



**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

AMENDED

**City Council Chambers
February 05, 2013
7:00 PM**

*Times set forth for the agenda items are estimates.
Items may be heard before or after the times designated.*

Please Note:

**Regardless of whether there is a Closed Session scheduled for 6:00 pm,
the open session will begin at 7:00 pm.**

I. CALL TO ORDER (6:00 PM):

II. CLOSED SESSION (6:00 PM): **CANCELED**

A. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: City Manager, City Attorney, Senior Managers,
Benicia Middle Management Group, Local 1, Benicia Public Service
Employees' Association (BPSEA), Benicia Police Officers Association (BPOA),
Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA),
Police Management, Unrepresented.

III. CONVENE OPEN SESSION (7:00 PM):

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

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

2. Openings on Boards and Commissions:

Art and Culture Commission
1 unexpired term
2 full terms
Open Until Filled

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.

4. Benicia Arsenal Update: Included in Packet

B. PROCLAMATIONS.

C. APPOINTMENTS.

1. Reappointment of Constance Beutel to the Community Sustainability Commission for a four year term ending January 31, 2017.
2. Reappointment of Michael T. Clarke to the Finance Committee for a four year term ending January 31, 2017.
3. Reappointment of Fred Deltorchio to the Civil Service Commission for a four year term ending January 31, 2017.
4. Reappointment of Carol Langford to the Open Government Commission for a four year term ending January 31, 2017.
5. Appointment of David Lindsay to the Planning Commission for a four year term ending January 31, 2017.

6. Appointment of Kathy Griffin to the Finance Committee for a four year term ending January 31, 2017.
7. Appointment of Gethsemane Patton to the Arts and Culture Commission for a four year term ending January 31, 2017.
8. Appointment of Michael Pretzer to the Uniform Code of Appeals for a four year term ending January 31, 2017.
9. Reappointment of Donna Worthington to the Human Services Board for a four year term ending January 31, 2017.
10. Appointment of Stephen Young to the Planning Commission for a four year term ending January 31, 2017.

D. PRESENTATIONS.

1. Solano County Regional Traffic Impact Fee Program and Benicia's Priority Projects.

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 (7:45 PM):

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 THE MINUTES OF JANUARY 15, 2013. (City Clerk).**
- B. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE REGARDING THE PURCHASING SYSTEM IN CHAPTER 3.08 OF TITLE 3. (Finance Director)**

On January 15, 2013, City Council introduced and conducted the first reading and public hearing of an ordinance to amend the purchasing system. The proposed action is the second reading and adoption of the ordinance.

Recommendation: Adopt an ordinance to amend the purchasing system in Chapter 3.08 retitling the chapter to Purchasing Regulation and amending purchasing procedures concerning the procurement of supplies, and equipment.

- C. SECOND READING AND ADOPTION OF AN ORDINANCE MAKING COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL. (City Attorney)**

This ordinance will require anyone engaging in any business, activity, or act for financial compensation in any of the City's park facilities to obtain a permit from the City. The Council introduced this ordinance at their January 15, 2013 meeting.

Recommendation: Adopt the ordinance adding a new section 12.28.040 (Commercial Use of Park Facilities Without Permit Unlawful) to Chapter 12.28 (Use of City Parks) to prevent commercial use of city parks without a permit.

- D. DENIAL OF THE CLAIM AGAINST THE CITY BY CLAYTON RUSHING AND REFERRAL TO INSURANCE CARRIER. (City Attorney)**

Claimant alleges that a large crack/pothole in road needs to be fixed or patched. Claimant states that it caused his tire to blow out and caused concern for suspension damage.

Recommendation: Deny the claim against the City by Clayton Rushing.

- E. DENIAL OF THE CLAIM AGAINST THE CITY BY THERESA FITCH AND REFERRAL TO INSURANCE CARRIER. (City Attorney)**

Claimant alleges that the sidewalk on First Street was uneven, part of it was higher than the other, and she tripped and fell. Claimant asserts that both knees were cut and bruised and her right knee was injured.

Recommendation: Deny the claim against the City by Theresa Fitch.

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

VIII. BUSINESS ITEMS (8:00 PM):

- A. UTILITY AGREEMENT AND EASEMENTS FOR THE RELOCATION OF THE CITY'S WATERLINE NECESSITATED BY THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD. (Public Works Director)**

The Solano Transportation Authority (STA), in cooperation with the California Department of Transportation (Caltrans), is implementing the first construction package for the I-80/I-680/SR12 interchange in Fairfield. Construction on this \$65M in improvements is scheduled to begin this Fall. As the first order of work, a 1,010 foot segment of Benicia's 30-inch water supply line must be relocated to accommodate the freeway expansion. STA and Caltrans have determined that pursuant to Caltrans right of way policy Benicia is liable for the full \$417K cost of the relocation. City staff is in the process of reviewing right of way and legal documents. Staff is also in communication with Vallejo which is disputing the liability for the relocation of their parallel facility as well. Staff is also in negotiations with STA, of which both Benicia and Vallejo are member agencies. At this time STA is requesting the City approve a Utility Agreement disputing responsibility for the relocation so that the project can proceed without delay while negotiations on the relocation costs continue.

**Recommendation: Adopt the following Resolutions:
Approving a Utility Agreement disputing the liability for the relocation of Benicia's water supply line necessitated by the I-80/I-680/SR12 interchange improvement project near Fairfield; and
Accepting easements for the new waterline alignment.**

- B. RESOLUTION SUPPORTING REDUCING GUN VIOLENCE. (City Attorney)**

As a result of the tragedy at Sandy Hook Elementary, there is renewed attention to the issue of guns and the prevention of gun violence. Congressman Mike Thompson chairs the Congressional Gun Violence Prevention Task Force. The task force will examine the president's proposals and the proposals of others. This is an opportunity to provide support.

Recommendation: Adopt a resolution expressing support for the Congressional Gun Violence Prevention Task Force proposals to reduce gun violence.

C. CHANGING THE DATE OF MUNICIPAL ELECTIONS FROM ODD NUMBERED YEARS TO EVEN NUMBERED YEARS AND EXTENDING THE TERM OF THE COUNCIL MEMBERS. (City Attorney)

Changing the date for the municipal elections would save the City money and may increase voter turnout.

Recommendation: Either direct staff to draft an ordinance to change the date of municipal elections to November 2014 and subsequent even number years or keep the odd year election date so that council members would be elected in November of 2013.

IX. ADJOURNMENT (10:00 PM):

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 or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, 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 the 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 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. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

CITY COUNCIL MEETING
BENICIA ARSENAL UPDATE

February 5, 2013

1. The working group for the Arsenal project met on January 14, 2013. The next working group meeting is scheduled for March 11, 2013.
2. Research on the City's insurance policies continues.
3. Please sign up for the email list if you want to be notified of updates.
4. Work continues on developing the strategy and gathering information. If you have any information that you believe is relevant, please get it to the City Attorney. We are continuing to upload pertinent documents to the Benicia web site.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF CONSTANCE BEUTEL TO THE SUSTAINABILITY COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Constance Beutel to the Sustainability Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

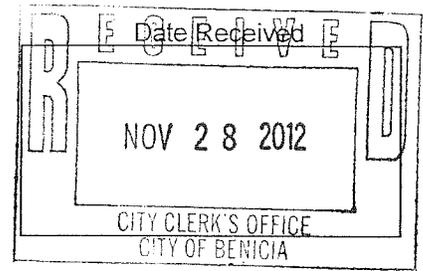
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Constance M. Beutel, Ed.D

Address: _____

Phone: (Work) 707 746 0561 (Home) ← same

(Cell) NA Fax: _____

Email: cmbbeutel@sbcglobal.net Years as Benicia resident: 23

Occupation/Employer: University Professor, Union Institute & University

Please note your most recent community or civic volunteer experience: _____

Community Sustainability Commission, BERT, BARC

Please describe any applicable experience/training: Exec Dir. Buckminster

Fallen Institute & Board member, Teaching a Doctoral level Ed &

All applications are considered public records and will be retained in an active file ^{sustained} for at least one year from date of receipt. _{current commission}

Signature: Constance M. Beutel, Ed.D Date: 11/28/2012



Community Sustainability Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission?

I Am passionate about sustainability from all aspects: Social, Economic & Environmental. Benicia is in the forefront of sustainable efforts.

2. Please describe any background or experience you may have in one or more of the following areas: (1) water quality, (2) water use efficiency and conservation; (3) air quality; (4) local and regional ecology; (5) energy; (6) mobility; (7) land use/stewardship; (8) green site planning and building; (9) waste management; (10) community and regional economics/finance; (11) social justice; (12) public relations, and/or, (13) local based business management (merchants, etc):

I have researched & written extensively on all these topics (re: Benicia Herald weekly article "Crew member Report: Benicia, Ca. Space Ship Earth". I organized/initiated & chaired the Benicia Cleantech Expo 2012 (Nov 2-3, 2012). I led efforts on all the educational efforts - see attached report

3. Have you read the City's Climate Action Plan? What aspects of this plan do you find important and why?

Yes, thoroughly and I have created an educational presentation on the CAP which I presented to the CSC Report, Arts & Culture Commission, EOB, & others. Aspects most important: Reduction of GHG especially in the Energy segment.

4. How do you see the Community Sustainability Commission supporting sustainability and climate protection planning in the Benicia community?

By following its purpose statement to advocate & educate sustainable efforts for the benefit of Benicia, Benicians & its commercial/industrial sector.

Please limit each response to 250 words and attach separately, if necessary

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF MICHAEL T. CLARKE TO THE FINANCE COMMITTEE FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Michael T. Clarke to the Finance Committee by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

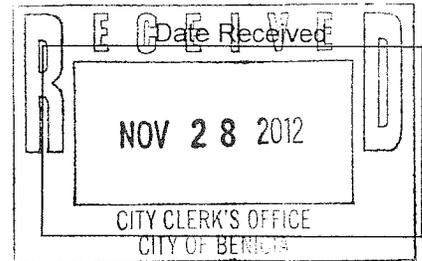
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Michael T. Clarke

Address: _____

Phone: (Work) — (Home) 707-745-8842

(Cell) 707-315-1300 Fax: —

Email: clarke_m@sbcglobal.net Years as Benicia resident: 26

Occupation/Employer: Retired

Please note your most recent community or civic volunteer experience: _____

Member, Finance Committee

Please describe any applicable experience/training: Assitant Treasurer,

Pacific Service Employees Credit Union (PG&E)

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Michael J. Clarke Date: 11/28/2012



Finance Committee Supplemental Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about serving on the Finance Committee? Please describe your familiarity with the Committee.
2. Please list current and past volunteer positions.
3. Participation on this Committee involves supporting the Finance Committee in a number of venues. These include: attending monthly Finance Committee meetings and sometimes appearing at City Council meetings. Do you feel you have the time and commitment to be a viable member of this committee?
4. If you could achieve one goal during your term as an Finance Committee member, what would it be?
5. Is there anything else you would like to share with us regarding your qualifications and/or interests?

**Finance Committee Supplemental Application
for Michael T. Clarke
November 28, 2012**

Q1. I am interested in helping to ensure the ongoing fiscal health of the city of Benicia. I am currently a member of the committee.

Q2. I am currently a member of the Finance Committee. In the past, I served as:

- Member of the steering committee for two school bond issues (BUSD)
- President of the North Bay YMCA Board of Managers
- Nation Chief for the North Bay YMCA Indian Guides
- Vice-President of the Benicia Stingrays
- Member of the Benicia Education Foundation

Q3. Yes.

Q4. Implement a long-range budget model for the city that incorporates the following guiding principles:

- Minimum 10-year time horizon
- Understandable by Finance Committee members and other lay persons
- Linked to General Fund budget model
- Consistent with Comprehensive Annual Financial Report (CAFR) Statement of Revenues, Expenditures, and Changes in Fund Balances
- Includes Enterprise Funds (Water Utility, Wastewater Utility, and Marina) as well as General Fund and inclusive of all financial activities, such as the present value of future pension and medical benefits currently accrued.
- Includes growth rates for expense categories as well as revenue categories "by department" as well as overall, as appropriate.
- Easy to update and updated at least annually
- Summarized by department then by category within department
- Assumptions and data sources appear as footnotes on same page as line items
- Presented to Finance Committee and City Council annually

Q5. I served as Assistant Treasurer for the Pacific Service Employees Credit Union while employed by PG&E.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF FRED DELTORCHIO TO THE CIVIL SERVICE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Fred Deltorchio to the Civil Service Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

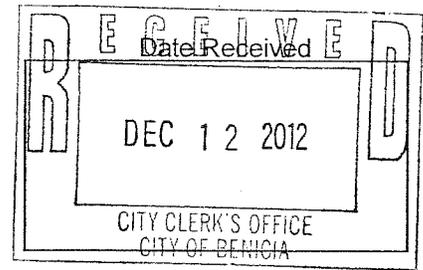
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: FRED DELTORCHIO

Address: _____

Phone: (Work) RETIRED (Home) 747-9182

(Cell) (707) 853-1024 Fax: NONE

Email: freddeltorchio@ Years as Benicia resident: 20

Occupation/Employer: 4andc.com RETIRED

Please note your most recent community or civic volunteer experience: BENICIA LITTLE

LEAD BOARD MEMBER 2012, CLASSROOM VOLUNTEER MARY FARMAR SCHOOL, SMALL CLAIMS PRO TEM JUDGE - VALLEJO

Please describe any applicable experience/training: _____

29 1/2 YEARS PUBLIC EMPLOYEE - 18 BENICIA 11 1/2 MENDOTA

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: [Handwritten Signature] Date: 12/11/12

Lisa Wolf
City Clerk, City of Benicia
250 East L Street
Benicia, CA 94510

December 11, 2012

SUBJECT: **Application for Reappointment to the Civil Service Commission**

Dear Lisa,

I received your recent letter on this subject and you will find my completed application for reappointment to the Benicia Civil Service Commission enclosed. I wish, by way of this letter, to answer the questions listed on the attachment to the application form.

1. *What interest you about this commission?*

As a former Benicia city employee and current Benicia resident I have great interest in the city hiring, promoting and retaining the best quality employees to serve our community. As a current city government employee I also believe it is important to reduce unnecessary turnover in city staff, as recruitment and termination are both costly endeavors and money for local governments is at a low point. By assisting the city in the selection and promotion of the best-qualified employees, cost savings can be realized in both areas. The above factors all can contribute to better government services, at the lowest cost for Benicia residents like me.

2. *Do you have any experience in the area of human resources, employee relations, and/or supervising/managing employees or programs?*

As a retired police chief and interim city manager for the City of Hercules, I worked closely with my city's human resources director and her staff. I had an active role in the recruitment and hiring of all police staff. I also had the misfortune of having to reduce Hercules from an operating general fund of over 16 million dollars to less than 12 million dollars in less than six months. This required extensive employee layoffs, early retirements, and renegotiation of existing labor agreements.

3. *What knowledge and skills could you bring to the City of Benicia if appointed to this commission?*

Along with the knowledge and experience described in my previous answer I also bring over ten years of experience as a member of this commission and three years as its chairperson. I have established positive and productive working relationships with all other commissioners and city human resources staff.

In closing I would like to add that I am very excited and optimistic about continuing my service to the city. I would like to continue to be a part of the positive change already underway.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Deltorchio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Fred Deltorchio

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF CAROL LANGFORD TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Carol Langford to the Open Government Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

Noes:

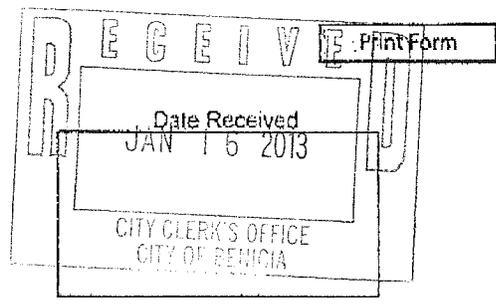
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

reapp



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: CAROL LANGFORD

Address: _____

Phone: (Work) _____ (Home) 707-747-4700

(Cell) _____ Fax: _____

Email: langford@ustcp.edu Years as Benicia resident: 10

Occupation/Employer: LAW OFFICE OF CAROL LANGFORD

Please note your most recent community or civic volunteer experience: _____

Open Govt.

Please describe any applicable experience/training: _____

ETHICS LAW

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: [Signature] Date: 1-17-13

U.C.
Berkeley
Boalt
Hall
College
of
Law



Open Government Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Opening Government Commission?

The various potential ethics issues

2. What are your expectations for this Commission and how do you see your role on the Commission?

I expect that we will respond when issues arise

3. This Board meets quarterly, typically on a ^{Monday} ~~Tuesday~~ evening. Currently the meetings begin at 5:00 pm. In addition, there may be several special meetings of the commission and/or subcommittees during the year. Do you feel you have the time and commitment to be a viable member of this Commission?

I can meet on Monday but I teach Tues. evenings.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF DAVID LINDSAY TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of David Lindsay to the Planning Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

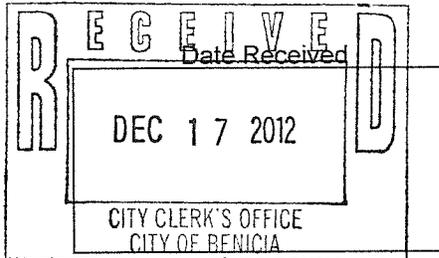
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: David Lindsay

Address: _____

Phone: (Work) 707-297-6146 (Home) 707-747-5205

(Cell) 847-224-3775 Fax: _____

Email: DALindsay16@gmail.com Years as Benicia resident: 5

Occupation/Employer: chemical engr. / Honeywell

Please note your most recent community or civic volunteer experience: volunteer math/science tutor for BMS, BHS (since 2007), Solano Land Trust (since 2010), Board President of UU Fellowship of North Bay (2010-12)

Please describe any applicable experience/training: _____

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: David A. Lindsay Date: 12/17/2012



Planning Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? Have you attended a Planning Commission meeting? If so, when?

I want to learn more about and provide input for the issues that affect the quality of life in Benicia. I haven't attended a Planning Commission meeting, but I have attended a couple of Council meetings where issues of development and sustainability were discussed.

2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to planning. Do you feel you have the time and commitment to be a viable member of this Commission?

Yes. There may be occasional conflicts with work-related travel that prevent me from attending some meetings/events, but I don't anticipate the frequency will prevent me from being an active, viable member.

3. Is there a particular segment of planning and development that interests you more than others?

I have a strong interest in sustainable development, which is an underlying value of the General Plan. I'm also an avid bicyclist and hiker and am concerned about bicycle access and potential new hiking trails in the open areas. Other areas of interest include diverse economic development and low-income housing options

4. Why do you think planning needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of planning that needs to be expanded at this point? How does zoning reinforces the goal of the General Plan?

