

November 20, 2001

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 20, 2001

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Messina at 7:31 p.m. Tuesday, November 20, 2001, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Bidou, Whitney and Mayor Messina

Absent: Council Members Corbaley and Gizzi

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

Council Members Corbaley and Gizzi arrived at 7:33 p.m.

ANNOUNCEMENTS:

HISTORIC S.P. DEPOT EXTERIOR REHABILITATION PROJECT DEDICATION CEREMONY -
TUESDAY, NOVEMBER 27TH AT 2:00 PM

Mayor Messina made the announcement.

PRESENTATIONS:

SOLANO COUNTY OPEN SPACE PLANNING PROCESS-SOLANO COUNTY OPEN SPACE
COALITION

Mary McCarthy and Bob Berman made the presentation; name of the organization has been changed to the Solano Land Trust; explained future goals; requested a list of the types of projects that each City would like to see funded.

ADOPTION OF AGENDA:

Council Member Bidou requested Item IX-A, Unfinished Business, be moved up after Communications.

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

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

Dan Smith, 365 Military East, Council Member Elect, spoke on the importance of open space; presentations made at the Child Abuse Prevention Awards.

James O. Milburn, 280 East J Street, read his statement concerning holding Council Meetings during the holiday season.

Marilyn Bardet, 333 East K Street, thanked Council Members Corbaley and Gizzi for their service during their terms of office; reminded the Council of her request concerning emergency access on East H Street.

Mike Broad, Attorney for Yellow Cab of Benicia, requested clarification as to whether or not he should speak during Public Comment on an item that appeared later on in the Agenda.

Mayor Messina stated that Mr. Broad could speak at either time. Mr. Broad stated that he would speak later on in the meeting.

Susan Street, 232 East 2nd Street, requested that the marsh land property on East B Street remain as open space.

Steve Gizzi, Council Member, requested that a discussion be held at the next meeting on the emergency access for East H Street.

Otto Giuliani, City Manager, stated that he will agendaize the item, but that a staff report might be difficult to obtain due to staff changes in the Planning Department.

UNFINISHED BUSINESS:

RESOLUTION AUTHORIZING A JOINT POWERS AGREEMENT (JPA) BETWEEN THE CITIES OF BENICIA, FAIRFIELD, VALLEJO AND THE COUNTY OF NAPA FOR THE CREATION OF THE SOLANO-NAPA REGIONAL PEACE OFFICERS' TRAINING ASSOCIATION

Council Member Bidou requested this item be moved after Communications.

Jim Trimble, Police Chief, recommended that the City participate in this Association; explained that this would guarantee a long-term solution for firearms training, safety of Police personnel and citizens; listed the other law enforcement agencies that were interested in possible long-term leases.

Eight concerned citizens spoke on this item.

Council Member Whitney stated his support for the project; questioned whether or not the City needed to be a full partner in this project; current site is inadequate.

Council Member Gizzi questioned some of the financial issues of the proposed plan; staff report inadequate; owning was better, but in this case renting the facility might be a better choice for the City; too many unanswered questions; Agreement was legally flawed; noted each of the deficiencies.

Council Member Corbaley stated that she supports the concept; too many issues that need to be clearer before moving forward; asked for clarification regarding the initial financial contributions and subsequent contributions.

Otto Giuliani, City Manager, stated that the entire concept of this project was equal partnership of the members.

Council Member Bidou spoke on the issue of "good faith"; making money is not a concern; supports this Agreement as it is.

Mayor Messina expressed concern about inadequate training leading to litigation; agreed that it was a good idea to participate with other agencies; shared concerns about the disparity over the

financial numbers; grant approval of the Agreement subject to those matters that had been raised.

A motion by Council Member Bidou, seconded by Council Member Whitney was made to adopt the Resolution and Agreement as written.

Council Member Corbaley stated that the long-term impact of this project was unknown; this Agreement commits the City to a large financial obligation; take more time and defer the action.

Council Member Bidou amended his motion to add those concerns stated by Council Members Corbaley and Gizzi, but not to defer the vote; amendment seconded by Council Member Whitney.

Council Member Corbaley restated the need for more certainty on the issues raised; requested that this issue be brought back at the next meeting or within thirty days.

Mayor Messina stated that he would like to resolve the issue.

Council Member Corbaley restated issues of concern: equal contributions-equal payments, equal usage-equivalent to percentage of ownership, payback issue and budget review; vote to be taken but Agreement will not be signed until concerns are addressed.

Council took the following action:

RESOLUTION NO. 01-175 - A RESOLUTION AUTHORIZING THE JOINT POWERS AGREEMENT (JPA) BETWEEN THE CITIES OF BENICIA, FAIRFIELD, VALLEJO AND THE COUNTY OF NAPA FOR THE CREATION FO THE SOLANO-NAPA REGIONAL PEACE OFFICERS' TRAINING ASSOCIATION, AS AMENDED

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Mayor Messina called for a break at 10:22 p.m. Mayor Messina reconvened the meeting at 10:29 p.m.

