

January 20, 2009 Regular Meeting

BENICIA CITY COUNCIL

REGULAR MEETING AGENDA

City Council Chambers

January 20, 2009

7:00 P.M.

*Times set forth for the agenda items are estimates.*

*Items may be heard before or after the times designated.*

I. CALL TO ORDER:

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/ PROCLAMATIONS:

A. ANNOUNCEMENTS:

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:

One unexpired term to September 30, 2010

One full term to January 31, 2013

Civil Service Commission:

One full term to January 31, 2012

Planning Commission:

Two full terms to January 31, 2013

Open Government Commission:

One full term to January 31, 2013

Library Board of Trustees:

Two full terms to January 31, 2012

Finance, Audit and Budget Committee:

One full term to January 31, 2011

Two full terms to January 31, 2013

Parks, Recreation and Cemetery Commission:

One unexpired term to March 31, 2010

3. Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

B. APPOINTMENTS:

C. PRESENTATIONS:

1. Presentation by Jen McGraw of the Center for Neighborhood Technology

2. Presentation of \$62,510 rebate check from Pacific Gas & Electric Company to the City for the recent installation of energy efficient replacement blowers at the Wastewater Treatment Plant.

**Presenters:**

**Allan Lacson, Pacific Gas & Electric Company**

**Patti Boyd, Ecos**

**Rupert Dallas, Ecos**

**D. PROCLAMATIONS:**

**V. ADOPTION OF AGENDA:**

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda.

Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

**A. WRITTEN COMMENT**

**B. PUBLIC COMMENT**

**VII. CONSENT CALENDAR:**

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

**A. Approval of Minutes of January 6, 2009. (City Clerk)**

**B. First reading and introduction of an ordinance adding Subsection F to Section 5.52.050 (Permit Not Required) of Chapter 5.52 (Massage) of Title 5 (Business Taxes, Licenses and Regulations) of the Benicia Municipal Code to exempt state certified practitioners or therapists. (Police Chief)**

Recently enacted Senate Bill ("SB") 731 will provide for the certification of massage practitioners and massage therapists by the Massage Therapy Organization ("MTO") as of September 1, 2009. Subsection F will exempt members of the MTO from regulation by the Benicia Municipal Code.

**Recommendation: Introduce the ordinance amending Section 5.52.050 (Permit Not Required) of Chapter 5.52 (Massage) of Title 5 (Business Taxes, Licenses and Regulations) of the Benicia Municipal Code by adding a Subsection F.**

**C. First reading and introduction of an ordinance amending Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety) of the Municipal Code. (Police Chief)**

Graffiti vandalism creates a public health and safety issue and constitutes a public nuisance which must be abated in a timely manner. While the City has had a strong anti-graffiti ordinance in place since 1996, further amendments are necessary to maximize the City's ability to combat and prevent graffiti.

**Recommendation: Introduce an ordinance amending Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety).**

**D. Award of contract for replacement of water filter media at the Water Treatment Plant. (Public Works Director)**

This action approves a contract for replacement of media in the six water filters at the Water Treatment Plant. The media of two filters will be replaced approximately every two years, until all six have been replaced. This work is budgeted and sufficient funds are available in Account No. 593-8258-9958 (water filter replacement fund) to cover the cost.

**Recommendation: Adopt a resolution approving a contract for replacement of water filter media at the Water Treatment Plant with Carbon Activated Corporation in the initial amount of \$146,086, with subsequent costs being negotiated in 2010 and 2012, and authorizing the City Manager to sign the contract on behalf of the City.**

**E. Adoption of ordinances to amend the Benicia Municipal Code regarding adult entertainment by amending Chapter 5.46 (Adult Business Background Check for Non-Performers) in Title 5 (Business Taxes, Licenses and Regulations) and repealing the interim ordinance establishing the moratorium on adult businesses. (City Attorney)**

On January 6, 2009 the City Council adopted an ordinance to amend the provisions of the Benicia Municipal Code (BMC) pertaining to the licensing and regulation of adult businesses to reduce and/or preclude undesirable secondary effects including, but not limited to, increased crime, blighting influences in the community, decrease in property values, and the spread of sexually transmitted diseases. A resolution to amend the master fee resolution to provide for the adult entertainment related fees was also adopted. An ordinance to allow fees for non-performers background checks and licenses was introduced at this meeting since it was previously omitted. An ordinance to repeal the interim ordinance regulating adult businesses was also introduced.

**Recommendation: 1) Adopt an ordinance establishing fees for adult business non-performers; and 2) Adopt an ordinance repealing Ordinance No. 07-17 an urgency interim ordinance approving an interim zoning moratorium on the establishment of new adult entertainment businesses.**

**F. Approve amendment to the agreement between the City of Benicia and Benicia Main Street. (Interim Economic Development Manager)**

The current Agreement between the City and Benicia Main Street (BMS) for the two fiscal years, July 1, 2007 - June 30, 2009, provides that BMS will perform various services for the City in support of First Street merchants and Downtown activities in return for total payments not to exceed \$228,000. It further provides that BMS will submit bimonthly reports to the Economic Development Board (EDB) regarding its activities and accomplishments, and that City payments for services will be made for invoices submitted by BMS on a quarterly basis in October, January, March and June of each year. Over the last few months it has become clear that BMS invoices should be submitted and paid on a bimonthly basis to coincide with the schedule of bimonthly reports to the EDB. This would simplify BMS record keeping and directly tie the service accomplishments reported to the EDB to the services received and paid for under the Agreement. Total payments by the City under the Agreement would not change.

**Recommendation: Approve, by motion, an amendment that provides for adjustment in the schedule for invoicing and payment of services provided to City by Benicia Main Street under the current Agreement.**

**G. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.**

**VIII. PUBLIC HEARINGS:**

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

**A. Adoption of annual increases for the capital improvement license tax, the park land dedication fee and the library book fee. (Finance Director)**

The City of Benicia currently collects one development impact tax and two development impact fees to support government activities, park improvements and expanded library circulation. The City ordinance governing the administration of the development impact tax and fees requires that each be adjusted annually by the change in the consumer price index or construction cost index. In accordance with California State law and local ordinances, the tax and fees will become effective 60 days after Council approval at a public hearing. The tax and fee increases will add an estimated \$350 per year and will be deposited into the respective funds.

**Recommendation: Conduct a Public Hearing and adopt the following:**

**1) A resolution adopting increases for the Capital Improvement License Tax; 2) A resolution adopting increases for the Park Land Dedication Fee; and 3) A resolution adopting an increase for the Library Book Fee.**

**IX. ACTION ITEMS:**

**A. Approval of the untreated water delivery agreement with Valero Refining Company. (Public Works Director)**

The existing agreement for the delivery of untreated water to the refinery now owned and operated by Valero Refining Company – California expires on January 31, 2009. The City has been negotiating with Valero to develop a new agreement. Unfortunately, the parties have been unable to agree to one key point regarding the payment of the upfront costs to obtain Solano Irrigation District Water. To permit Valero and staff to arrive at a solution, staff recommends that the Council allow the delivery of untreated water between February 1, 2009 and February 4, 2009.

**Recommendation: Continue consideration of this item to the February 3, 2009 City Council meeting.**

**X. INFORMATIONAL ITEMS:**

**A. City Manager Reports**

**B. Council Member Committee Reports:**

(Council Members serve on various internal and external committees on behalf of the City. Current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by Council Members are made only by exception.)

**1. Mayor's Committee Meeting. (Mayor Patterson)**

Next Meeting Date: January 21, 2009

**2. Association of Bay Area Governments (ABAG). (Mayor Patterson & Vice Mayor Campbell)**

Next Meeting Date: April 23, 2009 – Spring General Assembly

**3. Audit & Finance Committee. (Vice Mayor Campbell & Council Member Schwartzman)**

Next Meeting Date: February 6, 2009

**4. League of California Cities. (Mayor Patterson & Council Member Schwartzman)**

Next Meeting Date: February 19, 2009

**5. School Liaison Committee. (Council Members Ioakimedes & Hughes)**

Next Meeting Date: March 12, 2009

**6. Sky Valley Open Space Committee. (Vice Mayor Campbell & Council Member Ioakimedes)**

Next Meeting Date: February 4, 2009

**7. Solano EDC Board of Directors. (Mayor Patterson & Council Member Ioakimedes)**

Next Meeting Date: January 22, 2009

**8. Solano Transportation Authority (STA). (Mayor Patterson & Council Member Schwartzman)**

Next Meeting Date: February 11, 2009

**9. Solano Water Authority/Solano County Water Agency and Delta Committee. (Mayor Patterson & Vice Mayor Campbell)**

Next Meeting Date: February 12, 2009

**10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell & Council Member Hughes)**

Next Meeting Date: April 16, 2009

**11. Tri-City and County Regional Parks and Open Space. (Vice Mayor Campbell & Council Member Hughes)**

Next Meeting Dates: Citizen's Advisory Committee - February 18, 2009 and Governing Board – March 9, 2009

**12. Valero Community Advisory Panel (CAP). (Council Member Hughes)**

Next Meeting Date: January 29, 2009

**13. Youth Action Task Force. (Council Members Ioakimedes & Schwartzman)**

Next Meeting Date: January 28, 2009

**14. ABAG/CAL FED Task Force/Bay Area Water Forum. (Mayor Patterson)**

Next Meeting Date: February 23, 2009

**XI. COUNCIL MEMBER REPORTS:**

**XII. ADJOURNMENT:**

**Public Participation**

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

**Disabled Access**

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton, the ADA Coordinator, at (707) 746-

4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

### **Meeting Procedures**

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

### **Public Records**

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at [www.ci.benicia.ca.us](http://www.ci.benicia.ca.us) under the heading "Agendas and Minutes."

Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

 [VII-A Minutes.pdf](#)

 [VII-B Business License Exemption.pdf](#)

 [VII-C Graffiti Ordinance.pdf](#)

 [VII-D Water Filter Replacemet.pdf](#)

 [VII-E Adult Entertainment Ordinance.pdf](#)

 [VII-F Main Street Amendment.pdf](#)

 [VIII-A Public Hearing.pdf](#)

 [IX-A Valero Untreated Water.pdf](#)

 [X-B Council Committee Reports.pdf](#)

MINUTES OF THE  
SPECIAL MEETING – CITY COUNCIL  
JANUARY 6, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:30 p.m. on Tuesday, January 6, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Ioakimedes, Schwartzman, and Mayor Patterson  
Absent: Vice Mayor Campbell (arrived immediately after roll call)

PLEDGE OF ALLEGIANCE:

Mayor Patterson led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN COMMENT:

None

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin read the announcement of Closed Session.

CLOSED SESSION:

**A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
(Subdivision (a) of Government Code Section 54956.9)**

**Name of case: City of Benicia vs. Nationwide Auto Auction et al.**

ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:31 p.m.

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
JANUARY 6, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, January 6, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Lisa Wolfe led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Announcement of action taken at Closed Session:

Heather McLaughlin, City Attorney, reported that Council requested more information from Staff.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
  - One unexpired term to September 30, 2010
  - One full term to January 31, 2013
- Civil Service Commission
  - One full term to January 31, 2012
- Planning Commission
  - Two full terms to January 31, 2013
- Open Government Commission
  - One full term to January 31, 2013
- Library Board of Trustees
  - Two full terms to January 31, 2012
- Finance, Audit and Budget Committee
  - One full term to January 31, 2011
  - Two full terms to January 31, 2013

Recognition of Benicia Rotary Club's donation for purchase of new flags for First Street:

Mayor Patterson thanked the Rotary Club for its donation of the flags.

## Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4210 or by email [acardwell@ci.benicia.ca.us](mailto:acardwell@ci.benicia.ca.us).

## APPOINTMENTS:

None

## PRESENTATIONS:

### Sonoma Mountain Village Presentation:

Ms. Kirstie Moore, Coddling Enterprises, reviewed a PowerPoint presentation titled 'Developing a One Planet Community' (hard copy on file).

## PROCLAMATIONS:

- Recognition of Harry Wassmann, Curator Emeritus of the Benicia Historical Museum

## ADOPTION OF AGENDA:

Jim Erickson, City Manager, stated that the applicant for Consent Calendar Item (f) could not attend tonight's meeting. They requested the item be delayed for at least two weeks.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the Agenda was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

## OPPORTUNITY FOR PUBLIC COMMENT:

### WRITTEN:

One item submitted (copy on file).

## PUBLIC COMMENT:

1. Ann Hansen, Benicia Historical Museum – Ms. Hansen thanked City Staff for their assistance with the sewage problems at the Museum. She discussed the Museum's charter membership in 'Heritage Travel.' She announced upcoming events at the museum.
2. Ricardo Giordano – Mr. Giordano discussed the 'Who Named America' contest. He presented the Council with a flag, pin, and various informational fliers.
3. Marilyn Bardet – Ms. Bardet spoke in honor of Mr. Wassmann. She discussed the specific plan for the Lower Arsenal. She suggested putting Mr. Wassmann's name on the memorial park at the Arsenal Ridge if it ever comes to fruition.
4. John Van Landschoot – Mr. Van Landschoot discussed who named America. He discussed a recent magazine article that recognized Benicia.

## CONSENT CALENDAR:

Council pulled items VII-C and VII-E. Item VII-F was continued per discussion under the adoption of the agenda.

# DRAFT

On motion of Council Member Hughes, seconded by Council Member Schwartzman, the Consent Calendar was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor  
Patterson

Noes: None

Council approved the Minutes of December 16, 2008.

ORDINANCE 09-01 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 5.44 (ADULT BUSINESSES) AND ADDING CHAPTERS 5.45 AND 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) REGULATING THE LICENSING PROVISIONS AND OPERATIONAL STANDARDS FOR ADULT BUSINESSES AND ADULT PERFORMERS AND NON-PERFORMERS OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) AND AMENDING CHAPTER 17.28 (COMMERCIAL DISTRICTS) AND CHAPTER 17.32 (INDUSTRIAL DISTRICTS) AND ADDING CHAPTER 17.102 (ADULT BUSINESSES) TO TITLE 17 (ZONING) TO REGULATE ZONING REQUIREMENTS FOR ADULT BUSINESSES TO THE BENICIA MUNICIPAL CODE

ORDINANCE 09- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 5.46.020 AND SUBSECTION 5.46.030 (A) OF CHAPTER 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE REGARDING APPLICATION AND LICENSE FEES

ORDINANCE 09- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING ORDINANCE NO. 07-17, AN URGENCY INTERIM ORDINANCE, EXTENDING ORDINANCE NO. 07-14, AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF NEW ADULT ENTERTAINMENT BUSINESSES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

RESOLUTION 09-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO INCLUDE FEES FOR APPLICATIONS, ANNUAL LICENSING OF ADULT BUSINESSES, ADULT BUSINESS PERFORMERS AND NON-PERFORMERS

Council accepted the Investment Report for the quarter ended September 2008.

Council adopted the 2009 City Council Regular Meeting Calendar.

Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

(END OF CONSENT CALENDAR)

Council took the following actions:

Denial of an application for a new card room permit for the PASTIME:

This item was continued to a future meeting at the request of the applicant. Ms. McLaughlin noted that Vice Mayor Campbell would have a conflict of interest with this item, as he owns property within 500 ft.

Foreclosed or Vacant Properties: 1) Adopt an ordinance to require maintenance and registration of neglected, vacant, and foreclosed properties; and 2) Adopt an ordinance providing for an administrative hearing for contesting the fines, penalties and orders for foreclosed or vacant buildings:

Heather McLaughlin, City Attorney, discussed Council's requested changes, which Staff agreed with. Because the ordinance already requires registration of the property, it is not necessary or prudent to post a sign on the property stating that the property is vacant or foreclosed. She suggested deleting paragraph (h) on page VII-C-7. The mayor has asked that the findings requirement be beefed up. Ms. McLaughlin suggested adding a second sentence so that the paragraph on VII-C-14 would read: 'The hearing officer shall make findings based upon the record of the hearing and issue a written decision based upon the findings within 15 business days of the hearing. The findings shall include: 1) findings of facts, 2) a determination whether or not a violation of specific code section or sections has occurred based upon the findings of fact, 3) whether proper notice has been given in compliance with the code, and 4) if a violation has occurred, what are the appropriate costs or penalties.

Ms. McLaughlin noted that the State was working fast and furious on a registration foreclosure law. A copy was sent to the City for review and consideration. The City's ordinance would be effective 30 days after the second reading. Depending on when the State's takes effect, the City's ordinance may or not be in effect for very long. It is a good idea to have it on the books, as it gives the City a tool to work with.

ORDINANCE 09-02 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING CHAPTER 8.50 (MAINTENANCE AND REGISTRATION OF NEGLECTED, VACANT AND FORECLOSED PROPERTIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Ordinance was adopted as amended, on roll call by the following vote  
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson  
Noes: None

ORDINANCE 09-03 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING CHAPTER 8.54 (ADMINISTRATIVE HEARINGS) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Ordinance was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor  
Patterson

Noes: None

Approval of proposed gateway locations for STA I-80/680/780 Corridor Operations Study:

Dan Schiada, Public Works Director, reviewed the staff report.