The qualities of Benicia: open space, small-town feel, unique downtown, etc. are the reasons most of us chose to live here. Planning and zoning are safeguards that ensure that the value of this community is maintained and enhanced. Zoning policies in terms of open space and housing density, etc. ensure that we don't compromise our values. One area where additional planning may be required is economic development. The city is very dependent on the refinery and supporting industries. The refinery may close some day. The city needs more economic diversity with a range of job opportunities to maintain a secure economic footing in the future.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF KATHY GRIFFIN TO THE FINANCE COMMITTEE FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Kathy Griffin to the Finance Committee by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

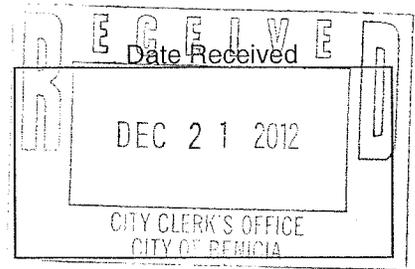
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Kathy Griffin

Address: _____

Phone: (Work) _____ (Home) 745-3620

(Cell) 319-2249 Fax: _____

Email: Kgrif297@comcast.net Years as Benicia resident: 42

Occupation/Employer: Kgrif 297 @ Comcast.net RETIRED

Please note your most recent community or civic volunteer experience: I

HAVE BEEN AN ACTIVE MEMBER OF COMMUNITY AND PARTICIPATE IN MANY ACTIVITIES

Please describe any applicable experience/training: I HAVE BEEN A

BOOKKEEPER SINCE I WAS 18.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Kathy Griffin Date: 12/21/12



Finance Committee Supplemental Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about serving on the Finance Committee? Please describe your familiarity with the Committee.
I WAS APPROACHED BY A FEW MEMBERS OF COMMUNITY URGING ME TO APPLY. OVER THE YEARS I THOUGHT THAT I WOULD LIKE TO CONTRIBUTE, NOW THAT I AM RETIRED I HAVE THE TIME.
2. Please list current and past volunteer positions.
TREASURER - Soroptimist
CURRENT FAMILIES IN TRANSITION
BENICIA HISTORICAL SOCIETY
PAST MEMBER BENICIA HUMAN SERVICES BOARD
(SERVED AS CHAIR)
3. Participation on this Committee involves supporting the Finance Committee in a number of venues. These include: attending monthly Finance Committee meetings and sometimes appearing at City Council meetings. Do you feel you have the time and commitment to be a viable member of this committee? *YES*
4. If you could achieve one goal during your term as an Finance Committee member, what would it be? *TO BE A CONTRIBUTING MEMBER OF A COMMITTEE THAT I BELIEVE IS AN IMPORTANT PART OF CITY.*
5. Is there anything else you would like to share with us regarding your qualifications and/or interests?

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF GETHSEMANE PATTON TO THE ARTS AND CULTURE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Gethsemane Patton to the Arts and Culture Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

Noes:

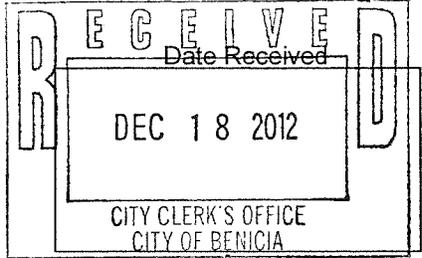
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Hand Delivered Print Form



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Gethsemane Patton

Address: _____

Phone: (Work) 707-399-4429 (Home) 707-297-6822

(Cell) 707-332-4481 Fax: 707-863-4174

Email: gethsemanepatton@comcast.net Years as Benicia resident: 6 months permanently

Occupation/Employer: Administrator, Program Manager of Instructional Support & Professional Deve - see attached

Please note your most recent community or civic volunteer experience: _____
For the past 19 years I have served in the capacity of chairperson and participating member for my Sorority. Our focus has been to provide scholarships for college, health, education, and economic _____

Please describe any applicable experience/training: _____
I am a former Chairperson for my sorority's Arts & Letters Committee (arts and culture initiative), I've worked on Motion Pictures & Music Video Productions, I worked for musician MC Hammer for two years.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: *Gethsemane Patton* Date: 12/17/12



Arts and Culture Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission?

I have a solid background in the arts. As a resident I want to be involved in the community and I believe that this would be a perfect way for me to give back in the areas I am passionate about. My children have been attending school in Benicia for the past three years and I have decided to make this my permanent place of residency.

2. Please describe any background or experience you may have in the arts (e.g., visual arts, cultural and/or performing arts, etc.)?

I have performed, directed, and written in several plays. Upon graduating from Howard University I had the opportunity to study acting at the Marla Gibbs school of performing arts in Los Angeles. I also worked in the music industry (for MC Hammer) for two years. I worked on the Hudlin brothers film 'HouseParty'. I taught acting to youth, ages 5 to 17 through a recreational community program.

3. Are you currently on any other City boards or commissions, and/or on the board of other organized arts or cultural groups? (The ordinance establishing this commission indicates that members shall not be on other city boards or commissions or a board member of other organized arts or cultural groups.)

No. I am not on any other board or commission nor do I hold any position on any other organized arts or cultural group.

4. How do you see the Arts and Culture Commission supporting arts and culture in the Benicia community?

I believe that the Arts and Culture Commission is one way to bring our community together. The Arts and Culture Commission can provide a structured platform for showcasing talent as well as help to educate the community about art in its many forms.

Gethsemane Patton (Attachment for page 1)

Occupation/Employer

Administrator, Program Manager of Instructional Support & Professional Development:
Solano County Office of Education

Please note your most recent community or civic volunteer experience:

For the past 19 years I have served in the capacity of chairperson and participating member for my Sorority. Our focus has been to provide scholarships for college, health, education, and economic awareness, as well as provide workshops for youth and women throughout Solano County. Our efforts have also been on an international scale which has been to work towards educational efforts and restoration in Haiti. Some specific community events have been: Academies for girls ages 14-18 (focusing on specific educational projects) , sending specific items to Haiti (glasses, toiletries). As a member of Jack & Jill of American (a mother's group), our community efforts include an annual coat drive for underprivileged youth, and working with some of the Women's shelters in the county by providing clothing and toiletries.

Please describe any applicable experience/training:

I am a former Chairperson for my sorority's Arts & Letters Committee (arts and culture initiative), I've worked on Motion Pictures & Music Video Productions, I worked for musician MC Hammer for two years in the Artist & Repertoire Division, I have performed, directed, and written several plays (many performed locally)(I was also nominated for an Arty' for lead actress) , I have chaired and participated on a variety of councils both non-profit and as an educator, and currently I oversee the Solano County Office of Education's Visual and Performing Arts Council. I have been a teacher and current administrator in Solano County for the past 14 years.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF MICHAEL PRETZER TO THE UNIFORM CODE BOARD OF APPEALS FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Michael Pretzer to the Uniform Code Board of Appeals by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

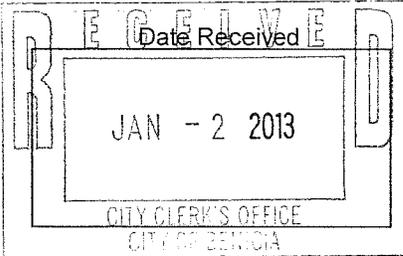
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Michael Pretzer

Address: _____

Phone: (Work) _____ (Home) 707-746-0899

(Cell) 707-321-8383 Fax: _____

Email: pretzeris@sbcglobal.net Years as Benicia resident: 29

Occupation/Employer: Retired Investigator/Solano Co. District Attorney

Please note your most recent community or civic volunteer experience: _____

Benicia P.D. volunteer

Please describe any applicable experience/training: _____

Investigated unlicensed contractors while working consumer affairs in DA' Office

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: *Michael Pretzer* Date: 12/27/2012



Uniform Code Board of Appeals Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? What do you see as its primary function?

To investigate why a citizen of Benicia was denied a permit to build add-ons or new structures.

2. What experience/training do you have that qualifies you to judge matters pertaining to building construction?

None to judge, but years of experience to investigate.

3. What is your level of familiarity with the Uniform Code or California Code?

Which codes do you mean, Penal Code, Government Code or Building Codes? I am very familiar with the ability to research information from legal documents and make conclusions based on my findings.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF DONNA WORTHINGTON TO THE HUMAN SERVICES BOARD FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Donna Worthington to the Human Services Board by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

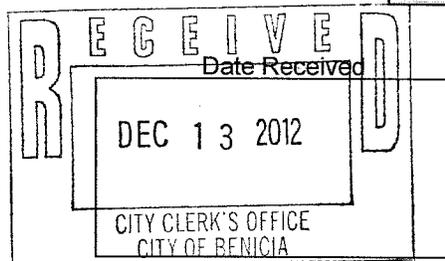
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
Benicia Housing Authority Board of Commissioners
Board of Library Trustees
Civil Service Commission
Economic Development Board
Finance, Audit & Budget Committee
Historic Preservation Review Commission
Human Services & Arts Board (checked)
Open Government Commission
Parks, Recreation & Cemetery Commission
Planning Commission
Sustainability Commission
Sky Valley Open Space Committee
Uniform Code Board of Appeals

Name: Donna C. Worthington

Address:

Phone: (Work) n/a (Home) 707-746-5245

(Cell) 510-504-5678 Fax: n/a

Email: dcworthington@sbcglobal.net Years as Benicia resident: since 2004

Occupation/Employer: Employer: Studio 41

Please note your most recent community or civic volunteer experience:

I have been a member of the Human Services Board since April 2010

Please describe any applicable experience/training:

2 yrs. w/ Human Services Bd; 8 years Executive Secretary, Evelyn & Walter Haas, Jr. Fund; 8 yrs. Academy of Sciences - 4 of those yrs. spent in Development - so understand being a grantor & grantee.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Donna C Worthington Date: 12/15/12



Human Services & Arts Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services & Arts Board meeting? If so, when?

I have been privileged to be a part of this Board for the past two years. It is a committed group of individuals who wish to see that members of our community have good lives and thrive. I have also seen the dedicated work of the non-profits that the Board funds. These non-profits do fine work to make sure those who come to them get the assistance they need. I would love to be given the chance to be reappointed to the Board, so I can continue to play a role in this important work for the City of Benicia and its citizens.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

Yes, I will make time and be committed to the work of this board.

3. Is there a particular segment of human services and/or arts that interests you more than others?

Through my employment with the Evelyn & Walter Haas, Jr. Fund, (a major Bay Area family foundation that distributes grants and then follows the work of the non-profits), I believe this past work experience is a perfect match with the work of the Human Services Board.

4. Why do you think human services and/or arts needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services and/or arts that needs to be expanded at this point?

Benicia is a wonderful community. But as special as it is, there are many residents who live on the edge, especially during these continued difficult economic times. Fortunately, Benicia has many non-profits that work tirelessly to make people's lives better. Through the City's funding and the Human Services Board, these non-profits can continue their fine work. With that, the City is stronger.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF STEPHEN YOUNG TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Stephen Young to the Planning Commission by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of February 2013 and adopted by the following vote:

Ayes:

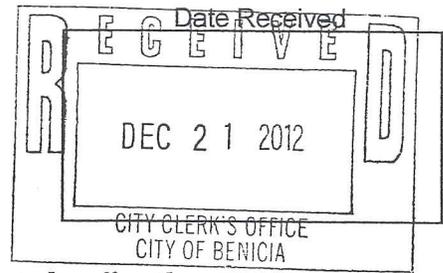
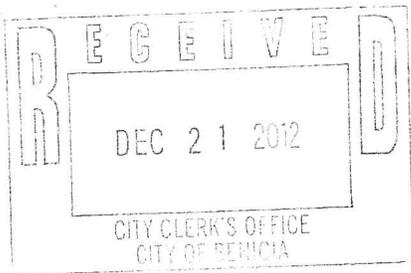
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Stephen Young

Address: _____

Phone: (Work) _____ (Home) _____

(Cell) 510-599-4391 Fax: _____

Email: escawyoungs@gmail.com Years as Benicia resident: 1/2

Occupation/Employer: Retired

Please note your most recent community or civic volunteer experience: Leading English conversation group w/ English learners

Please describe any applicable experience/training: 30 years experience directing and managing municipal government programs in planning, development and housing
All applications are considered public records and will be retained in an active file for at least one year from date of receipt. community development and housing

Signature: [Signature] Date: 12/21/12

Stephen Young



Planning Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Commission? Have you attended a Planning Commission meeting? If so, when?

While I have not attended a Commission meeting in Benicia, I attended numerous Planning Commission meetings in Sacramento. Planning Commission is second only to Council in influencing future of the city.
2. Participation on this Commission involves monthly meetings, periodically special meetings, and possibly attending community events related to planning. Do you feel you have the time and commitment to be a viable member of this Commission?

As a retired person, I have sufficient time to review agendas and attend meetings.
3. Is there a particular segment of planning and development that interests you more than others?

Housing and commercial development
4. Why do you think planning needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of planning that needs to be expanded at this point? How does zoning reinforces the goal of the General Plan?

The Planning Commission, as penultimate level of review, is a critical step in reviewing and assessing development proposals. Benicia seems to have done an excellent job in developing and preserving the community, primarily through municipal investment and close adherence to zoning regulations.



Regional Transportation Impact Fee (RTIF) Update

Developing a Nexus Study and a Fee Program

City of Benicia, City Council Meeting
February 5, 2013



Overview

- ▶ Why Develop a RTIF for Solano County?
 - Solano County's Growing Transportation Challenges
 - Limited Projected Regional, State, and Federal Funding for only a few Projects

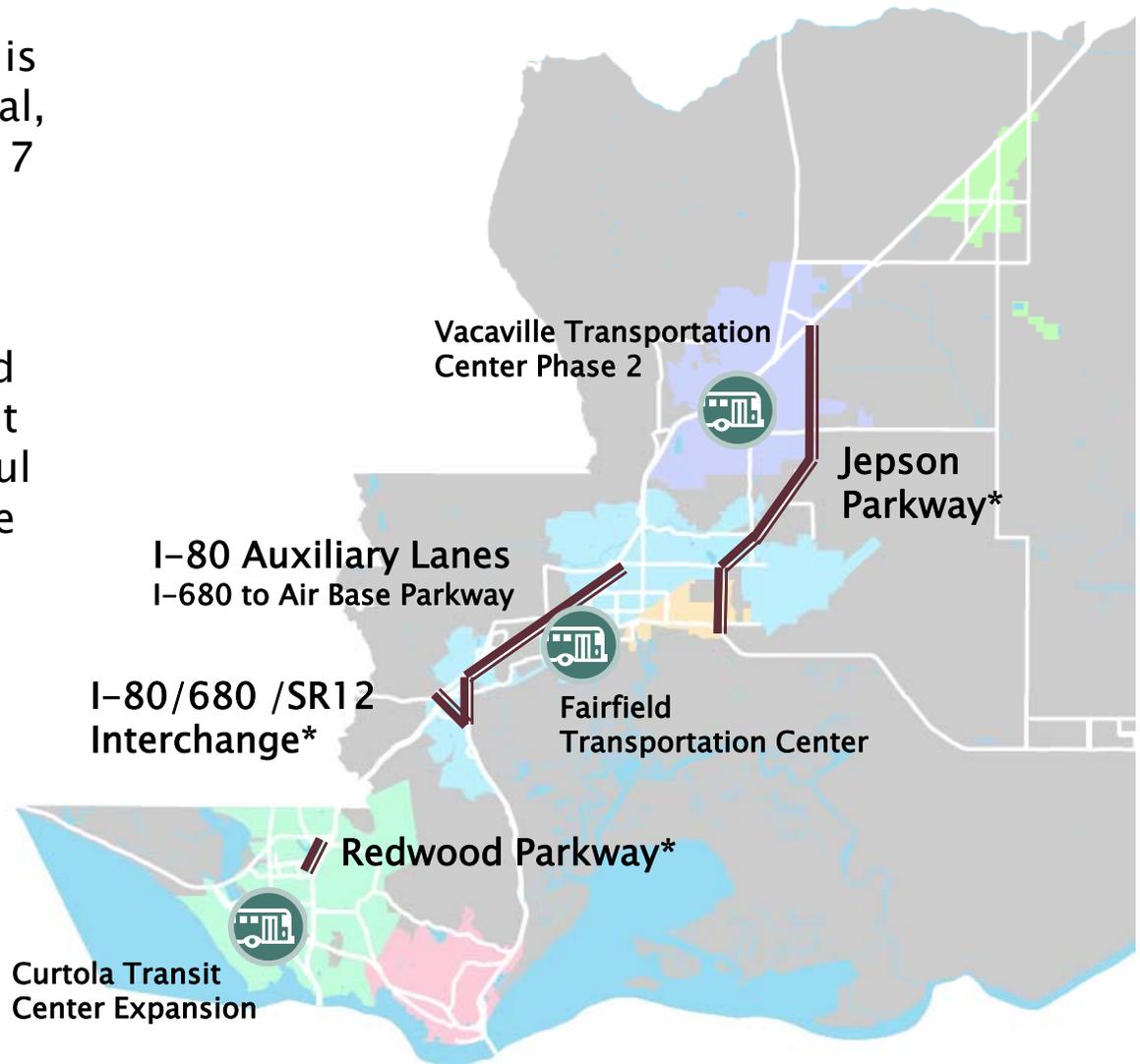
- ▶ What is a RTIF and what can it do?
 - Impact Fee basics & limitations

- ▶ How is it being developed?
 - Three committees: Technical, Stakeholder, and Policy
 - Coordination with County of Solano Public Facility Fee Nexus Study



Why Develop a RTIF for Solano County?

- ▶ Over the next 30 years, there is only enough projected regional, state, and federal funding for 7 new countywide projects.
- ▶ An increasing demand for “regional” mobility and limited funding have narrowed the list of funded projects to a handful of regional projects across the county.
- ▶ Other projects identified through other studies or by member agencies cannot compete for limited future funding, despite their local necessity for “regional” mobility.



* Assumes local partners contribute 50% of project costs through the STA's 50/50 policy.



What is a Regional Transportation Impact Fee?

- ▶ **What is an RTIF?**
A multi-jurisdiction fee intended to cover a portion of the costs for new transportation facilities required to serve new development within the County.
- ▶ **Who pays the RTIF?**
Developers at the time of building permit issuance, filing of subdivision map, or certificate of occupancy
- ▶ **How are fees levels determined?**
Maximum allowable fee determined by legal nexus (i.e., AB 1600). Actual fee determined by economic and policy considerations.
- ▶ **Who administers or approves the RTIF?**
STA is developing the Nexus Study justifying a fee while local jurisdictions would collect the fees.

A variety of options exist for program implementation and adoption (to be discussed under action item V.A)



Limitations of Impact Fee Funds

Impact Fees can only fund capital facilities and improvements.

- Fees cannot fund ongoing or operations & maintenance costs

Impact Fees cannot be used to address “existing deficiencies”.

- Fee can only fund new development’s “fair share” of total project cost, based on a rational “nexus” test.

Transportation Impact Fees must exclude costs for “external” or “through” traffic.

- Fees cannot fund the costs of capital facilities attributable to trips that begin AND end outside the County.

Impact Fees revenue must ultimately be used to build designated projects.

- If not, the City/County or other implementing agencies must return the fee money collected from developers/property owners.



Currently
17 other
 California
 Counties have
 implemented
 RTIFs

17 other counties across California charge impact fees on new development to help pay for new transportation infrastructure.

