

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
JUNE 3, 2003**

A special meeting of the City Council of the City of Benicia was called by Mayor Steve Messina at 8:40 p.m. Tuesday, June 3, 2003.

ANNOUNCEMENT OF CLOSED SESSION:

Linda S. Purdy, City Clerk, stated the Benicia City Council 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 - Existing Litigation
(Subdivision (a) of Government Code Section 54956.9)

Name of Case: Benicia Unified School District v. City of Benicia

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

Adjourned to Closed Session at 8:41 p.m.

**MINUTES OF THE
REGULAR MEETING - CITY COUNCIL
JUNE 3, 2003**

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 9:15 p.m. Tuesday, June 3, 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 - Existing Litigation - Benicia Unified School District v. City of Benicia - direction given to staff to make a settlement proposal.

Mayor Messina announced openings on the following Boards and Commissions:

Civil Service Commission, Design Review Commission, Economic Development Board, Housing Authority Board and Library Board of Trustees.

PRESENTATIONS:

BUSINESS IN THE ARTS AWARD TO CINDY FERRARO, PARKS & COMMUNITY SERVICES

Bonnie Weidel, Benicia Community Arts, made the presentation to Cindy Ferraro, Recreation Supervisor, Parks and Community Services Department.

PROCLAMATIONS:

LIBRARY'S 10TH BIRTHDAY CELEBRATION WEEK, JUNE 14-20, 2003

Monique le Conge, Library Director, and Carol Nail, Chairperson, Library Board of Trustees, invited citizens to attend the events that will be held in celebration of the Library's 10th Birthday: (1) June 14, 2003 - all day festival (2) June 19, 2003 - Birthday Cake to be served from 10:00 a.m. to 4:00 p.m. (3) June 20, 2003 - Diablo Regional Concert Band at 8:00 p.m.

ADOPTION OF THE AGENDA:

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

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

COMMUNICATIONS:

WRITTEN:

PUBLIC COMMENT:

1. Elizabeth Patterson, 1215 West 2nd Street, stated that those that signed the initiative petition indicated that (1) Benicia cares about open space (2) will work and vote for open space (3) want a say about growth and development; supports placing the initiative on the November ballot; do not consider placing an alternate measure on the ballot.
2. Cathy Ann Hewitt, 266 East B Street, concurred with Ms. Patterson's remarks.
3. Larry Fullington, 833 Clifton Court, supports the citizen's initiative; the citizens will determine the destiny outside the UGB.
4. Kitty Griffin, 236 Baker Street, commented on the intent of the measure.
5. Council Member Smith announced the following functions to be held at the City Park (1) June 6, 2003 - Harry Potter Movie (2) June 13, 2003 - Concert at 7:00 p.m.; has received many comments on the Valero Improvement Project; thanked those that have been involved in the negotiation process; urged both sides to come to a settlement.

CONSENT CALENDAR:

Mayor Messina asked if there were any requests for items to be pulled; requests were made for Items E, G, H and I to be pulled.

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

Minutes of May 20, 2003.

Acceptance of monthly Investment Report for January through March 2003.

Approval of check registers for March and April 2003.

RESOLUTION 03-70 - A RESOLUTION CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2003, FOR THE ELECTION OF MAYOR (1), CITY COUNCIL MEMBERS (2), CITY CLERK (1) AND CITY TREASURER (1) FOR THE CITY AS REQUIRED BY THE PROVISIONS OF LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND WAIVING THE FEES FOR CANDIDATES

ORDINANCE NO. 03-2 - AN ORDINANCE ADDING A NEW CHAPTER 8.42 (PROPERTY MAINTENANCE) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

RESOLUTION NO. 03-71 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 reading of all ordinances introduced and adopted pursuant to this Agenda.

(END OF CONSENT CALENDAR)

RESOLUTION APPOINTING MAZE AND ASSOCIATE AS THE CITY'S INDEPENDENT FINANCIAL AUDITORS FOR THE FISCAL YEAR ENDING JUNE 30, 2003 AND INCREASING APPROPRIATIONS FOR CONTRACT SERVICES

Council Member Smith requested that this item be pulled from the Consent Calendar; questioned the additional funding required.

Alan Nadritch, Finance Director, stated that due to the changes required to implement the financial reporting required by GASB #34 the cost has risen.

Council took the following action:

RESOLUTION NO. 03-72 - A RESOLUTION ENTERING INTO AGREEMENT WITH MAZE AND ASSOCIATES ACCOUNTANCY CORPORATION FOR AUDITING SERVICES FOR THE YEAR ENDING 2002-2003

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

RESOLUTIONS PERTAINING TO THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT 2003-04:

RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2003-04

RESOLUTION ON INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND SETTING A PUBLIC HEARING THERE FORE ON JUNE 17, 2003 FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2003-04

Vice Mayor Campbell requested this item be pulled from the Consent Calendar; questioned increasing the levy.

Heather McLaughlin, City Attorney, stated that the assessment could not be changed without a vote of the surrounding property owners.

Council took the following actions:

RESOLUTION NO. 03-73 - A RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2003-04

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. 03-74 - A RESOLUTION OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO LANDSCAPING AND LIGHTING ACT OF 1972 AND SETTING A PUBLIC HEARING THEREFORE ON JUNE 17, 2003 FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2003-04

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 ACCEPTING THE BIDS, AWARDING A MULTI-YEAR CONTRACT FOR THE 2003-05 BENICIA MARINA MAINTENANCE DREDGING COMPANY PROJECT IN THE BASELINE CONTRACT AMOUNT OF \$230,150 TO DUTRA DREDGING CO. AND AUTHORIZING THE ASSISTANT CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

Mayor Messina, Council Member Bidou and Jim Erickson, City Manager, did not participate in this discussion due to Conflict of Interest. Vice Mayor Campbell chaired this portion of the meeting.

