

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  
MARCH 4, 2003**

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, March 4, 2003, in the Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

**ROLL CALL:**

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

Absent: Council Member Bidou

**PLEDGE OF ALLEGIANCE:**

Mayor Messina led the pledge to the flag.

**ANNOUNCEMENTS:**

Mayor Messina announced that the Closed Session scheduled for this evening was canceled.

Mayor Messina announced that on Saturday, March 15, 2003, 9:30 a.m. to 10:30 a.m., Congressman George Miller would hold a Town Meeting in the City Council Chambers.

**APPOINTMENTS:**

Mayor Messina announced the appointment of Richard Bortolazzo to the Audit and Finance Committee.

**RESOLUTION NO. 03-27 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF RICHARD BORTOLAZZO TO THE AUDIT AND FINANCE COMMITTEE**

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

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

Noes: None

Absent: Council Member Bidou

**ADOPTION OF THE AGENDA:**

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

Jim Erickson, City Manager, stated that there were no changes to the Agenda; requested that Item H on the Consent Calendar, be pulled.

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

**COMMUNICATIONS:**

**WRITTEN**

**PUBLIC COMMENT:**

1. Judi Morales Gibson, 76 Buena Vista, spoke in support of the resolution proposed by Council Member Smith regarding civil liberties; 124 other cities have passed resolutions addressing this issue.
2. Jonathon Gibson, 76 Buena Vista, opposes the war against Iraq; supports proposed resolution.
3. Council Member Dan Smith made the following announcements: (1) There is a grant program for teachers sponsored by Prudential Realty, deadline for nominations is March 15, 2003; (2) future art shows by Arts Benicia will be "The Next Generation - Children's Art" deadline for

submittal May 27, 2003 and a ceramic sculpture exhibition -"Terra Forma" on March 15, 2003; (3) Mardi Gras Parade and Ball will be held on March 8 and 15, 2003.

4. Joe Guistino and members of the Mardi Gras Committee, extended an invitation to the Mardi Gras Ball - March 8, 2003 - Veterans Hall and the Mardi Gras Parade - March 15, 2003.
5. Marilyn Bardet, West K Street, supports review of the Patriot Act on a local level; questioned water access that will be given to the Valero Refinery by the proposed water agreement.
6. Bob Mutch, 695 Knight Drive, stated proposed resolution regarding the Patriot Act is flawed; respects the intent of the resolution; suggested citizen write to state and federal officials.

**CONSENT CALENDAR:**

Mayor Messina asked if there were any request for items to be pulled from the Consent Calendar; requests were made to pull Items C, D and H from the Consent Calendar.

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

**RESOLUTION NO. 03-28 - A RESOLUTION AUTHORIZING THE SIGNING AND ENDORSING OF CHECKS AND OTHER FINANCIAL INSTRUMENTS**

**RESOLUTION NO. 03- 29 - A RESOLUTION APPROVING CHANGES TO THE JOB DESCRIPTION OF RECREATION SPECIALIST**

**RESOLUTION NO. 03- 30 - A RESOLUTION APPROVING THE NEW JOB DESCRIPTION FOR PARKS, LANDSCAPE & BUILDING MAINTENANCE WORKER I AND AMENDMENT OF THE CLASSIFICATION PLAN**

**RESOLUTION NO. 03- 31 - A RESOLUTION APPROVING CHANGES TO THE JOB DESCRIPTION AND TITLE FOR THE CLASSIFICATION OF COMMUNITY PRESERVATION OFFICER, FORMALLY TITLED CITIZEN ASSISTANCE OFFICER**

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

**(END OF THE CONSENT CALENDAR)**

**RESOLUTION APPROVING THE REQUEST FROM BENICIA HARBOR CORPORATION TO MODIFY THE 2002 BENICIA MARINA RATE INCREASE CALCULATION**

Mayor Messina requested this item be pulled from the Consent Calendar; stated Conflict of Interest - owns property in the area.

Heather McLaughlin, City Attorney, stated that the Jim Erickson, City Manager, also had a Conflict of Interest- leases property in the area.

Vice Mayor Campbell chaired this portion of the meeting.

Karen Majors, Assistant City Manager, stated that this was a clean up issue changing the determining factor for the rate increase from vessel length to slip length.

Council Member Smith questioned when the city would receive information from Cal Boating regarding dock maintenance.

Mike Alvarez, Parks and Community Services Director, stated that the first workshop would be held the second week in March; City has advised Cal Boating that they would like to participate in those workshops; Cal Boating will develop guidelines; there are no guidelines for older marinas.

Two concerned citizens spoke on this item.

Council took the following action:

**RESOLUTION NO. 03- 32 - A RESOLUTION APPROVING THE MODIFICATION OF THE 2002**

**MARINA RATE INCREASE CALCULATION PURSUANT TO A REQUEST BY THE MARINA HARBOR CORPORATION (BHC)**

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

Absent: Council Member Bidou

Abstain: Mayor Messina

**RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH BERRYMAN AND HENIGAR FOR ENGINEERING SERVICES FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT, APPROVING THE TASK ORDER NO. 1 IN THE AMOUNT OF \$83,710 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY**

Council Member Smith requested that this item be pulled from the Consent Calendar; stated that this was an issue of public safety; a grant will be used for funding; praised the staff and the advisory committee.

One concerned citizen spoke on this issue.