RTIFs collected based on square footages of new residential, commercial, and/or industrial developments.

RTIFs assist funding interstates, interchanges, state highways, arterials, and transit facilities. Impact fee contributions towards larger projects are typically less than 20% of the total project cost.

Local agencies choose the most appropriate TIF option, projects, and fee rates.



County	Impact Fee Details
Alameda	Subarea & Countywide based fees.
Amador	"Traffic Mitigation Fee", Countywide Fee
Contra Costa	Planning Area and Corridor Based Development Impact Fees
El Dorado	Countywide and Corridor Fees.
Los Angeles	Considering a Countywide Fee
Madera	Corridor Impact Fee
Marin	Subarea and Corridor Based Fees
Merced	Countywide Fee
Monterey	Countywide Regional Impact Fee divided by benefit zones
Orange	Corridor and Regional Impact Fee
Placer	Countywide, Corridor, and Regional Fees
Riverside	"Transportation Uniform Mitigation Fee", Subarea Fees
Sacramento	Countywide and Area Fees
San Francisco	Transit only, Commercial Fees
Santa Barbara	Region Based Fees
Santa Cruz	Planning Area Fees
Sonoma County	Countywide and Corridor Fees



Nexus Study Scope of Work

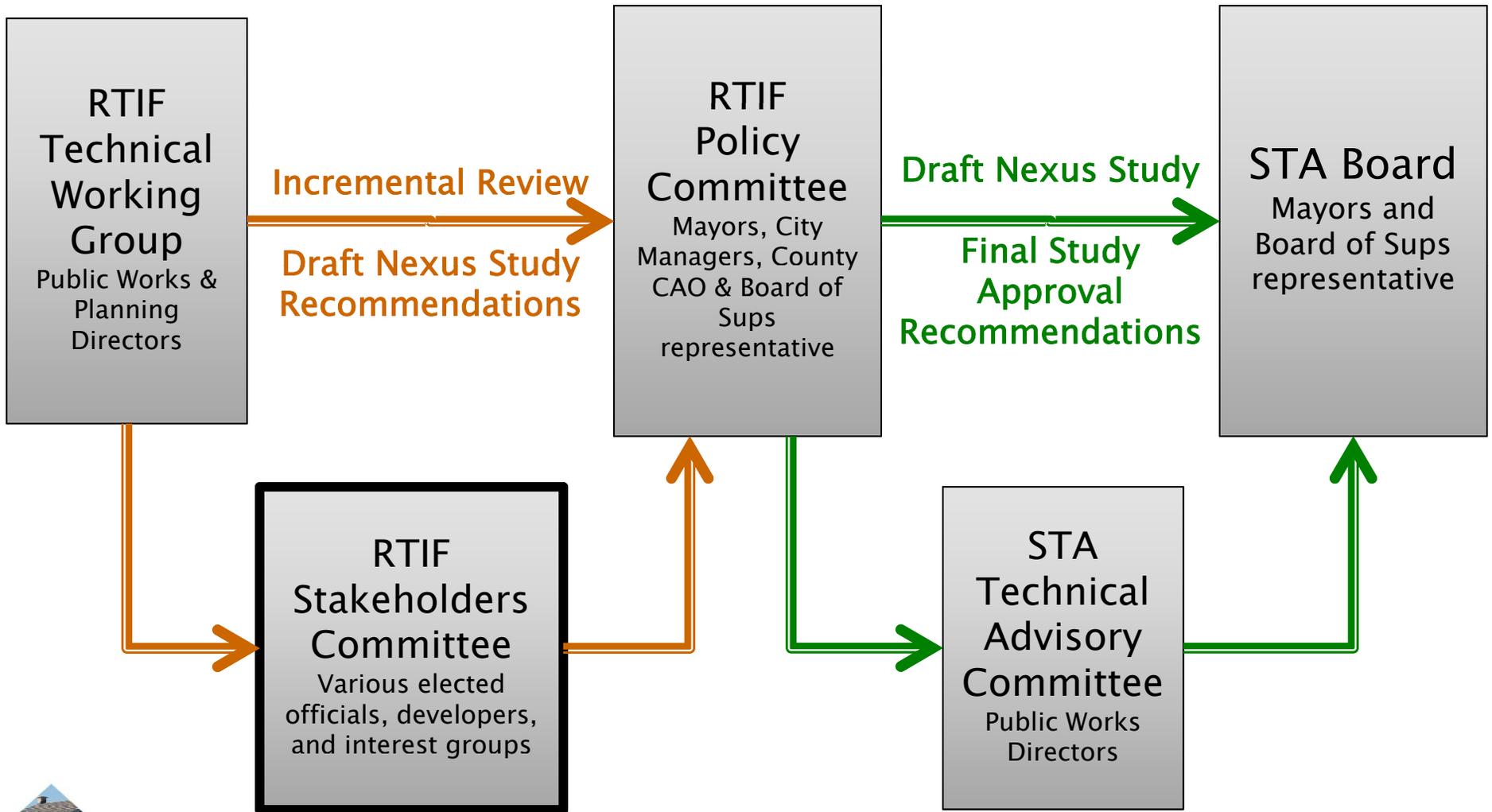


Task

1. Define RTIF System Network
 2. Validate Transportation Model and Land Use
 3. Perform Model Analysis
 4. Develop Capital Project Criteria
 5. Review program implementation options
 6. Formulate RTIF project list and costs
 7. Develop Cost Allocation Methodology
 8. Calculate Preliminary Fee Schedule
 9. Prepare Nexus Report and Economic Analysis
 10. Assist with RTIF Implementation
-



How is the RTIF being developed?



STA RTIF Nexus Study Progress

Date Completed	Regional Transportation Impact Fee (RTIF) development milestones
07-09-2008	STA Board authorization to conduct RTIF Feasibility Study
12-10-2008	RTIF Scope of Work approved by STA RTIF Policy Committee and Board
01-14-2009	RTIF Feasibility Study Approved by STA Board
01-05-2009	Request for Proposals (RFP) for Nexus Study Consultant Services
03-06-2009	Economic Planning Systems (EPS) Selected for RTIF Nexus Study
09-10-2009	EPS Scope amended to update STA travel demand model for RTIF uses
03-10-2010	STA Board approves STA Comprehensive Transportation Plan (CTP) Project List
03-10-2010	STA Board approves RTIF project eligibility and ranking criteria (initial 217 projects)
05-12-2010	STA Board approves RTIF project list based on CTP list and draft costs (89 projects)
01-13-2011	RTIF Working Group refines project list based on approved criteria (28 projects)
06-22-2011	STA Model TAC approves use of STA travel demand model for RTIF uses
09-12-2011	RTIF Working Group approves nexus and project cost estimation methodology
03-12-2012	RTIF Working Group forwards draft implementation packages to STA TAC (12 projects)



County of Solano Public Facility Fee Update to include roads

- ▶ July 2012, the County of Solano began a comprehensive analysis and update of Solano County Public Facilities Fees
 - The scope of work specifically describes how "Solano County is considering establishing and/or modifying Public Facilities Fees to include roads and animal control facilities"
- ▶ County Public Facility Fee currently funds:
 - Countywide Public Protection, Health and Social Services, Library, General Government, Sheriff's Patrol and Investigation, and Courts ... but does not include transportation.
- ▶ Opportunity to join STA RTIF with County of Solano process



Coordination with Solano County Public Facility Fee

- ▶ STA staff and EPS staff have technically completed the RTIF Nexus Study. Cities public works and planning staff recommended coordination with County Public Facility Fee instead of pursuing a new RTIF Fee Program.

- ▶ December 2012 STA Board took action to request Solano County Board of supervisors to:
 1. Add transportation facilities to the County of Solano's Public Facility Fee (PFF) Program

 2. Designate the Solano Transportation Authority to distribute a Portion of the County of Solano's Public Facility Fee for Transportation Projects, based on future discussions of program implementation.

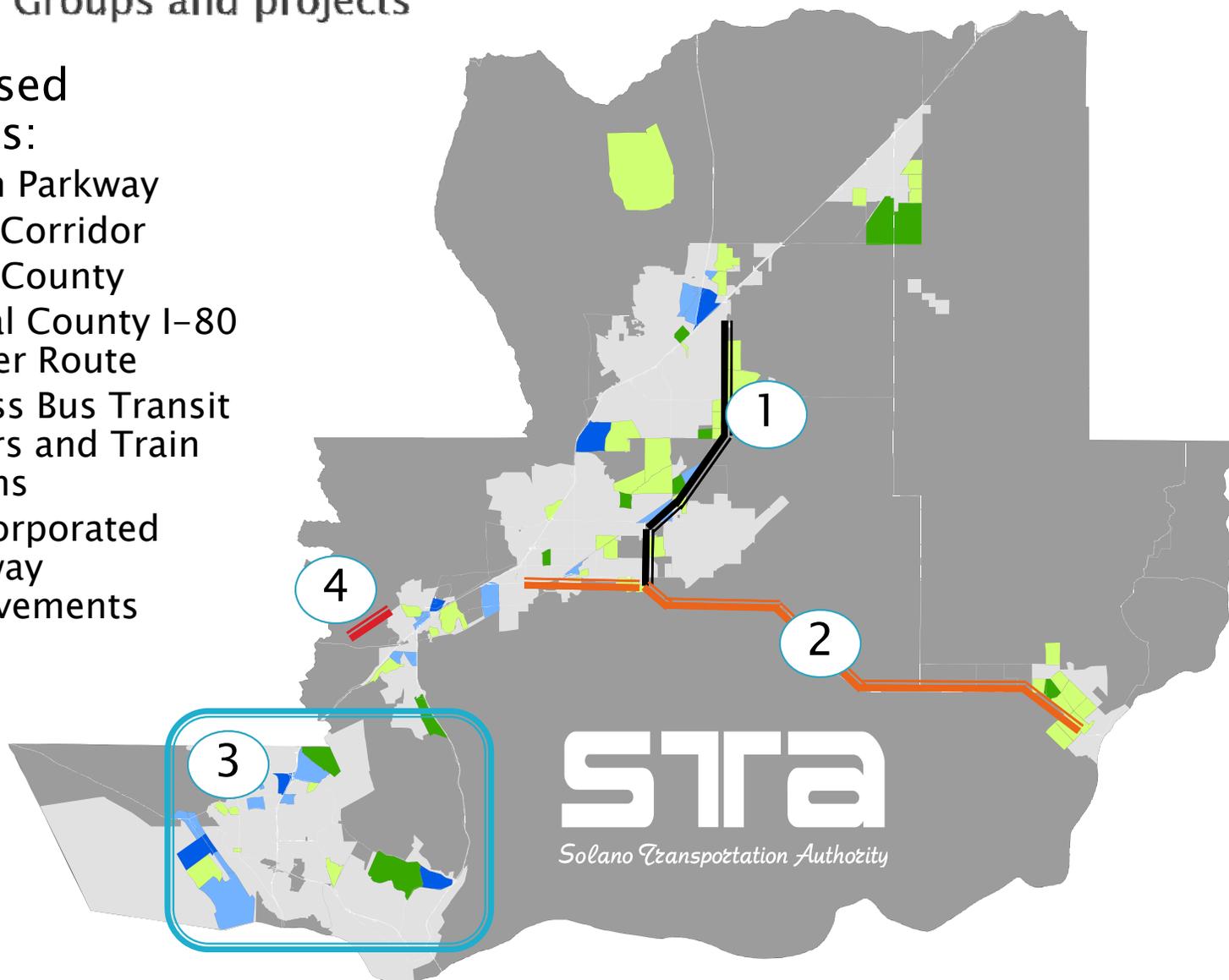
 3. Consider a transportation facility fee of \$1,500 per dwelling unit equivalent (contingent on the fee being less than the approved maximum nexus), if the County of Solano maintains existing fee levels.



Six Implementation Packages

Fee Working Groups and projects

- ▶ 6 Proposed Packages:
 1. Jepson Parkway
 2. SR 12 Corridor
 3. South County
 4. Central County I-80 Reliever Route
 5. Express Bus Transit Centers and Train Stations
 6. Unincorporated Roadway Improvements



City of Benicia Projects

- ▶ Opportunity for City of Benicia projects to be included in STA RTIF Nexus Study.
- ▶ Currently studied projects include:
 - Interchange improvements at Industrial/Bay Shore Rd. and Lake Herman Rd.
 - Industrial Park Transit Center
 - Columbus Parkway Improvements near I-780



Next Steps

- ▶ STA to review and finalize RTIF Implementation Packages to complete nexus study
- ▶ Solano County Board of Supervisors to consider STA request for transportation to be included as part of County's Facility Fee Update Study by Summer 2013.



Questions



Solano Transportation Authority

Daryl Halls

Executive Director

(707) 424-6075

IV.D.1.15



Solano Transportation Authority

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
January 15, 2013

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the Closed Session to order at 6:00 p.m. All Council Members were present.

II. CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9)

1 Claim: Yosick

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: 4850 Park Road, 3300 Park Road & 3190 Bayshore Rd

Negotiating Parties: City Attorney, City Manager & Economic Development Manager

Under Negotiation: Instruction to negotiator on both payment and lease terms

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:09 p.m.

A. ROLL CALL

All Council Members were present. Vice Mayor Campbell arrived at 7:11 p.m.

B. PLEDGE OF ALLEGIANCE

Jerry Hayes led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

Ms. McLaughlin reported that Council gave direction to Staff on both items.

2. Openings on Boards and Commissions:

Building Board of Appeals

1 full term

Open Until Filled

Art and Culture Commission

1 unexpired terms

3 full terms

Open Until Filled

Community Sustainability Commission

1 full term

Open Until Filled

Civil Service Commission

1 full term

Open Until Filled

Finance Committee

2 full terms

Open Until Filled

Human Services Board

1 full term

Open Until Filled

Open Government Commission

1 full term

Open Until Filled

Planning Commission

2 full terms

Open Until Filled

Sky Valley Open Space

1 full term

Open Until Filled

3. Mayor's Office Hours:

B. PROCLAMATIONS

1. In Recognition of Lee Syracuse

C. APPOINTMENTS

1. Consider confirming the Mayor's proposed appointment of Council Member Hughes as the Alternate to the Solano Water Authority/Solano County Water Agency.

RESOLUTION 13-1 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENTS OF MEMBERS OF THE CITY COUNCIL TO STANDING, AD HOC AND OUTSIDE AGENCY COMMITTEES

On motion of Mayor Patterson Council adopted Resolution 13-1, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

D. PRESENTATIONS

1. Benicia Historical Museum Presentation

V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Mayor Patterson reviewed the three items submitted (copies on file).

B. PUBLIC COMMENT

1. Citizen - The citizen expressed concern regarding Council discussing the billboard item during closed session, as it had not been discussed in open

session. Ms. McLaughlin clarified the state laws regarding closed session discussion items.

2. Vice Mayor Campbell - Vice Mayor Campbell discussed a recent request for information that staff received. He was concerned about requests that go above and beyond what is legally required for staff to provide, requiring exorbitant amount of staff time.

VII. CONSENT CALENDAR:

Council pulled items VII.A and VII.D for discussion.

Vice Mayor Campbell clarified that his wife worked on the Von Pfister General Store item (VII.B). He wanted to publicly state that information, in case it was a conflict of interest. Staff and Mayor Patterson clarified that since the vote for the overall consent calendar was done in a batch, and since he indicated that if it were discussed separately he would have recused himself, and then there was no need to take a separate vote.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

A. APPROVAL OF THE MINUTES OF DECEMBER 18, 2012

Council Member Schwartzman discussed a proposed language change to page VII.A.7. He would like to add 'If that happened, the General Fund would have to be used to cover the shortfall, which means less money for roads, parks, public safety, etc.'

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted the Minutes of December 18, 2012, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

B. NOMINATION OF THE VON PFISTER GENERAL STORE FOR THE NATIONAL REGISTER OF HISTORIC PLACES

RESOLUTION 13-2 - A RESOLUTION SUPPORTING THE NOMINATION OF THE VON PFISTER GENERAL STORE TO THE NATIONAL REGISTER OF HISTORIC PLACES

- C. PARTICIPATION IN PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS
- D. A RESOLUTION AMENDING AND RESTATING THE POLICY FOR REIMBURSEMENT OF TRAVEL EXPENSES FOR OFFICERS AND EMPLOYEES

RESOLUTION 13-3 – A RESOLUTION AMENDING AND RESTATING THE POLICY FOR REIMBURSEMENT OF TRAVEL EXPENSES FOR OFFICERS AND EMPLOYEES

Council Member Schwartzman discussed page VII.D.6. He was concerned regarding the issue of meals and make the limit \$65 per day for either staff or council.

Staff confirmed there was not a change regarding meal reimbursement; that was the way the previous policy was written. However, it could be changed to \$65/day maximum for staff and council.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 13-3, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

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

VIII. BUSINESS ITEMS:

- A. EXTENSION OF THE HOOKAH LOUNGE MORATORIUM ORDINANCE

ORDINANCE 13-1 - AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF HOOKAH LOUNGES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

Heather McLaughlin, City Attorney, reviewed the staff report.

Mayor Patterson clarified that Staff was not taking action on an ordinance regarding hookah lounges; they were buying some 'planning time.' It takes a long

time to put together an ordinance and hold public meetings to discuss the elements of that ordinance. This action would add 22 months to the previously adopted 45-day urgency ordinance. Approval would require a 4/5 vote.

Council Member Schwartzman clarified that the word 'dispensaries' should be removed. Staff confirmed it should be removed, and should read 'hookah lounges.'

Public Comment:

1. Nasif Shaikh - Mr. Shaikh spoke in opposition to the proposed urgency ordinance. He asked Council and Staff to keep an open mind regarding hookah lounges.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Ordinance 13-1, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

B. INTRODUCTION AND FIRST READING OF AN ORDINANCE MAKING COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL

ORDINANCE 13- - AN ORDINANCE AMENDING CHAPTER 12.28 (USE OF CITY PARKS) OF TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SECTION 12.28.040 (COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL)

Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

None

Council Member Hughes expressed concern regarding the possible fee for this item. If the ordinance were to pass, he would like the fee to be reasonable (staff would look into what a reasonable/affordable fee would be).

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council approved the Introduction and First Reading of the above Ordinance, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

**C. INTRODUCTION AND FIRST READING OF AN ORDINANCE
AMENDING THE BENICIA MUNICIPAL CODE REGARDING THE
PURCHASING SYSTEM IN CHAPTER 3.08 OF TITLE 3**

**ORDINANCE 13- - AN ORDINANCE AMENDING THE BENICIA MUNICIPAL
CODE REGARDING THE PURCHASING SYSTEM IN CHAPTER 3.08 OF
TITLE 3**

Karan Reid, Finance Director, reviewed the staff report.

Public Comment:

None

Council Member Schwartzman discussed concern regarding the proposed language regarding local business preference.

Mr. Kilger discussed the City's legal leeway on the issue of local business preference.

Mario Giuliani, Acting EDB Manager, reviewed the current local business preference policy.

