: Council Member Whitney

RESOLUTION 05-173 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF RICHARD SPRANKLE TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS TO A FULL TERM ENDING DECEMBER 31, 2007

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

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

Noes: None

Absent: Council Member Whitney

RESOLUTION 05-174 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOEL FALLON AS BENICIA POET LAUREATE TO A TERM THAT IS EFFECTIVE IMMEDIATELY AND ENDS AUGUST 31, 2007

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

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

Noes: None

Absent: Council Member Whitney

PROCLAMATIONS:

Mayor Messina presented a proclamation naming Mr. Joel Fallon Benicia's Poet Laureate.

Mr. Fallon thanked Sandy Stillwell for helping this position come to fruition. He also thanked Mary Eichbauer, his wife, and many others who have supported him in this endeavor. He recited a poem titled 'Return to Benicia.'

PRESENTATIONS:

Benicia Firefighters Association (BFA):

Mr. Steve Booth, BFA, thanked Council Members Campbell and Smith for their distinguished service on the City Council. He wished them well in their future endeavors. He had originally requested this item be placed on the agenda in anticipation of a negotiation session scheduled for 11/14. That bargaining session was postponed. For that reason, he requested the presentation be pulled off the current agenda and be rescheduled for a future date.

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, and Mayor Messina

Noes: None

Absent: Council Member Whitney

COMMUNICATIONS:

WRITTEN:

Various letters submitted (copies on file).

PUBLIC COMMENT:

1. Tracee Devincenzi - Ms. Devincenzi discussed the property formerly known as the Girl Scout House. The Girl Scouts need a house and want to work with the City to get a new house built for the Scouts.
2. Debbie Bozanich – Ms. Bozanich discussed the need for a Girl Scout House.

Council Member Smith asked Staff about the status of this project (Community Center/Scout house). Mr. Erickson stated that the plans for this project are near completion. This is a budgeted project and Staff hopes to bring a report back to Council for action within 60 days.

Council Member Campbell stated that we should forget about the Mills school site and just build a building.

Mayor Messina stated that he has been supportive of this project from day one.

Vice Mayor Patterson stated that they were welcome to contact her to set up a meeting to discuss the issue.

Ms. Betsy Radke passed out cards and nuts for Council.

3. Bill Royal – Mr. Royal stated that the bad, evil man (Mr. Golick) was not at tonight's meeting. He discussed specifics on the problems he has encountered while trying to get his project going. He wanted to be placed on the next Planning Commission agenda to discuss his project. He is out \$40,000 because of Mr. Golick and the City. He discussed Mr. Golick's dismissal from employment by the City. He stated that his (Mr. Royal's) problem with Mr. Golick interlocks with the reason he was dismissed from the City.

Mr. Erickson requested that Mr. Royal not discuss personnel issues. Mr. Royal stated that the City Attorney told him he could speak his mind. Ms. McLaughlin cautioned Mr. Royal that he could be liable for actions if his words were incorrect. Mr. Royal stated that he challenged anyone to try and dispute his comments. He has copies of emails that back up his comments. He asked if the City of Benicia was going to act like the Catholic Church and give Mr. Golick a recommendation so that he could go to another community and harass them.

Ms. McLaughlin stated that Mr. Golick was not dismissed, but chose to leave the City's employment of his own accord. She has advised Mr. Royal that if he wants to file a claim against the City he is free to do so. Claim forms are available at the offices of the City Clerk and the City Attorney.

4. Bob Craft – Mr. Craft urged citizens to join Benicia Education Foundation (BEF). He talked about BEF’s supplemental tuition drive.
5. Mary Frances Kelly Poh – Ms. Poh announced the Community Thanksgiving Dinner at the Clocktower put on by the Community Action Council. She invited everyone in the community. This is a free event.
6. James Farr – Mr. Farr stated that he asked (in writing) the City Manager to put his request for discussion of 153 East D Street on the next Council agenda. The request was denied by the City Manager. He asked how to go about getting his item on the agenda. Mayor Messina stated that he should contact any of the Council Members, but not himself, as he has a conflict of interest on this item.

Mr. Erickson stated that Council gave Staff specific direction to check out four particular issues. Staff should have a report for Council (and Mr. Farr) in the next few days. Staff’s interest is in assuring compliance with all codes and regulations.

