

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  
MARCH 18, 2003**

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 6:30 p.m. Tuesday, March 18, 2003.

**ANNOUNCEMENT OF CLOSED SESSION**

Linda S. Purdy, City Clerk, stated the Benicia City Council meeting is called to order and announced that the Council will immediately convene in Closed Session to discuss the following:

**CLOSED SESSION**

Conference with Legal Counsel - Anticipated Litigation  
(Initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code)

1 case

Conference with Legal Counsel- -Existing Litigation  
(Subdivision (a) of Government Code Section 54956.9)

Name of Cases: Gardyn v. City of Benicia  
Vilarrasa Associates v. City of Benicia

Notice was duly given twenty-four hours prior to the meeting by the City Clerk.

**COMMUNICATION ON CLOSED SESSION ITEMS:**

**WRITTEN:**

**PUBLIC COMMENT:**

None

Adjourned to Closed Session at 6:32 p.m.

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**MINUTES OF THE  
REGULAR MEETING - CITY COUNCIL  
MARCH 18, 2003**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:41 p.m. Tuesday, March 18, 2003, 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 action taken in Closed Session as follows: Re: Conference with Legal Counsel - Anticipated Litigation - 1 case - Marina Storm Drain - gave direction to staff to prepare information. Re: Conference with Legal Counsel - Existing Litigation - Gardyn v. City of Benicia - gave

direction to staff. Re: Conference with Legal Counsel - Existing Litigation - Vilarrasa Associates v. City of Benicia - gave direction to staff.

Mayor Messina announced openings on the Civil Service Commission and the Historic Preservation Commission.

**ADOPTION OF THE 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**

Mayor Messina stated that a letter from Don Obendorf had been received.

**PUBLIC COMMENT:**

1. Judi Morales Gibson, 76 Buena Vista, spoke on the initial difficulty she had in obtaining the city plan for emergency preparedness; would like report available on the Web; suggested a possible telephone hotline; requested the City Council help in the development of neighborhood groups.

Jim Erickson, City Manager, stated that the city does have an emergency plan, which is more of a staff document; the Fire Department has provided a brochure of a "72-hour Plan" for families on how to prepare for an emergency, that is available at all city offices.

2. Cathy Ann Hewitt, 266 East B Street, complimented the BERT training program; suggested citizens obtain a 3-day supply of food and water and have a family plan in place; thanked the Chief of Police for his article on civil rights.
3. Marilyn Bardet, 333 East K Street, commented on the public meeting held by Congressman George Miller and his opinion that a discussion of the Patriot Act was appropriate at the local level; concerned about the lack of public access on East H Street and security issues for the Valero pipeline.

Council Member Whitney question whether or not discussions had been held with the Coast Guard regarding the port and East H Street.

Jim Trimble, Police Chief, stated he had met with the Coast Guard and a plan was in place, but did not specifically address East H Street access.

4. Donna Kavulich, 450 Mills Drive, stated that the decision not to agendize a discussion of the Patriot Act was a vote against democracy; invited citizens to a vigil at 5:00 p.m. on the day that the bombing of Iraq commences.
5. Bob Mutch, 695 Knight Drive, urged citizens to participate in the BERT Program; grant funding has been received to help with emergency preparedness.
6. Elizabeth Patterson, 1215 West 2nd Street, reminded the citizens of the original intent of GPOC was to define the area outside the UGB and to preserve the area for agricultural and open space.
7. Jill Graham, 1155 West K Street, stated that it was important to keep the land north of Lake Herman Road as open space.
8. Sharon McAdams, 314 Larkin Drive, worked previously to defeat growth in Sky Valley; intention of the GPOC to keep the area for open space; new zoning gives potential for public or semi public development; supports a vote of the people.
9. Jon VanLandshoot, 175 West H Street, referred to the memorandum from some members of the UGB Committee; two voter options presented (1) reaffirm UGB as presented in the

General Plan (2) amend language in the General Plan referring to permitted usage outside the UGB - firmer UGB line along Lake Herman Road.