Staff would look into the issue as to why or whether the numbers in the staff report were appropriate.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of the above Ordinance, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

**D. APPEAL OF PLANNING COMMISSION USE PERMIT APPROVAL TO
MODIFY BILLBOARDS AT 3190 BAYSHORE ROAD AND 3300 PARK
ROAD**

**RESOLUTION 13-4 – A RESOLUTION DENYING THE APPEAL AND
UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE A
USE PERMIT TO MODIFY THE EXISTING BILLBOARD AT 3300 PARK ROAD
AND 3190 BAYSHORE ROAD**

Heather McLaughlin, City Attorney, introduced the item, and explained how the

appeal process worked and how 'substantial additional information' was handled by Council.

Mayor Patterson disclosed exparte communications she had on this item.

Council Member Hughes disclosed exparte communications he had on this item.

Council Member Strawbridge disclosed exparte communications she had on this item.

Council Member Schwartzman disclosed exparte communications he had on this item.

Vice Mayor Campbell noted that he did not have any exparte communications.

Mayor Patterson asked Staff to clarify how the CEQA/Negative Declaration process worked with this item.

Mark Rhodes, Contract Planner, reviewed the staff report and a PowerPoint presentation.

Vice Mayor Campbell and Staff discussed concern regarding the sign in question being a hazard to public safety and the drivers on the road. They discussed conventional and digital billboards.

Appellant #1- Craig Andres:

Mr. Andres discussed concerns regarding the Planning Commission's use permit approval for digital billboard signs at 3190 Bayshore Road and 3300 Park Road., as the digital billboard is directly across the street from his business. He cited quotes from the City's General Plan, Chapter 18, regarding flashing signs. He discussed the dangers of distracted drivers on the roads/highways. He suggested the issue be put before the voters to decide. If the City allows the signs to go up because money/income, he would pull his business (Insight Glass) and move to the City of Danville. He expressed concern regarding the contract negotiations regarding the billboards being handled in closed session.

Appellant #2 - Ed Russell

Mr. Russell discussed concerns regarding the Planning Commission's use permit approval for digital billboard signs at 3190 Bayshore Road and 3300 Park Road. He did not like the way the issue has been presented up to this point. He discussed how CEQA applied to this issue. He was concerned regarding safety, and its proximity to the freeway. He discussed concerns regarding the hazards of the lights and changing lights (that could mimic flashing). He discussed the issue of the appropriateness with the billboards and the City's General Plan and the

sign ordinance. He expressed concern regarding the way that the billboard projects were pushed through City staff and the Planning Commission. He expressed concern regarding the contract negotiations regarding the billboards being handled in closed session. He discussed how much power and energy are required to run the signs 24/7. He disagreed with the CEQA document regarding certain findings relating to how far away the signs could be seen (neighborhoods could see the glow of the signs). He questioned where the revenues from the digital billboards would end up (possibly the City's General Fund).

Mayor Patterson asked Mr. Russell if he received a copy of the Use Permit. Mr. Russell said he received some information, however it was quite technical and some of it was confusing.

Applicant:

Dana Dean, representing Clear Channel Outdoors, and representatives from Clear Channel, reviewed a video showing various digital billboards. Ms. Dean discussed the valid Use Permit, energy use, clarification that the signs do not flash, clarification on the issue of brightness, State Scenic Highway requirements, how the signs would help the Benicia Industrial Park and the City, and clarification that this issue has been sufficiently brought before the public. Ms. Dean discussed the 'Case of 100 Billboards.' She closed in saying that she thought the billboards would improve the image of the Benicia Industrial Park, and help bring it into the 21st century. The project could bring tremendous advantages forward to the City.

Public Comment:

1. Kimble Goodman - Mr. Goodman spoke in opposition to the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road.
2. Eric Hoglund - Mr. Hoglund spoke in opposition to the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road. The Benicia Chamber of Commerce would like to be included in future discussions regarding billboards to convey what the business community would like to see.
3. John Bunch - Mr. Bunch spoke in support of the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road. He discussed concerns regarding the safety and distracted drivers, as well as the close proximity of the two billboards.
4. Duane Oliveira - Mr. Oliveira spoke in opposition to the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road. He discussed the need for the revenue from the billboards to go to improvements for the Benicia Industrial Park. He suggested the City negotiate adding discounts for local businesses into the contract with Clear Channel.

5. Leah Shellhorn - Ms. Shellhorn spoke in opposition to the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road.
6. Chris Terry - Mr. Terry discussed the issue of double standards. There could be signs on I-680, but not on East Second Street. If the City is going to allow the electronic billboards on the freeway, why not allow them on East Second Street.
7. Bob Nelson - Mr. Nelson discussed concern regarding Council discussing the contract negotiations regarding billboard lease terms in closed session. He spoke in support of the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road.
8. Ellen Kolowich - Ms. Kolowich spoke in opposition to the appeal of the Planning Commission's approval to modify billboards at 3190 Bayshore Road and 3300 Park Road.

Rebuttal

Appellant #1- Craig Andres:

Mr. Andres discussed concerns made by previous speakers. He discussed concern regarding the negative effects the billboards would have on his business and the Industrial Park. He disagreed that the billboard ads would bring business and people to the downtown area.

Appellant #2 - Ed Russell:

Mr. Russell discussed the City's General Plan, sign ordinance, and the scenic highway designation. He discussed the various businesses he reached out to regarding this issue. He discussed concern regarding the stated benefits the City could gain from the billboards. He felt there would be a negative effect on City staff/resources.

Dana Dean, Clear Channel Outdoors, Applicant:

Ms. Dean discussed her reasons for representing the clients that she does. She discussed the various studies done regarding electronic billboards and the issue of glance time.

Vice Mayor Campbell and Ms. Dean discussed the Swedish Study that has been referenced. Vice Mayor Campbell discussed concern regarding safety and distracted drivers.

Council Member Schwartzman, Ms. Dean, and Clear Channel staff discussed the issue of glare, and what could be done to minimize or mitigate the issue.

Mayor Patterson, Ms. Dean, and Clear Channel staff discussed the issue of the economic and direct benefits of the billboards. They discussed the issue of power use, solar power, public safety and whether Clear Channel was participating in safety and cumulative studies, and studies that have been done regarding accident and safety data.

Ms. Dean and Mayor Patterson discussed the issue of possibly including solar power as a condition of a lease agreement. That is something that would be discussed when the lease was being discussed.

Vice Mayor Campbell and Ms. Dean discussed whether the country of Sweden allowed digital billboards after the study was released (no confirmation).

Mayor Patterson called for a 5-minute break at 10:24 p.m. She cautioned Council not to speak with the public on this issue during the break. The meeting resumed at 10:31 p.m.

Council Member Hughes discussed concern regarding the brightness of certain digital billboards. Safety was a big issue for him. Council was relying on the safety experts on this issue. He was comfortable that the City and Council had reached out to the public regarding the issue. The issue of revenue is valid. The City has to look at how to create revenue and advertise its businesses. Council was trying to make a decision that was in the best interest of the overall community.

Vice Mayor Campbell discussed how the billboards could financially benefit the City, however, he was very concerned about the issue of safety and distracted drivers.

Council Member Strawbridge discussed the importance of defining revenue sources for the City. The City has the opportunity to modernize the current billboards in the Industrial Park. The City needs to invest in the Industrial Park (broadband, roads, etc.).

Council Member Schwartzman discussed the intent of the General Plan with regards to the scenic corridor. He wondered what other businesses within 300 ft. were contacted. Digital billboards are state of the art, and that is where the technology is going. The reader boards would update the perception that the Industrial Park was up to date. He discussed the positive effects the billboards could have on City events and the City's budget. He would support the denial of the appeal, however, if the City was going to get the reader boards, he would like to 1) negotiate that the other (older) signs would come down (so the City would ultimately end up with less billboards in that corridor), 2) see if the City could put together a discounted advertising program for local businesses, and 3) while the money (from the billboards) would go to the General Fund, come up with a resolution that would dedicate a certain percentage or amount of that income

back to the Benicia Industrial Park.

Mayor Patterson discussed how the billboards would affect the economics. She expressed the need to maintain the City's uniqueness. She discussed how the billboards would distract the drivers from the Industrial Park. She did not agree that the reader boards would encourage people to visit the City or City events. She discussed the City's General Plan (3-2) and the views/gateways, and the issue of trying to have I-680 being recognized as a scenic corridor. She discussed concerns regarding safety. If passed, she would like to see the resources be dedicated to the Industrial Park and commercial interests. She supported upholding the appeal.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Resolution 13-4, on roll call by the following vote:

Ayes: Schwartzman, Hughes, Strawbridge

Noes: Patterson, Campbell

E. APPEAL OF PLANNING COMMISSION USE PERMIT APPROVAL TO MODIFY BILLBOARD AT 4850 PARK ROAD

Heather McLaughlin, City Attorney, reviewed how the appeal process worked.

Council Members Campbell, Hughes, Schwartzman, Strawbridge, and Mayor Patterson, disclosed exparte communications.

Mark Rhodes, Contract Planner, reviewed the staff report and a PowerPoint presentation.

Vice Mayor Campbell and Staff discussed the City's sign ordinance. Council Member Hughes and Staff discussed the angle of the proposed sign, and whether the glare of the sign would be angled away from the view of the businesses close by.

Mayor Patterson and Staff discussed the development agreement, the sign review permit, CEQA, the Caltrans scenic standards, and the failure to having a vigorous public outreach process being the fatal flaw in the project.

Appellant #1 - Craig Andres:

Mr. Andres discussed the angle of the proposed sign. He would see the backside of two billboards from the front door of his business. The proposed sign would be 50 ft. from his front door. He discussed concern regarding the notification process, the lack of a study on the project, the negative effect the billboard would have on his property values, the use permit for the current

Nationwide sign, his past efforts to get the abandoned non-working Nationwide sign removed, and the size of the proposed billboard. He hoped the City would not alienate a business that has contributed over \$5 million in property taxes over the past 27 years. He would like the City to ban all electronic billboards.

Appellant #2 - Susan Cohen Grossman:

Ms. Cohen Grossman reviewed her concerns regarding the proposed electronic billboard (review the written comments she submitted - copy on file). Council Member Schwartzman and Staff discussed the issue of the application and whether it was subject to review by HPRC.

Vice Mayor Campbell and Ms. Cohen Grossman discussed why she appealed the project when she voted in favor of it on the Planning Commission.

Applicant - Colin Smith, CBS Outdoor:

Mr. Smith reviewed a slide show showing various options for the proposed sign. He discussed a sign they recently installed in the City of Martinez. He would like to cultivate a prosperous and successful relationship with the City of Benicia.

Council Member Hughes and Mr. Smith discussed possible options for the proposed sign that would make it less distracting or problematic for Mr. Andres' business (Insight Glass).

Vice Mayor Campbell discussed and Mr. Smith discussed the issue of blocked views, and whether CBS had done perspectives on what the other businesses in the area would be looking at.

Mr. Kilger clarified that Council was trying to see what could be done to reduce the industrial appearance of the proposed sign, and what type of message the sign would represent for the City. If Council provided some general directions on that, staff could sit down with the applicant and work on those issues.

Public Comment:

1. Eric Hogle, Benicia Chamber of Commerce - Mr. Hogle spoke in opposition to the appeal of Planning Commission use permit approval to modify billboard at 4850 Park Road.
2. John Bunch - Mr. Bunch inquired about the Use Agreement and Development Agreement for the current Nationwide sign. He discussed concern regarding the size of the proposed sign. He spoke in support of the appeal of Planning Commission use permit approval to modify billboard at 4850 Park Road.
3. Ed Russell - Mr. Russell discussed concern regarding the size of the proposed sign. He spoke in support of the appeal of Planning

Commission use permit approval to modify billboard at 4850 Park Road.

Mr. Rhodes discussed the City's sign ordinance. He discussed why an Initial Study and Mitigated Negative Declaration was done on the signs for the previous agenda item (for the potential for biological and archaeological resource impacts - because of one of the signs location to the wetland area).

Mayor Patterson and Staff discussed the use of the term 'iconic structure' with respect to this item. Some people were anticipating a more comprehensive review thorough CEQA.

Council Member Schwartzman and Staff discussed the issue of 'abandonment' with regards to the development agreement for the Nationwide sign.

Mayor Patterson discussed the design issue fitting in with the aesthetics, the view shed, and the corridor. The categorical exemption is a failure because it doesn't acquaint the public with what the General Plan says is a valuable corridor.

Council Member Schwartzman and Staff discussed the development agreement and the sign ordinance, and which would take precedent over the other.

Vice Mayor Campbell discussed concern regarding the safety and distracted drivers. He would be voting to uphold the appeal.

Mayor Patterson discussed the City's General Plan, and how the lack of good analysis on how the sign fits in the corridor and in the Industrial Park. A proper CEQA process would have been helpful. She was not convinced it would help the overall wellbeing of the Industrial Park. The sign ordinance is not capable of taking into account new technology.

Vice Mayor Campbell made a motion to uphold the appeal of the Planning Commission's decision, which was seconded by Mayor Patterson.

Staff clarified that there were two appeals of the Planning Commission decision.

Vice Mayor Campbell amended his motion to uphold the appeals (both appeals). Mayor Patterson seconded the amendment to the motion.

Mayor Patterson discussed the sign ordinance, and the fact that the ordinance is currently under review.

Vice Mayor Campbell clarified that he wanted to separate the two appeals. He supported Mr. Andres' appeal; however he did not support Ms. Cohen Grossman's appeal. He wanted his motion to reflect that he was supporting Mr. Andres' appeal.

Mayor Patterson and Staff discussed the design review process, the Planning Commission, and the HPRC.

Staff clarified that if Council voted to uphold only one of the appeals, the project would not go forward.

Mayor Patterson clarified that the motion was to uphold the appeal by Mr. Andres.

Mayor Patterson seconded the motion.

Council Member Strawbridge asked if there was a way to send the issue to the HPRC.

Staff clarified what the HPRC was responsible for.

Mayor Patterson and Staff discussed the possibility of continuing the item and what affect that would have on the appeal.

Council Member Hughes suggested the possibility of upholding the Planning Commission's decision, and direct staff to bring it to the HPRC.

Ms. McLaughlin discussed the issue of 'denial without prejudice.'

Mayor Patterson clarified her reasons for voting to uphold the appeal. There are fundamental flaws with the process, there are design issues that haven't been addressed, and it is premature because of the ongoing sign ordinance revisions.

Mayor Patterson, Vice Mayor Campbell, and Ms. McLaughlin clarified that the motion was to uphold the appeal (which is denying the project), without prejudice to the denial of the project without prejudice (which enables them to come back and resubmit the project).

The motion did not pass.

Council Member Hughes made a motion deny M. Cohen Grossman's appeal, which was seconded by Council Member Schwartzman. The motion was passed.

On motion of Vice Mayor Campbell, seconded by Mayor Patterson, Council did not approve upholding the appeal of Mr. Andres, on roll call by the following vote:

Ayes: Patterson, Campbell

Noes: Schwartzman, Hughes, Strawbridge

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved denying the appeal by Susan Cohen Grossman, on roll call by the following vote:

Ayes: Council Members Campbell, Schwartzman, Hughes, Strawbridge
Noes: Patterson

F. Council Member Committee Reports:

- 1. Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: February 20, 2013**
- 2. Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: TBD**
- 3. Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: January 25, 2013**
- 4. League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: TBD**
- 5. School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: March 7, 2013**
- 6. Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: February 6, 2013**
- 7. Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: January 24, 2013**
- 8. Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: February 13, 2013**
- 9. Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson) Next Meeting Date: January 10, 2013**
- 10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: January 17, 2013**
- 11. Tri-City and County Cooperative Planning Group. (Council**

Member Hughes) Next Meeting Date: March 11, 2013

- 12. Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: TBD**
- 13. Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: January 23, 2013**
- 14. ABAG-CAL FED Task Force-Bay Area Water Forum.
<http://www.baywaterforum.org/> (Mayor Patterson)Next Meeting Date: TBD**
- 15. SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member Hughes and Council Member Schwartzman) Next Meeting Date: January 17, 2013**

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 12:39 a.m. on 1/16/13.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
CONSENT CALENDAR**

DATE : January 24, 2013

TO : City Manager

FROM : Finance Director

SUBJECT : **SECOND READING AND ADOPTION OF AN ORDINANCE
AMENDING THE BENICIA MUNICIPAL CODE REGARDING THE
PURCHASING SYSTEM IN CHAPTER 3.08 OF TITLE 3**

RECOMMENDATION:

Adopt an ordinance to amend the purchasing system in Chapter 3.08 retitling the chapter to Purchasing Regulation and amending purchasing procedures concerning the procurement of supplies, and equipment.

EXECUTIVE SUMMARY:

On January 15, 2013, City Council introduced and conducted the first reading and public hearing of an ordinance to amend the purchasing system. The proposed action is the second reading and adoption of the ordinance.

BUDGET INFORMATION:

There is no budget impact as a result of the adoption of this ordinance. This ordinance is intended to provide financial direction to staff and the public on the processes and procedures related to the procurement of supplies, services, equipment and public projects.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #3: Strengthening Economic and Fiscal Conditions

BACKGROUND AND DISCUSSION:

The City's Purchasing System is codified in Chapter 3.08 of the Benicia Municipal Code. Proposed changes retitle the chapter to Purchasing Regulation, designate the City Manager or his designee as the Purchasing Officer, eliminate the centralized purchasing officer, increase the threshold for informal bidding to \$2,500 from \$1,000 and clarify bidding and purchasing procedures. Proposed additions include sections addressing Recycled Products and the City's Cal Card Purchasing Card program.

Attached is the proposed ordinance amending Chapter 3.08 (Purchasing System).

Attachments:

- Proposed Ordinance Amending Chapter 3.08 (clean copy)
- Staff report from January 15, 2013 City Council meeting (Introduction and First Reading of an Ordinance to Amend the City's Purchasing System)

CITY OF BENICIA

ORDINANCE NO. 13-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA
AMENDING CHAPTER 3.08 (PURCHASING REGULATION) IN ITS ENTIRETY
OF TITLE 3 (REVENUE AND FINANCE) OF THE BENICIA MUNICIPAL CODE**

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

Section 1.

Chapter 3.08 (Purchasing Regulation) of Title 3 (Revenue and Finance) of the Benicia Municipal Code is amended in its entirety to read as follows:

Chapter 3.08

PURCHASING REGULATION

Sections:

- 3.08.010 Adoption.
- 3.08.020 Definitions.
- 3.08.030 Purchasing officer duties.
- 3.08.040 Purchasing authority.
- 3.08.050 Purchase orders.
- 3.08.060 Encumbrance of funds.
- 3.08.070 Bidding for purchase of supplies and equipment – use of not required when.
- 3.08.080 Bidding – Open market bidding.
- 3.08.090 Formal bidding procedure.
- 3.08.100 Preference for local business.
- 3.08.110 Inspection and testing.
- 3.08.120 Surplus supplies and equipment.
- 3.08.130 Recycled products.
- 3.08.140 Credit card usage – CAL Card program.

3.08.010 Adoption.

A purchasing regulation is adopted in order to establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost commensurate with the required quality, to exercise positive financial control over purchases that meet legal requirements and to define authority for the purchasing function.