Council and Staff discussed the tree planting program, adding an additional gateway treatment at East Second interchange, the Caltrans corporation yard, having something done about the easement in front of Pappas Restaurant, and adding the East Second Street gateway to the study.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council recommended that the Solano Transportation Authority (STA) Board incorporate the highway gateway locations as proposed in the STA's I-80/680/780 Highway Corridor Operations Implementation Study as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor  
Patterson

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Campaign Ordinances – regulation of local elections including limitations on expenditures and contributions or other methods:

Heather McLaughlin, City Attorney, reviewed the Staff report.

Vice Mayor Campbell discussed campaign finance statistics in Benicia, Political Action Committees (PAC's), what other cities are doing regarding campaign finance ordinances.

Vice Mayor Campbell and Mayor Patterson discussed guiding principles, contribution limits, recusal, lenders and sub-lenders, identification of contributors, enforcement, including penalties in the ordinance, PAC's, and disclosure for PAC's including requiring them to put down the top 5 contributors.

Council Member Hughes discussed previous efforts regarding campaign expenditure and contribution limits, how limits affect incumbents, independent expenditure committees, providing better reporting and disclosure, previous advice from Steve Churchwell (consultant) regarding making changes to what has been done by the FPPC.

Council Member Campbell discussed expenditure trends, a previous article written regarding incumbents, and the increase in out-of-town money for local campaigns.

Council Member Schwartzman discussed the increase in out-of-town money, candidate's having out-of-town contacts, support of listing the top five contributors, and language regarding 'not authorized by candidate' on mailers.

Vice Mayor Campbell discussed disclosures on issue mailers, listing top five contributors and how much they spent, and having there be less mailers that are more efficient.

Council Member Hughes discussed the issue of independent expenditure committees contributing the most to candidates who did not win the election, and giving the citizens credit to make their own decisions.

Vice Mayor Campbell discussed various contribution limit options.

Council Member Schwartzman discussed the issue of candidates taking loans from individuals.

#### Public Comment:

1. Jackie Klare – Ms. Klare suggested having a sub-committee to discuss various campaign finance issues. She spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
2. Marilyn Bardet – Ms. Bardet spoke in support of a sub-committee and in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
3. Jon Van Landschoot – Mr. Van Landschoot submitted and discussed a handout titled 'Campaign Expenditure Limits: Myths and Realities.' He spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
4. Mary Magill – Ms. Magill spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
5. Norma Fox – Ms. Fox discussed the issue of fewer people running for elections because they can't afford to run. She spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
6. Bob Craft – Mr. Craft spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
7. Ken Palk – Mr. Palk discussed not supporting campaign limits and his support for full disclosure of all money going into candidate's campaigns.

Mayor Patterson discussed what the community was asking for regarding campaign expenditure and contribution limits, guiding principles, looking at disclosure in a much broader way than the FPPC, increasing voter education, Council's option to give direction to Staff to look at current ordinance, and the possibility of an initiative addressing campaign expenditure and contribution limits going on the upcoming ballot.

Council Member Ioakimedes discussed how he ran his campaign, the need for the public to depend on and trust its elected officials, the issue of 'single shots', how people can circumvent the system, the need for clear and open disclosure, and the need for an informed and engaged electorate.

Council Member Hughes discussed the fact that he was hearing that the biggest issue was the amount of money the independent expenditure committees were raising, and support for improving disclosure for candidates and Independent Expenditure Committees.

Vice Mayor Campbell inquired about Council Member Ioakimedes' concerns regarding outside expenditures on local campaigns, information on mailers sent out by PAC's distorting the facts, and the issue of candidates hiring consultants to run their campaigns.

Mayor Patterson discussed the efforts for campaign reform at the State level, the need to address the campaign expenditure and contribution limits, how she ran her campaign, the need for disclosure, the need to look at campaign contribution limits, and the need to increase voter education.

Council discussed its unanimous agreement on giving direction to Staff to beef up the issue of disclosure. All Council Members could also send individual suggestions to the City Attorney for review.

Vice Mayor Campbell discussed concerns regarding disclosure, how to address campaign mailers and literature, the need to look at the key contributors to outside PAC's, increasing font size on mailers, the need to see 'approved by' on the mailers, addressing late reporting, discussions he had with the auditors during the audit conducted by the Board of Equalization, and disclosure for consultants.

Mayor Patterson stated that there was consensus among the Council for Staff to beef up the disclosures, wanting the public to have an opportunity to comment on the issue (they could email Staff with their comments by the end business on 1/16/09), and increasing voter education.

Vice Mayor Campbell discussed his thoughts regarding contribution and expenditure limits. He would like to follow the City of Oakland's ordinance on campaign contribution limits, which is a two-tiered system. The only thing you can do with the PAC's is address disclosure. Council Members Ioakimedes, Schwartzman, and Hughes did not support following Oakland's ordinance.

Vice Mayor Campbell inquired whether Council would support following any other city's contribution limit ordinance. Council Members Ioakimedes, Schwartzman, and Hughes did not support the suggestion. Vice Mayor Campbell stated that he City might need to look at other means of getting the contribution and spending limits in Benicia.

Garbage franchise renewal process including green waste, recycling and street sweeping: Heather McLaughlin, City Attorney, reviewed the staff report. There was an error in the report. The report stated that the Garbage Franchise Agreement expires in February 2010. The agreement does not expire until 2012.

Council and Staff discussed the ability or lack of ability to renegotiate the franchise agreement due to the merger, the fact that there is time to look into this issue, the need for a state-of-the-art agreement that will allow the City to negotiate with its existing

franchisee or go out to bid, looking into whether or not the City should seek bids or renegotiate the agreement, the need for a franchise agreement, seeking outside assistance to assist Staff in looking into this issue, and talking to other cities that do their own garbage service.

Mayor Patterson gave direction to Staff to continue talking to other communities, and during the budget process, Staff should have a cost for the consultant and timeline.

Public Comment:

1. Tim Argenta, Allied Waste – Mr. Argenta discussed his willingness to work with Staff on this issue, areas that could be looked at to enhance the current contract.

INFORMATIONAL ITEMS:

Reports from City Manager:

Results of the 2008 National Citizen Survey:

Anne Cardwell, Administrative Services Director, reviewed the staff report and a PowerPoint presentation (copy on file).

Council and Staff discussed looking for ways to formally recognize employees, improving the aesthetics of the display case outside Council Chambers, using the website to recognize employees, utilizing the model or format of the survey in other ways to solicit feedback, clarification that it was an anonymous survey, demographics, ensuring more sectors of the community are surveyed in the future, and the need to get at a greater strategy for transit needs, retail shopping, employment opportunities, matching jobs to the City's demographic, and the availability of quality affordable housing.

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:03 p.m.

**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
CONSENT CALENDAR**

**DATE** : December 17, 2008

**TO** : City Manager

**FROM** : Chief of Police

**SUBJECT** : **FIRST READING AND INTRODUCTION OF AN ORDINANCE ADDING SUBSECTION F TO SECTION 5.52.050 (PERMIT NOT REQUIRED) OF CHAPTER 5.52 (MASSAGE) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE TO EXEMPT STATE CERTIFIED PRACTITIONERS OR THERAPISTS**

**RECOMMENDATION:**

Introduce the ordinance amending Section 5.52.050 (Permit not required) of Chapter 5.52 (Massage) of Title 5 (Business Taxes, Licenses and Regulations) of the Benicia Municipal Code by adding a subsection F.

**EXECUTIVE SUMMARY:**

Recently enacted Senate Bill ("SB") 731 will provide for the certification of massage practitioners and massage therapists by the Massage Therapy Organization ("MTO") as of September 1, 2009. Subsection F will exempt members of the MTO from regulation by the Benicia Municipal Code.

**BACKGROUND:**

The massage ordinance was adopted at the August 19, 2008 City Council meeting. Staff developed the ordinance to specifically address permitting and regulating conditions that would differentiate a legitimate massage business from an illegal business that uses a massage business as a front for unlawful activity. The ordinance was developed with the assistance and guidance of current massage business owners and professional massage therapists who own and operate businesses in the City of Benicia. SB 731 prohibits local ordinances from regulating the practice of massage by a MTO certificate holder. Adding subsection F will bring the BMC into compliance with SB 731.

Attachment:

- Draft Ordinance

**DRAFT ORDINANCE**

CITY OF BENICIA

ORDINANCE NO. 09-\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 5.52.050 (PERMIT NOT REQUIRED) OF CHAPTER 5.52 (MASSAGE) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SUBSECTION F TO EXEMPT STATE CERTIFIED PRACTITIONERS OR THERAPISTS

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

**Section 1.**

Section 5.52.050 (Permit not required) of Chapter 5.52 (Massage) of Title 5 (Business Taxes, Licenses and Regulations) of the Benicia Municipal Code is amended by adding a new subsection F to read as follows:

F. Massage practitioners or massage therapists who are duly certified by the Massage Therapy Organization as set forth in Business and Profession Code Section 4600 et seq.

**Section 2.**

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was introduced at a regular meeting of the City Council on the day of \_\_\_\_\_, 2009, and adopted at a regular meeting of the Council held on the day of \_\_\_\_\_, 2009, by the following votes:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
CONSENT CALENDAR**

**DATE** : January 8, 2009

**TO** : City Council

**FROM** : Police Chief

**SUBJECT** : **INTRODUCTION OF AN ORDINANCE AMENDING  
CHAPTER 8.38 (GRAFFITI CONTROL) OF TITLE 8  
(HEALTH AND SAFETY) OF THE MUNICIPAL CODE**

**RECOMMENDATION:**

Introduce an ordinance amending Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety).

**EXECUTIVE SUMMARY:**

Graffiti vandalism creates a public health and safety issue and constitutes a public nuisance which must be abated in a timely manner. While the City has had a strong anti-graffiti ordinance in place since 1996, further amendments are necessary to maximize the City's ability to combat and prevent graffiti.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community Health and Safety
  - Strategy 1.30: Protect neighborhoods from risks to health and safety

**BUDGET INFORMATION:**

There will be a budget impact in the following area:

Payment of a reward of \$300.00 for the apprehension and conviction of graffiti suspect(s). This can be absorbed for the remainder of the fiscal year (08/09) and recommend adding \$1,500 annually to the budget in order to cover the estimated costs associated with this. City will civilly recover the reward costs from the suspect(s).

## **BACKGROUND:**

Benicia last made amendments to the anti-graffiti ordinance in 1996. As presently constituted, the ordinance declares graffiti vandalism to be a public nuisance, subject to abatement and various penalties.

Since 1996, graffiti vandalism has become an increasing problem throughout the United States and the City of Benicia. Graffiti has materially increased the cost to the public of maintaining both City and private property. Such graffiti is detrimental to property values, degrades the community, can increase crime and urban blight, and is inconsistent with the City's property maintenance goals. Further, the inscription of graffiti may be associated with criminal activity and delinquency and unless graffiti is removed from property, it tends to remain there for extended periods of time, or indefinitely.

Some graffiti is also a means of identification utilized by gangs and its presence may encourage further gang-related activities, however the graffiti in Benicia is rarely related to gangs. The majority of individuals who commit acts of graffiti vandalism seek notoriety and recognition as they attach status to having their acts of vandalism viewed by the public. Prolonged visibility due to volume, size, and location of the graffiti, and placement of the graffiti in hard to reach places enhance the perpetrator's purported notoriety and perpetuates the problem. Therefore, the swift removal or painting over graffiti in combination with criminal prosecution of the persons who create it is vital to combating this issue.

The proposed amendments to Benicia's anti-graffiti ordinance maximize the City's right to remove graffiti on both public and private property and provide enforcement tools to help deter graffiti vandalism to the fullest extent of the law. These amendments can be summarized as follows:

1. In an effort to encourage property owners to cooperatively engage in measures to prevent graffiti, as well as to remove graffiti from their property in a timely and beneficial manner, the amended ordinance now maximizes the City's right to abate graffiti with or without a property owner's consent. In the case of abatement without such consent, the ordinance makes it clear that the City has a right of entry on private property for such purpose and provides a detailed advance notice procedure to property owners.
2. The ordinance contains additional penalties to deter graffiti vandalism such as, civil liability for both the costs of graffiti removal and law enforcement costs incurred by identifying and apprehending graffiti vandals.
3. The ordinance authorizes a reward amount of \$300.00 given to those who provide information leading to apprehension of graffiti vandals. Further, the ordinance as amended now makes it clear that any person who commits a graffiti crime is liable for the amount of the reward. If such person is an unemancipated minor, such minor's parents or guardians are liable for the reward.

The amended ordinance also seeks to prevent graffiti and facilitate its removal by requiring applicants for discretionary land use approvals to consider the prevention of graffiti in the design and construction of new structures. Those measures include, among other things, the use of protective coatings that facilitate graffiti removal; additional lighting; non-solid fencing; landscaping that covers large walls; and architectural design that breaks up long, continuous walls or solid areas.

For existing structures that are the target of repeated graffiti attacks (i.e., more than six times in a six month period), the ordinance includes a retrofitting provision that requires the City or the property owner to take certain design measures to prevent further defacement.

Overall, the adoption of the revised anti-graffiti ordinance will provide the City with the most comprehensive methods available to:

1. Assist and encourage property owners to cooperatively engage in measures to prevent graffiti, as well as remove graffiti from their property in a timely and beneficial manner;
2. Alert parents and legal guardians to their involvement in, and responsibility for, payment of civil damages resulting from the willful misconduct of a minor in their charge;
3. Notify any person who willfully damages property by inscribing graffiti that their acts will have direct personal consequences which may include fines, imprisonment, court mandated community service, suspension, and/or delay driving privileges;
4. Notify retailers within the City that it is unlawful to sell or give to any individual under the age of 18 years a graffiti implement and that they must keep, store, and maintain certain implements capable of being used to deface property in a constant supervision of an employee;
5. Advise any person, firm or corporation engaged in the retail sale of any graffiti implement of their responsibilities under this Ordinance and to the potential consequences, including the imposition of fines, for failure to take proper precautions to keep, store, and maintain in an inaccessible location any implement regulated by this Ordinance; and
6. Secure the cooperation of residents, businesses, and contractors of services in the arrest of individuals responsible for inscribing graffiti on property by providing for the payment of a reward for information leading to the apprehension and conviction of any person who willfully places graffiti or other inscribed material upon public or privately owned property within the city.

The Public Works Department will also expand their “adopt a street” program to include “adopt a wall” for citizens to assist in the maintenance of City property which is frequently vandalized by graffiti.

Attachment:

- Proposed Ordinance
- Proposed Resolution

# **PROPOSED ORDINANCE**

CITY OF BENICIA

ORDINANCE NO. 09-\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA  
AMENDING CHAPTER 8.38 (GRAFFITI CONTROL) OF TITLE 8  
(HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE IN ITS  
ENTIRETY**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA  
DOES ORDAIN** as follows:

**Section 1.**

Findings. The city council of the city of Benicia finds that graffiti is detrimental to property values, degrades the community, causes an increase in crime, is inconsistent with the city's property maintenance goals and aesthetic standards, is obnoxious, and constitutes a public nuisance, and, unless it is quickly removed from public and private property, results in other properties becoming the target of graffiti. The city council's intent in adopting this ordinance is to prevent graffiti and to provide an immediate and practical method for combating the effects of graffiti vandalism on public and privately owned structures and real property, together with and in addition to Government Code section 53069.3, other available state law remedies, and applicable provisions of the city's municipal code. Through the adoption of this ordinance, the city council places all those who callously disregard the property rights of others on notice, that the law enforcement agencies of Benicia, including the police department and the city attorney's office, will strictly enforce all state laws prohibiting graffiti, as well as the provisions of this code, to the maximum extent possible, and shall severely prosecute those persons engaging in the defacement of public and private properties and shall seek full restitution for all costs allowed by law, in abating the graffiti.

**Section 2.**

Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety) of the Benicia Municipal Code is amended in its entirety to read as follows:

Chapter 8.38

Graffiti Control

Sections:

- |          |                          |
|----------|--------------------------|
| 8.38.010 | Definitions.             |
| 8.38.020 | Declaration of nuisance. |

- 8.38.030 Graffiti prohibited.
- 8.38.040 Prosecution under State law.
- 8.38.050 Prosecution for municipal code violations.
- 8.38.060 Reporting graffiti, reward authority.
- 8.38.070 Removal of graffiti by property owner.
- 8.38.080 Right of city to remove graffiti.
- 8.38.090 Offender civil liability.
- 8.38.100 Parental civil liability.
- 8.38.110 Recovery of city funds against offender and parent or guardian if offender is a minor.
- 8.38.120 Special assessment - alternative process for recovery of city funds against offender and parent or guardian if offender is a minor.
- 8.38.130 Recovery of city funds against property owner.
- 8.38.140 Special assessment – alternative process for recovery of city funds against property owner.
- 8.38.150 Administrative fee.
- 8.38.160 Sale of aerosol paint and markers.
- 8.38.170 Civil responsibility for damages for wrongful sale, display or storage.
- 8.38.180 Ease of removal provisions.
- 8.38.190 Prevention provisions.

8.38.010 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively defined by this section:  
“Administrative hearing officer” means the city’s chief of police or his/her designated representative.