10. Kitty Griffin, 236 Baker Street, supports allowing the citizens to vote on the UGB.
11. Larry Fullington, 833 Clifton Court, stated that the new survey conducted does not reflect what the people want; give citizens a chance to control their own destiny; supports vote.
12. Harrison McUmbert, 526 McCall Court, Benicia Tennis Association, President, supports renovation of tennis courts.
13. Council Member Smith thanked the UGB Committee for their work; announced the following items: (1) City Council/ School Board Liaison Meeting- 3/19/03- 8:30 a.m. (2) Chamber of Commerce - Business After Hours 3/20/03 - 5:30 to 7:30 p.m. (3) Benicia Swing Club Spring Swing Fling - 3/28/03 - Veterans Hall (4) AHA Musical Celebration - 3/29/03 - St. Dominic Church (5) encouraged attendance at the STA/Yolo Solono Air Quality Management District Workshop - Partners in Planning Conference - to address reduction of congestion and location of transit near employment - 4/11/03 at the Travis Credit Union.

#### **CONSENT CALENDAR:**

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

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

Minutes of March 4, 2003.

Approval of check registers for January 2003.

#### **RESOLUTION NO. 03-36 - 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**

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

#### **(END OF CONSENT CALENDAR)**

#### **RESOLUTION ACCEPTING BIDS AND AWARDING THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$206,240.50 TO R.D. EVANS GRADING AND PAVING OF FORESTHILL, CA FOR THE 2003 STREET OVERLAY PROJECT, APPROVING CONTRACT CHANGE ORDER NO. 1 IN THE AMOUNT NOT TO EXCEED \$50,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

Council Member Smith requested this item be pulled from the Consent Calendar; praised the staff for the competitive bid process held; questioned previous experience of the company chosen.

Dan Schiada, Assistant Public Works Director, stated that Evans Grading had done the same project for the city two years ago.

Council took the following action:

#### **RESOLUTION NO. 03-37 - A RESOLUTION ACCEPTING THE BIDS, AWARDING THE CONSTRUCTION CONTRACT IN THE AMOUNT OF \$206,240.50 TO R.D. EVANS GRADING AND PAVING OF FORESTHILL, CA FOR THE YEAR 2003 STREET OVERLAY PROJECT, APPROVING CONTRACT CHANGE ORDER NO. 1 IN AN AMOUNT NOT TO EXCEED \$50,000, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT AND CONTRACT CHANGE ORDER NO. 1 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 AWARDING THE CONTRACT FOR THE CIVIC CENTER TENNIS COURTS PROJECT TO GHILOTTI BROS.,INC., IN THE AMOUNT OF \$113,800.20**

Mayor Messina stated that members of the public requested that this item be pulled from the Consent Calendar.

Two concerned citizens spoke in support of this item.

Council took the following action:

**RESOLUTION NO. 03-38 - A RESOLUTION ACCEPTING BIDS AND AWARDING THE CONSTRUCTION CONTRACT FOR THE CIVIC CENTER TENNIS COURTS PROJECT IN THE AMOUNT OF \$113,800.20 TO GHILOTTI BROS., INC., AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY AND AUTHORIZING ADDITIONAL \$65,000 FROM THE PARK DEDICATION FUND**

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

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

Noes: None

**REPORTS FROM CITY MANAGER:**

Jim Erickson, City Manager, reported on the City's readiness during the heightened state of alert; City does have an emergency plan; some members of the Council and staff have attended federal training sessions on emergency preparedness; City does have attractive targets for terrorism and there is increased surveillance of these sites.

Jim Trimble, Police Chief, suggested families have an emergency plan; neighborhoods band together.

**STATUS UPDATE ON THE DEVELOPMENT OF A BALLOT MEASURE FOR THE NOVEMBER 4, 2003 ELECTION TO FUND THE CONSTRUCTION OF THE POLICE FACILITY AND CIVIC CENTER IMPROVEMENTS**

Jim Erickson, City Manager, stated the need to assure police protection over the long term and to have a facility to do this from.

Jim Trimble, Police Chief, gave a status report; planning and building preparation documents will be done by May; necessary steps have been taken to prepare an Ordinance calling for a G.O. Bond Election; a fact based education program is being developed; a baseline survey for measuring public attitudes has been completed with an additional survey to be done in June; continue to educate the community on what the issues and options are; survey results will determine whether or not to place this initiative on the November ballot.

Vice Mayor Campbell questioned additional cost estimates for the project.

Beverly Prior, Architect, explained that cost increases were the result of the delay of the project and normal increases in construction costs.

Mayor Messina requested clarification on the average amount that each homeowner would be required to pay.

Jim Erickson, City Manager, stated that the average homeowner would pay approximately \$54.00 per year.

Gary Robbins, Urban Alternatives, Consultant, explained the proposed education process planned and the baseline public opinion survey that was conducted; people are very price conscious at this time.