7. Council Member Smith – Council Member Smith congratulated all the recent winners of the election. He wished them well and asked them to make the City proud. He stated that the City deserves the best. He stated that there is a need for poll workers at future elections. He announced the following events:
 - 11/17/05 - Blood Drive at the First Baptist Church
 - 11/19/05 – VOENA concert
 - 11/19/05 – Concert at the Majestic Theatre featuring Ken Maffeo
 - 11/26-11/27/05 – Benicia Ballet’s annual production of ‘The Nutcracker’
 - 12/2/05 – Downtown Open House and Tree Lighting ceremony
 - 12/2/05 – Glass Studio’s Annual Open House
 - 12/10/05 – Concert at the Majestic Theatre featuring ‘King of Strings’
8. Council Member Campbell stated that he did not get re-elected so he would now speak as a citizen. He wanted to discuss the Firefighter’s negotiations. His comments would not represent the views of the Council. Ms. McLaughlin stated that he was still a Council Member. Even after he is no longer a Council Member, he cannot disclose information obtained in Closed Session without the permission of the Council. Council Member Campbell stated that at some point, the City would need to meet and maybe go over the average pay scale of other cities. In the future, if we don’t get the average of the other cities, we are going to have an attrition problem. It is tough to track people because the City is not paying them enough. This should happen fairly soon. He hoped the future City Council Members would take his comments into consideration.
9. Vice Mayor Patterson – Vice Mayor Patterson acknowledged the great public service that Council Members Campbell and Smith have provided to the City. The citizens have benefited from their service. She hopes they continue to provide service to Benicia. It would be good for Benicia.

CONSENT CALENDAR:
Council pulled items VII-C.

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

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

Noes: None

Absent: Council Member Whitney

The minutes of the October 31, 2005 Special Council meeting and the November 1, 2005 Special and Regular meetings were approved.

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

- Maria Daffon
- Barbara Gates

RESOLUTION 05-175 - A RESOLUTION APPROVING THE SELECTION OF THE "DOWNTOWN BENICIA" DESIGN AS THE OFFICIAL DIRECTIONAL SIGN TO DOWNTOWN PARKING

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of engineering services agreement for design of the State Park Road

Bike/Pedestrian Bridge Project:

Vice Mayor Patterson asked Staff to explain the use of the consultant for this project and offered a substitute resolution for approval. Mr. Erickson stated that Staff does not have the resources nor the expertise to do the detailed design work. The project is completely funded by federal money. Vice Mayor Patterson reviewed her suggested changes to the proposed Resolution (copy on file).

Council did not have objections to the changes proposed by Vice Mayor Patterson.

RESOLUTION 05-176 - A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH PAKPOUR CONSULTING GROUP FOR ENGINEERING SERVICES FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT, APPROVING TASK ORDER NO. 1 IN THE AMOUNT OF \$124,445, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT AND TASK ORDER ON BEHALF OF THE CITY

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

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

Noes: None

Absent: Council Member Whitney

PUBLIC HEARINGS:

Review of City of Benicia Urban Water Management Plan (UWMP) – 2005 Update:
Chris Tomasik, Assistant Director/Utility Manager, reviewed the Staff report.

Lisa House, Consultant, CDM, reviewed a PowerPoint presentation on the Urban Water Management Plan (hard copy on file).

Ms. Kathleen Van Velsor, Member, Urban Water Management Plan Task Force, stated that it has been a great experience being on the task force. The plan stands head and shoulders above the other plans she had the chance to review. It is concise and to the point. The plan should serve the City well for the next five years.

Vice Mayor Patterson acknowledged the skillful chairing of the committee that Ms. Van Velsor brought. She discussed the issue of the potential catastrophic loss of water that Ms. Van Velsor discussed. There is a recommendation on that issue in the report that she hopes that the City acknowledges in some action that could be taken between now and the next UWMP update. She suspects Staff will have a proposal for that. She acknowledged the participants involved in the task force meetings. They spent a lot of time on the plan.

Public Comment:

1. Greg Gartrell – Mr. Gartrell acknowledged the efforts of the task force. It is important to acknowledge where the City is now compared to where it was 10-15 years ago during the last drought. There is a huge difference. He discussed the Ahwahnee Principles and how it relates to the UWMP. He urged Council to make sure the UWMP and the General Plan line up with the Principles and Policies. He does not know whether or not they line up at this time.