“Demand for payment” means an invoice for graffiti abatement costs prepared by the city containing the location and description of defaced property, a summary of graffiti abatement actions performed, a listing of abatement costs and expenses incurred by the city, and the basis for the determination of the responsible person or offender.

“Felt tip marker” means any marker or similar implement with a tip which, at its broadest width, is greater than one-eighth inch and contains an ink that is not water soluble that is capable of defacing property with permanent, indelible, or waterproof ink, paint, or other liquid.

“Graffiti means” any inscription, word, figure, or design that is marked, etched, scratched, inscribed, marred, drawn, sprayed, painted, pasted or otherwise affixed to, or on, any surface, without authorization in advance from the owner thereof.

“Graffiti abatement costs ” include, but are not limited to, court costs, attorney’s fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city in identifying and apprehending the graffiti offender.

“Graffiti attracting surfaces” means any publicly viewable surfaces deemed by the city manager, or his/her designee, to be likely to attract graffiti.

“Graffiti implement” means an aerosol or pressurized container, a felt tip marker, gum label, a paint stick or an etching tool capable of scarring glass, metal, concrete wood or other graffiti attracting surfaces.

“Gum label” means any sheet of paper, fabric, plastic or other substance with an adhesive backing which, when placed on a surface, is not easily removable.

“Paint stick” means a device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application leaving a mark at least one-eighth inch in width, and not water soluble.

“Parent or guardian” means the parent or legal guardian who has custody and control of a minor.

“Pressurized container” means any can, bottle, spray device or other mechanism designed to propel liquid or similar material which contains ink, paint, chalk, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps or similar propulsion devices that is capable of defacing property with permanent, indelible, or waterproof ink, paint or other liquid.

“Property” means real or personal property, whether publicly or privately owned, within the city limits.

“Responsible party” means any person or entity who is the owner of property or is the person who has primary responsibility for the repair or maintenance of the property.

“Structure” means the same as defined in the California Building Code.

“Surface” means the exposed area of any object, including, but not limited to, walls, fences, sidewalks, rocks, curbs, street lamp poles, utility boxes and poles, trees and vegetation, signs, and/or trash receptacles.

8.38.020     Declaration of nuisance. The city council finds and declares that the existence of graffiti anywhere within the boundaries of the city Benicia is obnoxious and offensive, thereby constituting a public and private nuisance. Such graffiti shall be abated according to the provisions and procedures contained in this chapter.

8.38.030     Graffiti prohibited.

A.     It shall be unlawful for any person to apply graffiti upon any public or privately owned property, structure, or surface within the city. Such persons shall be prosecuted to the maximum extent permitted by state law, as well as being liable for any and all costs of graffiti abatement as set forth in this chapter.

B.     It shall be unlawful for any person who owns or is otherwise in control of any real property within the city, even if it is located in the city right of way, to permit or allow any graffiti to be placed upon or remain for longer than 72 hours on any surface located on such property and visible to the public.

8.38.040      Prosecution under State Law. In prosecutions under State law for graffiti and vandalism, the city may also recommend the court include the following additional penalties:

1.      Vehicle Code Section 42001.7 which permits a court to require a littering offender (Vehicle Code Sections 23111, 23112 and 23113) to pick up litter or clean up graffiti, as well as impose a mandatory fine.
2.      Vehicle Code Section 13202.6 which permits a court to suspend or delay issuance of a driver's license for one year for each conviction of a graffiti offense.
3.      Minors determined to be wards of the court under Welfare and Institutions Code Section 602 as a result of committing an offense in the city of Benicia shall be required, at the city's request of the court, to perform community service, which may include a graffiti removal service of not less than six hours nor more than 80 hours.
4.      The city may request the court, pursuant to Civil Code Section 1714.1, to hold the parent or legal guardian of a minor who violates this chapter, or the state laws mentioned herein, personally responsible for any and all costs incurred in connection with the removal of graffiti caused by said minor, including attorneys' fees and court costs.

8.38.050      Prosecution for municipal code violations.

A.      Unless otherwise provided by California state law, any violation of any section of this chapter may be filed as an infraction or a misdemeanor at the discretion of the city attorney.

B.      Any person or entity violating any provision of this ordinance or failing to comply with any of its requirements shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of this ordinance is committed, continued, or permitted by such person or entity and shall be deemed punishable therefore as provided herein.

C.      If a minor is personally unable to pay any fine or restitution levied for violating this part, the parent or legal guardian shall be liable for the payment of the fine or restitution for any intentional acts of the minor.

8.38.060      Reporting graffiti, reward authority. The city may pay a reward, as established by city council resolution, to any person who provides information which satisfies the chief of police or the chief's designee that there is probable cause to believe a specific person is responsible for the application of graffiti to a surface of real or personal property. In addition to any fines levied by the city for violation of this chapter, any person who has damaged property by inscribing graffiti on public or private property shall be liable for the amount of any reward paid pursuant to this ordinance and section 53069.5 of the California Government Code. If such person is an un-emancipated minor, the minor's parents or guardian are jointly and severally liable and shall pay such amount to the city.

8.38.070     Removal of graffiti by property owner.

A.     It is unlawful for a property owner to permit property that has been defaced with graffiti to remain so defaced for a period longer than 72 hours after notification by the city of the existence of graffiti on the property that must be removed. Property shall be considered no longer defaced when the graffiti is removed or the defaced area is covered by paint that is similar in shade and color to the surface upon which the graffiti is placed.

B.     For the purposes of this section, notification to the property owner may be made by posting a notice on the property that has been defaced, that the graffiti must be removed within 72 hours.

8.38.080     Right of city to remove graffiti.

A.     Use of public funds. Whenever the city becomes aware or is notified and determines that graffiti is located on public or privately owned property that is viewable from a public or quasi-public place within the city, the city shall be authorized to use public funds for the removal of same, or for the painting or repairing of same, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located, unless the chief of police, or his/her designee, in consult with the city attorney, determines that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community.

B.     Right of entry. If a responsible person fails to remove graffiti within 72 hours of being notified by the city, the chief of police or his/her designee (including an independent contractor) shall have the right to enter onto the property and paint over or remove said graffiti.

1.     Notice – method of service. Before entering onto a person's property to abate graffiti, the city shall notify the responsible person in writing of its intent to do so. Said notice shall be served by any of the following methods:

a.     Delivering to and leaving personally with the responsible person or a person of suitable age and discretion who resides or is employed at the property ("personal service"); or

b.     Certified mail, postage prepaid, return receipt requested to the last known address of the responsible person (simultaneously, a duplicate notice may be sent by regular mail, postage prepaid); or

c.     If the graffiti is on attended or occupied property, by posting or hanging a notice on the defaced property in a manner most likely to give actual notice to the responsible person. All multiple property owners shall establish an agent for service of process with an address and facsimile number where the owner can be notified during normal business hours (8:00 a.m. to 5:00 p.m.). Successful delivery of a notice to the agent's address or successful transmission of a facsimile to the number provided shall be an acceptable method of service for multiple property owners.

2.     Notice – when served. The notice shall be deemed served and the responsible person considered notified at the time of personal service; or the successful delivery of the certified letter (or the third day after mailing of the

duplicate notice); or 72 hours after the notice is posted on the property; or when a facsimile is successfully transmitted to the multiple property owner's agent for service of process. Actual notice shall cure any defect in the effort to provide constructive notice.

3. Contents of notice. The notice shall include the Benicia municipal code section being violated; the property address or location where the graffiti has been observed; the date(s) and time(s) the graffiti was observed; a description of the corrective action required, including the need to use paint which is similar in shade and color to the structure or item upon which the graffiti is painted; the time frame in which the corrective action must be taken; the consequences of failing to comply, all hearing and appeal rights; and the name of the issuing officer or staff member.

4. Securing owner consent. Prior to entering onto private property for the purpose of graffiti removal, the city shall attempt to secure the written or oral consent of the responsible person, which may be incorporated into the required written notice. The responsible person may execute and file with the city a consent form that authorizes the city, without notice, to immediately enter onto the property to paint over any graffiti. Such consent shall be effective indefinitely, until withdrawn in writing by the responsible person. The city shall recover all costs of such graffiti removal consistent with state law and as defined in section 8.38.010 of this code.

5. Graffiti in "privacy areas". Unless a warrant or proper consent is secured, the city shall not remove or paint over graffiti if it is located in an area where the property owner or occupant has a reasonable expectation of privacy ("privacy area"). Likewise, the city shall not remove or paint over graffiti that is not in a privacy area if a privacy area must be entered to abate said graffiti.

6. Pre-abatement conference. A responsible person may request by telephone, in writing, or in person, that an informal conference be held before the city enters the party's property to abate graffiti. The request for a conference shall stay the city's abatement efforts and must be made within 72 hours of being served notice pursuant to subsection (b)(1) of this section. The conference shall be conducted by the chief of police or his/her designee. The purpose of the conference shall be to determine the propriety of the city's impending abatement action. A decision on the validity of that action shall be made and communicated to the responsible person before the end of the conference (unless a continuance is necessary). If determined to be valid, the city may abate the offending graffiti 72 hours after the decision. The hearing officer may also provide a reasonable extension of time to allow the responsible person to remove the graffiti at his/her own expense. Failure to abate the graffiti within the time frame provided by the hearing officer will be deemed consent for the city to abate the graffiti.

8.38.090 Offender civil liability. Any person, including a minor who has confessed to, admitted to, or pled guilty or nolo contendere to a violation of those state laws set forth in Government Code section 38772 (d)(3), shall be

personally liable for any and all costs of abatement including, but not limited to court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city in identifying and apprehending the minor or other person who engaged in the criminal behavior.

8.38.100 Parental civil liability. In addition to any other remedy provided herein, each parent or guardian of any minor offender shall be jointly and severally liable with the minor for all of the graffiti abatement costs caused by that parent or guardian's minor child.

8.38.110 Recovery of city funds against offender and parent or guardian if offender is a minor.

A. Once an offender has been identified by the police department or other law enforcement agency and the city has expended funds to remove graffiti, regardless of location, which was caused by the identified offender, the city may recover the funds in accordance with the following procedures:

1. The police department will submit a demand to the offender for payment for all graffiti abatement costs, ordering payment to be made to the city within ten (10) days. The demand for payment shall also provide the offender with notice of appeal procedures.

2. If the identified offender is a minor, then pursuant to Government Code section 53069.3(d), the police department will submit a demand for payment to the minor and the minor's parents or guardian having custody and control of the minor, ordering payment to be made within ten (10) days. The demand for payment shall also provide the parents or guardian with notice of appeal procedures.

B. A request for an administrative hearing from the demand for payment shall be made in accordance with chapter 8.54 of this code and must be filed within ten (10) calendar days from the service of the notice.

1. At the hearing, if one is requested, the offender, or if a minor, the minor and the parent or guardian having custody and control of the minor, may be heard and provided with the opportunity to show cause why the city should not recover funds from the offender (or minor and the parent or guardian of the minor). Following the hearing, the hearing officer shall determine whether the city should recover funds from the offender, or if a minor, the minor and the parent or guardian of the minor.

2. If the administrative hearing officer determines that the city should recover funds from the offender or, if a minor, the minor and the parent or guardian, the administrative hearing officer shall issue an order to that effect, and the amount shall be payable to the city. The determination of the administrative hearing officer is final.

3. If the offender is a minor, pursuant to Government Code sections 38772, 38773.2 and 38773.6, the parent or guardian of the minor shall be jointly and severally liable with the minor for the funds expended by the city.

4. If payment is not made within thirty (30) days from the date of the accounting and demand for payment, the payment shall be deemed delinquent and shall be subject to a penalty assessment of one hundred dollars (\$100) plus interest on the unpaid amount, which interest shall accrue at the rate of one and one-half (1-1/2) percent per month until paid.

5. In the event the funds have not been paid within thirty (30) days from the date of issuing an accounting and demand for payment, the amount unpaid including any penalty and interest thereon, shall constitute a graffiti nuisance abatement lien pursuant to Government Code sections 38772 and 38773.2 against the property of the offender, or if a minor, against the minor and against the property of the parent or guardian of the minor.

6. Prior to recording a notice of lien, the city shall provide notice pursuant to Government Code section 38773.2. The lien shall specify the date of the abatement order; the street addresses, legal description, and assessor's parcel number of the parcel on which the lien is imposed; the name and address of the recorded owner of the parcel; and shall specify that the lien is being imposed on behalf of the city. The graffiti nuisance abatement lien shall be recorded in the county record's office in the county in which the parcel of land is located. From the date of recording, the lien shall have the force, effect and priority of a judgment lien. The lien shall be indexed in the grantor-grantee index.

7. The graffiti nuisance abatement lien may be satisfied through a foreclosure action brought by the city.

8. Any county recording fees imposed on the city may be recovered from the offender, or if a minor, from the minor and the parents or guardian of the minor.

9. If the lien is discharged, released or satisfied, either through payment or foreclosure, notice of the discharge shall be recorded by the city and the discharge shall be indexed in the grantor-grantee index.

10. In addition to any other remedy provided herein or available at law, the amount owed to the city pursuant to Government Code section 38772 shall constitute a personal obligation against the offender, or if a minor, the minor and the parent or guardian of the minor.

8.38.120 Special assessment - alternative process for recovery of city funds against offender and parent or guardian if offender is a minor. As an alternative to any lien placed on property as set forth in section 8.38.110, the city may make the cost of abatement of the graffiti nuisance on the property of the offender, or if a minor, on the property of the parents or guardian of the offender, a special assessment against that property as provided by Government Code section 38773.6.

A. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes and all laws applicable to the levy, collection and enforcement of municipal taxes shall apply.

B. The special assessment shall be transferred to the unsecured roll for collection, rather than resulting in a lien against the property, if the property has been transferred or conveyed to a bona fide purchaser for value or is subject to a previous bona fide lien as outlined in Government Code section 38773.6.

C. Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation. The recording costs may be added to the costs of the abatement.

8.38.130 Recovery of city funds against property owner.

A. The city's costs of graffiti abatement shall be the responsibility of the property owner. The police department will submit a demand for payment, ordering payment to be made to the city within ten (10) days. The demand for payment shall also provide the property owner with notice of the city's administrative hearing procedures in chapter 8.54 of this code. A request for a hearing must be filed within ten (10) calendar days from the service of the notice.

B. At the hearing, if one is requested, the property owner may be heard and provided with the opportunity to show cause why the city should not recover funds for abating the graffiti nuisance.

C. If the administrative hearing officer determines that the city should recover funds from the property owner, an order shall be issued with the amount that shall be payable to the city. The determination of the administrative hearing officer is final.

D. In the event the funds have not been paid within thirty (30) days from the hearing officer's order, or the accounting and demand for payment, the amount unpaid including any penalty and interest thereon, shall constitute a graffiti nuisance abatement lien pursuant to Government Code sections 38772 and 38773.2 against the owner of record of the property. Prior to recording a notice of lien, the city shall provide notice pursuant to Government Code section 38773.1. The nuisance abatement lien shall be recorded in the county recorder's office and shall specify the amount of the lien, the date of the abatement order, the street address, legal description and assessor's parcel number, and the name and address of the recorded owner of the parcel, and that the lien is being placed by the city of Benicia.

E. In the event that the lien is discharged, released or satisfied, either through payment or foreclosure, notice of the discharge shall be recorded by the city.

F. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment.

G. Any county recording fees imposed on the city may be recovered from the property owner and included in its foreclosure action to enforce the lien.

8.38.140 Special assessment – alternative process for recovery of city funds against property owner. As an alternative to section 8.38.130, the city may make the cost of abatement of the graffiti nuisance on a specific parcel of land, a special assessment against that parcel as provided under Government Code section 38773.5.

A. If this alternative is chosen, reasonable attorney's fees shall be awarded to the prevailing party in the any action in which the city elects to seek attorney's fees at the initiation of the action. In no event shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or preceding.

B. Notice of the special assessment shall include notice, by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

C. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes and all laws applicable to the levy, collection and enforcement of municipal taxes shall apply.

D. The special assessment shall be transferred to the unsecured roll for collection, rather than resulting in a lien against the property, if the property has been transferred or conveyed to a bona fide purchaser for value or is subject to a previous bona fide lien as outlined in Government Code section 38773.5.

E. The city may conduct a sale of vacant residential developed property for which the payment of the assessment is delinquent pursuant to section 3691 of the Revenue and Taxation Code.

8.38.150 Administrative fee. An administrative fee as established from time to time by resolution of the city council shall be added as part of any abatement proceedings to cover the costs of the administration of this chapter and any appeals hearing conducted as part of the abatement process.

8.38.160 Sale of aerosol paint and markers. All persons offering for sale pressurized containers of paint, indelible or waterproof ink, or other liquid capable of defacing property shall place all such items in an area visible by employees so that access to them can be viewed by employees, agents, or other authorized representatives. All persons offering for sale markers with a marking tip of one-quarter (1/4) inch or more in width shall keep such markers in a location that is in the constant view of the employees, agents, or other authorized representatives selling such markers.