Council Member Smith expressed doubts about the survey results and how the entire process has been conducted; police station is the City's most important capital improvement project; downsize to the reality of today's economy; would like to explore a less expensive option.

Council Member Bidou stated that the current facility is defective; 911 services are vital to the community; supports this project.

Four concerned citizens spoke on this item.

Council Member Whitney stated that every effort was being made to include the community; need to do the right thing; supports project; a vote of the people was appropriate.

Mayor Messina recalled previous opposition to the Library building project; cost will continue to rise; proceed with the ballot measure and continue to educate the public.

Council Member Smith stated that the \$7 million dollar figure was not realistic as it did not include parking and construction contingency fees.

Mayor Messina called for a break at 9:58 p.m.  
Mayor Messina reconvened the meeting at 10:05 p.m.

#### **REPORTS FROM CITY COUNCIL COMMITTEES: BI-MONTHLY COMMITTEE REPORTS:**

##### **MAYORS COMMITTEE MEETING**

Mayor Messina reported that the next meeting would be held on March 19, 2003; discussions will be held on possible State funding cuts; a one-day Conference is planned in early April to define areas where cities can work together.

##### **ARSENAL RESTORATION ADVISORY BOARD**

No report given.

##### **AUDIT & FINANCE COMMITTEE**

Council Member Whitney reported meetings were held on February 21, 2003 and March 7, 2003; check registers were reviewed; discussions held on a possible business license tax; thanked Committee member Tony Borges for his service; new appointee Richard Bortalozzo; additional members may be added; applications available at the City Manager's office.

Vice Mayor Campbell stated that a presentation regarding the Business License Tax would be made at the BIPA Meeting on March 19, 2003 at 7:30 a.m.

##### **BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)**

Mayor Messina stated that the Commission has endorsed the Regional Smart Growth Plan and changes to the Seaport Plan.

##### **LEAGUE OF CALIFORNIA CITIES**

Council Member Smith stated that he will be attending the next meeting to be held on March 27, 2003.

##### **NORTHERN AREA OPEN SPACE**

Mayor Messina gave a summary of what has been done to date; a workshop held where Council Members were unanimously against future housing beyond the UGB, but divided on the lesser usages of churches, schools and recreation areas; reviewed survey results; two options available (1) maintain the General Plan as it is now, with a few minor changes that will not require CEQA review (2) Amend

the General Plan - some changes in language and redraw Urban Growth limit - which will require CEQA approval.

Vice Mayor Campbell questioned the survey results; questions were not phrased properly, did not define the area and results created confusion on who should make the final decision; does not want to see competing initiatives; supports a vote of the people.

Neil Hall, Consultant, reviewed the findings of the survey.

Five Concerned citizens spoke on this item.

Mayor Messina outlined and explained the uses of the various parcels in the northern area; clarified options; explained his position - against residential development north of Lake Herman Road, no industrial or commercial development in Sky Valley, supports churches, schools and recreational/golf courses uses; prefers proposed Option A; feels very strongly.

Council Member Whitney stated that both church and recreational uses were important to the community; supports Mayor's proposal.

Council Member Bidou stated that he does not want to rewrite the General Plan; schools are important; supports the Mayor's proposal.

Council Member Smith expressed concerns about the facts being clouded; people think that the northern area has been protected but it has not been; need to clarify the contradiction.

On motion of Mayor Messina, seconded by Council Member Bidou, to bring forward a ballot initiative to clarify the existing General Plan, retain the current UGB allowing churches, schools and recreation uses, but not residential or commercial development north of the UGB, not to be changed for the next twenty years, except by voter approval was adopted on roll call by the following vote:

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

Noes: Council Member Campbell

On motion of Council Member Smith, seconded by Council Member Campbell, to amend the General Plan and proceed with proposed Option 2, to limit use of property north of Lake Herman Road to recreational and open space uses; redraw UGB to include Northgate Church and adjacent 20 acres already inside the UGB, (consulting attorney to draft language) was adopted on roll call by the following vote:

Ayes: Council Members Campbell, Smith and Whitney

Noes: Council Member Bidou and Mayor Messina

Vice Mayor Campbell requested a revote on the first motion, so he could change his vote.

