

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
SPECIAL MEETING - CITY COUNCIL
NOVEMBER 20, 2003**

A special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:50 p.m. Thursday, November 20, 2003, in the Council Chambers, City Hall, 250 East L Street, complete proceeding 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.

ADOPTION OF THE AGENDA:

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

Jim Erickson, City Manager, requested that items listed under Public Hearings be heard prior to items listed under New Business.

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

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

None

PUBLIC HEARINGS:

**MARINA AREA STORM DRAIN PROJECT:
RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, MAKING
FINDINGS RELATED TO THE PROJECT, MAKING A STATEMENT OF OVERRIDING
CONSIDERATIONS, AND APPROVING THE MITIGATION MONITORING AND REPORTING
PROGRAM**

**RESOLUTION APPROVING THE MARINA AREA STORM DRAIN PROJECT AND SELECTION OF
THE EAST SECOND STREET ROUTE AS THE PREFERRED ROUTE FOR THE DRY WEATHER FLOW
DIVERSION PIPELINE**

**RESOLUTION APPROPRIATING \$250,000 FROM THE TRAFFIC MITIGATION FUND AS A LOAN
TO THE STROM DRAIN FUND FOR PREPARATION OF FINAL ENGINEERING DESIGN
DOCUMENTS FOR THE PROJECT**

Heather McLaughlin, City Attorney, stated that a new staff report had been prepared and distributed; noted the changes made to that report; Resolutions were changed to give them more legal standing.

Dan Schiada, Interim Director Public Works, reviewed action taken since 1996; old pipeline was corroded and was replaced with a temporary pipeline with outfall into the Marina; comprehensive

studies and evaluations were done to provide alternatives; regulatory boards have mandated that the City repair or replace the Marina Area Storm Drain by September 30, 2004 or face substantial fines; summarized the preferred alternative presented.

H. Nelson Meeks, Attorney, Benicia Harbor Corporation, stated five additional objections to the project; provided a copy of those objections for the record; opposes the certification of the Environmental Impact Report.

Vice Mayor Campbell pointed out discrepancies in documentation provided to the BHC by Dr. Ralf Carter, PhD concerning various levels of sediments and pollutants flowing into the Marina; stated that based on the numbers provided 90% of the sediment is coming from the Straits and 10% from the existing Storm Drain.

Mayor Messina opened the Public Hearing. Legal Notice was given. No one spoke for or against this matter.

Mayor Messina closed the Public Hearing.

Council Member Smith stated that zero discharge into the Marina would be the preferred alternative; gravity line not feasible; other alternatives, such as a pump station very costly or not a good solution; supports the staff recommendations.

Council Member Whitney questioned the filtering system that will be provided to take out debris; possibility of using large pumps; supports staff recommendation

Council Member Bidou reaffirmed the mandate and fines from the regulatory agencies.

Mayor Messina stated his preference for an alternative that would not put any storm water into the Marina; expressed concerns about additional regulations in the future; would rather face problem now; cannot support the project as proposed.

Vice Mayor Campbell spoke on the 8 million dollar cost if pump stations were put into place.

Jim Erickson, City Manager, stated that the City did not have the funding for an 8 million dollar project.

Council Member Bidou stated that he supports the Mayor's position in theory, however cannot burden the taxpayers with the additional cost; concerned about possible fines if we do not comply; supports the staff recommendation.

Council took the following actions:

RESOLUTION NO. 03-163 - A RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, MAKING FINDINGS RELATED TO THE PROJECT, MAKING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVING THE MITIGATED MONITORING AND REPORTING PROGRAM FOR THE MARINA AREA STORM DRAIN PROJECT

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

Ayes: Council Members Bidou, Campbell, Smith and Whitney

Noes: Mayor Messina

RESOLUTION NO. 03-164 - A RESOLUTION APPROVING THE MARINA AREA STORM DRAIN PROJECT, AND SELECTING THE EAST SECOND STREET ROUTE AS THE PREFERRED ROUTE FOR THE DRY WEATHER FLOW DIVERSION PIPELINE

On motion of Council Member Bidou, seconded by Council Member Whitney, the above Resolution was

adopted on roll call by the following vote:

Ayes: Council Members Bidou, Campbell, Smith and Whitney

Noes: Mayor Messina

RESOLUTION NO. 03 - 165- A RESOLUTION APPROPRIATING \$250,000 FROM THE TRAFFIC MITIGATION FUND AS A LOAN TO THE STORM DRAIN FUND FOR THE PREPARATION OF THE FINAL ENGINEERING DESIGN DOCUMENTS FOR THE MARINA AREA STORM DRAIN PROJECT

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

Mayor Messina called for a break at 9:55 p.m.

Mayor Messina reconvened the meeting at 10:02 p.m.

NEW BUSINESS:

POLICY DISCUSSION REGARDING GENERAL FUND SUPPORT OF THE MARINA FUND

Council Member Bidou did not participate in this discussion due to Conflict of Interest.

Karen Majors, Assistant City Manager, gave a brief summary of the terms of the Cal Boating Loan, Marina Lease with the Benicia Harbor Corporation, Residential Ground Leases and BCDC Permits; no General Fund subsidy will be required for 2003-04 Fiscal Year; approximately \$284,000 will be needed in Fiscal Year 2004-05; Cal Boating has stated that a modification of the current loan was not an option; additional options are a possible decrease of dredging expenses, possible dredging surcharge, and future commercial development.

Mayor Messina stated his objection to the City subsidizing the Marina; Marina needs to pay for itself.

Vice Mayor Campbell requested that State Legislators be contacted to help with a possible intervention with Cal Boating to extend or modify the current loan; will not support charging boat owners for dredging costs.

Council Member Whitney stated that development of the commercial property was the key; look into allowing all the dredging to be done by the BHC.

Council Member Smith questioned whether or not the BHC financial books and records were available for audit and the consequences of not paying the Cal Boating Loan.

Karen Majors, Assistant City Manager, stated that considerable interest would be added to the loan for non-payment; the Assistant Finance Director would review the books; possible problems with the prevailing wage issue on the dredging; reviewed Council direction (1) contact elected officials to discuss Cal Boating Loan (2) review dredging options including a possible surcharge (Mayor would like to be involved in this discussion) (3) provide additional information on future commercial development (4) contact other cities in reference to the Cal Boating Loan.

PROPOSED BERTH RATE INCREASE REQUEST FROM BENICIA HARBOR CORPORATION

Council Member Bidou did not participate in this discussion due to Conflict of Interest.

Karen Majors, Assistant City Manager, stated that the BHC requested a 4-year rate increase; Cal Boating Loan obligates the City to increase the rates by the Consumer Price Index (CPI); survey was done to evaluate dock/berth/slip conditions, Marina grounds, requests for service and customer service; survey results noted improvements in all areas with continued concern regarding dock/slip conditions; BHC has made a considerable investment in dock repair; staff recommendation to grant a 2% increase for one year and deny the remaining three-year increase.

Six concerned citizens spoke on this matter.

Elizabeth Patterson, Council Member-Elect, spoke on the value of open space, possible re-negotiation of the loan, cap on the utility users tax and possible port tax.

Mayor Messina stated support for the rate increase.

Vice Mayor Campbell stated that the prior raise was projected into the future; will not support an increase.

Council Member Smith stated that the BHC has made a significant effort to repair and maintain the Marina; supports an increase to the CPI only.

Council Member Whitney concurs with a raise only to the CPI; does not support a multi-year increase.

Consensus of the Council was to defer this Resolution until to next meeting to allow staff to obtain the actual CPI numbers.

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:09 p.m.

Linda S. Purdy, City Clerk