8.38.170 Civil responsibility for damages for wrongful sale, display or storage. Any person who sells, displays or stores any of the graffiti implements in violation of the provisions of this part shall, to the fullest extent permitted by law, be personally liable for any and all costs incurred by any party in connection with the removal of graffiti, or the repair of any property containing graffiti, caused by any person who shall use such graffiti implement in violation of the provisions

of California Penal Code section 594, and for all attorney's fees and court costs incurred in connection with the civil prosecution of any claim for damages.

8.38.180     Ease of removal provisions.

A.     Conditions on encroachment permits. Encroachment permits issued by the city may, among other items, be conditioned on: (1) the permittee applying an anti-graffiti material to the encroaching object or structure of a type and nature which is acceptable to the city manager, or his/her designee; (2) the immediate removal by the permittee of any graffiti; (3) the right of the city to remove graffiti or to paint the encroaching object or structure; (4) the permittee providing the city with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object or structure containing graffiti.

B.     Conditions on discretionary approvals. In imposing conditions upon conditional use permits, variances, tentative maps, or other similar land use entitlements or development or design applications, the city may impose graffiti removal requirements or any or all of the following conditions, or other similar or related conditions:

1.     Use of anti-graffiti material. An applicant may be required to apply an anti-graffiti material and provide a landscape design of a type and nature which is acceptable to the city manager, or his/her designee, to the publicly viewable surfaces to be constructed on the site deemed by the city manager, or his/her designee, to be likely to attract graffiti ("graffiti attracting surfaces");

2.     Right of access to remove graffiti. An applicant shall grant, in writing, the right of entry over and access to such parcels, upon seventy-two (72) hours posted notice, by authorized city employees or agents, for the purpose of removing or painting over graffiti on graffiti attracting surfaces previously designated by the city manager, or his/her designee. Such grant shall be made an express condition of approval and shall be deemed to run with the land.

3.     Supply city with graffiti-removal material. An applicant, and any and all successors in interest, shall, for a specified period of years after approval, provide the city with sufficient matching paint and/or anti-graffiti material on demand for use in the painting over or removal of designated graffiti attracting surfaces.

4.     Owner to immediately remove graffiti. Persons applying for subdivision maps shall, as a part of any conditions, covenants and restrictions, which shall run with the land, shall provide, in a form satisfactory to the city, that the owners of the lots shall immediately remove any graffiti placed on publicly viewable trees, rocks and structures to the city's satisfaction.

8.38.190     Prevention provisions.

A.     Design of new graffiti-attracting surfaces. Any applicant for design review approval, conditional use permit, temporary activity permit, land development permit, site plan approval, planned development approval, development agreement, or other form of development or building permit shall, to

the extent deemed feasible by the city manager, or his/her designee, and the General Plan, design any building structures visible from any public or quasi-public place with conditions that will prevent or discourage graffiti, including, but not limited to, the following: (1) use of additional lighting; (2) use of nonsolid fencing, where permitted; (3) use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; and (4) use of architectural design to break up long continuous walls or solid areas.

B. Retrofit existing graffiti-attracting surfaces. The following preventative measures may be ordered after providing adequate notice and the opportunity for an abatement hearing pursuant to section 8.04.060 of this code. No graffiti need currently reside on the property before instituting such a proceeding; the city must only show that the surface of a structure has been defaced more than four times in six months and that the proposed retrofit is necessary and reasonable.

1. At owner's expense. Any surface of a structure on a parcel of land which has been defaced with graffiti more than four times in six months, or the immediate area surrounding said surface, shall be required to be retrofitted, at the cost of the property owner of said lot, with such features or qualities as may be established by the city as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal thereof. In exercising the authority hereunder, the city may not impose a cost on the property owner greater than \$750.

2. At city's cost. The owner of property on which is located a surface of a structure which has been defaced with graffiti more than four times in six months, or the immediate area surrounding said surface, shall permit the city to enter upon and make such modifications thereto, at the city's cost, which modifications shall include such features or qualities as may be established by the city as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal thereof.

### **Section 3.**

**Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

\* \* \* \* \*

On motion of Council Member \_\_\_\_\_,  
seconded by Council Member \_\_\_\_\_, the  
foregoing Ordinance was introduced at a regular meeting of the City Council on  
the 20<sup>th</sup> day of January, 2009, and adopted at a regular meeting of the Council  
held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

## **PROPOSED RESOLUTION**

RESOLUTION NO. 09-\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING A GRAFFITI REWARD**

**WHEREAS**, the City Council is considering the adoption of a revised graffiti control ordinance; and

**WHEREAS**, Section 8.38.060 of the proposed graffiti ordinance calls for the City Council to establish, by resolution, for payment of a reward of \$300.00 for the apprehension and conviction of graffiti suspect(s); and

**WHEREAS**, the City will civilly recover the reward costs from the suspect(s).

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Benicia adopts this resolution authorizing payment of a reward of \$300.00 given to those who provide information leading to apprehension of graffiti vandals.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 20<sup>th</sup> day of January, 2009, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
CONSENT CALENDAR**

**DATE** : December 17, 2008  
**TO** : City Manager  
**FROM** : Director of Public Works   
**SUBJECT** : **REPLACEMENT OF WATER FILTER MEDIA AT THE  
WATER TREATMENT PLANT**

**RECOMMENDATION:**

Adopt a resolution approving a contract for replacement of water filter media at the Water Treatment Plant with Carbon Activated Corporation in the initial amount of \$146,086, with subsequent costs being negotiated in 2010 and 2012, and authorizing the City Manager to sign the contract on behalf of the City.

**EXECUTIVE SUMMARY:**

This action approves a contract for replacement of media in the six water filters at the Water Treatment Plant. The media of two filters will be replaced approximately every two years, until all six have been replaced. This work is budgeted and sufficient funds are available in Account No. 593-8258-9958 (water filter replacement fund) to cover the cost.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety
  - Strategy: Protect neighborhoods from risks to health and safety
  
- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
  - Strategy: Improve and maintain facilities and infrastructures

**BUDGET INFORMATION:**

Sufficient funds are available in Account No. 593-8258-9958 to cover the cost of the work.

**SUMMARY:**

As part of the City's water treatment process, water is filtered to improve aesthetics and remove tastes, odors and organic substances. The City has six gravity filters at the Water Treatment

Plant comprised of layered granular activated carbon (GAC) media, sand and/or gravel. As part of routine maintenance, the media needs to be replaced approximately every six years. The media in filters 1 and 3 is due for replacement in February 2009, followed by filters 2 and 4 in December 2010 and filters 5 and 6 in December 2012.

A Request for Proposal (RFP) for filter media replacement services was sent to seven qualified firms. Three proposals were received and evaluated. After careful consideration, Carbon Activated Corporation of Compton, California was ranked first in the proposal selection process based on their experience, the strength of their technical qualifications and product, their thorough proposal that addressed all of the Water Division's needs, and their plan to recycle/reactivate the GAC media rather than disposing it in a landfill. Further, this firm performed previous filter media replacement work for the City in 2004 and demonstrated outstanding workmanship and safety-conscious concern. The services to be provided by Carbon Activated Corporation will include removing the existing GAC media from the filters, verifying the sand depth and topping off if necessary, and installing new GAC media. The cost to replace filters 1 and 3 is \$146,086. The cost for the future replacements will be negotiated in those years.

It is recommended, therefore, to enter into a contract with Carbon Activated Corporation for the replacement of water filter media at the Water Treatment Plant.

cc: City Attorney  
Assistant Director of Public Works  
Water Treatment Plant Superintendent

Attachment:

- Proposed Resolution

## **RESOLUTION**

**RESOLUTION NO. 09 -**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT FOR REPLACEMENT OF WATER FILTER MEDIA AT THE WATER TREATMENT PLANT WITH CARBON ACTIVATED CORPORATION IN THE INITIAL AMOUNT OF \$146,086, WITH SUBSEQUENT COSTS BEING NEGOTIATED IN 2010 AND 2012, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

**WHEREAS**, as part of routine maintenance the media in the six water filters at the Water Treatment Plant needs to be replaced approximately every six years; and

**WHEREAS**, the last media replacement of four of the filters was in 2004 and two new filters were installed in 2006; and

**WHEREAS**, the media in two filters will be replaced every two years with the first two being replaced in February 2009, the next two in December 2010 and the last two in December 2012; and

**WHEREAS**, a Request for Proposal (RFP) for filter media replacement services was sent to seven qualified firms in accordance with City Policy; and

**WHEREAS**, Carbon Activated Corporation of Compton, California ranked first in the proposal selection process and is the recommended firm for replacing the water filter media at the Water Treatment Plant.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby approves a contract for replacement of water filter media at the Water Treatment Plant with Carbon Activated Corporation in the initial amount of \$146,086, with subsequent costs being negotiated in 2010 and 2012, and authorizes the City Manager to sign the agreement, subject to approval as to form by the City Attorney.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 20<sup>th</sup> day of January, 2009 and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**CONSENT CALENDAR**

**DATE** : January 13, 2009

**TO** : City Council

**FROM** : City Attorney 

**SUBJECT** : **ADOPTION OF ORDINANCES TO AMEND THE BENICIA MUNICIPAL CODE REGARDING ADULT ENTERTAINMENT BY AMENDING CHAPTER 5.46 (ADULT BUSINESS BACKGROUND CHECK FOR NON-PERFORMERS) IN TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) AND REPEALING THE INTERIM ORDINANCE ESTABLISHING THE MORATORIUM ON ADULT BUSINESSES**

**RECOMMENDATION:**

1. Adopt an ordinance establishing fees for adult business non-performers.
2. Adopt an ordinance repealing Ordinance No. 07-17 an urgency interim ordinance approving an interim zoning moratorium on the establishment of new adult entertainment businesses.

**EXECUTIVE SUMMARY:**

On January 6, 2009 the City Council adopted an ordinance to amend the provisions of the Benicia Municipal Code (BMC) pertaining to the licensing and regulation of adult businesses to reduce and/or preclude undesirable secondary effects including, but not limited to, increased crime, blighting influences in the community, decrease in property values, and the spread of sexually transmitted diseases. A resolution to amend the master fee resolution to provide for the adult entertainment related fees was also adopted. An ordinance to allow fees for non-performers background checks and licenses was introduced at this meeting since it was previously omitted. An ordinance to repeal the interim ordinance regulating adult businesses was also introduced.

**GENERAL PLAN:**

Relevant General Plan provisions include:

- Policy 2.1.1 "Ensure that new development is compatible with adjacent existing development and does not detract from Benicia's small town qualities and historic heritage...."

- Policy 2.6.1 “Preserve industrial land for industrial purposes and certain compatible service commercial and ancillary on-site retail uses”
- Policy 2.6.5 “Establish and maintain a land buffer between industrial/commercial uses and existing and future residential uses for reasons of health, safety, and quality of life.”

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety
- Goal 3.00: Strengthen Downtown

**BUDGET INFORMATION:**

There are no fiscal impacts that would arise as a result of the proposed text amendments.

**ENVIRONMENTAL ANALYSIS:**

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was conducted to determine whether the proposed draft Adult Business Ordinance could have a significant adverse effect on the environment. On the basis of that study, staff has determined the proposed ordinance will not have a significant adverse impact on the environment and proposed adoption of a Negative Declaration by the City Council. The City Council adopted the Negative Declaration as part of the comprehensive ordinance regulating adult businesses.

**BACKGROUND:**

On January 6, 2009, the City Council adopted an ordinance to amend the City’s adult businesses regulations. An ordinance to amend the provisions for the background checks for adult business non-performers did not include provisions to charge fees and was introduced at the January 6, 2009 meeting. This ordinance amends this section to allow fees to be set by resolution and should be adopted. The adult business related fees are set forth in the resolution adopted at the last Council meeting. To complete the process of the comprehensive update to the adult entertainment provisions, an ordinance repealing the moratorium on adult businesses must also be adopted.

Attachments:

- Ordinance allowing for fees related to adult business non-performers
- Ordinance repealing the moratorium

**ORDINANCE RELATED TO  
ADULT BUSINESS NON-PERFORMERS**

CITY OF BENICIA

ORDINANCE NO. 09-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 5.46.020 AND SUBSECTION 5.46.030 (A) OF CHAPTER 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE REGARDING APPLICATION AND LICENSE FEES**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN** as follows:

**Section 1.**

Section 5.46.020 (Adult Business Non-performer Work Applicant Background Check) of Chapter 5.46 (Adult Business Background Check for Non-Performers) of Title 5 (Business Taxes, Licenses And Regulations) of the Benicia Municipal Code is amended to read as follows:

5.46.020     Adult business non-performer work applicant background check.

A.     No individual who works as a non-performer in an adult business shall be employed, hired, engaged, or otherwise retained in an adult business without first submitting to a background check as provided below.

B.     Individuals who wish to work as non-performers in an adult business shall file a written, signed, and verified application or renewal application on a form provided by the chief of police. Such application shall contain the following information:

1.     The employee applicant's legal name and all used aliases.
2.     Date of birth.
3.     Driver's license or identification number and state of issuance or other state identification which confirms the name of the applicant.
4.     The license applicant's fingerprints on a Livescan form provided by the Benicia police department. Any fees for fingerprints shall be paid by the applicant. Fingerprints shall be taken within six (6) months of the date of application.
5.     Whether the non-performer employee applicant has pled guilty or pled nolo contendere or been convicted of an offense classified by this or any other state as a sex related offense and (a) less than two (2) years have elapsed since the date of conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the conviction is a misdemeanor; or (b) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction to the date of conviction, whichever is the later date, if the conviction is a felony; or (c) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any twenty-four (24) month period. Any applicant who admits of a recent prior sex related offense

as specified above shall be denied employment in an adult business during the applicable time period for disqualification called out herein.

C. The information provided above in subsection B of this section which is personal, private, confidential or the disclosure of which could expose the non-performer employee to the risk of harm will not be disclosed under the California Public Records Act. Such information includes, but is not limited to, the applicant's mailing address, date of birth, age, driver's license number and social security number. The city council in adopting the application system set forth herein has determined in accordance with Government Code § 6255 that the public interest in disclosure of the information set forth above is outweighed by the public interest in achieving compliance with this chapter by ensuring that the applicant's privacy, confidentiality and/or security interests are protected. The city clerk shall cause the above-mentioned information to be redacted from any copy of a completed application form made available to any member of the public.

D. The completed application shall be accompanied by a non-refundable application fee and an annual license fee. The amount of such fees shall be as set forth in the schedule of fees established by resolution from time to time by the city council.

E. The chief of police or his/her designee must be available during normal working hours Monday through Friday to accept adult business non-performer employee applications. The chief of police or his/her designee shall determine if an application is complete within five (5) business days. If the chief of police determines that the application is incomplete, the chief of police shall immediately inform the applicant of such fact and the reasons therefore, including any additional information necessary to render the application complete. Upon receipt of a completed adult business non-performer employee application in which the applicant denies any recent conviction of a sexual offense as specified in Section 5.46.020(B)(5) above and payment of the license fee specified in section D above, the chief of police or his/her designee shall permit temporary employment of such applicant in an adult business that possesses a valid adult business license.

## **Section 2.**

Subsection A of Section 5.46.030 (Investigation and Action on Adult Business Non-performer Work Application) of Chapter 5.46 (Adult Business Background Check for Non-Performers) of Title 5 (Business Taxes, Licenses And Regulations) of the Benicia Municipal Code is amended to read as follows:

A. Upon submission of a completed non-performer work application by an individual who wishes to work in an adult business during regular business hours, payment of license fees, and issuance of a temporary non-performer application for work pursuant to section 5.46.020, the chief of police or his/her designee shall immediately stamp the application "Received" and in conjunction with city staff, including members of the police department, shall promptly investigate the information contained in the application to determine whether the non-performer employee applicant may be permitted to work in an adult business pursuant to the disqualifying terms of Section 5.46.020(B)(5) above.

**Section 3.**

Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby.

The City Council hereby declares that it would have adopted these sections and the ordinance to which they are a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective.

**Section 4.**

Effective Date. This ordinance shall be effective thirty (30) days after its adoption, and the city clerk shall certify the adoption of this ordinance.

**Section 5.**

Publication. The city clerk shall certify to the passage of this ordinance and cause the same to be published in the manner prescribed by law.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was introduced at a regular meeting of the City Council on the 6<sup>th</sup> day of January, 2009, and adopted at a regular meeting of the Council held on the \_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**ORDINANCE REPEALING  
THE MORATORIUM**

ORDINANCE NO. 09-\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING ORDINANCE NO. 07-17, AN URGENCY INTERIM ORDINANCE, EXTENDING ORDINANCE NO. 07-14, AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF NEW ADULT ENTERTAINMENT BUSINESSES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN**

**WHEREAS**, at the May 17, 2007 meeting, the City Council authorized, by the adoption of Ordinance No. 07-14, a moratorium on adult entertainment businesses to allow the Planning Commission to consider appropriate regulations for adult entertainment businesses; and

**WHEREAS**, the City Council extended said moratorium by the adoption of Ordinance No. 07-17; and

**WHEREAS**, the Planning Commission met and held two hearings on the proposed regulations; and

**WHEREAS**, on December 16, 2008 the City Council introduced the ordinance providing regulations for adult businesses.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Benicia that Ordinance No. 07-17, an Urgency Interim Ordinance, Extending Ordinance No. 07-14, an Urgency Interim Ordinance Approving an Interim Zoning Moratorium on the Establishment of New Adult Entertainment Businesses in the City of Benicia and Adopting Findings Including Environmental Findings and Findings of Consistency with the General Plan, is hereby repealed in its entirety.