On motion of Mayor Messina, seconded by Council Member Whitney, to reintroduce the motion to bring forward a ballot initiative to clarify the existing General Plan, retain the current UGB allowing churches, schools and recreation uses, but not residential or commercial development north of the UGB, not to be changed for the next twenty years, excepted by voter approval was adopted on roll call by the following vote:

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

Noes: None

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

## **SCHOOL DISTRICT LIAISON**

Council Member Bidou stated the next meeting to be held on March 19, 2003; a discussion will be held on the possible joint use of fields.

Jim Erickson, City Manager, stated the need to have all the facts and alternatives before making any decisions.

Council Member Smith clarified and read the Agenda for the meeting; would like to see the District's lawsuit settled.

#### **SEDCORP BOARD OF DIRECTORS**

No report given.

#### **SOLANO TRANSPORTATION (STA)**

Council Member Smith reported that the revised five-year bike plan had passed.

#### **SOLANO WATER AUTHORITY**

Mayor Messina announced that the Authority has approved the water agreements passed at the last Council Meeting; discussions held on flood control; option but not responsibility of cities to pursue flood control.

#### **TRI-CITY AND COUNTY OPEN SPACE**

Council Member Whitney stated that a meeting would be held on March 24, 2003; will take action on the 2003/2004 budget; looking to use open space as a Regional Park in the future.

#### **YOUTH ACTION TASK FORCE**

No report given. Council Member Smith announced the next meeting would be held on March 26, 2003 at 3:30 p.m.

Council Member Bidou stated that the Youth Master Plan Committee had met and discussions had been held regarding Tobacco Fund money allocations.

#### **VALERO CITIZENS ADVISORY PANEL**

Council Member Whitney reported the next meeting will be in late March or early April; four applications had been received for the Community member-at-large position.

#### **UNFINISHED BUSINESS:**

#### **RESOLUTION ADOPTING THE RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS**

Heather McLaughlin, City Attorney, summarized action and direction needed on this item; passed out a redlined version of the changes; referred to confusion over whether action could be taken under Council Requests for Future Agenda Items.

One concerned citizen spoke on this item.

Mayor Messina clarified the three issues (1) put item on Agenda (2) whether or not to devote staff resources (3) can action be taken on the same night.

Council Member Whitney expressed concerns about public participation if action taken on the same night; prefers putting on the next Agenda.

Council Member Smith stated that the proposed changes restrict the ability of ideas to be heard; does not think a majority vote should be required to bring back an item.

Vice Mayor Campbell expressed concern about past use; this item, Council Requests for Future

Agenda Items, should be stricken from the rules; does not recall any abuse of staff time with this Council; will not support.

Jim Erickson, City Manager, stated that the proposed procedure was a common practice among other City Councils; there needs to be some sort of discipline on staff time and how items are placed on the Agenda.

Council Member Bidou asked for clarification of proposal; supports proposal as presented by the City Attorney.

Mayor Messina proposed working through the Mayor or City Manager; proposed item brought to Mayors attention and if he is in agreement he will forward to the City Manager for inclusion on Agenda; if Mayor does not agree the Council Member may direct the City Manager to include on the Agenda, under Council Requests for New Agenda Items.

One additional concerned citizen spoke on this matter.

Council Member Smith stated that he would support the Mayor's suggestion if a majority vote were not required for the item to be brought back after it has been placed under this category (Council Requests for New Agenda Items).

Heather McLaughlin, City Attorney, suggested collecting examples from other cities; will draft a new resolution for review and bring back at the next meeting.

**NEW BUSINESS:**

**2002-2003 MUNICIPAL BUDGET ADJUSTMENTS OVERVIEW AND RESOLUTION AMENDING THE 2002-2003 BUDGET**

Alan Nadritch, Finance Director, gave an overview of changes; changes have been reviewed by the Audit and Finance Committee; proposed budget workshops to be held on May 20 and 21, 2003.

Council took the following actions:

**RESOLUTION NO. 03-39 - A RESOLUTION AMENDING THE 2002-2003 MUNICIPAL BUDGET (EXCLUDING COMMUNITY CENTER CONSTRUCTION FUND)**

On motion of Council Member Smith, seconded by Council Member Bidou, 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 NO. 03-40 - A RESOLUTION AMENDING THE 2002-2003 MUNICIPAL BUDGET (COMMUNITY CENTER CONSTRUCTION FUND)**

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, Whitney, and Mayor Messina

Noes: None

Abstain: Council Members Campbell and Smith

**ADJOURNMENT:**

Mayor Messina adjourned the meeting at 12:50 p.m.

Linda S. Purdy, City Clerk