3.08.020 Definitions.

As used in this chapter, the following terms, phrases, words and their derivations shall be construed as herein stated, or have the meanings given herein:

“Awarding authority” means the city council or person authorized to award the contract and to execute the agreement unless delegated to another person.

“Bid” means an offer to sell supplies and equipment at a specified price.

“Bidder” means any person submitting a competitive bid in response to a solicitation.

“Bidders’ list” means a list maintained by the Finance Department setting out names and addresses of responsible prospective suppliers of various goods and services, from whom bids, proposals, and quotations can be solicited.

“Bid security” means a guarantee, in the form of a bond or deposit, that the bidder, if awarded the contract, will accept the contract as bid, otherwise the bidder (in the case of a deposit) or his/her guarantor (in the case of a bond) will be liable for the amount of the bond or deposit. “Contract” means a binding agreement between the city and the company providing the goods or equipment, specifying needs, pricing, terms and conditions, insurance requirements, etc.

“Contract” means a binding agreement based upon mutual assent of the parties, made for a lawful purpose, between competent parties, in the form required by law, and generally supported by consideration.

“Emergency purchase” means a purchase made without following normal purchasing procedures (competitive bidding) in order to obtain goods or services when time is of the essence. Emergency purchases shall be made only for the following reasons: 1) preserve or protect life, health or property, 2) upon natural disaster or man-made disaster, 3) to correct or forestall a shutdown of public services.

“Equipment” means furnishings, machinery, vehicles, rolling stock, and other personal property used in the city’s business.

“Evaluation of bid” means the process of examining a bid after the opening to determine the bidder’s responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

“Formal bid” or “offer” means a bid that must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened at a specific time.

“Governmental agency” means another governmental body other than the city of Benicia such as a public agency as defined by California Government Code Section

6500 including federal, state, county, city and local government agencies such as school districts and special districts.

“Informal bid” means an unsealed competitive offer conveyed by letter, telephone, facsimile/telegram, electronic mail or other electronic media format and under conditions different from those required of formal bidding.

“Negotiation” means contracting through the use of either competitive or other than competitive proposals and discussions. Any contract/purchase order awarded without using sealed bidding procedures is a negotiated contract/purchase order. Further, negotiation is a procedure that includes the receipt of proposals from offerors, permits bargaining, and usually affords an opportunity to revise offers before award of a contract/purchase order. Bargaining in the sense of discussion, persuasion, alteration of initial assumptions of positions, and give-and-take may apply to price, schedule, technical requirements, type of contract/purchase order, or other terms of a proposed contract/purchase order.

“Payment bond” means a contract of guarantee executed subsequent to award by the successful bidder to satisfy claims of material suppliers and of mechanics and laborers employed under the contract.

“Performance bond” means a contract of guarantee executed subsequent to award by the successful bidder to protect the city from loss due to contractor’s inability to complete the contract as agreed.

“Personal property” means everything that is not real property, is subject to ownership, and has exchange value.

“Purchasing officer” means the city manager and any person or persons authorized by the city manager to purchase or acquire supplies, services, or equipment on behalf of the city.

“Quotation” means a statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchases below the amount requiring formal bidding.

“Request for Proposal (RFP)” means all documents, whether attached or incorporated by reference utilized for soliciting competitive proposals. It is used in hiring consultants, professional services or general services.

“Request for Quotation (RFQ)” means the document generally used for seeking competition on small purchases or on any purchase that does not require competitive

sealed bidding. RFQ can be used for obtaining price and delivery information for sole source and emergency purchases.

“Responsible bidder or offeror” means a firm/person who has the capability in all aspects to successfully perform, in full, contract requirements, and the integrity and reliability that will assure good faith performance.

“Responsive bidder” means one that is in substantial conformance with all requirements of the invitation to bid, including specifications and the city’s contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify their liability may be considered non-responsive bidders. This may also include provision of insurance requirements, bonds, completion of all forms, inclusion of references and additional information as requested in bid documents.

“Sealed bidding” means a method of contracting that employs competitive bids, public opening of sealed bids and award.

“Sole source procurement” means an award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirement, the supplier, or market conditions.

“Supplies” means all property, including, but not limited to, equipment, materials, printing, insurance, and leases of real property, excluding land or permanent interest in land.

“Surplus property” means city-owned personal property that is not needed by the city at the present time or in the foreseeable future. This includes obsolete supplies, equipment, or scrap materials that have completed their useful life.

“Unencumbered” means that portion of an allocated appropriation which is immediately available for reservation against incoming purchase orders.

3.08.030 Purchasing officer duties.

The duties of the purchasing officer shall include, but not be limited to, the following:

- A. Purchase and contract for supplies, services, equipment and public projects required by the operating departments;
- B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment;
- C. Take the necessary action to ensure that the city will receive the needed quality of supplies and equipment at the lowest possible cost to the city;

VII.B.6

- D. Maintain the highest levels of efficiency and effectiveness by assuring compatibility among the city's equipment, such that existing parts inventory, tools inventory, and staff expertise are utilized to the greatest extent possible;
- E. Prepare and recommend to the city council rules governing the purchase of supplies and equipment for the city;
- F. Keep informed of current developments in the field of purchasing prices, market conditions and new products;
- G. Prescribe and maintain forms as reasonably necessary to the operation of this chapter and other rules and regulations;
- H. Supervise the inspection of supplies and equipment purchased to ensure conformance with specifications;
- I. Recommend the transfer of surplus or unused supplies and equipment between departments as needed; and
- J. Encourage competitive bidding as set forth in this chapter.

3.08.040 Purchasing authority.

The purchasing officer is authorized and responsible for legally obligating the city in the purchase of supplies and equipment. The purchasing officer may authorize any officer or department employee to solicit prices, award and execute contracts and purchase orders for purchase of specified supplies and equipment independently of the purchasing officer, but all such solicitations, purchases and contracts shall conform to the procedures set forth herein. A listing of such delegated employees including the dollar limits associated with the purchase of supplies and equipment shall be maintained by the city manager and updated no less than biennially.

3.08.050 Purchase orders.

A purchase of supplies and equipment in the aggregate amount of five thousand dollars (\$5,000) or more may be made only by purchase order. A purchase order shall not be issued until the purchasing officer first approves it.

3.08.060 Encumbrance of funds.

Except in case of an emergency, the purchasing officer may not issue a purchase order for supplies or equipment unless there exists an unencumbered appropriation in the budget account against which the purchase is to be charged.

3.08.070 Bidding for purchase of supplies and equipment – Use of not required when.

Each purchase of supplies and equipment shall be by bid procedures set forth in BMC 3.08.080 and 3.08.090. The purchasing officer may dispense with bidding when:

- A. An emergency requires that an emergency purchase be placed with the nearest available source of supply; or
- B. When the amount involved is less than twenty-five hundred dollars (\$2,500); or
- C. The commodity can only be obtained via sole source procurement.

3.08.080 Bidding – Open market bidding.

If the estimated value of the purchase of supplies and equipment is between twenty-five hundred dollars (\$2,500) and fifteen thousand dollars (\$15,000), the purchasing officer may make the purchase in the open market under the following procedures:

- A. Minimum Number of Bids. The purchasing officer shall obtain at least three informal or written bids.
- B. Notice Inviting Bids. The purchasing officer shall solicit bids by verbal or written request to prospective vendors, by telephone, electronic mail or by public notice posted on a public bulletin board in City Hall.
- C. Bid Award. The purchasing officer shall make the purchase from the lowest responsible bidder via Purchase Order or Contract (if the aggregate amount of the procurement is five thousand dollars (\$5,000) or more) with documentation of the bids received submitted to the purchasing officer. The department making the purchase shall keep a written record of all open market orders (informal bids) for a period of not less than two years after the submission of bids or the placing of orders. This record is open to public inspection.

3.08.090 Formal bidding – Procedure.

The purchase of supplies and equipment with an estimated value greater than fifteen thousand dollars (\$15,000) shall be by written contract and purchase order with the lowest responsive and responsible bidder after following this procedure:

- A. Notice Inviting Bids. The purchasing officer shall prepare a notice inviting bids. The notice shall include a general description of the article to be purchased, shall state where bid blanks and specifications may be secured, the time and place for opening bids and the security required, if any.

1. Published Notice. The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least ten (10) days before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the city.

2. Bidders' List. The purchasing officer shall also solicit sealed bids from responsible prospective suppliers, whose names are on the bidders' list or who have made written request that their names be added to it.

3. Bulletin Board. The purchasing officer shall also advertise pending purchases by a notice posted on a public bulletin board in the City Hall or on the City website.

B. Written Bids. For purchase of property estimated to cost over twenty five thousand dollars (\$25,000), written bids shall be submitted to the finance director or designated representative, who shall require all bids to be sealed, in writing, identified as "bids" on the envelope. The department making the purchase shall keep a written record of all bids received for a period of not less than two years after the submission of bids or the placing of orders. This record is open to public inspection.

C. Bidder's Security. When the purchasing officer considers it necessary, he/she shall prescribe bidder's security and a statement of the security shall be included in the notice inviting bids. Each bidder is entitled to a return of the bid security. However, a successful bidder forfeits the bid security if he/she refuses or fails to execute the contract within ten (10) days after the notice of award of contract is mailed. If the successful bidder fails or refuses to execute the contract, the purchasing officer may award the contract to the next lowest responsible bidder or re-advertise.

If the purchasing officer awards the contract to the next lowest bidder, the city shall apply the amount of the lowest bidder's security to the contract price difference between the lowest bid and the second lowest bid. The surplus, if any, shall be returned to the lowest bidder. If the purchasing officer rejects all bids and re-advertises, the amount of the lowest bidder's security may be used to offset the cost of receiving new bids and the surplus, if any, shall be returned to the lowest bidder.

D. Bid Opening Procedures. For purchase of supplies and equipment estimated to cost over twenty five thousand dollars (\$25,000), the finance director or designated representative shall open the bids in public at the time and place stated in the public notice. The finance director or designated representative shall tabulate the bids received and shall keep the tabulation open for public inspection during regular

business hours for a period of not less than thirty (30) calendar days after the bid opening.

E. Rejection of Bids. At his/her discretion, the purchasing officer may reject all bids presented and re-advertise for bids.

F. Award of Contracts. For purchase of supplies and equipment costing more than twenty-five thousand dollars (\$25,000), the city council shall award the contract to the responsive bidder who is also the lowest responsible bidder. For purchase of supplies and equipment costing less than twenty-five thousand dollars (\$25,000), the city manager and finance director shall award the contract to the responsive bidder who is also the lowest responsible bidder.

G. Tie Bids. If two or more bids received are for the same total amount or unit price, quality being equal, and if the public interest will not permit the delay of re-advertising for bids, the purchasing officer may accept the one he/she chooses or accept the lowest bid made after negotiation with the bidders at the time of the bid opening.

H. Payment and Performance Bonds. For purchase of supplies and equipment estimated to cost over twenty-five thousand dollars (\$25,000), the city council may require a payment and/or performance bond before entering a contract in such amount as it finds reasonably necessary to protect the best interests of the city.

I. Use of Vendors Selected by Another Governmental Agency. The city purchasing officer may purchase supplies and equipment for which the city would normally follow its own bid procedures from a vendor awarded a bid by another governmental agency if said agency used procedures substantially the same as those normally used by the city. The amount of said purchase shall be based on the price bid in the other agency.

J. Joint Purchase with Other Governmental Agencies. Notwithstanding any other provision of this chapter, the city may enter into lawful agreements with other governmental agencies for the joint purchase of equipment and supplies.

3.08.100 Preference for local business.

In the case of contracts for purchase of supplies and equipment, whether by formal bid or otherwise, a preference not to exceed 10 percent (10%) – with an absolute limit of \$500.00 – shall be allowed to firms or individuals who regularly maintain a place of business and transact business in the city. In order to qualify for such a preference, a firm or individual shall have maintained a place of business in the city and have been issued a business license by the city for one year prior to the date for the opening of bids for the contract or prior to submission of the proposal by the firm or individuals in the case of contracts not subject to competitive bidding.

3.08.110 Inspection and testing.

The purchasing officer shall have the authority to inspect supplies, material and equipment delivered to determine their conformance with the specifications set forth in the order. The purchasing officer shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

3.08.120 Surplus supplies and equipment.

All departments shall submit to the finance director or designee, at such times and in such forms as he/she shall prescribe, reports showing all supplies and equipment that are no longer used or which have become obsolete or worn out. The finance director or designee shall have authority to exchange for, or trade in on, new supplies and equipment all supplies and equipment that cannot be used by any department or which have become unsuitable for city use. Surplus supplies and equipment with no appreciable value may be discarded as junk.

Supplies and equipment with an estimated value of five thousand dollars (\$5,000) or less may be sold as surplus by the finance director. Supplies and equipment with an estimated value greater than five thousand dollars (\$5,000) shall be placed with a duly licensed public auctioneer or reputable on-line auctioneer for disposal and sale on behalf of the city. Proceeds from such public auction sales shall be deposited into the city fund that was originally used to purchase the supplies or equipment.

Surplus supplies and equipment may be offered for sale to other public agencies without the use of a duly licensed public auctioneer or reputable on-line auctioneer. Sale of supplies and equipment with an estimated value of less than twenty-five thousand dollars (\$25,000) may be offered for sale by the city manager. Sale of supplies and equipment with an estimated value greater than twenty-five thousand dollars (\$25,000) shall be sold only upon city council approval.

All surplus or worn out supplies or equipment with an estimated value of twenty-five thousand dollars (\$25,000) or less may be transferred, donated or dedicated to, or may be permitted to be used by, community service or public benefit organizations, which, in the opinion of the purchasing officer, would use such supplies or equipment exclusively to promote the general municipal welfare or otherwise use the surplus supplies or equipment for purposes that clearly are to the public benefit.

All surplus or worn out supplies or equipment with an estimated value of twenty five thousand dollars (\$25,000) or less may be transferred, donated or dedicated to, or may be permitted to be used by community service or public benefit organizations, which, in the opinion of the city manager, would use such supplies or equipment exclusively to

promote the general municipal welfare or otherwise use the surplus supplies or equipment for purposes that clearly are to the public benefit.

All surplus or worn out supplies or equipment with an estimated value greater than twenty-five thousand dollars (\$25,000) may be transferred, donated, or dedicated to, or may be permitted to be used by, community service or public benefit organizations upon city council approval.

3.08.130 Recycled products.

It is the intent of the city council that the city take a leadership role not only in recycling its waste products but also in the purchase of recycled products for use in the delivery of city services. It is the purpose of this section to provide direction to the purchasing officer in the procurement and use of recycled products. For the purpose of this section, recycled materials are defined as any materials (e.g. glass, paper, plastic, etc.) that are separated by type, reprocessed by industrial methods, and used as raw materials for the manufacture of new products.

If, in procuring supplies, a recycled product can achieve the necessary city performance standard, and if such recycled product is readily available, specifications should, if economically feasible, require products made with recycled materials be bid. If the procuring department determines that (1) a recycled product lacks performance capabilities or needed quality level, or (2) a sufficient amount of said recycled or reusable product is not currently available in the market, then a reduced percentage can be required, or the supply specification can be limited to non-recycled materials. When recycled products are required, reasonable efforts shall be made to label the products as containing recycled materials.

3.08.140 Purchase card usage – CAL Card

The city participates in the CAL-Card purchasing card program as part of its purchasing process. This program was established through a State of California Master Service Agreement with U.S. Bank International Merchant Purchase Authorization Card (“I.M.P.A.C.”) Government Services to provide VISA bankcard services. The program is intended to reduce the use of petty cash and small open purchase orders and to streamline the purchasing process and payment procedures. Use of the CAL-Card is not intended to circumvent the city purchasing regulations.

CAL-Cards may be available to city employees for the conduct of official city business. Department heads may request credit cards for their employees to the finance director, and a listing of authorized holders is maintained in the city’s finance department. A CAL-Card Purchasing Card Program Manual has been established and each authorized cardholder has access to this manual. Under no circumstances shall a personal charge be made on a City CAL-Card.

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 15th day of January, 2013, and adopted at a regular meeting of the Council held on the 5th day of February, 2013, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth, Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 15, 2013
BUSINESS ITEMS

DATE : December 19, 2012

TO : City Manager

FROM : Finance Director

SUBJECT : **INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE REGARDING THE PURCHASING SYSTEM IN CHAPTER 3.08 OF TITLE 3**

RECOMMENDATION:

Conduct a public hearing and introduce an ordinance to amend the purchasing system in Chapter 3.08 retitling the chapter to Purchasing Regulation and amending purchasing procedures concerning the procurement of supplies, services, equipment, and public projects.

EXECUTIVE SUMMARY:

The proposed changes to the City's Purchasing System designate the City Manager or his designee as the Purchasing Officer, eliminate a centralized purchasing officer, and increase the threshold for informal bidding from \$1,000 to \$2,500. In addition, updates are proposed to clarify the bidding process. Draft changes were presented to City Council at the December 18, 2012 meeting and no changes were recommended.

BUDGET INFORMATION:

There is no budget impact as a result of the adoption of this ordinance. This ordinance is intended to provide financial direction to staff and the public on the processes and procedures related to the procurement of supplies, services, equipment and public projects.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #3: Strengthening Economic and Fiscal Conditions

BACKGROUND AND DISCUSSION:

The City's Purchasing System is codified in Chapter 3.08 of the Benicia Municipal Code. Proposed changes retitle the chapter to Purchasing Regulation, designate the City Manager or his designee as the Purchasing Officer, eliminate the centralized purchasing officer, increase the threshold for informal bidding to \$2,500 from \$1,000 and clarify bidding and purchasing procedures. Proposed additions

include sections addressing Recycled Products and the City's Cal Card Purchasing Card program. Attached are proposed ordinances amending Chapter 3.08 (Purchasing System) in both redline/strike-out and clean copy.

While the current ordinance calls for a central purchasing officer, the city has not implemented centralized purchasing. Centralized purchasing is generally utilized in larger organizations where the level of purchasing is sufficient to support full-time, credentialed staff dedicated to not only the procurement of all goods, services, equipment and public works projects but also has the expertise to draft requests for proposals (RFPs) and provide input on the development of specifications. It is common for smaller organizations to decentralize the purchasing function, allowing numerous persons to be involved in the procurement process, but utilize a central purchasing policy with detailed procedures to establish efficient procedures for the purchase of supplies, services, and equipment as well as for performing or contracting public works projects consistent with state law. The proposed ordinance does not make any changes to the current purchasing approval authorities.

Attachments:

- Proposed Ordinance Amending Chapter 3.08 (clean copy)
- Proposed Ordinance Amending Chapter 3.08 (with changes shown in redline/strike-out markup)

AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
CONSENT CALENDAR

DATE : January 24, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **SECOND READING AND ADOPTION OF AN ORDINANCE**
MAKING COMMERCIAL USE OF PARK FACILITIES WITHOUT
PERMIT UNLAWFUL

RECOMMENDATION:

Adopt the ordinance adding a new section 12.28.040 (Commercial Use of Park Facilities Without Permit Unlawful) to Chapter 12.28 (Use of City Parks) to prevent commercial use of city parks without a permit.