\* \* \* \* \*

On a motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above Ordinance was introduced at a regular meeting of the City Council held and passed by the City Council of the City of Benicia at the regular meeting of said Council held on \_\_\_\_\_, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
CONSENT CALENDAR**

**DATE** : January 13, 2009

**TO** : City Manager

**FROM** : Interim Economic Development Manager

**SUBJECT** : **APPROVE AMENDMENT TO THE AGREEMENT BETWEEN  
THE CITY OF BENICIA AND BENICIA MAIN STREET**

**RECOMMENDATION:**

Approve, by motion, an amendment that provides for adjustment in the schedule for invoicing and payment of services provided to City by Benicia Main Street under the current Agreement.

**EXECUTIVE SUMMARY:**

The current Agreement between the City and Benicia Main Street (BMS) for the two fiscal years, July 1, 2007 - June 30, 2009, provides that BMS will perform various services for the City in support of First Street merchants and Downtown activities in return for total payments not to exceed \$228,000. It further provides that BMS will submit bimonthly reports to the Economic Development Board (EDB) regarding its activities and accomplishments, and that City payments for services will be made for invoices submitted by BMS on a quarterly basis in October, January, March and June of each year.

Over the last few months it has become clear that BMS invoices should be submitted and paid on a bimonthly basis to coincide with the schedule of bimonthly reports to the EDB. This would simplify BMS record keeping and directly tie the service accomplishments reported to the EDB to the services received and paid for under the Agreement. Total payments by the City under the Agreement would not change.

**STRATEGIC PLAN:**

Relevant Strategic Plan goals and Strategies:

- Goal 3.00: Strengthen Downtown
- Goal 7.00: Building Community Collaboration

Approving this amendment will facilitate consistent reporting of BMS activities to both the EDB and the City Council on a schedule that reflects the required accomplishments and services set out in the Agreement.

**BUDGET INFORMATION:**

Approval of this amendment will have no effect on the amount of City payments to BMS totaling \$114,000 for the current fiscal year.

Attachment:

- Proposed Amendment

# **AMENDMENT**



**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
PUBLIC HEARING**

**DATE** : January 10, 2008

**TO** : City Manager

**FROM** : Finance Director

**SUBJECT** : **ADOPTION OF ANNUAL INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE TAX, THE PARK LAND DEDICATION FEE AND THE LIBRARY BOOK FEE**

**RECOMMENDATION:**

Conduct a Public Hearing and adopt the following Resolutions:

- A Resolution adopting increases for the Capital Improvement License Tax.
- A Resolution adopting increases for the Park Land Dedication Fee.
- A Resolution adopting an increase for the Library Book Fee.

**EXECUTIVE SUMMARY:**

The City of Benicia currently collects one development impact tax and two development impact fees to support government activities, park improvements and expanded library circulation. The City ordinance governing the administration of the development impact tax and fees requires that each be adjusted annually by the change in the consumer price index or construction cost index. In accordance with California State law and local ordinances, the tax and fees will become effective 60 days after Council approval at a public hearing. The tax and fee increases will add an estimated \$350 per year and will be deposited into the respective funds.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
  - Strategy 4.20: Improve and maintain existing parks and recreation programs
  - Strategy 4.40: Improve and maintain facilities and infrastructure

**BUDGET INFORMATION:**

Adoption of the resolutions will allow the City to collect the following additional revenues based upon an estimate of 2 single family homes to be built in the remainder of fiscal year 2008-09:

Capital Improvement License Tax +0.58%	\$12
Park Land Dedication Fee +2.77%	\$326
Library Book Fee + 2.77%	\$12
Total	\$350

**I. CAPITAL IMPROVEMENT LICENSE TAX**

Council adopted Chapter 5.36 of the Municipal Code in 1977 establishing the Capital License Tax. Section 1.20.020 of the Municipal Code allows for annual increases based upon the *San Francisco Construction Cost Index* which increased 0.58% during the April 2007 to April 2008 period.

Adoption of the attached resolution will increase the Capital Improvement License Tax by \$6 or 0.58%, increasing the tax from \$1,023 per single family residence to \$1,029. Multi-family units would increase by \$3 from \$512 per unit to \$515 per unit, also a 0.58% increase. The commercial and industrial facilities tax would also increase 0.58%, as illustrated in the attached resolution. The table below illustrates the current rate and the new rate:

**Capital Improvement License Tax for 2008-09**

<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>	<u>Increase</u>
Single Family Dwelling Unit	\$1,023	\$1,029	\$6
Duplexes and Low Density Multiple Family Dwelling	\$512	\$515	\$5

**II. PARK LAND DEDICATION FEE**

The Municipal Code (§1.20.020) provides for annual increases to the Parkland Dedication Fee based upon the Consumer Price Index in the San Francisco Metropolitan Bay Area for All Urban Consumers from February 2007 to February 2008. The following table provides an overview of the proposed changes, which represents a 2.77% increase or \$163 per single family residence:

**Park Land Dedication Fee for 2008-09**

<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>	<u>Increase</u>
Single Family Dwelling Unit	\$5,893	\$6,056	\$163
Duplexes and Low Density Multiple Family Dwelling	\$5,107	\$5,249	\$142
Medium and High Density Multiple Family Dwelling	\$3,928	\$4,037	\$109

### **III. LIBRARY BOOK FEE**

Council adopted Chapter 5.37 of the Municipal Code and Resolution No. 92-33 in March of 1992. This Resolution created a Library Book Fee of \$7 per residential dwelling unit constructed in the City. The Resolution also allows for an annual adjustment based upon the Consumers Price Index for the San Francisco Metropolitan Bay Area for All Urban Consumers from February 2007 to February 2008. The following table provides an overview of the proposed changes, which represents a 2.77% increase or \$6 per housing unit.

#### **Library Book Fee for 2008-09**

<b><u>Description</u></b>	<b><u>Current Rate</u></b>	<b><u>New Rate</u></b>	<b><u>Increase</u></b>
Each housing unit	\$227	\$233	\$6

Attachments:

- Resolution adopting increases for the Capital Improvement License Tax.
- Resolution adopting increases for the Park Land Dedication Fee.
- Resolution adopting an increase for the Library Book Fee.

## **RESOLUTIONS**

**RESOLUTION NO. 09-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA  
ADOPTING INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE  
TAX FOR CONSTRUCTION OR ALTERATION OF SINGLE-FAMILY  
RESIDENCES, MULTIPLE-DWELLING STRUCTURES, AND COMMERCIAL  
OR INDUSTRIAL FACILITIES**

**WHEREAS**, Chapter 5.36 of the Benicia Municipal Code provides for a Capital Improvement License Tax for the construction or alteration of single-family residences, multiple-dwelling structures, and commercial or industrial facilities; and

**WHEREAS**, the City Council desires to increase the Capital Improvement License Tax set out in Benicia Municipal Code Section 5.36.060 A through D to more accurately reflect increases in the Construction Cost Index since the enactment of said Section 5.36.060; and

**WHEREAS**, a Public Hearing was conducted on January 20, 2009 to consider modifications to the Capital Improvement License Tax; and

**WHEREAS**, said Construction Cost Index for the San Francisco Region has increased 0.58% between April 2007 and April 2008; and

**WHEREAS**, Benicia Municipal Code Section 1.20.030 provides that the City Council may increase said Capital Improvement License Tax by resolution to reflect the increase in the Construction Cost Index.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby resolves the following:

1. The Capital Improvement License Tax set out in the Benicia Municipal Code Section 5.36.060 A through D is hereby increased and shall be computed as follows:
  - 5.36.060 A. Single-family Residence: \$1,029.00.
  - 5.36.060 B. Multiple Dwelling Structures: \$515.00 for each habitation unit to be contained in a multiple-dwelling structure.
  - 5.36.060 C. Commercial Facilities: For each square foot contained in a commercial facility:
    1. \$1.25 per square foot for the first 15,000 square feet, plus
    2. \$1.01 per square foot for the next 15,000 square feet, plus
    3. \$0.71 per square foot for the next 70,000 square feet, plus
    4. \$0.56 for each square foot over 100,000 square feet.

5.36.060 D. Industrial Facilities. For each square foot contained in an industrial facility:

1. \$0.64 per square foot for the first 15,000 square feet, plus
2. \$0.45 per square foot for the next 15,000 square feet, plus
3. \$0.38 per square foot for the next 70,000 square feet, plus
4. \$0.30 for each square foot over the first 100,000 square feet.

2. The Capital Improvement License Tax rates set out herein shall become effective 60 days after the adoption of this Resolution by the City Council.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the \_\_\_ day of January 20, 2009 and adopted by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**RESOLUTION NO. 09-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING AN INCREASE IN THE PARK LAND DEDICATION FEE**

**WHEREAS**, Government Code Section 66477 authorizes cities to establish park in lieu fees to be imposed upon developers and property within the city's limits; and

**WHEREAS**, Section 16.32.040 of the City's Municipal Code permits the City Council to adopt said fees and the fees established hereinafter are based upon the formula contained in said section and in conformance with Government Code Section 66477; and

**WHEREAS**, Benicia Municipal Code §1.20.020 allows for an annual increase in the Park Land Dedication Fee based upon the Consumer Price Index (CPI) of the San Francisco Bay Region; and

**WHEREAS**, the Finance Director has calculated said increase to be 2.77% over the period February 2007 to February 2008; and

**WHEREAS**, a Public Hearing was conducted on January 20, 2009 to consider modifications to the Park Land Dedication Fee.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby determines as follows:

1. The Park Land Dedication Fee to be paid in accordance with Municipal Code Section 16.32.040 for each residential unit to be constructed in the City of Benicia shall be:

Single Family	\$6,056/dwelling unit
Duplexes and Low Density Multiple Family	\$5,249/dwelling unit
Medium and High Density Multiple Family	\$4,036/dwelling unit

2. The Park Land Dedication Fee set out herein shall become effective 60 days after the adoption of this Resolution by the City Council.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_,  
the resolution was introduced and passed by the City Council of the City of Benicia at a regular  
meeting of said Council held on the \_\_\_\_ day of January, 2009, and adopted by the following  
vote:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**RESOLUTION NO. 09-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING AN EXTENSION AND INCREASE IN THE LIBRARY BOOK FEE**

**WHEREAS**, the City Council adopted a Library Book Fee in March, 1992, in the amount of one hundred fifty dollars (\$150) residential dwelling unit constructed in the City; and

**WHEREAS**, Benicia Municipal Code Section 1.20.020 allows for an annual increase in said Library Book Fee based upon the cost of living index (CPI) for the San Francisco Bay Region; and

**WHEREAS**, a Public Hearing was conducted on January 20, 2009 to consider modifications to the Library Book Fee; and

**WHEREAS**, the Finance Director has calculated said increase to be 2.77% for the period February 2007 to February 2008; and

**WHEREAS**, this increase does not exceed the cost of providing library books.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby resolves the following:

1. The Library Book Fee to be paid in accordance with Municipal Code Section 1.20.020 for each residential unit to be constructed in the City of Benicia shall be extended at the rate of two hundred thirty two dollars (\$232).
2. The Library Book Fee set out herein shall become effective 60 days after the adoption of this Resolution by the City Council.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the \_\_\_ day of January, 2009, and adopted by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
ACTION ITEMS**

**DATE** : January 14, 2009

**TO** : City Manager

**FROM** : City Attorney  
Director of Public Works

**SUBJECT** : **UPDATE ON THE UNTREATED WATER DELIVERY  
AGREEMENT WITH VALERO REFINING COMPANY -  
CALIFORNIA**

**RECOMMENDATION:**

Continue consideration of this item to the February 3, 2009 City Council meeting.

**EXECUTIVE SUMMARY:**

The existing agreement for the delivery of untreated water to the refinery now owned and operated by Valero Refining Company – California expires on January 31, 2009. The City has been negotiating with Valero to develop a new agreement. Unfortunately, the parties have been unable to agree to one key point regarding the payment of the upfront costs to obtain Solano Irrigation District Water. To permit Valero and staff to arrive at a solution, staff recommends that the Council allow the delivery of untreated water between February 1, 2009 and February 4, 2009.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 2.00: Strengthen the Economy
  - ▶ Strategy 2.30: Facilitate and encourage sustainable development (providing substantial economic benefits while preserving Benicia’s environment)
- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
  - ▶ Strategy 4.40: Improve and maintain facilities and infrastructures

The refinery is a major member of the City’s business community and its single largest water user. Currently, Valero uses between 4.2 and 4.5 million gallons per day.

## **BUDGET INFORMATION:**

The draft agreement has been structured using a Cost of Service approach. The rate will be adjusted biannually based upon the City's budget.

## **BACKGROUND:**

The current agreement that allows the City to provide untreated water to the Valero Refinery is 42 years old and will expire January 31, 2009. Staff, with the help of outside counsel who specializes in water issues, has been negotiating with Valero staff to develop a new agreement. The existing agreement has a number of problems from the City's standpoint that need to be corrected. One of the issues is that the agreement does not provide for what happens when the agreement expires. Although staff began the negotiating process two years ago, we have been unable to finalize the agreement in time for the Council's January 20<sup>th</sup> agenda. Basically, all of the deal points have been agreed to with the exception of one term.

The term at issue is the supplemental supply of water from the Solano Irrigation District ("SID"). This water has recently become available for purchase. The purchase of this water is an excellent opportunity for the City to obtain reliable good quality water. To purchase this water the City will have to pay SID \$5 million upfront in addition to ongoing charges. Of course, this lump sum is a large impact to the City's budget and was not anticipated. To minimize the impact on the City, staff proposed that Valero pay for its share of the upfront costs. This means Valero would pay \$2 million.

Given that this is the only issue left, it appears that a solution that works for both parties should be achievable before the February 3, 2009 Council meeting. Because the agreement will expire, this report is to advise the Council that staff intends to continue to provide untreated water until the next Council meeting.

cc: Assistant Director of Public Works

**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009  
**TO** : Mayor Patterson  
**FROM** : City Manager  
**SUBJECT** : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:00 pm. The next committee meeting is scheduled for January 21, 2009. The agenda for that meeting has not yet been distributed as of the date of this memo.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 13, 2009

**TO** : Mayor Patterson  
Vice Mayor Campbell

**FROM** : City Attorney 

**SUBJECT** : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the January 20, 2009 council meeting:

- The Spring General Assembly is scheduled for Thursday, April 23, 2009, at the Palace Hotel in San Francisco. The topic should be finalized soon.
- The 2009 Fall General Assembly is scheduled for Thursday, October 22, 2009 in Oakland.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 13, 2009

**TO** : Vice Mayor Campbell  
Council Member Schwartzman

**FROM** : Finance Director

**SUBJECT** : **FINANCE, AUDIT AND BUDGET COMMITTEE**

The following information is provided for your committee report at the January 20, 2009 Council meeting.

The committee will met on January 9, 2009 at 8 a.m. in the Commission Room. The Draft Minutes from that meeting are attached. The next meeting will be held on Friday, February 6, 2009.

**FINANCE, AUDIT AND BUDGET COMMITTEE  
DRAFT MINUTES  
COMMISSION ROOM  
JANUARY 9, 2009 - 8:00 AM**

**1. Call to Order at 8 a.m.**

Attended by Committee Chair Ralph DeJesu, Vice-Mayor Tom Campbell, Council Member Alan Schwartzman, Treasurer Teddie Bidou. Public included Rick Ernst. Staff present included Finance Director Robert Sousa.

**2. Notice to the Public**

**3. Approval of Minutes from the Regular Meeting held on December 5, 2008 by consensus.**

**4. Previous Month Warrant Register Review for December 2008.**

The Finance Director reviewed the prior months questions regarding:

- a. The SNAP Program at the library.
- b. The Cal-Card Program.
- c. The Housing Element work performed by Lisa Wise.

Member Bidou asked that the Committee be notified when the advance retirement payments for Patty Baron are reimbursed by PERS.

Chair DeJesu inquired about the Camp Dresser and McKee Billing for the Water Master Plan.

Citizen Ernst inquired about the US Bank payment which was for the Cal-Card program and the trust payment for the GO Bond for the Wastewater Treatment Plant.

**5. Review of Cal-Card Program**

The Finance Director provided an overview of the new Cal-Card program, including a discussion of the cardholder responsibilities, the Cal-Card Policy, methods of tracking card use, and safeguards against possible misuse. The Committee asked that the Finance Director monitor the program and report back if there are any significant issues.

**6. Review Status of Landscape and Lighting Districts**

The Finance Director provided an overview of the financial condition of the L&L Districts. Cal-Trans had filed a legal complaint against the Fleetside District assessment and the City Attorney determined that allowing them to "buy out" of the L&L was appropriate. The amount received of \$152,659 will be deposited in a trust account and allocated to the district over the next 12 years. The District has also been able to balance the budget for this year by reducing the amount of staff time required to maintain the landscaping.