CONSENT CALENDAR:

Mayor Messina asked if there were any requests for items to be pulled; stated that a member of the audience requested Item F be pulled and that he wished to pull Item G. `

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

Approval of Minutes of November 6, 2001

Approval of Check Registers for October 2001

RESOLUTION NO. 01-176 - A RESOLUTION ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR 2001-02

RESOLUTION NO. 01-177 - A RESOLUTION AMENDING THE AGREEMENT WITH FOOTHILL DATA COMMUNICATIONS, INC., FOR TELEPHONE/TELECOMMUNICATIONS TROUBLESHOOTING AND TRAINING, AND TELEPHONE/TELECOMMUNICATIONS PLANNING ASSISTANCE FOR THE CITY'S NEW POLICE DEPARTMENT BUILDING

RESOLUTION NO. 01-178 - A RESOLUTION ACCEPTING THE YEAR 2001 STREET OVERLAY PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION NO. 01-179 - A RESOLUTION ACCEPTING THE SOUTHERN PACIFIC DEPOT EXTERIOR REHABILITATION PROJECT, APPROVING AN APPROPRIATION OF \$158,500 FROM THE GENERAL FUND RESERVES, WITH \$28,500 TRANSFERRED INTO THE EXTERIOR REHABILITATION PROJECT ACCOUNT AND \$130,000 TRANSFERRED INTO THE INTERIOR RENOVATION PROJECT ACCOUNT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE WITH THE SOLANO COUNTY RECORDER

RESOLUTION NO. 01-180 - A RESOLUTION APPROVING THE JOB DESCRIPTION FOR THE NEW CLASSIFICATION OF COMMUNITY DEVELOPMENT DIRECTOR, AND ESTABLISHING THE SALARY RANGE

RESOLUTION NO. 01-181 - A RESOLUTION ACCEPTING THREE RESPONSIVE BIDS, APPROPRIATING PRE-APPROVED GRAND FUNDS TO FINANCE THE PROJECT, AWARDING THE PROJECT CONTRACT TO EQUIP ELEVEN POLICE PATROL CARS WITH TECHNOLOGY EQUIPMENT IN THE AMOUNT OF \$99,472.53 TO MOBILE MAN, INC., AND AUTHORIZING THE CITY MANAGER TO SIGN APPROPRIATE DOCUMENTS RELATING TO THE PURCHASE

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

(END OF CONSENT CALENDAR)

RESOLUTION ACCEPTING THE YEAR 2001 SLURRY SEAL PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

This item was pulled from the Agenda by James O. Milburn; stated that the slurry seal that was applied this year seemed to be rougher than in years past.

Virgil Mustain, Public Works Director, explained that the slurry seal was not intended to smooth an already rough street; extends the life of the street and is more inexpensive.

Council took the following action:

RESOLUTION NO. 01-182 - A RESOLUTION ACCEPTING THE YEAR 2001 SLURRY SEAL PROJECT, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ALL FUTURE MASTER AGREEMENTS, PROGRAM SUPPLEMENTAL AGREEMENTS, FUND EXCHANGE AGREEMENTS, FUND TRANSFER AGREEMENTS, AND ANY AMENDMENTS THERETO, THAT REQUIRE LOCAL MATCHING FUNDS INCLUDED IN THE CURRENT BUDGET, WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

Mayor Messina requested this item be pulled from the Agenda; would like a public announcements made as these funds are received.

Council took the following action:

RESOLUTION NO. 01-183 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ALL FUTURE MASTER AGREEMENTS, PROGRAM SUPPLEMENTAL AGREEMENTS, FUND EXCHANGE AGREEMENTS, FUND TRANSFER AGREEMENTS, AND ANY AMENDMENTS THERETO, THAT REQUIRE LOCAL MATCHING FUNDS INCLUDED IN THE CURRENT BUDGET, WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

PUBLIC HEARINGS:

PUBLIC HEARING ON THE GENERAL PLAN AMENDMENTS AND CITYWIDE REZONING:

A RESOLUTION AMENDING THE GENERAL PLAN LAND USE DIAGRAM

INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING SECTION 17.04.020B OF THE BENICIA MUNICIPAL CODE TO REZONE CERTAIN PARCELS WITHIN THE CITY

Brenda Gillarde, Principal Planner, gave a report; these changes are a result of the adoption of the General Plan; cited three of the more notable changes; Planning Commission has recommended approval.

Council Member Bidou requested clarification for each Council Member on the areas that would come under the Conflict of Interest Code.