Ms. Tomasik stated that there was a section in the plan that discusses which of the Ahwahnee Principles is addressed. The other principles are something that has been presented to the City Manager for Council to look at in the context of Staff's priorities.

Vice Mayor Patterson stated that the Ahwahnee Principles embody in more detail the essential principles in the General Plan. In the current UWMP, it is an appendix and it would be something that would have to come back to Council for adoption. That is something she would like Council to consider. Right now, it is just an appendix to be used as a reference point.

Staff will bring this back for a vote from Council at the 12/6/05 Council meeting.

Vice Mayor Patterson stated that it would be helpful to iterate the recommendations in the plan and suggest for future Council action to take those under consideration. The recommendations are excellent. It would be helpful to have those available in one place. She would like to include in the recommendations that the Ahwahnee Principles be considered for future Council action.

UNFINISHED BUSINESS:

Discussion of policy for City assistance to disaster victims – continued from November 1, 2005 City Council meeting:

Jim Erickson, City Manager, reviewed the Staff report.

Vice Mayor Patterson stated that the intent was to ask an informal employee survey to demonstrate interest in this. If there is a level of interest, perhaps management could begin developing policies to deal with this issue. She discussed the levies and what would happen if they collapsed. She wanted to have Council direct staff to do an informal survey see if there was an interest and develop the policies that are appropriate to that.

Council Member Smith asked if there was a specific policy in place that deals with this. Mr. Erickson stated that issues are reviewed on a case-by-case basis and he was not aware of a policy. He is not sure if it would take a survey to find out the information Council wants. Council Member Smith stated that he would support Staff to look come up with some sort of recommendation on a policy for this.

NEW BUSINESS:

Discussion of Vice Mayor Patterson's proposed Grading Ordinance amendments – continued from November 1, 2005 City Council meeting:

Vice Mayor Patterson requested this item be continued to January 2006 so the new Council could spend the amount of time needed on this.

Public Comment:

1. Marilyn Bardet – Ms. Bardet thanked Council Members Campbell and Smith for their service. She discussed the issue of grading with respect to the Seeno project. She was concerned how the project will look. There are more opportunities this time to look at that. She discussed the slopes on Columbus Parkway, Lake Herman Road, Blue Rock Springs area, etc. It is hard to repair issues like those areas have. It is hard to grow things in those types of areas. She urged Council to look strongly at the requirements make slopes that are more gradual and obey the topography of the land that we have. The way this ends up looking is very important.

Cancellation of the December 20, 2005 City Council Meeting:

Jim Erickson, City Manager, reviewed the Staff report.

Mayor Messina stated that he is opposed to canceling the meeting.

Council Member Campbell stated that he is inclined to let the new Council Members earn their money.

Council agreed to hold the 12/20/05 Council meeting as scheduled.

Review of request to televise Historic Preservation Review Commission (HPRC)

Meetings:

Jim Erickson, City Manager, reviewed the Staff report.

Council Member Smith asked how much more difficult it would be for the HPRC to change meeting dates to accommodate the availability of Council chambers. Mr. Erickson stated that was why he would like to see this go back to the HPRC for discussion. Council Member Smith stated that he was in favor of sending this to the HPRC to investigate the issues and present its recommendations.

Vice Mayor Patterson stated that it would be important to find out if changing the regular meeting time of the HPRC would conflict with Council's schedule.

Council Member Campbell stated that it is generally a good idea to have commission meetings televised. The issues being discussed by the HPRC are becoming more and more important.

Public Comment:

1. Bonnie Silveria – Ms. Silveria stated that the Planning Commission reviews the minutes of the HPRC. However, it would be easier to see what was actually happening. It would be good for the public to be able to see the meetings.
2. Marilyn Bardet – Ms. Bardet concurred with Ms. Silveria on her comments. The public would benefit from seeing the meetings. The decisions being made are crucial.

Mayor Messina stated that when people watch the meetings on TV, there is no public participation. There are hot issues at many of the different commission meetings. He welcomed the opportunity to send this back to the HPRC to get their take on this.