The Citywide Residential L&L has also been able to reduce expenditures and should be able to meet budget targets for this fiscal year. Unfortunately, the Citywide District will require public decisions regarding service and assessment levels if they are to balance revenues and expenses in FY 2009-10. Staff will develop a plan and present it to the City Council during the budget workshops, unless cost reductions are able to suspend the decisions for one more year.

Member Campbell recommended developing a plan for addressing the L&L shortfalls in FY 2010-11. Member Schwartzman suggested that plant replacements be researched for water conservation, which may be linked to the Valero VIP conservation efforts.

**7. Review of Network Security Issues**

Bill Guggemos, Information Technology Manager, advised the committee on the security measures used to protect the City's IT infrastructure and data files. The conversation ranged from outside vendor access to internal safekeeping of backup files. The committee made several suggestions regarding passwords and disaster protection. The IT Manager was asked to develop strategies for addressing offsite storage, securing core infrastructure, and future budgeting needs to ensure the integrity of the system in a natural disaster.

**8. Review Long Range Calendar**

There will be an update of the 10-year model at the February 6<sup>th</sup> meeting.

**9. Public Comment**

**10. Adjournment at 10 a.m.**



**AGENDA ITEM  
CITY COUNCIL MEETING: JANUARY 20, 2009  
COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2008  
**TO** : Mayor Patterson  
Council Member Schwartzman  
**FROM** : City Manager  
**SUBJECT** : LEAGUE OF CALIFORNIA CITIES

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

The next North Bay Division General Membership Meeting will be hosted by the City of Benicia on Thursday, February 19, 2009 at the Benicia Historical Museum. Please see the flyer on the following page for additional information.



**NORTH BAY DIVISION  
MEMBER CITIES**

**MARIN COUNTY**  
BELVEDERE  
CORTE MADERA  
FAIRFAX  
LARKSPUR  
MILL VALLEY  
NOVATO  
ROSS  
SAN ANSELMO  
SAN RAFAEL  
SAUSALITO  
TIBURON

**NAPA COUNTY**  
AMERICAN CANYON  
CALISTOGA  
NAPA  
ST. HELENA  
YOUNTVILLE

**SOLANO COUNTY**  
BENICIA  
DIXON  
FAIRFIELD  
RIO VISTA  
SUISUN CITY  
VACAVILLE  
VALLEJO

**SONOMA COUNTY**  
COTATI  
HEALDSBURG  
PETALUMA  
ROHNERT PARK  
SANTA ROSA  
SEBASTOPOL  
SONOMA  
WINDSOR

**DIVISION OFFICERS**

**PRESIDENT**  
SHAWN MARSHALL  
MAYOR - MILL VALLEY

**FIRST VICE PRESIDENT**  
GARY PLASS  
COUNCIL MEMBER - HEALDSBURG

**SECOND VICE PRESIDENT**  
CURTIS HUNT  
VICE MAYOR - VACAVILLE

**PAST PRESIDENT**  
JACK GINGLES  
MAYOR - CALISTOGA

**LEAGUE DIRECTOR**  
ALICE FREDERICKS  
VICE MAYOR - TIBURON

**LEAGUE STAFF**  
AMY O'GORMAN  
DIRECTOR OF REGIONAL  
PUBLIC AFFAIRS

MARY CREASEY  
REGIONAL PUBLIC AFFAIRS ANALYST

**\*\*\* SAVE THE DATE \*\*\***

**NORTH BAY DIVISION  
GENERAL MEMBERSHIP  
DINNER MEETING**

*Hosted by the City of Benicia*

Thursday, February 19, 2009

Captain Stone Hall, Benicia Historical Museum  
2060 Camel Road, Benicia

**Welcome Reception 6:00 pm**  
**Dinner 7:00 pm**  
**Program 7:30 pm**

Please join members and friends of the North Bay Division as we welcome newly elected mayors and council members and examine critical legislation and policy issues impacting local government.

With Special Presentation by

**The Honorable Fred Keeley**  
*Elected Treasurer, Santa Cruz County and  
Former President pro Tempore, California State Assembly*

*Mr. Keeley is a member of the Leadership Council of California Forward, a bi-partisan effort to transform state government through citizen-driven solutions to provide better representation, smarter budgeting and fiscal management, and high quality public services so all Californians have the opportunity to be safe, healthy and prosperous in the global economy.*

**Menu selections and price per person  
will be provided soon.**

**Questions?** Please contact Amy O'Gorman  
(707) 291-3270 / [aogorman@cacities.org](mailto:aogorman@cacities.org) or  
Mary Creasey (916) 658-8243/ [mcreasey@cacities.org](mailto:mcreasey@cacities.org)



**Fred Keeley**  
**Treasurer, Santa Cruz County**

Fred Keeley is treasurer of Santa Cruz County, a position he has held since January 2005. He served in the California State Assembly from 1996 to 2002 and served four years as the Speaker pro Tempore of the Assembly. During the California energy crisis in 2000 and 2001, Speaker Robert Hertzberg appointed Mr. Keeley chief operating officer for the Assembly on the energy crisis. In that capacity, Mr. Keeley authored California's solution to the energy crisis. He also helped in forging budget compromises between Democrats and Republicans in the legislature.

Following his service in the legislature, Mr. Keeley was executive director of the Planning and Conservation League and the PCL Foundation, non-profit organizations specializing in environmental research and legislative advocacy. Mr. Keeley teaches political science courses at San Jose State University and is a frequent lecturer at various universities on California state government, politics, and a variety of environmental topics. Prior to serving in the legislature, Mr. Keeley served for eight years as a member of the Santa Cruz County Board of Supervisors. He also previously was chief of staff to then-Assemblymember Sam Farr (D-Carmel) and policy director to Santa Cruz County Supervisor Joe Cucchaira.

Mr. Keeley is co-chair of the Voices of Reform Project of the Commonwealth Club of California, which is focused on governmental reforms in the following areas: redistricting, term limits, campaign finance, budget and initiative process. He is a member of the board of directors of the California League of Conservation Voters and serves on the board of directors of Planned Parenthood Advocates for Northern California and Nevada.

He holds a degree from San Jose State University.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009

**TO** : Council Member Ioakimedes  
Council Member Hughes

**FROM** : City Manager

**SUBJECT** : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. The next meeting will be held on March 12, 2009. The agenda for that meeting is not yet available.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009

**TO** : Vice Mayor Campbell  
Council Member Ioakimedes

**FROM** : City Manager

**SUBJECT** : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the January 20, 2009 Council meeting.

The California Rangeland Trust Board of Directors has officially accepted Sky Valley as a conservation easement project. The next step would be for the Trust to allocate staff resources to meet with local landowners and develop a preliminary funding plan that identifies funds that the project may qualify for. Once completed, City staff will relay the outcome of the landowner meetings and present the funding plan to the Sky Valley Open Space Committee.

This issue and others will be discussed at the next quarterly Sky Valley Open Space Committee, scheduled for Wednesday, February 4, 2009 at 7:00 p.m. A draft meeting agenda for the February 4th meeting is unavailable at this time but will be forwarded to Council with next month's committee report.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 12, 2009

**TO** : Mayor Patterson  
Council Member Ioakimedes

**FROM** : Jim Erickson, City Manager

**SUBJECT** : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the January 20, 2009 Council meeting:

The last Board of Directors meeting was held on Thursday, December 11, 2008. Minutes for that meeting are not yet available.

The next Board of Directors meeting is scheduled for Thursday, January 22, 2009 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009

**TO** : Mayor Patterson  
Council Member Schwartzman

**FROM** : Dan Schiada, Director of Public Works

**SUBJECT** : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

The agenda for the January meeting of the STA Board follows, along with the December meeting minutes. The next STA Board meeting is on February 11, 2009. The agenda for that meeting is not yet available.



Solano Transportation Authority

One Harbor Center, Suite 130  
Suisun City, California 94585

Area Code 707  
424-6075 • Fax 424-6074

**MEETING NOTICE**

**Wednesday, January 14, 2009**

**STA Board Meeting  
Suisun City Hall Council Chambers  
701 Civic Center Drive  
Suisun City, CA 94585**

**6:00 p.m. Regular Meeting**

*Members:*

- Benicia
- Dixon
- Fairfield
- Rio Vista
- Solano County
- Suisun City
- Vacaville
- Vallejo

**MISSION STATEMENT – SOLANO TRANSPORTATION AUTHORITY**  
**To improve the quality of life in Solano County by delivering transportation system projects to ensure mobility, travel safety, and economic vitality.**

*Times set forth on agenda is an estimate. Items may be heard before or after the times designated.*

<b>ITEM</b>	<b>BOARD/STAFF PERSON</b>
<b>I. CALL TO ORDER – CONFIRM QUORUM</b> (6:00 p.m.)	Chair Spering
<b>II. PLEDGE OF ALLEGIANCE</b>	
<b>III. APPROVAL OF AGENDA</b>	
<b>IV. OPPORTUNITY FOR PUBLIC COMMENT</b> (6:00– 6:05 p.m.)	

Pursuant to the Brown Act, public agencies must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. Comments are limited to no more than 3 minutes per speaker. Gov't Code §54954.3(a). By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency.

This agenda is available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. §12132) and the Ralph M. Brown Act (Cal. Govt. Code §54954.2). Persons requesting a disability-related modification or accommodation should contact Johanna Masiel, Clerk of the Board, at (707) 424-6008 during regular business hours, at least 24 hours prior to the time of the meeting.

<u>STA BOARD MEMBERS</u>							
Jim Spering Chair County of Solano	Pete Sanchez Vice-Chair City of Suisun City	Elizabeth Patterson City of Benicia	Jack Batchelor, Jr. City of Dixon	Harry Price City of Fairfield	Jan Vick City of Suisun City	Len Augustine City of Vacaville	Osby Davis City of Vallejo
<u>STA BOARD ALTERNATES</u>							
Mike Reagan	Mike Segala	Alan Schwartzman	Vacant	Chuck Timm	Vacant	Vacant	Tom Bartee

The complete STA Board Meeting Packet is available on  
STA's Website at [www.solanolinks.com](http://www.solanolinks.com)

**X-B-8-2**

V. **SWEARING IN OF NEW STA BOARD ALTERNATE MEMBERS** Johanna Masielat  
1. City of Dixon - Pending  
2. City of Rio Vista – Ron Jones  
3. City of Vacaville – Curtis Hunt  
(6:05 – 6:10 p.m.)

VI. **EXECUTIVE DIRECTOR’S REPORT** Daryl Halls  
(6:10 – 6:15 p.m.)  
Pg. 1

VII. **COMMENTS FROM CALTRANS, THE METROPOLITAN TRANSPORTATION COMMISSION (MTC), AND STA**  
(6:15 – 6:35 p.m.)

- A. Caltrans Report: Doanh Nguyen, Caltrans
- B. MTC Report: Commissioner Spring
- C. STA Reports:
  - 1. State Legislative Update Shaw/Yoder, Inc.
  - 2. STA Highlights of 2008 Daryl Halls
  - 3. Marketing and Public Input Plan for 2009 Jayne Bauer
  - 4. STA Status Reports:
    - A. Projects Janet Adams
    - B. Planning Robert Guerrero
    - C. Transit and Rideshare Elizabeth Richards

VIII. **CONSENT CALENDAR**

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(6:35 – 6:40 p.m.)

A. **STA Board Meeting Minutes of December 10, 2008** Johanna Masielat  
Recommendation:  
Approve STA Board Meeting Minutes of December 10, 2008.  
Pg. 5

B. **Review TAC Draft Minutes for the Meeting of December 17, 2008** Johanna Masielat  
Recommendation:  
Receive and file.  
Pg. 13

- C. **Renewal of Membership with Solano Economic Development Corporation (EDC) for 2009** Daryl Halls  
Recommendation:  
*Approve the following:*
1. *Renewal of STA's membership with the Solano Economic Development Corporation (Solano EDC) at the Board Member-Investor level of \$5,000 for the Annual Investment Year 2009; and*
  2. *Direct staff to agendaize for Board consideration STA's membership in Solano EDC prior to the annual renewal for 2010.*
- Pg. 17**
- D. **Fiscal Year (FY) 2008-09 First Quarter Budget Report** Susan Furtado  
Recommendation:  
*Review and file.*  
**Pg. 23**
- E. **New Copier Lease** Susan Furtado  
Recommendation:  
*Authorize the Executive Director to sign a three-year copier lease with Ricoh Business Solutions for an amount not to exceed \$28,000 annually.*  
**Pg. 27**
- F. **East Fairfield and Vacaville Community Based Transportation Plans (CBTP) Request for Proposals (RFP)** Liz Niedziela  
Recommendation:  
*Approve the following:*
1. *Authorize the Executive Director to release a RFP for consultant services to complete CBTP's for East Fairfield and Vacaville; and.*
  2. *Authorize the Executive Director to enter into an agreement to complete the Fairfield and Vacaville Community Based Transportation Plans for an amount not to exceed \$120,000.*
- Pg. 29**
- G. **DKS Associates Contract Amendment for Transit Consolidation Study** Elizabeth Richards  
Recommendation:  
*Authorize the Executive Director to amend the consultant contract with DKS Associates with a contract term extension until June 30, 2009 for the purpose of completing Phase II of the Transit Consolidation Study.*  
**Pg. 31**

- H. **DKS Contract for Revisions to the Solano-Napa Traffic Model** Robert Macaulay  
Recommendation:  
*Authorize the Executive Director to enter into a contract with the DKS Associates for revisions to the Napa-Solano Travel Demand Model in the amount of \$24,960.*  
**Pg. 33**
- I. **Regional Transportation Impact Fee (RTIF) Feasibility Study and Nexus Study Update** Janet Adams  
Recommendation:  
*Approve the STA's Regional Transportation Impact Fee Feasibility Study and Executive Summary.*  
**Pg. 39**
- J. **North Connector Project Implementation** Janet Adams  
Recommendation:  
*Approve the attached Resolution 2009-01 and Funding Allocation Request from Metropolitan Transportation Commission (MTC) for \$18.2 million for construction of the East End - North Connector Project.*  
**Pg. 43**
- K. **STA Board Meeting Schedule for 2009** Johanna Masiclat  
Recommendation:  
*Adopt the STA Board Meeting Schedule for 2009.*  
**Pg. 63**

**IX. ACTION NON-FINANCIAL ITEMS**

- A. **Regional Measure 2 (RM 2) Implementation Plan** Janet Adams  
Recommendation:  
*Direct staff to develop an implementation plan for RM 2 Funded Intermodal Transit Facilities in partnership with the implementing agencies.*  
 (6:40 – 6:45 p.m.)  
**Pg. 65**
- B. **Federal Economic Stimulus Submittal for Transportation in Solano County** Janet Adams  
Recommendation:  
*Adopt the Federal Economic Stimulus Solano County project list for transportation as shown on Attachment A.*  
 (6:45 – 6:50 p.m.)  
**Pg. 69**

- C. **Solano Routes of Regional Significance** Robert Guerrero  
Recommendation:  
*Approve the revised Solano Routes of Regional Significance as shown in Attachments C and D.*  
 (6:50 – 6:55 p.m.)  
 Pg. 77
- D. **STA's 2009 Final Legislative Priorities and Platform and Legislative Update** Jayne Bauer  
Recommendation:  
*Approve the following:*  
 1. *STA's Final 2009 Legislative Priorities and Platform;*  
*and*  
 2. *STA Federal New Authorization Policies.*  
 (6:55 – 7:05 p.m.)  
 Pg. 101
- E. **Appointment of STA Representative and Alternate to the Capitol Corridor Joint Powers Board (CCJPB)** Daryl Halls  
Recommendation:  
*Appoint a representative to the Capitol Corridor Joint Powers Board effective immediately and, if necessary, appoint an alternate member.*  
 (7:05 – 7:10 p.m.)  
 Pg. 129

X. **INFORMATIONAL ITEMS – NO DISCUSSION**

- A. **STA's Marketing and Public Input Plan for 2009** Jayne Bauer  
Informational  
 Pg. 131
- B. **Climate Change Status** Robert Macaulay  
Informational  
 Pg. 137
- C. **Solano Modeling TAC Appointments** Robert Macaulay  
Informational  
 Pg. 139
- D. **Unmet Transit Needs Public Hearing for Fiscal Year (FY) 2009-10** Liz Niedziela  
Informational  
 Pg. 141
- E. **Project Delivery Update** Sam Shelton  
Informational  
 Pg. 147

- F. **State Route (SR) 12 Jameson Canyon Road Bicycle and Pedestrian Connections Plan Update** Sara Woo  
Informational  
Pg. 151
- G. **Funding Opportunities Summary** Sara Woo  
Informational  
Pg. 157

**XI. BOARD MEMBERS COMMENTS**

**XII. ADJOURNMENT**

The next regular meeting of the STA Board is scheduled for **Wednesday, February 11, 2009, 6:00 p.m., Suisun City Hall Council Chambers.**



**SOLANO TRANSPORTATION AUTHORITY**  
**Board Minutes for Meeting of**  
**December 10, 2008**

**I. CALL TO ORDER**

Chair Sperring called the regular meeting to order at 6:05 p.m. A quorum was confirmed.