Heather McLaughlin, City Attorney, stated that the abstentions would be noted in the vote.

Mayor Messina opened the Public Hearing. No written protest received. No one spoke for or against this item.

Mayor Messina closed the Public Hearing.

Council took the following actions:

RESOLUTION NO. 01-184- A RESOLUTION AMENDING THE GENERAL PLAN LAND USE DIAGRAM (WITH ABSTENTIONS NOTED)

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

ORDINANCE NO. 01- AN ORDINANCE AMENDING SECTION 17.04.020B OF THE BENICIA MUNICIPAL CODE TO REZONE CERTAIN PARCELS WITHIN THE CITY OF BENICIA TO COMPLY WITH THE GENERAL PLAN USE DIAGRAM (WITH ABSTENTIONS NOTED)

On motion of Council Member Gizzi, seconded by Council Member Corbaley, the above Ordinance was adopted on roll call by the following vote:

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

REPORT FROM CITY MANAGER:

REPORT FROM THE ASSISTANT CITY MANAGER REGARDING MARINA DREDGING OPERATIONS

Mayor Messina noted that there was a Conflict of Interest for himself, Council Member Bidou and Otto Giuliani, City Manager, on this item.

Karen Majors, Assistant City Manager, gave a report; noted that the equipment that was being used by the Benicia Harbor Corporation was too large, hampering the removal of the material; a request for the extension of the permit to dredge was pending; Benicia Harbor Corporation will complete about one-third of their required amount; City has completed 83%.

John Ash, Benicia Harbor Corporation, stated that Lucas Marine, the City's dredger, had left 23,000 cubic yards of material that had to be dredged by the Harbor Corporation before they could begin their portion of the Marina.

Karen Majors, Assistant City Manager, noted that the final calculations had not been done; hopeful that the worst problems are over; progress had been made.

Two concerned citizens spoke on this item.

REPORTS FROM CITY COUNCIL COMMITTEES:

BI-MONTHLY COMMITTEE REPORTS

TOURTELOT COMMUNITY ADVISORY GROUP (CAG)

Council Member Corbaley announced that the CAG would continue to meet during the clean-up phase; meetings will be held on a quarterly basis.

MAYORS' COMMITTEE MEETING

Mayor Messina reported that the Committee had met with the new Commander at Travis AFB; affordable housing issues were discussed.

BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

Mayor Messina gave a report; announced that BCDC was protective of the ports in the Bay area.

SOLANO WATER AUTHORITY

Mayor Messina stated that security measures had been discussed.

SEDCORP BOARD OF DIRECTORS

Council Member Whitney stated that no meeting had been held.

ARSENAL RESTORATION BOARD (RAB)

Council Member Whitney showed a pamphlet that had been sent; noted Community Safety Workshops to be held.

VALERO COMMUNITY ADVISORY PANEL (CAP)

Council Member Whitney reported that Dana Dean had been selected as the new Chairperson; security measures had been discussed.

SOLANO TRANSPORTATION AUTHORITY (STA)

Council Member Bidou gave a report.

AUDIT AND FINANCE COMMITTEE

Council Member Bidou reported that a discussion was held on the proposed Police Firing Range.

YOUTH ACTION TASK FORCE

Council Member Bidou stated that the survey was completed and ready to send out.

On a motion of Council Member Gizzi, seconded by Council Member Bidou, and unanimously carried, to continue the meeting past 11:30 p.m.

NEW BUSINESS: RESOLUTION APPROVING AN INCREASE TO THE FEE DEFERRAL LOAN FOR THE HEARTHSTONE VILLAGE PROJECT

Otto Giuliani, City Manager, stated that fees had gone up since this was first brought to the Council; this Resolution was to update the fee structure.

Council took the following action:

RESOLUTION NO. 01-185 - A RESOLUTION APPROVING AN INCREASE TO THE FEE DEFERRAL LOAN FOR HEARTHSTONE VILLAGE PROJECT

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

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

RESOLUTION APPROVING THE AFFORDABLE HOUSING AGREEMENT FOR THE G-4 PARCEL NEAR ROSE DRIVE AND COLUMBUS PARKWAY

Otto Giuliani, City Manger, explained that these units were required by the Winterhawk Affordable Housing lawsuit as part of the future Tourtelot housing development; deferral of fees was consistent with every other affordable housing project brought before the City.

Three concerned citizens spoke on this item.