Vice Mayor Patterson stated that the HPRC is in a quasi-judiciary position. Council benefits from being able to have access to the deliberations by these commissions. Because the role of the HPRC was expanded to include things historically handled by the Planning Commission, it is important that we consider that. She asked how much extra money is spent on having additional meetings because we have not been able to get the information across to the public. People who are monitoring issues and are persuaded by someone else's interpretation may actually add to the length of the processing of the project because they have not been able to see the discussion. She would like Staff to consider looking into the Community College for students who could help tape the meetings to save money. She does not know if it would be feasible. She would like Staff to convey Council's suggestions to the Commission for review. She asked for a Staff explanation for the upcoming HPRC meeting of 11/17.

Mr. Erickson stated that there is a public hearing on the historic resources inventory. The issue has received a lot of comments and interest from the community. The intent is to open the public hearing and receive comments. The intent is not to finish the item. It is to take input and perhaps set up another process or another public workshop for education,

input, and public comment. It will be the first opportunity for the public to have opportunity for input and then get into an interactive community place for further discussion before it goes back to the HPRC for action.

Vice Mayor Patterson stated that it would be helpful to have the 11/17 meeting televised. It is an important presentation by a consultant of the City. There are people that might feel that they are left out of the process, not understanding that this is an opportunity to comment on errors and omissions and corrections to the report and to seek some policy issues.

Council Member Smith stated that it is contradictory to ask the HPRC if they want the meetings televised, and then tell them the next meeting will be televised with two days notice.

REPORTS FROM CITY MANAGER:

Jim Erickson stated that the new Interim Community Development Director, Bob Brown, would be starting on 11/17/05. He briefly reviewed Mr. Brown's past work experience.

Review of proposed joint use agreements with Benicia Unified School District (BUSD) - continued from November 1, 2005 City Council meeting:

Jim Erickson, City Manager, reviewed the Staff report.

Council Member Smith stated that was the same report that was given three months ago. He is extremely disappointed at Staff's unwillingness to continually respond to his request for a public meeting on this issue. He thinks there were political considerations as to why the City has not yet accomplished this.

Council Member Campbell stated that Staff does a great job. He will miss working with them.

Mayor Messina stated that the new Council and the new School Board should be able to comment and have buy-in on this issue. He would like to be able to present a complete project to the School Board and Council at one of the next meetings. We may need to arrange a joint meeting to get that accomplished.

REPORTS FROM CITY COUNCIL COMMITTEES:

1. Mayors' Committee Meeting – Mayor Messina – Next meeting date: December 21, 2005
2. Arsenal Restoration Advisory Board – Council Member Campbell – Next meeting date: Not yet scheduled
3. Association of Bay Area Governments (ABAG) – Vice Mayor Patterson – Next meeting date: April 20, 2006
4. Audit & Finance Committee – Council Members Campbell and Patterson – Next meeting date: December 9, 2005
5. Carquinez Strait Preservation Trust – Council Member Smith – Next meeting date: Not yet scheduled

6. First Street Revitalization Committee – Council Members Campbell and Smith – Next meeting date: December 8, 2005
7. League of California Cities – Council Member Smith – Next meeting date: Not yet scheduled
8. Police Station and Civic Center Restoration Committee – Mayor Messina and Council Member Smith – Next meeting date: Not scheduled
9. School District Liaison – Council Members Smith and Whitney – Next meeting date: November 17, 2005
10. Sky Valley Area Open Space – Council Members Patterson and Smith – Next meeting date: January 18, 2006
11. Solano EDC Board of Directors – Vice Mayor Patterson – Next meeting date: November 17, 2005
12. Solano Transportation Authority (STA) – Mayor Messina – Next meeting date: December 14, 2005
13. Solano Water Authority/Solano County Water Agency – Mayor Messina – Next meeting date: December 8, 2005
14. Traffic, Pedestrian and Bicycle Safety Committee – Council Members Campbell and Patterson – Next meeting date: January 19, 2006
15. Tri-City and County Regional Parks and Open Space – Council Member Whitney – Next meeting date: December 12, 2005
16. Urban Water Management Planning Task Force – Vice Mayor Patterson and Mayor Messina – Next meeting date: No further meetings scheduled
17. Valero Citizens Advisory Panel (CAP) - Council Member Whitney – Next meeting date: January 26, 2006
18. Youth Action Task Force – Council Member Whitney – Next meeting date: December 7, 2005

ABAG/CAL FED Task Force/Bay Area Water Forum – Vice Mayor Patterson – Next meeting date: Not yet scheduled

ADJOURNMENT:

Mayor Messina adjourned the meeting at 9:17 p.m.

Lisa Wolfe, City Clerk