**MEMBERS**

**PRESENT:**

Jim Sperring, Chair	County of Solano
Pete Sanchez, Vice-Chair	City of Suisun City
Elizabeth Patterson	City of Benicia
Jack Batchelor, Jr.	City of Dixon
Harry Price	City of Fairfield
Jan Vick	City of Rio Vista
Len Augustine	City of Vacaville
Osby Davis	City of Vallejo

**MEMBERS**

**ABSENT:**

None.

**STAFF**

**PRESENT:**

Daryl K. Halls	Executive Director
Charles Lamoree	Legal Counsel
Johanna Masiclat	Clerk of the Board
Janet Adams	Deputy Executive Director/Director of Projects
Robert Macaulay	Director of Planning
Elizabeth Richards	Director of Transit and Rideshare Services
Susan Furtado	Financial Analyst/Accountant
Liz Niedziela	Transit Manager/Analyst
Judy Leaks	SNCI Program Manager
Robert Guerrero	Senior Planner
Sara Woo	Assistant Planner
Kenny Wan	Assistant Project Manager

**ALSO**

**PRESENT:**

*In Alphabetical Order by Last Name:*

Gene Cortright	City of Fairfield
Dan Kasperson	City of Suisun City
Gary Leach	City of Vallejo
Susan Lent	Akin Gump

Rod Moresco	City of Vacaville
Doanh Nguyen	Caltrans District 4
Dan Schiada	City of Benicia
Alan Schwartzman	City of Benicia, Board Alternate
Paul Wiese	County of Solano

**II. PLEDGE OF ALLEGIANCE**

**III. APPROVAL OF AGENDA**

On a motion by Board Member Price, and a second by Board Member Batchelor, the STA Board approved the agenda.

Chair Spring thanked Board Alternate Schwartzman for attending the meeting.

**IV. OPPORTUNITY FOR PUBLIC COMMENT**

None presented.

**V. SWEARING IN OF NEW STA BOARD MEMBERS**

Mayor Jack Batchelor, Jr. was sworn in as STA's new Board Member representing the City of Dixon.

Mayor Jan Vick was sworn in as STA's new Board Member representing the City of Rio Vista.

**VI. EXECUTIVE DIRECTOR'S REPORT**

Daryl Halls provided an update on the following topics:

- SR 12 West Truck Climbing Lane Project Opens to Traffic
- MTC Awards \$9 Million in RM 2 Funds to Fairfield/Vacaville Rail Station
- STA begins Preparing for Next Year's Legislative Season
- Solano County's Transit Service Fares Daunting Fiscal Challenges
- Initiation of Nexus Study for Regional Transportation Impact Fee (RTIF)
- Presentations Focused RM 2 Funded Transit Capital Projects
- STA Board to Recognize Solano Businesses and Employees for Meeting the 2<sup>nd</sup> Solano Commute Challenge

**VI. COMMENTS FROM METROPOLITAN TRANSPORTATION COMMISSION (MTC), CALTRANS, AND STAFF:**

**A. Caltrans Report:**

Doanh Nguyen, Project Manager, Caltrans District 4 reported on the construction progress of the I-80 Pavement Rehabilitation, I-80 HOV Lanes Project, Jameson Canyon SR 12 Truck Climbing Lane Project, and announced the bid opening for the SR 12 East Safety Project.

**B. MTC Report:**

Chair Spring commented that MTC announced on December 3, 2008 the awarding of \$9 million in RM 2 bridge toll funds to the Fairfield/Vacaville Rail Station. He stated that this additional funding is projected to fully fund phase 1 of the project which has been approved by the Capitol Corridor Joint Powers Board for new intercity rail service once the phase 1 project is completed.

**C. STA Report:**

1. Federal Legislative Report by Akin Gump's Susan Lent
2. Selection of Winners for Solano Commute Challenge by Board Members
3. Regional Measure 2 (RM 2) Presentations by Rod Moresco, City of Vacaville, Dan Schiada, City of Benicia, Wayne Lewis, City of Fairfield, and Gary Leach, City of Vallejo.

**VIII. CONSENT CALENDAR**

On a motion by Board Member Patterson, and a second by Board Member Sanchez, the STA Board approved Consent Calendar Items A thru I with the exception of Item F, Regional Measure 2 (RM 2) Benicia Intermodal Facilities Resolution of Support. Board Member Patterson, City of Benicia, declared she had a conflict on this item therefore did not vote on Item F.

- A. STA Board Meeting Minutes of October 8, 2008**  
Recommendation:  
Approve STA Board Meeting Minutes of October 8, 2008.
- B. Review TAC Draft Minutes for the Meeting of November 19, 2008**  
Recommendation:  
Receive and file.
- C. STA's Annual Audit Fiscal Year (FY) 2007-08**  
Recommendation:  
Accept the FY 2007-08 Annual Audit for STA.
- D. Fiscal Year (FY) 2007-08 4<sup>th</sup> Quarter Budget Report**  
Recommendation:  
Review and file.
- E. STA Employee 2009 Benefit Summary Update**  
Recommendation:  
Review and file.
- F. Regional Measure 2 (RM 2) Benicia Intermodal Facilities Resolution of Support**  
Recommendation:  
Approve Resolution No. 2008-09 authorizing the funding allocation for Regional Measure 2 funds from the Metropolitan Transportation Commission to the City of Benicia for the Solano County Express Bus North Intermodal Facilities – Benicia Intermodal Facilities.
- G. North Connector Contract Amendment – BKF Engineers**  
Recommendation:  
Approve a contract amendment for BKF Engineers to perform right of way engineering and construction design support services for an amount not-to-exceed \$220,000.

**H. Fiscal Year (FY) 2008-09 Transportation Development Act (TDA) Article 3 Bike Projects**

**Recommendation:**

Approve the attached FY 2008-09 TDA Article 3 Resolution No. 2008-10.

**I. Paratransit Coordinating Council (PCC) Appointment**

**Recommendation:**

Appoint Jamie Johnson as a Social Service representative to the PCC for a 3-year term.

**IX. ACTION – FINANCIAL ITEMS**

**A. Environmental Mitigation for the North Connector Project**

Janet Adams reviewed the mitigation plan for the North Connector Project. She stated that the STA has developed an implementation plan, in conjunction with the Solano Community College, to construct the 1 acre riparian/Valley Longhorn Elderberry (VELB) mitigation site. She cited that the cost to develop and implement this mitigation is estimated at \$250,000. She recommended that the STA enter into an agreement to purchase 13 VELB mitigation credits at the off-site French Camp Conservation Bank for an amount not-to-exceed \$60,000.

**Public Comments:**

None presented.

**Board Comments:**

None presented.

**Recommendation:**

Authorize the Executive Director to:

1. Enter into an agreement with the Solano Community College for implementation of the mitigation site for the North Connector and other adjacent I-80 projects on Solano Community College property, with constructing a commensurate amount of additional parking or pathway improvements on Solano Community College property; and
2. Enter into an agreement to purchase 13 VELB mitigation credits at the off-site French Camp Conservation Bank for an amount not-to-exceed \$60,000.

On a motion by Board Member Price, and a second by Board Member Patterson, the STA Board approved the recommendation.

**B. Funding Agreements for the McGary Road/Solano Bikeway Phase 2 Project**

Janet Adams reviewed the funding agreements for the McGary Road/Solano Bikeway Phase 2 Projects that would commit up to 3 years of TDA Article 3 funding trail improvements associated with the SLT/County project.

**Public Comment:**

None presented.

**Board Comment:**

None presented.

Recommendation:

Approve the following:

1. Authorize the Executive Director to work with Solano County, the City of Fairfield, and the Solano Land Trust to develop funding agreements for the delivery of the McGary Road/Solano Bikeway Phase 2 Project; and
2. *Commit up to 3 years of TDA Article 3 funding for trail improvements associated with the SLT/County project.*

On a motion by Board Member Patterson, and a second by Board Member Price, the STA Board approved the recommendation as amended shown above in *bold italics*.

**C. Lifeline State Transit Assistance Funds (STAF) and Proposition 1B Call for Projects**

Liz Niedziela provided a status report on the list of recommended STAF and Prop 1B Lifeline Projects for 2009-2100. She stated the recommendation from the Lifeline Committee will be submitted to MTC pending approval by the STA Board.

**Public Comment:**

None presented.

**Board Comment:**

None presented.

Recommendation:

Approve the following:

1. The 2008 Solano Lifeline Prop 1B and STAF Project Funding Plan as specified in Attachment A;
2. Authorize the Executive Director to submit the Lifeline Project Funding Plan to MTC;
3. Authorize the Executive Director to enter into agreements with Lifeline Project Sponsors by February 2009; and
4. Authorize STA staff to work with the three project sponsors for bus shelters and develop a coordinated approach for design and signing and report back to the STA Board.

On a motion by Board Member Price, and a second by Board Member Davis, the STA Board approved the recommendation.

**IX. ACTION – NON-FINANCIAL ITEMS**

**A. Comprehensive Transportation Plan (CTP) Update – Transit Facilities of Regional Significance, State of the Transit System Report and Transit Element Introduction Chapter**

Robert Macaulay reviewed the two (2) reports to be included in the Transit Element of the CTP; The State of the System (Transit and Rideshare) Report and The Introduction Chapter to the Transit Element. He stated at the October 29, 2008 meeting of the CTP Transit Committee and the November 19, 2008 meetings of the Technical Advisory Committee (TAC) and SolanoExpress Intercity Transit Consortium, the committees recommended that the STA Board adopt both reports with minor changes that have been incorporated into the documents.

**Public Comments:**

None presented.

**Board Comments:**

None presented.

Recommendation:

Approve the following documents for inclusion in the 2008 CTP:

1. The Transit Facilities of Regional Significance criteria, project list and map included as Attachments A and B; and
2. The "State of the System – Transit and Rideshare" Report included as Attachment C; and
3. The Introduction Chapter to the Transit Element of the Solano CTP included as Attachment D.

On a motion by Board Member Price, and a second by Board Member Batchelor, the STA Board approved the recommendation.

**B. Regional Transportation Impact Fee (RTIF) Nexus Study Scope of Work**

Janet Adams stated that several meetings have occurred in the past couple of months with the RTIF Working and Policy Committees. She also cited that at an earlier meeting, the RTIF Policy Committee approved STA staff's recommendation to include the committee's requested amendments pertaining to affordable housing, infill development and transit credits.

**Public Comments:**

None presented.

**Board Comments:**

After discussion, the STA Board amended the recommendation to include all input to the Scope of Work from the RTIF Policy Committee at future working meetings.

Recommendation:

Approve the following:

1. RTIF Nexus Study Scope of Work as specified in Attachment B; and
2. Authorize the Executive Director to issue a request for proposal and retain a consultant to conduct a RTIF Nexus Study consistent with the specified scope of work.

On a motion by Board Member Price, and a second by Board Member Batchelor, the STA Board approved the recommendation to include all input to the Scope of Work from the RTIF Policy Committee at future working meetings.

**C. STA's Draft 2009 Legislative Priorities and Platform**

Robert Macaulay reviewed the Draft 2009 Legislative Priorities and Platform. He stated that adoption of the Final Draft 2009 STA Legislative Priorities and Platform will be considered at the January 14, 2009 STA Board meeting. He added that key additions to the Draft 2009 Platform include an update of federal funding priorities and a renamed section, "Climate Change/Air Quality" to focus on climate change issues.

**Public Comments:**

None presented.

**Board Comments:**

Board Member Batchelor inquired about how to include Dixon's Rail Station and how to include Dixon into the mix. Daryl Halls commented that the current federal priority is the Fairfield/Vacaville Station which is closer to construction.

Several Board Members engaged in a discussion regarding Legislative Platform VII. Funding. Board Member Patterson suggested to add a policy calling for the protection of and restoration of operations and maintenance funding for transit.

Chair Spring and Board Member Augustine suggested the federal effort be on a new authorization and a change in how business is done, not a simple reauthorization that does not change the paradigm.

Board Member Patterson stated she is concerned about the SB 375 policy. Daryl Halls suggested that staff will review the item and bring back with more background.

Recommendation:

Release STA's Draft 2009 Legislative Priorities and Platform for a 21-day review and comment period.

On a motion by Board Member Price, and a second by Board Member Batchelor, the STA Board approved the recommendation to include the noted changes.

**X. INFORMATIONAL ITEMS – NO DISCUSSION**

- A. Regional Measure 2 (RM 2) Projects Update**
- B. Regional Transportation Plan (RTP) T2035 Update**
- C. Unmet Transit Needs Public Hearing for Fiscal Year (FY) 2009-10**
- D. State Route (SR) 12 Status Update**
- E. Project Delivery Update**
- F. Funding Opportunities Summary**
- G. STA Board Meeting Schedule for 2009**

**XI. BOARD MEMBER COMMENTS**

Board Members Batchelor and Vick expressed their enthusiasm as new members and they look forward to learning more about transportation as well as serving on the STA Board.

**XII. ADJOURNMENT**

The STA Board meeting was adjourned at 7:50 p.m. The next regular meeting of the STA Board is scheduled for **Wednesday, January 14, 2009, 6:00 p.m., Suisun City Hall Council Chambers.**

Attested by:

  
\_\_\_\_\_  
Johanna Masclat  
Clerk of the Board

\_\_\_\_\_  
Date 1/8/09



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009

**TO** : Mayor Patterson  
Vice Mayor Campbell

**FROM** : Dan Schiada, Director of Public Works

**SUBJECT** : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

The agenda for the January Solano Water Authority (SWA) Board of Directors meeting follows, along with the December meeting minutes. The next SWA meeting is February 12, 2009. The agenda for the February meeting is not yet available.

The SWA also has a newly formed Delta Committee that typically meets each month directly before the regular SWA meeting. The agenda for the January meeting is included.

# SOLANO COUNTY WATER AGENCY



## BOARD OF DIRECTORS MEETING

**DATE:** Thursday, January 8, 2009

**TIME:** 7:00 p.m.

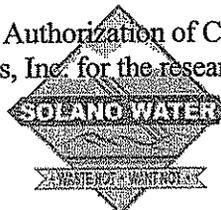
**PLACE:** Solano Irrigation District  
508 Elmira Road  
Vacaville

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENT

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. ELECTION OF OFFICERS AND APPOINTMENT OF EXECUTIVE COMMITTEE FOR 2009
6. CONSENT ITEMS
  - (A) Minutes: Approval of the Minutes of the Board of Directors meeting of December 11, 2008 is recommended.
  - (B) Expenditure Approvals: Approval of the December checking account register and list of checks \$500 and over to be paid is recommended.
  - (C) Delegation to General Manager Emergency Contracting Authority: Delegation of authority to General Manager to perform emergency contracting procedures pursuant to the Uniform Public Construction Cost Accounting Act is recommended.
  - (D) Agreement with MWH Americas, Inc.: Authorization of Chairman to execute agreement with MWH Americas, Inc. for the research, design, and

P.O. Box 349 • 6040 Vaca Station Road, Building 84  
Elmira, California 95625-0349  
Phone (707) 451-6090 • FAX (707) 451-6099  
www.scwa2.com



**X-B-9-2**

implementation of the Permanent Water Treatment Research Facility at the North Bay Regional water treatment plant is recommended. Agreement amount is \$2,748,000.

7. **BOARD MEMBER REPORTS**

RECOMMENDATION: For information only.

8. **GENERAL MANAGER'S REPORT**

RECOMMENDATION: For information only.

9. **DELTA COMMITTEE**

RECOMMENDATION: Hear report from Delta Committee and staff on current Delta water activities. Provide policy direction.

10. **IRWMP IMPLEMENTATION STATUS AND PRIORITIES FOR 2009**

RECOMMENDATION: Hear report from staff on the status of implementing the 2005 Solano Agencies Integrated Regional Water Management Plan and Strategic Plan and staff recommendations for priorities for 2009. Provide policy direction.

11. **TIME AND PLACE OF NEXT MEETING**

Thursday, February 12, 2008 at 7:00 pm at the Solano Irrigation District offices (possible City County Coordinating Committee meeting in February – meeting time may change).

*The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at [www.scwa2.com](http://www.scwa2.com).*

SOLANO COUNTY WATER AGENCY  
BOARD OF DIRECTORS MEETING MINUTES

MEETING DATE: December 11, 2008

The Solano County Water Agency Board of Directors met this evening at the Solano Irrigation District. Present were:

Mayor Elizabeth Patterson, City of Benicia  
Mayor Len Augustine, City of Vacaville  
Mayor Jan Vick, City of Rio Vista  
Mayor Harry Price, City of Fairfield  
Mayor Pete Sanchez, City of Suisun City  
Mayor Osby Davis, City of Vallejo  
Supervisor John Silva, Solano County District 2  
Supervisor Jim Spering, Solano County District 3  
Supervisor John Vasquez, Solano County District 4  
Supervisor Mike Reagan, Solano County District 5  
Director Everett Whiting, Reclamation District 2068  
Director Bob Bishop, Solano Irrigation District  
Manager Don Holdener, Maine Prairie Water District

CALL TO ORDER

The meeting was called to order at 7:00 pm by Vice-Chairman Don Holdener.