EXECUTIVE SUMMARY:

This ordinance will require anyone engaging in any business, activity, or act for financial compensation in any of the City's park facilities to obtain a permit from the City. The Council introduced this ordinance at their January 15, 2013 meeting.

BUDGET INFORMATION:

Fees would be collected as established by resolution of the Council.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
 - 4.20: Maintain and improve existing parks and recreation programs

BACKGROUND:

Vendors and other organizations have used City's park facilities for financial compensation without a permit, and there is currently no way for the City to monitor these activities. Such use is in violation of the zoning of the parks without City approval. This ordinance will require any person, firm, corporation or charitable organization from engaging in or attempt to engage in any business, activity or act for financial compensation in or on any recreational facility or property owned, operated, or maintained by the City, including, but not limited to, any park, playground, recreational area or parking lot, without a permit issued by the City. A question was raised about the application of this ordinance

to Benicia Unified School District ("BUSD") facilities. BUSD has a board policy prohibiting use of the facilities without a Use of Facilities approval. According to BUSD, there is not an unauthorized use problem at the BUSD facilities.

Attachments:

- Commercial Use of Parks Ordinance
- Draft Minutes from December 12, 2012 Parks, Recreation and Cemetery Commission meeting

CITY OF BENICIA

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 12.28 (USE OF CITY PARKS) OF TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SECTION 12.28.040 (COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL)

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

Section 1.

Chapter 12.28 (Use of City Parks) of Title 12 (Streets, Sidewalks and Public Places) of the Benicia Municipal Code is amended by adding Section 12.28.040 (Commercial use of park facilities without permit unlawful) to read as follows:

12.28.040 Commercial use of park facilities without permit unlawful.

A. Permit Required. It shall be unlawful for any person, firm, corporation or charitable organization to engage in or to attempt to engage in any business, activity or act for financial compensation including bartering in or on any recreational facility or property owned, operated, or maintained by the city, including, but not limited to, any park, playground, recreational area or parking lot, without a permit issued by the city.

B. Applicability. Subsection A of this section is applicable regardless of whether the financial compensation is received directly or indirectly for that portion of a business, activity or act being performed in or on any recreational facility or property owned, operated, or maintained by the city.

C. Permit Fees. The permit fee to be paid for the use of any recreational facility or property owned, operated, or maintained by the city, including, but not limited to, any park, playground, recreational area or parking lot for the purpose of any business, activity or act for financial compensation shall be prescribed by resolution of the council.

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 clauses thereof irrespective of the fact that any one or more sections, subsections, phrases 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 15th day of January, 2013, and adopted at a regular meeting of the Council held on the 5th day of February, 2013, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

CITY OF BENICIA
PARKS, RECREATION AND CEMETERY COMMISSION
Unapproved Minutes
Dec. 12, 2012

CALL TO ORDER

The regular meeting of the Parks, Recreation and Cemetery Commission was called to order at 6:30 p.m. by Vice-Chairperson Kimberly Funk.

ROLL CALL

Present:

Rufus Bunch
Kimberley Funk
Ernest Gutierrez
John McGuire
Sandy Moriarty

Staff Present:

Mike Dotson
Rick Knight
Vic Randall
Debra Bray
Heather McLaughlin

Excused:

Nancy Cockerham
Ken Paulk
Ariana Chaney

PLEDGE OF ALLEGIANCE

OPEN GOVERNMENT NOTICE

The Open Government Notice was read.

MINUTES

The Minutes of Nov. 14, 2012 meeting were approved as presented.

ADOPTION OF AGENDA

PRESENTATIONS

None

COMMUNICATIONS - None

Public Comments From the Floor Not on the Agenda (discussion limited to items **not on agenda** – a 5 minute limit per individual will be imposed)

No written communications.
No public comments from floor.

OLD BUSINESS – None

NEW BUSINESS:

A. Election of Offices of Chair and Vice Chair for 2013

Recommended Action: Hold elections for Chair and Vice Chair for 2013

Discussions on Chairman –Chairman Bunch nominated John McGuire as Chairman. McGuire accepted and it was approved by unanimous vote. Chairman Gutierrez nominated Kimberly Funk as Vice-Chair. She accepted and was approved by unanimous vote.

B. Adoption of 2013 commission Meeting Calendar

Recommended Action: Adopt 2013 meeting calendar.

Commissioner McGuire made a motion to adopt calendar without changes. Motion was seconded by Chairman Gutierrez. Motion was approved by unanimous vote.

C. Nomination of Von Pfister General Store for the National Register of Historic Places.

Recommended Action: Commission confirm the Historic Preservation Review Commission’s (HPRC) nomination of the Benicia Historical Society’s application for the Von Pfister General Store to be placed on the National Register of Historic Places.

Mike Dotson introduced Jerry Hayes from the Benicia Historical Society. Vic Randall spoke explaining application status. Jerry Hayes detailed the work on getting this building on the National Register of Historic Places. Over the years this project has been attempted and for a variety of reasons it never succeeded. At this time the (HPRC) feels it has an application that will be successfully approved. Chairman Bunch asked “why do we want this? What will this do?” Mr. Hayes explained that if placed on the National Registry of Historic Places, this would provide opportunities to obtain grant funds that would otherwise not be available. He said the building needs quite a bit of work and we will need to do a great deal of fundraising and grant applications to finance the repairs.

A motion was made by Commissioner Moriarty to accept the HPRC’s nomination of the Benicia Historical Society’s application for the Von Pfister General to be placed on the National Register of Historic Places. It was seconded by Commissioner Gutierrez. The motion was approved by unanimous vote.

D. Commercial use of parks facilities without permit unlawful.

Recommended Action: Commission to recommend to city council to adopt a new section 12.28.040 (Commercial Use of Park Facilities Without Permit Unlawful) to Chapter 12.28 (Use of City Parks) to prevent commercial use of city parks without a permit. Copy of new section

Heather McLaughlin, the City Attorney explained there is a need for this addition. We have had a number of instances where people have conducted business for profit in our City Parks. These have included things such as exercise classes and physical training. At this time our only

recourse is to try and enforce this via the zoning ordinance. With this new section we will be able to tell these businesses they need to get a business permit through the Parks Dept. She believes it will give us more flexibility. If the Commission approves the recommendation it will go before the City Council Jan. 15.

Commissioner Gutierrez made a motion to adopt the new section as outlined. Commissioner Bunch seconded.

Adoption of new section was accepted by unanimous vote.

DEPARTMENT MONTHLY REPORTS

The Department Monthly Report was reviewed.

Commissioner Moriarty said she wanted to compliment the Parks Staff for the lighting job on First Street. All Commissioners agreed it looked beautiful. Mike Dotson said the tree lights will stay up throughout the year.

REPORTS FROM COMMISSIONERS

There being no further business, the meeting was adjourned at 7:15 PM.

Debra Bray, Recording Secretary

**AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
CONSENT CALENDAR**

DATE : January 24, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY CLAYTON RUSHING AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Clayton Rushing.

EXECUTIVE SUMMARY:

Claimant alleges that a large crack/pothole in road needs to be fixed or patched. Claimant states that it caused his tire to blow out and caused concern for suspension damage.

BUDGET INFORMATION:

This claim is for \$316.52.

STRATEGIC PLAN:

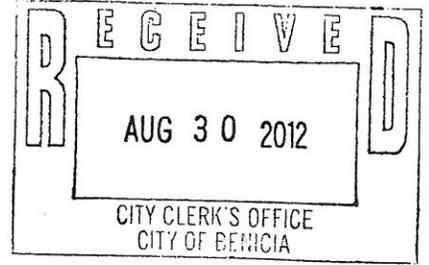
N/A-there is not a relevant Strategic Plan Goal that relates to this agenda item.

BACKGROUND:

Claimant alleges that a large crack/pothole in the road needs to be fixed or patched. Claimant states that a large crack on small car tires is like hitting a curb, caused his tire to blow out and caused concern for suspension damage. The City had no notice of the problem. Upon rejection of this claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Against the City



CLAIM AGAINST THE CITY OF BENICIA

Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Clayton Rushing

2. CLAIMANT'S ADDRESS: (Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: WORK PHONE:

3. AMOUNT OF CLAIM: \$ 316.52 (Attach copies of bills/estimates)

If amount claimed is more than \$10,000, indicate where jurisdiction rests: Limited Civil Case Unlimited Civil Case

4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

(Name) (Street or P.O. Box Number, City, State, Zip Code)

5. DATE OF INCIDENT: 8/20/2012 TIME OF INCIDENT: Approx 6:30 PM

LOCATION OF INCIDENT: Lake Herman Rd. Approx 1000' west of Old Lake Herman rd

6. Describe the incident or accident including your reason for believing that the City is liable for your damages: Large crack / pothole in road in narrow section in road needs to be fixed or patched.

7. Describe all damages which you believe you have incurred as a result of the incident: Large crack on small car tires is like hitting a curb caused tire to blow out and caused concern for suspension damage

8. Names of public employee(s) causing the damages you are claiming: N/A

Signature of Claimant Date 8/29/2012

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

From: Clayton Rushing

Phone #
FAX #

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



Large crack in road

Spoke to Nougé - Spot is in city limits

TOYOTA OF VALLEJO
201 AUTO MALL PKWY
JO, CA, 94591-3871

TERMINAL I.D.: 0017340008016245840000

MERCHANT #: 8016245840

VISA
*****0746

SALE
RECORD #: 57 INU: 000058
DATE: AUG 21, 12 TIME: 18:18
BATCH: 803 AUTH: 569567

TOTAL \$316.52

CARD BALANCE: \$0.00

JON H RUSHING

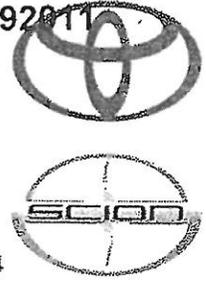
I AGREE TO PAY ABOVE TOTAL AMOUNT
ACCORDING TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT IF CREDIT VOUCHER)

CUSTOMER COPY

Experience

TOYOTA VALLEJO SCION OF VALLEJO

TOCS392011



TOCS392011

TOLL FREE 800-660-5660 PHONE 707-552-4545

ARD# 00070254

CAL# 000358047

201 AUTO MALL PKWY. VALLEJO, CA 94591

CUSTOMER NO. 83135	ADVISOR Ryan Vas	1453	TAG NO 927	INVOICE DATE 08/21/12	INVOICE NO TOCS392011
CLAYTON J RUSHING	LICENSE NO.		MILEAGE 3,189	COLOR FIRESTORM/	STOCK NO. 42764
	YEAR / MAKE / MODEL 13 / TOYOTA / SCION / SCION FR-S			DELIVERY DATE 05/31/12	DELIVERY MILES 4
	VEHICLE ID NO J F I Z N A A 1 2 D 1 7 0 1 6 8 3			SELLING DEALER NO. 1	PRODUCTION DATE
CLAYRUSH1@YAHOO.COM	P.O. NO.			R.O. DATE 08/20/12	
	COMMENTS				MO: 3189

LABOR & PARTS -
J# 1 37TOZ-013 DIAGNOSIS TECH(S):1425 28.00
 CUSTOMER STATES HIT A POT HOLE WITH RIGHT FRONT WHEEL.
 NOW HEARING A RUBBING NOISE.
 REC PUT NEW TIRE AND RECHECK
 VISUALLY INSPECTED BRAKE AND SUSPENSION
 COMPONENTS - OK.
 INSTALLED NEW RIGHT FRONT TIRE
 ROAD TESTED GOOD.

PARTS-----QTY---FP-NUMBER-----DESCRIPTION-----UNIT PRICE-
 JOB # 1 TOTAL PARTS 0.00
 JOB # 1 TOTAL LABOR & PARTS 28.00

J# 2 37TOZ WHEELS & TIRES TECH(S):1425 20.00
 CUSTOMER REQUEST PRICE QUOTE ON NEW TIRE.
 MICHELIN PRIMACY HP 215/45/17
 MOUNTED AND BALANCED NEW RIGHT FRONT WHEEL

PARTS-----QTY---FP-NUMBER-----DESCRIPTION-----UNIT PRICE-
 JOB # 2 1 DT003-03330-MI 215/45R17 245.00
 JOB # 2 TOTAL PARTS 245.00
 JOB # 2 TOTAL LABOR & PARTS 265.00

J# 3+35TOZ-009 WIPER SWITCH TECH(S):1425 INTERNAL
 CUSTOMER STATES PASSENGER WINDOW DOES NOT ALWAYS
 AUTO UP USING MASTER SWITCH.
 MASTER SWITCH OK. COULD NOT DUPLICATE AT THIS TIME

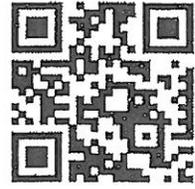
PARTS-----QTY---FP-NUMBER-----DESCRIPTION-----UNIT PRICE-
 JOB # 3 TOTAL PARTS 0.00
 JOB # 3 TOTAL LABOR & PARTS 0.00

J# 4+36TOZ BODY TRIM INT/EXT TECH(S):1425 INTERNAL
 INSPECT TAIL LIGHT FOR CONDENSATION. GETS MOISTURE
 IN TAIL LIGHTS WHEN WASHING.
 WASH TAIL LIGHTS COULD NOT DUPLICATE COMPLAINT AT THIS
 TIME.

PARTS-----QTY---FP-NUMBER-----DESCRIPTION-----UNIT PRICE-
 JOB # 4 TOTAL PARTS 0.00
 JOB # 4 TOTAL LABOR & PARTS 0.00

J# 5+16TOZDIA DIAGNOSE TECH(S):1425 INTERNAL
 CUSTOMER STATES CAN HEAR SQUEAKING NOISE FROM
 ENGINE - STATES INJECTORS ARE SOURCE OF SQUEAK.
 INSPECTED FOR SQUAKING NOISE FROM ENGINE. COULD
 NOT DUPLICATE COMPLAINT NORMAL SOUND AT THIS TIME

PARTS-----QTY---FP-NUMBER-----DESCRIPTION-----UNIT PRICE-



www.toyotavallejo.com



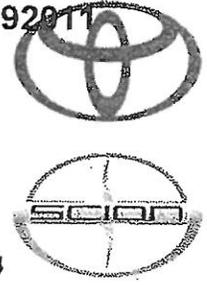
www.facebook.com/toyota.vallejo

American Sol. For Bus. 510.528.9966

Experience

TOYOTA VALLEJO SCION OF VALLEJO

TOCS392011



TOCS392011

TOLL FREE 800-660-5660 PHONE 707-552-4545

ARD# 00070254

CAL# 000358047

201 AUTO MALL PKWY. VALLEJO, CA 94591

CUSTOMER NO 83135	ADVISOR Ryan Vas	1453	TAG NO. 927	INVOICE DATE 08/21/12	INVOICE NO TOCS392011
CLAYTON J RUSHING	LICENSE NO		MILEAGE 3,189	COLOR FIRESTORM/	STOCK NO. 42764
	YEAR / MAKE / MODEL 13 / TOYOTA / SCION / SCION FR-S			DELIVERY DATE 05/31/12	DELIVERY MILES 4
	VEHICLE ID. NO. J F I Z N A A 1 2 D 1 7 0 1 6 8 3			SELLING DEALER NO. 1	PRODUCTION DATE
CLAYTUSH1@YAHOO.COM	F T E NO		P O. NO.		
				R. O. DATE 08/20/12	

MO: 3189

JOB # 5 TOTAL PARTS 0.00

JOB # 5 TOTAL LABOR & PARTS 0.00

J# 6+1&TOZ ENGINE MINOR TECH(S):1425 INTERNAL
CUSTOMER STATES NOTICES BOGGING WHEN DECELERATING/DOWNSHIFT.

ROAD TESTED VEHICLE AND COULD NOT DUPLICATE CUSTOMER CONCERN AT THIS TIME.

PARTS-----QTY-----FP-NUMBER-----DESCRIPTION-----UNIT PRICE-----
JOB # 6 TOTAL PARTS 0.00

JOB # 6 TOTAL LABOR & PARTS 0.00

MISC	CODE	DESCRIPTION	CONTROL NO	
JOB # 2	TF	TIRE DISPOSAL FEE		1.25
JOB # 2	TT	TIRE TAX		1.75
TOTAL MISC				3.00

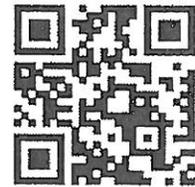
ESTIMATE
CUSTOMER HEREBY ACKNOWLEDGES RECEIVING ORIGINAL ESTIMATE OF \$140.00 (+TAX)
APPROVED REVISED ESTIMATE (# 1) OF \$300.00 (+TAX) ON 08/21/12 AT 04:39pm
BY CLAYTON J RUSHING COMMENTS 1 TIRE

TOTALS-----

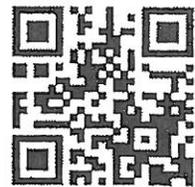
*****	TOTAL LABOR....	48.00
** Thanks for choosing Toyota Vallejo **	TOTAL PARTS....	245.00
** We appreciate your business **	TOTAL SUBLET....	0.00
** Ryan, Matt, Neville, Darrell, Noel and John **	TOTAL G.O.G....	0.00
** Open Mon - Sat 7:30am to 6:30pm, Sunday 8:00am 4:30pm **	TOTAL MISC CHG.	3.00
*****	TOTAL MISC DISC	0.00
	TOTAL TAX.....	20.52

TOTAL INVOICE \$ 316.52

** TOYOTA VALLEJO DOES NOT WARRANTY NON TOYOTA OR USED **
** PARTS. THESE PARTS MAY CARRY A PARTS ONLY REPLACEMENT **
** IF THEY FAIL. LABOR CHARGES WILL APPLY IF ANY NON **
** TOYOTA OR USED PART FAILS. **



www.toyotavallejo.com



www.facebook.com/toyota.vallejo

CUSTOMER SIGNATURE

PAID	
CASH	<input type="checkbox"/>
CHECK	<input type="checkbox"/>
CC	<input checked="" type="checkbox"/> 316.52
ATM	<input type="checkbox"/>
INITIAL <i>CR</i>	

AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
CONSENT CALENDAR

DATE : January 24, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY THERESA FITCH AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Theresa Fitch.

EXECUTIVE SUMMARY:

Claimant alleges that the sidewalk on First Street was uneven, part of it was higher than the other, and she tripped and fell. Claimant asserts that both knees were cut and bruised and her right knee was injured.

BUDGET INFORMATION:

This claim is for \$10,151.84.

STRATEGIC PLAN:

N/A-there is not a relevant Strategic Plan Goal that relates to this agenda item.