Karen Majors, Assistant City Manager, and Dan Schiada, Interim Director of Public Works, explained the reasons behind obtaining a multi-year contract; cost is 4% lower than last year.

Council took the following action:

RESOLUTION NO. 03-75 - A RESOLUTION ACCEPTING THE BIDS, AWARDING A MULTI-YEAR CONTRACT FOR THE 2003-2005 BENICIA MARINA MAINTENANCE DREDGING PROJECT IN THE BASELINE CONTRACT AMOUNT OF \$230,150 TO DUTRA DREDGING COMPANY, AND AUTHORIZING THE ASSISTANT CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

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

Abstain: Council Member Bidou and Mayor Messina

RESOLUTION REQUESTING THE METROPOLITAN TRANSPORTATION COMMISSION ALLOCATE FY 2003-04 TRANSPORTATION DEVELOPMENT ACT (TDA) ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING FOR THE PARK ROAD BIKE LANE PROJECT

Council Member Smith requested that this item be pulled from the Consent Calendar: this is an exciting project; commended the staff; the grant funding will pay for one-third of the project.

Council took the following action:

RESOLUTION NO. 03-76 - A RESOLUTION REQUESTING THE METROPOLITAN TRANSPORTATION COMMISSION TO ALLOCATE FISCAL YEAR 2003/2004 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE FUNDING FOR THE PARK ROAD BIKE LANE PROJECT

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

PUBLIC HEARINGS:

**PUBLIC HEARING ON REZONING OF PROPERTY ON LAKE HERMAN ROAD
FIRST READING OF AN ORDINANCE TO REZONE THE NORTHGATE CHRISTIAN FELLOWSHIP CHURCH PROPERTY ON LAKE HERMAN ROAD TO OPEN SPACE**

Brenda Gillarde, Principal Planner, stated that approval had been previously received for the annexation and rezoning; next step to formalize this process is to rezone the property from County Agricultural to the appropriate City zoning.

Dave McMurtry, Northgate Church Representative, requested support for this project.

Mayor Messina opened the Public Hearing. Legal notice was given. No written protests received.

Mayor Messina closed the Public Hearing.

Council Member Smith stated that although he supported the project the proposed ordinance was opposite of the zoning required; this was an inappropriate use of open space; will not support this

ordinance.

Council took the following action:

INTRODUCTION OF ORDINANCE NO. 03 - AN ORDINANCE REZONING NORTHGATE CHRISTIAN FELLOWSHIP CHURCH PROPERTY (APN: 181-260-090) TO OPEN SPACE (OS)

On motion of Council Member Bidou, seconded by Council Member Campbell, the above Ordinance was introduced by the following vote:

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

Noes: Council Member Smith

REPORTS FROM CITY MANAGER:

REPORT ON THE STATUS OF THE WATER REUSE PROJECT

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

Dan Schiada, Interim Director of Public Works, explained that the City and Valero Refinery were looking into the process of reuse of recycled water and diverting a portion of the City's wastewater effluent to the Refinery for use; there is a possibility of delivering 2 million gallons per day for reuse.

Vice Mayor Campbell asked how far along the City was in the process of obtaining the permit.

Chris Tomasik, Utilities Manager, stated that in the eight-step process of the City was at Step 4 - discussions with the regulatory agencies; proceeding expeditiously but cautiously.

UNFINISHED BUSINESS:

DISCUSSION OF AN AMENDMENT TO THE GENERAL PLAN TO CLARIFY AND REAFFIRM THE URBAN GROWTH BOUNDARY

Brenda Gillarde, Principal Planner, reviewed the actions taken to date; subcommittee was formed and an informational workshop was held to discuss the issue and get public input; Planning Commission has recommended approval of the proposed changes.

Mayor Messina clarified that the intent was to make the area available for public recreation, schools and churches but not for other uses.

Council Member Whitney requested the definition of public and semi public uses.

Council Member Bidou stated his support for bringing this issue to the vote of the public.

Vice Mayor Campbell stated that he does not have a problem with the stated uses as long as the people make the choice.

Council Member Smith questioned whether or not these were proper land uses in open space areas.

Two concerned citizens spoke on this item.

Mayor Messina suggested wording changes to be implement by staff in the proposed text and brought back to the Council at the next meeting.

NEW BUSINESS:

RESOLUTION SUBMITTING AN INITIATIVE PETITION TO THE VOTERS AT THE NOVEMBER 4, 2003 GENERAL MUNICIPAL ELECTION PERTAINING TO THE URBAN GROWTH BOUNDARY

Heather McLaughlin, City Attorney, reviewed options available to the Council; Measure can be adopted by the Council or placed before the voters at the November 4, 2003 election.

One concerned citizen spoke on this item.

Mayor Messina stated that it was important for the citizens to make the final decision on this matter.

Council Member Smith stated that this measure does not prohibit uses; puts the power in the voters hands.

Council took the following action:

RESOLUTION NO. 03-77 - A RESOLUTION SUBMITTING AN INITIATIVE PETITION TO THE VOTERS AT THE REGULAR MUNICIPAL ELECTION ON NOVEMBER 4, 2003 PERTAINING TO THE CITY'S URBAN GROWTH BOUNDARY

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

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

Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 11:06 p.m.

Linda S. Purdy, City Clerk