Council took the following action:

RESOLUTION NO. 01-186 - A RESOLUTION APPROVING THE AGREEMENT FOR THE CONSTRUCTION OF AFFORDABLE HOUSING BY GRANITE MANAGEMENT CORPORATION AND ITS AFFILIATE, FN PROJECTS INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

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

Ayes: Council Member Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

WITHDRAWAL OF THE JEFFERSON PARK PROJECT BY THE DEVELOPER AND RELATED REPEAL OF THE JEFFERSON PARK PROJECT APPROVALS

RESOLUTION REPEALING RESOLUTION NO. 01-110, APPROVING AN INITIAL STUDY/ MITIGATED DECLARATION OF THE JEFFERSON PARK PROJECT

RESOLUTION REPEALING RESOLUTION NO. 01-132, DENYING AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF THE PLANNED DEVELOPMENT PLAN AND MITIGATION MONITORING PROGRAM FOR THE JEFFERSON PARK PROJECT

RESOLUTION REPEALING RESOLUTION NO. 01-133, APPROVING A TENTATIVE SUBDIVISION MAP FOR THE JEFFERSON PARK PROJECT

ORDINANCE REPEALING ORDINANCE NO. 01-7, APPROVING A REZONING FOR THE JEFFERSON PARK PROJECT

ORDINANCE REPEALING ORDINANCE NO. 01-8, APPROVING A DEVELOPMENT AGREEMENT WITH PACIFIC BAY HOMES FOR THE JEFFERSON PARK PROJECT
Otto Giuliani, City Manager, stated that Pacific Bay had announced withdrawal of the application of the project; repeal all the approvals related to this project.

Two concerned citizens spoke on this item.

Mayor Messina expressed concerns that with the end of this project the funding source for the Commandant's Residence was gone; requested that staff bring back a plan to fund this restoration; requested all the citizens who signed the petition opposing the project to make a donation; started the process by presenting a donation of \$100.00.

Council took the following actions:

RESOLUTION NO. 01-187 - A RESOLUTION REPEALING RESOLUTION NO. 01-110, A RESOLUTION APPROVING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE JEFFERSON PARK PROJECT (PLN 2000-57)

RESOLUTION NO. 01-188 - A RESOLUTION REPEALING RESOLUTION NO. 01-132, A RESOLUTION DENYING AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A PLANNED DEVELOPMENT PLAN AND MITIGATION MONITORING PROGRAM FOR THE JEFFERSON PARK PROJECT PLAN (PLN 2000-55)

RESOLUTION NO. 01-189 - A RESOLUTION REPEALING RESOLUTION NO. 01-133, A RESOLUTION APPROVING A TENTATIVE SUBDIVISION MAP FOR THE JEFFERSON PARK PROJECT (PLN-2000-56)

On motion of Council Member Gizzi, seconded by Council Member Corbaley, the above Resolutions were adopted on roll call by the following vote:

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

Council took the following actions:

ORDINANCE NO. - 01- AN ORDINANCE REPEALING ORDINANCE NO. 01-7, AN ORDINANCE APPROVING A REZONING FOR THE JEFFERSON PARK PROJECT (PLN 2001-08)

ORDINANCE NO. - 01- AN ORDINANCE REPEALING ORDINANCE NO. 01-8, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH PACIFIC BAY HOMES FOR THE JEFFERSON PARK PROJECT

On motion of Council Member Gizzi, seconded by Council Member Whitney, the above Ordinances were adopted on roll call by the following vote:

Ayes: Council Members Bidou, Corbaley, Gizzi, Whitney and Mayor Messina

Noes: None

PROPOSED SANCTIONS AGAINST BENICIA-VALLEJO YELLOW CAB FOR VIOLATION OF THE FRANCHISE AGREEMENT

Alan Nadritch, Finance Director, gave a report listing the violations that have occurred; presented the options that can be taken, revocation of license or a donation of the over charged money to the Transportation Fund.

Mike Broad, Attorney, representing the Yellow Cab Company, presented information concerning the request for insurance, vehicle identification numbers and inspection of the vehicles; stated that overcharging had occurred; Yellow Cab Company was willing to payback some of the funds; calculations of the amount owed were incorrect.

Carol Simpkins, Assistant Finance Director, gave an explanation of the method used to estimate the amount that was owed.

Council Member Bidou stated that the Company should keep better records and supported revocation of the license.

Mayor Messina stated that he would like to see the citizens who use this service the most be reimbursed.

Council Member Gizzi proposed a reduction in fares and trip charges for the same number of months that the overcharging had occurred.

On motion of Council Member Gizzi, seconded by Council Member Whitney, proposed plan was made.

Council Member Corbaley expressed concerns about staff time that might be allocated; spoke on the need for competition; requested that this item be deferred to the next meeting.

Council Member Gizzi withdrew his motion.

Council Member Gizzi proposed that a representative of the Yellow Cab Company meet with the Finance Department; Company provide any new documentation; staff arrive at a revised number to be paid; bring back to the Council for review in 30 days.

Consensus of the Council was to accept this proposal.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 1:05 a.m.

Linda S. Purdy, City Clerk