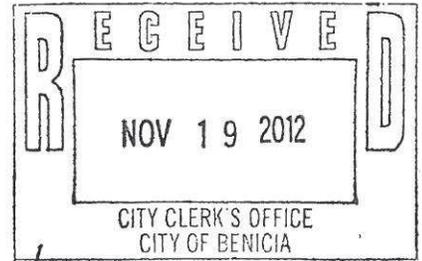
BACKGROUND:

Claimant alleges that the sidewalk was uneven and she tripped a fell, causing injury to her right knee. Claimant stated that a city staff member saw her fall and when she was admitted to and treated at Sutter Solano Emergency Room, it was clearly stated the city was solely responsible for all medical costs. Claimant is demanding an excessive amount of money for this claim. Upon rejection of this claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of the Claim Against the City

CLAIM AGAINST THE CITY OF BENICIA



Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Theresa Fitch

2. CLAIMANT'S ADDRESS: _____
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: _____ WORK PHONE: _____
spouse

3. AMOUNT OF CLAIM: \$ 5151.94 + COST OF OUR VACATION (Attach copies of bills/estimates)
10,157.84 5000.00 *That didn't happen. Stayed in hotel with ice and leg elevated on*

If amount claimed is more than \$10,000, indicate where jurisdiction rests:
Limited Civil Case _____
Unlimited Civil Case #2322 *whole VACATION!*
Pictures attached.

4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

(Name)

(Street or P.O. Box Number, City, State, Zip Code)

5. DATE OF INCIDENT: 8-9-12 TIME OF INCIDENT: _____

LOCATION OF INCIDENT: SIDEWALK ON MAIN ST. BENICIA

6. Describe the incident or accident including your reason for believing that the City is liable for your damages: *The sidewalk was uneven, part of it was higher than the other, and I tripped and fell face first*

7. Describe all damages which you believe you have incurred as a result of the incident: *Both knees were cut and bruised but my right knee was injured where I couldn't walk on it*

8. Name of public employee(s) causing the damages you are claiming: *Rick Silva seen the accident when it happened*

Theresa Fitch 9-15-12
Signature of Claimant Date

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

City of Benicia Attorney's Office
250 East L. Street
Benicia, CA 94510

Attention Heather C. McLaughlin

November 10th, 2012

Ms. McLaughlin,

We are receiving unpaid medical bills and late notices at our home address.

When I was admitted and treated at Sutter Hospital's Emergency Room, it was clearly stated that the city of Benicia was solely responsible for all medical costs.

I am sending copies of the cost of treatment I received at the time of my accident. As recommended by the attending physicians at Sutter Hospital, I also had follow-up treatments by an orthopedic doctor here at home. The charges amount to \$5150, which includes medicines prescribed for swelling and pain.

We also expect to be reimbursed \$5000 for the cost of our vacation, which consisted of being confined to our hotel room. I was limited to wearing a knee brace with my foot elevated, constant ice packs and pain medication, which required my husband's constant care and time. All required movement was limited to the use of crutches or a cane. This was not the vacation we planned. We are expecting a payment of \$10,150 to cover our expenses due to my accident.

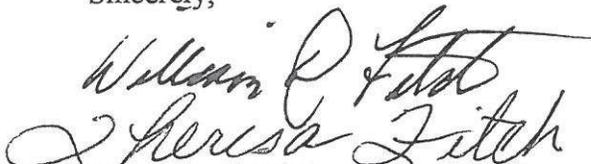
After receiving the police report that was mailed to us, it is obvious that the city of Benicia has questionable intentions of addressing this case. The police report from the city was INSULTING and FALSE, as it states my accident was alcohol-related. My husband and I DO NOT DRINK.

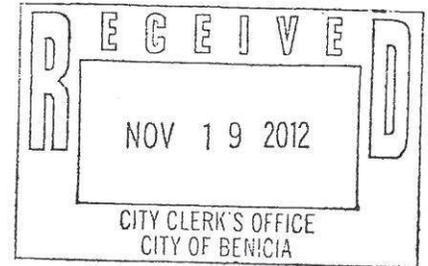
All parties involved know the city of Benicia should be held accountable for financial restitution. If this claim is not resolved in a timely and acceptable manner, we will be forced to seek legal counsel.

You already have our contact numbers and my email address i.

Your cooperation is appreciated and expected.

Sincerely,


Theresa and William Fitch



AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
BUSINESS ITEMS

DATE : January 28, 2013

TO : City Manager

FROM : Interim Public Works Director

SUBJECT : **UTILITY AGREEMENT AND EASEMENTS FOR THE RELOCATION OF THE CITY'S WATERLINE NECESSITATED BY THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD**

RECOMMENDATION:

Adopt the following Resolutions:

1. Approving a Utility Agreement disputing the liability for the relocation of Benicia's water supply line necessitated by the I-80/I-680/SR12 interchange improvement project near Fairfield; and
2. Accepting easements for the new waterline alignment.

EXECUTIVE SUMMARY:

The Solano Transportation Authority (STA), in cooperation with the California Department of Transportation (Caltrans), is implementing the first construction package for the I-80/I-680/SR12 interchange in Fairfield. Construction on this \$65M in improvements is scheduled to begin this Fall. As the first order of work, a 1,010 foot segment of Benicia's 30-inch water supply line must be relocated to accommodate the freeway expansion. STA and Caltrans have determined that pursuant to Caltrans right of way policy Benicia is liable for the full \$417K cost of the relocation.

City staff is in the process of reviewing right of way and legal documents. Staff is also in communication with Vallejo which is disputing the liability for the relocation of their parallel facility as well. Staff is also in negotiations with STA, of which both Benicia and Vallejo are member agencies. At this time STA is requesting the City approve a Utility Agreement disputing responsibility for the relocation so that the project can proceed without delay while negotiations on the relocation costs continue.

BUDGET INFORMATION:

There are no budget impacts to Benicia associated with this Council action; however a right of way delay will jeopardize the construction grant funding.

GENERAL PLAN:

Relevant General Plan Goal:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issues:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategic Issue #4: Preserving and Enhancing Infrastructure

ENVIRONMENTAL REVIEW:

The Environmental Impact Report for the I-80/680/12 Interchange project was certified by Caltrans and STA in December 2012.

BACKGROUND:

The I-680/I-80/SR12 interchange is scheduled to receive \$700M in capacity-enhancing improvements in 7 phases over the next 10-20 years depending upon available funding. STA is managing the project as part of a cooperative agreement with Caltrans, which owns the freeway system. The first \$65M construction phase is scheduled for fall 2013 and includes reconstructing the I-80/Green Valley Road Interchange, widening I-80, and constructing the westbound I-80/ westbound SR 12 connector.

This first phase requires that 1,010 feet of the City's 30-inch supply waterline be relocated at an estimated construction cost of \$417K to accommodate the freeway expansion. STA, with oversight from Caltrans, has determined that pursuant to the Streets & Highways Code and Caltrans right of way policies, the City is liable for the full cost of the relocation.

City staff is in the process of reviewing right of way and legal documents in order to overturn the liability determination. Staff is also in discussions with Vallejo and is reviewing their documentation disputing they are liable for \$600,000 to relocate 1,025 feet of their parallel, 39-inch water supply line. Vallejo built this portion of the waterline for the City when Vallejo was constructing their own line.

To date STA has invested considerable resources researching the right of way in an effort to demonstrate the relocation is an eligible expenditure for the transportation grants that are funding the project. STA has also designed the waterline relocation in close cooperation with the City and secured easements for the new pipeline. Based upon current findings, Caltrans has indicated expending transportation grant funding on the relocation would constitute a gift of public funds and set a precedent State-wide. Additional time is needed to

sort these issues out. Future construction phases will require two other waterline relocations, so how this issue is resolved will be precedent setting.

Planning for the I-680/I-780/SR12 interchange project has been underway for at least a decade. The project is a top priority for both Solano County and the State of California and is widely supported by the member agencies of STA. At this time STA is requesting the City to enter into a Utility Agreement that disputes the liability so the right-of-way can be cleared and construction can proceed without delay or jeopardizing the project grant funding.

STA has indicated the project will provide the funding for the waterline relocation on a temporary basis and continue to negotiate with the City in the future. The City Attorney has reviewed the Utility Agreement and opined that it will not prejudice or otherwise negatively affect the City's rights in the future. The agreement will provide staff the additional time needed to research the authority for placing the pipeline in the first place as well as the authority for the responsibility for the relocation.

Staff is recommending the City enter into the Utility Agreement disputing financial liability for waterline relocation to allow the project to proceed and further recommends the City accept the easements to protect the new waterline from encroachments in the future.

Attachments:

- ❑ Proposed Resolution – Approving Utility Agreement
- ❑ Utility Agreement with Attachment
- ❑ Proposed Resolution – Accepting Easements
- ❑ (2) Easements
- ❑ Interchange Improvements Map
- ❑ Relocation Exhibit
- ❑ Letter to STA from the City of Vallejo

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A UTILITY AGREEMENT WITH THE SOLANO TRANSPORTATION AUTHORITY DISPUTING THE LIABILITY FOR THE RELOCATION OF BENICIA'S WATERLINE NECESSITATED BY THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD, AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT, AND AUTHORIZING THE CITY CLERK TO FILE THE SAME WITH THE SOLANO COUNTY RECORDER

WHEREAS, the Solano Transportation Authority (STA), in cooperation with the California Department of Transportation (Caltrans), is constructing approximately \$65M in improvements to the I-80/I-680/SR12 interchange near Fairfield; and

WHEREAS, said project necessitates 1,010 feet of Benicia's 30-inch raw waterline be relocated at an estimated construction cost of \$417K; and

WHEREAS, STA has determined that in accordance with Caltrans right of way policy, Benicia is liable for the full cost of this relocation; and

WHEREAS, in an effort to prevent incurring the cost of this relocation City staff is currently reviewing STA's determination, in discussions with Vallejo regarding their parallel line which also must be relocated, and negotiating with STA; and

WHEREAS, at this time STA is requesting Benicia approve the Utility Agreement (Exhibit A) contesting the financial liability for relocation determination to not delay the project or jeopardize the grant funding and has agreed to continue negotiating in the future; and

WHEREAS, the interchange improvement project is a high priority for the State and County; and

WHEREAS, the City Attorney has reviewed the Utility Agreement and opined it will not prejudice or otherwise negatively affect the City's rights in the future.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the Utility Agreement (Exhibit A) with the Solano Transportation Authority.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to sign the Utility Agreement subject to minor revisions by the City Attorney, and the City Clerk is authorized to file said Utility Agreement with the Solano County Recorder.

On motion of _____, seconded by _____, 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 5th day of February 2013, and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

DISTRICT 4	COUNTY SOLANO	ROUTE I-80 / SR 12	POST MILE 80 PM 12.0 to 13.1 SR12 PM 21 to 2.8	EA 0A5344
FEDERAL AID NO. N/A		UTILITY OWNER City of Benicia		
FEDERAL PARTICIPATION On The Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On The Utilities <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

UTILITY AGREEMENT No. 04-UT-1877.7 DATE February , 2013

The **Solano Transportation Authority**, hereinafter called “STA,” in cooperation with the California Department of Transportation (“Caltrans”), proposes to construct the first construction package of the 80/680/12 interchange project, in and near the City of Fairfield, County of Solano, State of California.

And

The **City of Benicia**, a local governmental agency, formed in 1850.
250 East L Street, Benicia, CA 94510 Phone: (707) 746-4200

Herein after called “OWNER,” owns and maintains WATER FACILITIES

Within the limits of STA/Caltrans project which requires RELOCATION OF WATER FACILITIES

To accommodate STA/Caltrans project.

WHEREAS, STA, acting with Caltrans has issued Notice to Owner No. 1877.7 dated January 9, 2013, attached hereto, to the City of Benicia, hereinafter called Owner, which Notice to Owner sets forth the terms and conditions pursuant to which Caltrans/STA will relocate certain Owner’s facilities to clear the first construction package of the 80/680/12 interchange project, and;

WHEREAS, the reconstruction of the STA/Caltrans freeway project necessitates the relocation of Owner’s utility facilities, and;

WHEREAS, STA/Caltrans, in order to clear the right of way for the freeway construction, will relocate the Owner’s facilities within said Notice to Owner, hereafter called Owner’s facilities, and;

WHEREAS, Owner claims it has rights that are prior and superior to those of Caltrans and claims that Caltrans must pay the relocation costs for those facilities covered by the prior right hereafter “prior right” facilities, said right described in attached Notice to Owner, and;

WHEREAS, in accordance with Section 706 of the Streets and Highways Code, STA/Caltrans may, without prejudice to its rights, or that of Owner, proceed relocate Owner’s facilities as stated in the attached Notice to Owner so as not to delay the freeway construction, and;

WHEREAS, STA/Caltrans and Owner disagree on the issue of which is liable for the portion of the required relocation work known as the prior right facilities. STA/Caltrans and Owner agree that, in order to expedite the freeway project, Caltrans shall proceed with the relocation work as set forth in No. 1877.7 dated January 15, 2013.

NOW, THEREFORE, it is agreed between STA/Caltrans and Owner as follows:

1. STA/Caltrans shall relocate Owner’s facilities in accordance with No. 1877.7 dated January 15, 2013.
2. In signing this Agreement, neither STA/Caltrans nor Owner diminishes its position, waives any of its rights or accepts -liability.
3. STA/Caltrans and Owner reserve the right to have such liability resolved by future negotiations or by an action in a court of competent jurisdiction pursuant to the provisions of Section 706 of the Streets and Highways Code.
4. STA/Caltrans agrees to perform the herein-described work with the Caltrans contractor and to provide and furnish all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion.
5. It is understood and agreed that the STA/Caltrans will not pay for any betterment or increase in capacity of Owner’s facilities in the new location and that Owner shall give credit to the STA/Caltrans for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by Owner.
6. It is understood that said highway is a Federal Aid Highway and, accordingly, 23 CFR 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the State and Owner pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

THE ESTIMATED COST OF THE ABOVE-DESCRIBED WORK IS \$ 416,630 .

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

SOLANO TRANSPORTATION AUTHORITY: CITY OF BENICIA:

By: _____	By: _____
Daryl Halls Executive Director	Brad Kilger City Manager
Date	Date

ATTEST:

By: _____	By: _____
Joanna Masiclat Clerk of the Board	Lisa Wolfe City Clerk
Date	Date

APPROVED AS TO FORM AND PROCEDURE:

APPROVED AS TO FORM:

By: _____	By: _____
Bernadette S. Curry STA Legal Counsel	City of Benicia
Date	Date

Distribution: 1 original to STA
1 original to City of Benicia
1 copy to Caltrans R/W Utility File

NOTICE TO OWNER

RW 13-4 (REV 01/2009)

NOTICE TO OWNER

SOLANO TRANSPORTATION
AUTHORITY

No. 1877.7

DIST.	COUNTY	ROUTE	POST MILE	E.A.
04	SOL	12,80	PM 2.1/2.8, 12.0/13.1	04-0A5344
Federal Aid No. N/A				
Owner's File No.				
Date: January 9, 2013		Freeway Yes [x] No []		

To: City of Benicia
250 E. L Street
Benicia, CA 94510

Attention: Mike Roberts

Because of the Solano Transportation Authority construction project: This is the Initial Construction Package (ICP) to construct the first phase of the 80/680/12 interchange improvements. ICP will construct the I-80/SR12 freeway to freeway connector, a new interchange at Green Valley Road with new connection to westbound I-80, and improvements along mainline I-80.

Which affects your facilities: 30-inch Raw Water Main crossing Caltrans right of way at I-80 near the Green Valley Road overcrossing.

You are hereby ordered to: Perform design review/approval and construction inspection oversight for the relocation of these facilities and appurtenances to accommodate the proposed Project as detailed on the Project plans.

Your work shall be completed as follows: The Project's Contractor will relocate these facilities and related appurtenances during project construction as part of the Project Contact.

Notify Matt Brogan with Mark Thomas & Company, Inc. at (916) 381-9100, 72 hours prior to initial start of construction inspection work, and an additional 24 hours prior to subsequent restart when the construction inspection work schedule is interrupted.

Liability for the cost of work is: The liability is in dispute and will be settled by future agreement and in accordance with the Streets and Highways code.

By _____
Janet Adams
Solano Transportation Authority

cc: Resident Engineer
Permits
R/W

THIS NOTICE DOES NOT CONSTITUTE A PERMIT. OBTAIN AN ENCROACHMENT PERMIT BEFORE STARTING WORK.

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING EASEMENTS ALONG THE NEW ALIGNMENT OF THE CITY'S 30-INCH WATERLINE THAT IS BEING RELOCATED FOR THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID EASEMENTS, AND AUTHORIZING THE CITY CLERK TO FILE THE SAME WITH THE SOLANO COUNTY RECORDER

WHEREAS, the Solano Transportation Authority (STA), in cooperation with the California Department of Transportation (Caltrans), is constructing approximately \$65M in improvements to the I-80/I-680/SR12 interchange near Fairfield; and

WHEREAS, said project necessitates 1,010 feet of Benicia's 30-inch raw waterline be relocated along a new alignment; and

WHEREAS, the Solano Transportation Authority has secured easements (Exhibits A and B) along this new alignment which will protect the City's waterline from encroachments in the future at no cost to the City.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia accepts the easements (Exhibits A and B).

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute the easements subject to minor revisions and approval by the City Attorney, and the City Clerk is authorized to record said easements with the Solano County Recorder.

On motion of _____, seconded by _____, 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 5th day of February 2013, and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Recorded at the request of:
Solano Transportation Authority
Return to:
Contra Costa County
Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Attn: Shirley Parker

EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

Assessor Parcel No. 0148-280-130
Title Co. Order no. 11704096

State Parcel 62452-3A

GRANT OF EASEMENT

CITY OF FAIRFIELD, a municipal corporation, hereinafter called the GRANTOR, hereby grants to CITY OF BENICA, a municipal corporation, hereinafter called the GRANTEE, a non-exclusive water pipeline easement, for installation, repair, maintenance and replacement of the water pipeline line and necessary access for those purposes in, under, along, and across that certain real property in the City of Fairfield, County of Solano, State of California, described as Water Pipeline Easement in EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

IN WITNESS WHEREOF, the GRANTOR has executed this indenture this _____ day of _____ 2013.

GRANTOR
CITY OF FAIRFIELD
A MUNICIPAL CORPORATION

By: _____
Its: _____

ATTACH APPROPRIATE ACKNOWLEDGMENT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On _____, before me, _____ Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Notary Public

G:\RealProp\FORMS\AK.02 Notary Acknowledgment (used as an attachment).doc
2/13/08

EXHIBIT "A"

All that real property situate in the City of Fairfield, County of Solano, State of California, being a portion that certain parcel of land described in the Grant Deed to the City of Fairfield recorded April 29, 1991, as Document No. 91-027742 in Official Records, Solano County, more particularly described as follows:

Parcel 62452-3A, Water Line Easement

An easement to construct, operate and maintain water pipelines more particularly described as follows:

BEGINNING at the southwest corner of said parcel (D.N. 91-027742); thence, along the westerly line of said parcel, North 09°18'34" East, 39.09 feet; thence, leaving said westerly line, South 17°50'16" East, 40.75 feet to the southerly line of said parcel; thence, along said southerly line, North 89°19'26" West, 18.81 feet **POINT OF BEGINNING**.

Containing 363 square feet, more or less.

Bearings and distances used in the above descriptions are based on the California Coordinate System of 1983, Zone 2, CA-HPGN, Epoch 1991.35. Multiply the grid distances shown above by 0.9999714 to obtain ground level distances.