Council took the following action:

**RESOLUTION NO. 03 - 33 - A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH BERRYMAN AND HENIGAR FOR ENGINEERING SERVICES FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT, APPROVING TASK ORDER NO. 1 IN THE AMOUNT OF \$83,710, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT 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: None

Absent: Council Member Bidou

**RESOLUTION AUTHORIZING COMPLETION OF THE EMERGENCY REPAIR WORK TO CITY HALL AND DIRECTING STAFF TO SUBMIT A PROGRESS REPORT AT THE NEXT SCHEDULED CITY COUNCIL MEETING**

Jim Erickson, City Manager, requested that this item be pulled from the Consent Calendar; resolution requires that a report be made at each City Council meeting; stated that the mold problem has been eliminated; staff in the process of getting bids to complete the work required; cost estimates are approximately \$150,000, however additional structural damage has been found; staff continues to work on the insurance issue, no new information at this time.

Vice Mayor Campbell asked for clarification on the cost and extent structural damage found.

Virgil Mustain, Public Works Director, stated that the damage would add some dollars, but that it should not be a large amount; 1927 construction was different than the current standards required.

Council took the following action:

**RESOLUTION NO. 03 -34 A RESOLUTION AUTHORIZING COMPLETION OF THE EMERGENCY REPAIR WORK TO CITY HALL AND DIRECTING STAFF TO SUBMIT A PROGRESS REPORT AT THE NEXT SCHEDULED CITY COUNCIL MEETING**

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: None

Absent: Council Member Bidou

**NEW BUSINESS:**

**WATER SETTLEMENT AGREEMENT RESOLUTION APPROVING:**

1. **SETTLEMENT AGREEMENT AMONG THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, SOLANO COUNTY WATER AGENCY, AND CITIES OF FAIRFIELD, VACAVILLE, AND BENICIA FOR PURPOSES OF WATER SUPPLY;**
2. **AGREEMENT AMONG THE SOLANO COUNTY WATER AGENCY AND CITIES OF FAIRFIELD, VACAVILLE, AND BENICIA FOR THE CONVEYANCE OF SETTLEMENT WATER THROUGH THE NORTH BAY AQUEDUCT;**
3. **AGREEMENT AMONG THE SOLANO COUNTY WATER AGENCY AND CITIES OF FAIRFIELD, VACAVILLE, VALLEJO, AND BENICIA REGARDING PRIORITIES FOR NON-PROJECT WATER TRANSPORTATION THROUGH THE NORTH BAY AQUEDUCT; AND**
4. **AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY AND PROPER TO IMPLEMENT THE ABOVE-MENTIONED AGREEMENTS, INCLUDING FILING A NOTICE OF DETERMINATION PURSUANT TO CEQA AND APPROVING ANY FURTHER MINOR MODIFICATIONS TO THE AGREEMENTS SET FORTH HEREIN THAT DO NOT RESULT IN A MATERIAL CHANGE.**

Virgil Mustain, Public Works Director, stated that this was a significant milestone for the City; working toward these agreements for the last 7 years; these agreements will enhance and make our water sources more reliable; Valero Refinery would have the same access as any other citizen; this is reasonable priced water; the City's Urban Water Management Plan was updated last year and water conservation devices were given to the residents.

Council Member Smith requested a change in the wording of the Resolution; change the wording, in the third Whereas from the bottom, from "does not identify" to "did not find".

Two concerned citizens spoke on this item.

Council took the following action:

**RESOLUTION NO. 03-35 - A RESOLUTION APPROVING SETTLEMENT AMONG THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, SOLANO COUNTY WATER AGENCY, AND THE CITIES OF FAIRFIELD, VACAVILLE, AND BENICIA FOR PURPOSES OF WATER SUPPLY, AS AMENDED**

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, Whitney and Mayor Messina

Ayes: None

Absent: Council Member Bidou

**COUNCIL REQUEST FOR NEW AGENDA ITEMS:  
REQUEST TO AGENDIZE PATRIOT ACT RESOLUTION**

Council Member Smith requested that this item be placed on the Agenda for discussion; this resolution would empower the staff of the Library and the Police not to participate in violating constitutional rights by strictly enforcing the USA Patriot Act and the Homeland Securities Act.

Seventeen concerned citizens spoke on this item.

Council Member Smith clarified that this was a similar resolution to the one that had been passed by the American Library Association, however the language was not as strong; would like to take a vote on this resolution this evening.

Vice Mayor Campbell stated his support for further consideration of this item; gives the citizens a forum to express their views; not ready to vote on this item this evening; concerned about colliding with Article Six of the Constitution.

Council Member Whitney stated that it was the responsibility of Americans to speak out; has faith that the Police Chief will protect our rights; does not believe that this is an issue that he was elected

to vote on and can not support.

Mayor Messina commended Council Member Smith for bringing this issue forward; does not support putting this on the Agenda for further discussion; this is an individual issue.

A motion by Council Member Smith, seconded by Council Member Campbell, to bring this item back in two weeks FAILED by the following vote:

Ayes: Council Members Campbell and Smith

Noes: Council Member Whitney and Mayor Messina

Absent: Council Member Bidou

Heather McLaughlin, City Attorney, clarified that a majority vote was needed to pass this item.

**ADJOURNMENT:**

Mayor Messina adjourned the meeting at 10:15 p.m.

Linda S. Purdy, City Clerk