APPROVAL OF AGENDA

On a motion by Mayor Augustine and a second by Mayor Price, the Board unanimously approved the agenda.

PUBLIC COMMENT

No public comment was received.

CONSENT ITEMS

On a motion by Supervisor Spering and a second by Director Whiting the Board unanimously approved the following consent items, including the addendum to agenda item (B), Additional Expenditure Approvals:

- (A) Minutes
- (B) Expenditure Approvals
- (C) Flood Control Advisory Committee Re-Appointments
- (D) Lower Putah Creek Coordinating Committee Appointments
- (E) Pleasants Creek Sediment Load Reduction Project
- (F) California River Parkways Grant
- (G) Amendment No. 3 to Agreement with Luhdorff & Scalmanini Consulting Engineers
- (H) Ulatis Flood Control Project – Emergency Channel Scour Maintenance
- (I) State Water Project Tolling Agreement

(J) Bay Area Water Forum

BOARD MEMBER REPORTS

No reports were given.

GENERAL MANAGERS REPORT

No additions to the written report.

DELTA HABITAT CONSERVATION AND CONVEYANCE PROGRAM

General Manager Okita outlined an agreement for funding between the Department of Water Resources and Solano County Water Agency for the cost of Environmental Analysis, Planning and Design of Delta Conservation Measures, including Delta Conveyance Options. The cost of the agreement is \$896,000 over three years, 2008, 2009, 2010. Execution of this agreement allows the Water Agency to participate in the Delta Habitat Conservation and Conveyance Program development. The agreement provides an “off-ramp” for the Water Agency to withdrawal from the process at any time without further financial obligation. The agreement presented is in draft form due to ongoing State and Federal negotiations, however, the portion of the agreement between the State and the Water Agency is finalized.

Additionally, staff recommends that the Water Agency execute the Specific Project Agreement and become part of the Delta Specific Project Committee. The Delta Specific Project Agreement is part of the governance structure for the MOA. Representatives of the Delta Specific Project Committee will serve on the Executive Committee of the MOA which will provide guidance to DWR and the Bureau of Reclamation on the DHCCP. The Solano County Water Agency is a member of the State Water Project Contractors Authority. The Authority has several specific project committees dealing with special projects associated with the State Water Project.

On a motion to by Mayor Patterson and a second Mayor Price the Board unanimously approved to:

1. Authorize General Manger to execute an Agreement for Funding between the Department of Water Resources and the Solano County Water Agency for the Cost of Environmental Analysis, Planning and Design of Delta Conservation Measures, Including Delta Conveyance Options.
2. Authorize Chairman to execute a Delta Specific Project Committee Specific Project Agreement of the State Water Project Contractors’ Authority.

Follow-up discussion led to an amended motion by Mayor Patterson with a second by Mayor Augustine to:

1. Authorize Chairman to execute an Agreement for Funding between the Department of Water Resources and the Solano County Water Agency for the Cost of Environmental Analysis, Planning and Design of Delta Conservation Measures, Including Delta Conveyance Options.
2. Authorize Chairman to execute a Delta Specific Project Committee Specific Project Agreement of the State Water Project Contractors’ Authority.

The amended motion passed on a 12 to 1 vote. Supervisor Silva was not in favor of the amended motion because he felt the General Manager should execute the first agreement.

LEGISLATIVE ADVOCACY

General Manager Okita introduced Patrick Leathers, Legislative Advocate with The Gualco Group, and summarized the services to the Water Agency provided by the The Gualco Group. Mr. Leathers outlined their statement of qualifications for continue assistance to the Water Agency in ongoing and upcoming matters. On a motion by Supervisor Reagan and a second by Supervisor Silva the Board unanimously authorized

Chairman to execute an agreement with The Gualco Group to provide government relations representation for the Solano County Water Agency for the 2009 – 2010 State Legislative Session.

#### DELTA COMMITTEE REPORT

General Manager Okita informed the Board on discussions with the Water Agency's Delta Committee. A new biological opinion (BO) for current operations of the State Water and Central Valley Projects is due to be released next week. The new BO will dictate immediate development of some habitat improvement projects in the Delta to mitigate impacts from export pumping in the South Delta. Approximately 8,000 acres of agriculture land in the Cache Slough Complex and Suisun Marsh will be converted to tidal wetlands by the exporters. The Water Agency, jointly with Yolo County, is beginning negotiations with the project proponents to protect our local interests and develop measures to mitigate local impacts. The committee will keep the Board informed of the status as discussions develop.

He also updated the Board on recent activities of the 5-County Coalition (five Delta Counties: Yolo, Solano, Sacramento, San Joaquin, Contra Costa). The Coalition provides a unified front to address common local concerns. The Coalition recently testified before the Delta Vision Committee accomplishing increased visibility. Supervisor Reagan gave his impression of the dynamics of the group.

#### SCWA AUDIT

General Manager informed the Board that the Water Agency has a new auditor this year due to a merger by our contractor Moreland & Associates with Macias Gini & O'Connell, LLP. Our contract was assigned to Macias.

On a motion by Supervisor Reagan and a second by Mayor Sanchez the Board unanimously accepted the fiscal year 2007-2008 audit and staff responses to management letter.

#### NOMINATING COMMITTEE FOR 2009 OFFICERS

Vice-chairman Holdener appointed the Executive Committee as the Nominating Committee for 2009 Officers to be elected at the January 2009 Board meeting.

#### TIME AND PLACE OF NEXT MEETING

Thursday, January 8, 2009 at 7:00 p.m. at the Solano Irrigation District offices.

#### ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned at 8:04 p.m.

\_\_\_\_\_  
David B. Okita, General Manager  
and Secretary to the Board of Directors of the  
Solano County Water Agency

# SOLANO COUNTY WATER AGENCY



## SCWA BOARD OF DIRECTORS DELTA COMMITTEE

**DATE:** Thursday, January 8, 2009

**TIME:** 6:00 p.m. – 7:00 p.m. (prior to SCWA Board meeting)

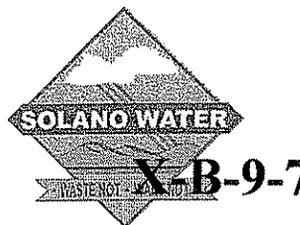
**PLACE:** Solano Irrigation District Board Room  
508 Elmira Road  
Vacaville

**MEMBERS:** Supervisor Reagan, Supervisor Kondylis, Mike Hardesty, Mayor Vick, Mayor Patterson, and Mayor Augustine.

1. Bay Delta Conservation Plan - Draft Conservation Strategy  
[http://resources.ca.gov/bdcp/docs/12.19.08\\_HO\\_BDCP-Overview\\_of\\_Conservation\\_Strategy\\_With\\_Core\\_Elements.pdf](http://resources.ca.gov/bdcp/docs/12.19.08_HO_BDCP-Overview_of_Conservation_Strategy_With_Core_Elements.pdf)
2. Water Bond and other Delta Legislation
3. Updates
  - a. Lower Yolo Bypass Planning Forum
  - b. Five County meetings with State
  - c. Yolo/Solano meetings
4. Set Next Meeting (March - February CCCC meeting likely)

If you have any questions contact David Okita at 455-1103.

P.O. Box 349 • 6040 Vaca Station Road, Building 84  
Elmira, California 95625-0349  
Phone (707) 451-6090 • FAX (707) 451-6099  
[www.scwa2.com](http://www.scwa2.com)





**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2008

**TO** : Vice Mayor Campbell  
Council Member Hughes

**FROM** : Dan Schiada, Public Works Director

**SUBJECT** : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS)**  
**COMMITTEE**

The following information is provided for your committee report at the January 20, 2009 Council meeting.

The Traffic, Pedestrian and Bicycle Safety (TPBS) Committee meets quarterly at 7:00 p.m. in the Commission Room at City Hall.

Attached are draft minutes from the November 6, 2008 special meeting. The January 15 TPBS meeting was cancelled. The next scheduled meeting is April 16, 2009. That meeting agenda is in progress.

***Draft***  
**MINUTES**  
**CITY OF BENICIA**  
**TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE**  
**Special Meeting**  
Thursday, November 6, 2008  
7:00 pm

**I. CALL TO ORDER -- Meeting called to order at 7:01 pm**

1. Roll Call -- Committee Members Present:

Council Member Mark Hughes (Chair), Vice-Mayor Tom Campbell, Director of Public Works Dan Schiada, City Engineer Michael Throne, Sgt. Frank Hartig, Police Department Traffic Division

Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinqué.

2. Pledge of Allegiance

3. Fundamental Rights Statement

**II. APPROVAL OF MINUTES FOR JULY 17, 2008, MEETING**

Minutes for the July 17, 2008 meeting were approved by a 4-0 vote of the Committee (Mark Hughes recused himself).

**III. PUBLIC COMMENT (none)**

Dan Schiada acknowledged a written request received from Douglas DuBois for the City to complete sidewalk on the west side of East 2<sup>nd</sup> Street between H and J Streets. This item will be considered under the Capital Improvement Program Action Item.

**IV. PRESENTATION**

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (Michael Throne)

Several improvements were made this summer including new flashing radar speed signs on Military West, high visibility crosswalk installed at Denfield, new sidewalk on West 11<sup>th</sup> Street and new roadside benches. The proposed project includes a new traffic signal at West 11<sup>th</sup> Street, a road diet with on-street parking, pedestrian crossing enhancements, internal circulation improvements, bus shelter and median and roadside landscaping.

Michael presented an animated computer model of both current traffic patterns and those with the proposed improvements in place.

Sgt. Hartig stated that the Police Department will enforce traffic laws for both vehicles and pedestrians, working with the Benicia High School to improve compliance.

Next steps will be to begin the final design work and the cost estimate, with construction scheduled to begin next summer.

Another update will be presented in January 2009 with another workshop scheduled at the Benicia High School soon after. (For further detail, see report included in the committee agenda packet.)

Michael Throne answered questions from Committee Members and members of the public.

Members of the public voiced both their support and concerns about traffic in this area. Stan and Cecile McNulty's letter about speed limits on Military West was read.

## V. ACTION ITEMS

1. Traffic Safety in the Vicinity of Mary Farmer Elementary School (Mike Roberts)  
Mike summarized the written report and passed out exhibits to the committee and members of the public.

Susan Sullivan, Principal of Mary Farmer Elementary School summarized the safety problem on Drolette. The school now has 2 additional kindergarten classes and the release times are very close to those of the Benicia High School. The Drolette side of the school is now being used as much as the front entrance to the school, creating safety problems with vehicles and children when being dropped off or picked up.

### Public Comments:

Anna Miller: In favor of additional crosswalk and crossing guard. Willing to give up parking spaces to trade for bus drop off area.

Resident who lives on Corrigan Ct spoke in favor of larger, more visible stop signs, removable speed bumps or dots. Also in favor of a pedestrian walkway over Drolette.

Susan Sullivan: Wants to see the Safe Routes to School Audit recommendations put in place. Also wants a loading zone on Drolette, moving buses from where they drop off now. In favor of hiring a crossing guard.

Motion made by Dan Schiada, seconded by Tom Campbell. Adopted by a 5-0 vote.

### Short Term Measures:

1. Enforcement: additional Police enforcement for illegal turning, j-walking and illegal parking on Drolette Way.
2. Engineering: verify that Drolette is marked as a school zone; pursue converting turnout on Mary Farmer Drive back to a bus drop-off and loading zone, including signs and markings; enhance stop signs at

Corrigan Ct at Drolette and Gotelli Ct; add 2 “no u-turn” signs on Drolette; extend the double yellow line off intersections.

3. Education: Ask BUSD to hire another crossing guard for this location to control loading/unloading activity and educate parents/children about changes.

Staff to share this information at the next City Council/School Board Liaison meeting and recommend a school time adjustment to address the traffic congestion/conflicts with the BHS and Mary Farmar.

Recommend that the City fund short term improvements within existing funds.

Long Term Measures:

1. Continue to work with Mary Farmar School and their Safe Routes to School Program.

On-going funding sources to be included as part of the CIP for the next two-year budget cycle 09/11.

Pedestrian bridge maintenance items (graffiti removal and holes in the fence) will be directed to the PW Maint for scheduling. Engineering staff will look at re-stripping the driveway, splitting right turn from left-turns at Mary Farmar Drive.

2. Review of the Preliminary Draft Transportation Projects for the Capital Improvement Program. (Mike Roberts).

Mike summarized his written report.

Mark Hughes: How were these projects selected for the list?

Michael Throne: Every two years staff reviews the 20-year list of projects and prioritizes them. We look at funding and the need for funding and how they plug into our two-year CIP. All departments develop a list of projects. Staff recommends what we can do with what funds are available and are there other projects we should consider from a TPBS standpoint? Projects are prioritized based on safety, mandated, quality of life/adds to culture and funding available.

Motion made by Dan Schiada and seconded by Tom Campbell. Adopted by a 5-0 vote.

The Traffic Pedestrian and Bicycle Safety Committee supports recommendation of the Capital Improvement Project List as presented by staff, with the addition of the separate identified projects for each school site, consistent with the Safe Routes to School audits and follow-up improvements to streets impacted by the Benicia High School Traffic Signal and Entrance Circulation Improvement Project.

**DRAFT**

**VI COMMUNICATION FROM STAFF (none)**

**VII. ADJOURNMENT at 9:45 pm**

Respectfully submitted,

Kathy Trinke  
Public Works Department  
Administrative Secretary



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009

**TO** : Vice Mayor Campbell  
Council Member Hughes

**FROM** : City Manager

**SUBJECT** : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP**

The following information is provided for your committee report at the January 20, 2009 Council meeting.

The next meeting of the Tri-City and County Citizens Advisory Committee (CAC) is scheduled for Wednesday, February 18, 2009. A final meeting agenda packet for that meeting is unavailable at this time. This meeting may turn into a joint meeting with the Governing Board since the Board's last scheduled meeting on Dec 8th was canceled due to lack of quorum.

Newly elected County Supervisor, Linda Seifert, will replace Supervisor Jim Spering as the County's representative on the Tri City and County Cooperative Planning Group's Governing Board.

Parks and Community Services Director Mike Alvarez may attend a future meeting of the Governing Board to present and discuss Benicia's park planning goals and policies. This has not yet been confirmed, but once the Board, and possibly the CAC, decides if and when they want a presentation, City staff will coordinate all the details with Mr. Alvarez.

Dale Fredericks with DG Power in Walnut Creek is requesting the Governing Board's review of a power plant that exceeds 50MW output. Permitting authority for this type of facility would be with the California Energy Commission (CEC). The proposed location is in Lynch Canyon and Tri-City members have concerns related to its location, impact on trails and open space amenities. There's been staff discussion about the process, since it's within the County's jurisdiction, and there is a Joint Powers Authority (JPA). Another question that has come up is what is the specific role of the CEC? More information will be known soon as it pertains to this important issue. It is staff's best guess that this issue will be on the CAC agenda for Feb 18th.

The next meeting of the Governing Board is tentatively scheduled for Monday, March 9, 2009. A final meeting agenda packet for that meeting is unavailable at this time.

**X-B-11-1**



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009  
**TO** : Council Member Hughes  
**FROM** : Steve Vucurevich, Fire Chief  
**SUBJECT** : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the January 20, 2009 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The last CAP meeting was on Thursday, Sept. 25, 2008. The next meeting date is set for January 29, 2009.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 13, 2009

**TO** : Mayor Patterson  
Council Member Mike Ioakimedes  
Council Member Schwartzman

**FROM** : Youth Action Coalition

**SUBJECT** : **YOUTH ACTION COALITION**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

There has not been another Coalition meeting since the report from the December 3, 2008 meeting. There was a sub-committee meeting on December 18, 2008 to review the recent Healthy Kids Survey.

The next meeting of the Youth Action Coalition is Wednesday, January 28, 2009 at 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available.



**AGENDA ITEM**  
**CITY COUNCIL MEETING: JANUARY 20, 2009**  
**COUNCIL MEMBER COMMITTEE REPORTS**

**DATE** : January 14, 2009  
**TO** : City Council  
**FROM** : Mayor Patterson  
**SUBJECT** : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The following information is provided for your committee report at the January 20, 2009 City Council meeting.

The January meeting of the Water Forum has been cancelled. The next meeting is scheduled for February 23, 2009.

**Anne Cardwell - January BAWF Cancellation Notice**

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**From:** "Charlotte Chorneau" <cchorneau@ccp.csus.edu>  
**Date:** 1/13/2009 11:09 AM  
**Subject:** January BAWF Cancellation Notice

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Good Morning BAWF Members,

**The January Bay Area Water Forum Meeting has been cancelled.**

The next BAWF meeting will be Monday, February 23<sup>rd</sup> from 10 AM – 12:30 PM.

Please let me know if you have any questions.

Thank you.

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**Charlotte Chorneau**  
Public Outreach Coordinator  
Sacramento State University,  
Center for Collaborative Policy  
Main: 916.445.2079  
Fax: 916.445.2087  
Direct: 916.341.3332  
Give more, consume less.

**X-B-14-2**