Exhibit 'B' attached and by this reference made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act

Dec 18, 2012
Date


Joel A. Garcia
L.S. No. 5285
Expiration Date: 12-31-2013





SCALE: 1"=60'

42 PM 9
PARCEL 1

42 PM 9
PARCEL 2

CPN: 62458-3A

D.N. 91-027742

GREEN VALLEY ROAD

CITY OF FAIRFIELD
APN 0148-280-130

CPN: 62452-3A
EASEMENT AREA =
363 S.F.

POB

L1

L2

L3

37 PM 28
PARCEL 10

CPN: 62452-1

CPN: 62458-2

LINE	BEARING	DIST
L1	N 09°18'34" E	39.09'
L2	S 17°50'16" E	40.75'
L3	N 89°19'26" W	18.81'

LEGEND

POB -POINT OF BEGINNING
 APN -ASSESSOR'S PARCEL NUMBER
 D.N.-DOCUMENT NUMBER
 CPN -COUNTY PARCEL NUMBER
 S.F.-SQUARE FEET



SUBPARCEL NO.

62452-3A



Mark
Thomas &
Company,
Inc.

WATERLINE EASEMENT
 CITY OF BENICIA
 LANDS OF THE CITY OF FAIRFIELD
 DOC# 91-027742 APN 0148-280-130

In Solano County
California

Scale: 1"=60'
 Date 12/18/12
 Checked By JM

EXHIBIT "B"
 Plat to Accompany Legal Description

12/18/2012
 Sht. 1 of 1 Shts

V:\STA-58-0251B-80-680-12\ICP\Survey\Plats to Accompany\CPN_62452-3A.dwg, 12/18/2012 2:15:56 PM, \verfha01\VP LaserJet 5200

Recorded at the request of:
Solano Transportation Authority
Return to:
Contra Costa County
Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Attn: Shirley Parker

EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

Assessor Parcel Nos. 0148-280-120 AND 0148-280-140

State Parcel 62458-3A

Title Co. Order No. 1174089

GRANT OF EASEMENT

CITY OF FAIRFIELD, a municipal corporation as successor to the Redevelopment Agency of the City of Fairfield pursuant to the provision of ABXI-26 of the statues of 2011, hereinafter called the GRANTOR, hereby grants to CITY OF BENICA, a municipal corporation, hereinafter called the GRANTEE, a non-exclusive water pipeline easement, for installation, repair, maintenance and replacement of the water pipeline line and necessary access for those purposes in, under, along, and across that certain real property in the City of Fairfield, County of Solano, State of California, described as Water Pipeline Easement in APPENDIX A" ATTACHED HERETO AND MADE A PART HEREOF.

IN WITNESS WHEREOF, the GRANTOR has executed this indenture this _____ day of _____ 2013.

GRANTOR
CITY OF FAIRFIELD
A MUNICIPAL CORPORATION, as successor to the
Redevelopment Agency of the City of Fairfield
pursuant to the provision of ABXI-26 of the statues
of 2011

By: _____

Title: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On _____, before me, _____ Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Notary Public

G:\RealProp\FORMSAK.02 Notary Acknowledgment (used as an attachment).doc
2/13/08

EXHIBIT "A"

All that real property situate in the City of Fairfield, County of Solano, State of California, being a portion of Parcel 10, as said Parcel 10 is shown on Parcel Map filed February 27, 1992, in Book 37 of Parcel Maps at Page 28 in Official Records, Solano County, more particularly described as follows:

Parcel 62458-3A, Water Line Easement

An easement to construct, operate and maintain water pipelines more particularly described as follows:

COMMENCING at the most northerly corner of said Parcel 10 (37 PM 28); thence, along the northeasterly boundary of said parcel South 46°20'46" East, 56.15 feet to the **POINT OF BEGINNING** for this description; thence, continuing along said northeasterly boundary, the following two (2) courses: 1) South 46°20'46" East, 1.91 feet and 2) along a tangent curve to the right, having a radius of 705.00 feet, through a central angle of 02°17'04", an arc distance of 28.11 feet; thence, leaving said northeasterly line, South 42°45'40" West, 12.20 feet; thence, South 17°50'16" East, 86.30 feet to said northeasterly boundary; thence, along said northeasterly boundary, the following two (2) courses: 1) South 09°18'34" West, 39.09 feet and 2) South 89°19'26" East, 18.81 feet; thence, leaving said northeasterly boundary, South 17°50'16" East, 90.46 feet; thence, South 04°35'44" West, 283.10 feet to the southeasterly boundary of said parcel; thence, along said southeasterly boundary, the following three (3) courses: 1) South 30°24'09" West, 9.34 feet, 2) South 15°10'01" West, 95.69 feet and 3) South 14°35'56" West, 114.65 feet; thence, leaving said southeasterly boundary, along a non-tangent curve to the right, having a radius of 2980.50 feet whose center bears North 45°12'08" West; through a central angle of 00°46'33", an arc distance of 40.35 feet to the westerly boundary of said parcel; thence, along said westerly boundary, the following four (4) courses: 1) along a non-tangent curve to the left, having a radius of 200.00 feet whose center bears North 49°36'12" West; through a central angle of 35°48'04", an arc distance of 124.97 feet, 2) North 04°35'44" East, 388.79 feet, 3) North 12°50'16" West, 76.12 feet and 4) North 17°50'16" West, 169.34 feet; thence, leaving said westerly boundary, North 42°45'40" East, 30.76 feet, to the **POINT OF BEGINNING**.

Containing 17,916 square feet or 0.41 acres, more or less.

Bearings and distances used in the above descriptions are based on the California Coordinate System of 1983, Zone 2, CA-HPGN, Epoch 1991.35. Multiply the grid distances shown above by 0.9999714 to obtain ground level distances.

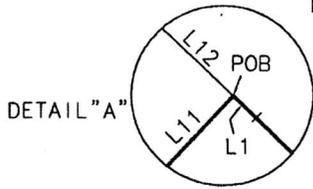
Exhibit 'B' attached and by this reference made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act

Dec 12, 2012
Date

Joel Garcia
Joel A. Garcia
L.S. No. 5285
Expiration Date: 12-31-2013





REDEVELOPMENT AGENCY OF
FAIRFIELD
PARCEL 10 (37 PM 28)
(APN 0148-280-120, -140)

LINE	BEARING	DIST
L1	S 46°20'46" E	1.91'
L2	S 42°45'40" W	12.20'
L3	S 17°50'16" E	86.30'
L4	S 09°18'34" W	39.09'
L5	S 89°19'26" E	18.81'
L6	S 17°50'16" E	90.46'
L7	S 30°24'09" W	9.34'
L8	S 15°10'01" W	95.69'
L9	S 14°35'56" W	114.65'
L10	N 12°50'16" W	76.12'
L11	N 42°45'40" E	30.76'
L12	S 46°20'46" E	56.15'

CURVE	RADIUS	DELTA	LENGTH
C1	705.00'	02°17'04"	28.11'
C2	2980.50'	00°46'33"	40.35'
C3	200.00'	35°48'04"	124.97'

LEGEND

- POC -POINT OF COMMENCEMENT
- POB -POINT OF BEGINNING
- APN -ASSESSOR'S PARCEL NUMBER
- DOC# -DOCUMENT NUMBER
- CPN -COUNTY PARCEL NUMBER
- PM -PARCEL MAP
- DD -DIRECTOR'S DEED
- ACCESS CONTROLLED
- (R) -RADIAL

SUBPARCEL NO. N49°36'12"W (R) N45°12'08"W (R)

62458-3A

t Mark
Thomas &
Company,
Inc.

WATERLINE EASEMENT
CITY OF BENICIA
REDEVELOPMENT AGENCY OF FAIRFIELD
PARCEL 10 (37 PM 28) APN 0148-280-120, -140

In Solano County
California

Scale: 1"=100'
Date 12/18/12
Checked By JM

EXHIBIT "B"
Plat to Accompany Legal Description

12/18/2012
Sht. 1 of 1 Shts

POC POB SEE DETAIL "A" CITY OF FAIRFIELD

CITY OF FAIRFIELD
APN 0148-280-130

CPN: 62458-3
EASEMENT AREA
0.41 ACRES

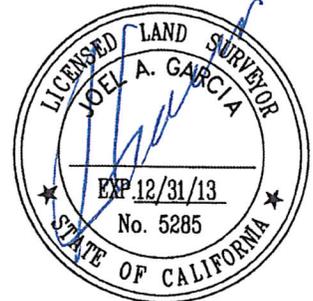
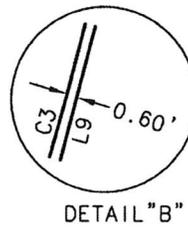
CPN: 62458-2

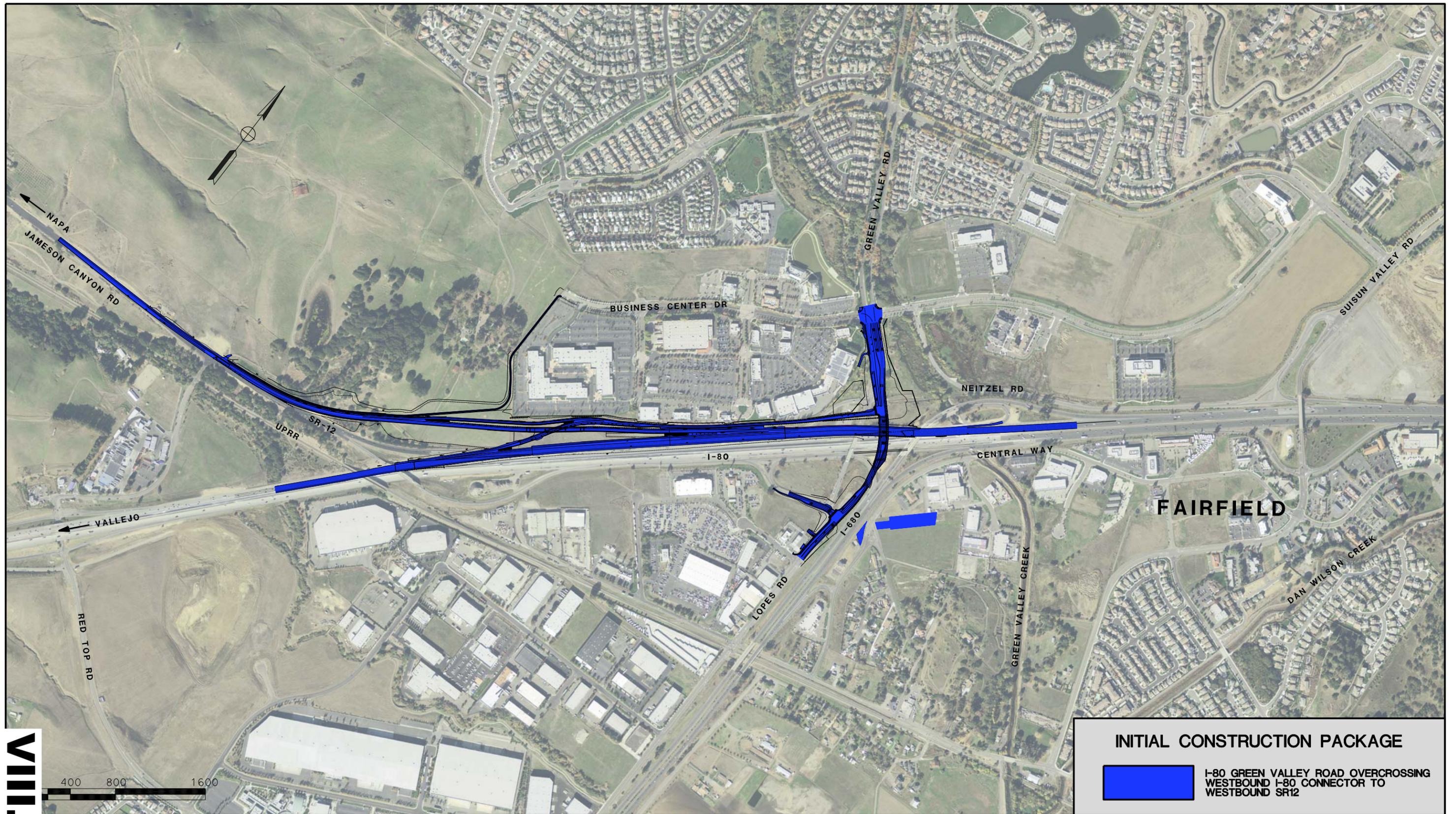
LANDS OF
STATE OF CALIFORNIA

GREEN VALLEY ROAD

SCALE: 1"=100'

PROPOSED R/W





VIII-A.23

SCALE:
DATE:
JOB:

1" = 800' (11"X17")
JANUARY 2012
58-0521B

INITIAL CONSTRUCTION PACKAGE
I-80/I-680/SR-12 INTERCHANGE PROJECT (ALT C-1)

INITIAL CONSTRUCTION PACKAGE



I-80 GREEN VALLEY ROAD OVERCROSSING
WESTBOUND I-80 CONNECTOR TO
WESTBOUND SR12



MARK THOMAS & COMPANY, INC.

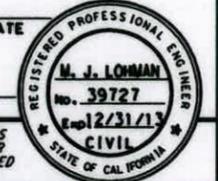
3000 OAK ROAD, SUITE 650
WALNUT CREEK, CALIFORNIA 94597
(925) 938-0383

REVISOR
 DATE REVISION
 CALCULATED-DESIGNED BY
 CHECKED BY
 CONSULTANT FUNCTIONAL SUPERVISOR
 TRANSPORTATION

VIII.A.25

DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
04	Soi	12/80	2.3/2.8 12.0/13.1		

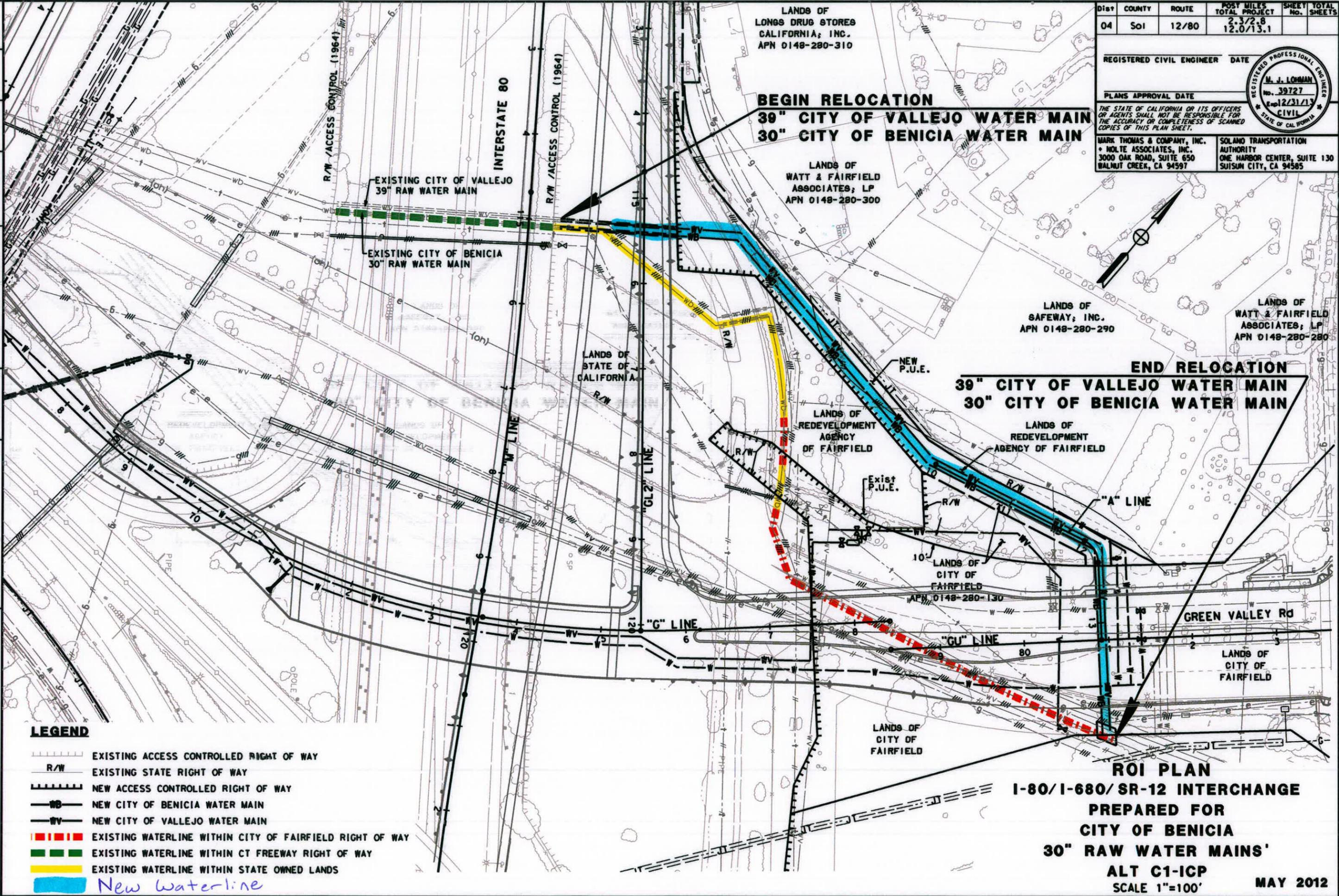
REGISTERED CIVIL ENGINEER DATE



PLANS APPROVAL DATE
 THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

MARK THOMAS & COMPANY, INC.
 • NOLTE ASSOCIATES, INC.
 3000 OAK ROAD, SUITE 650
 WALNUT CREEK, CA 94597

SOLANO TRANSPORTATION AUTHORITY
 ONE HARBOR CENTER, SUITE 130
 SUISUN CITY, CA 94585



LEGEND

- EXISTING ACCESS CONTROLLED RIGHT OF WAY
- EXISTING STATE RIGHT OF WAY
- NEW ACCESS CONTROLLED RIGHT OF WAY
- NEW CITY OF BENICIA WATER MAIN
- NEW CITY OF VALLEJO WATER MAIN
- EXISTING WATERLINE WITHIN CITY OF FAIRFIELD RIGHT OF WAY
- EXISTING WATERLINE WITHIN CT FREEWAY RIGHT OF WAY
- EXISTING WATERLINE WITHIN STATE OWNED LANDS
- New Waterline

BEGIN RELOCATION
39" CITY OF VALLEJO WATER MAIN
30" CITY OF BENICIA WATER MAIN

END RELOCATION
39" CITY OF VALLEJO WATER MAIN
30" CITY OF BENICIA WATER MAIN

ROI PLAN
I-80/I-680/SR-12 INTERCHANGE
PREPARED FOR
CITY OF BENICIA
30" RAW WATER MAINS'
ALT C1-ICP
SCALE 1"=100'
MAY 2012



CITY OF VALLEJO
DEPARTMENT OF PUBLIC WORKS
Office of the Director

555 SANTA CLARA STREET VALLEJO CALIFORNIA 94590-5934 707-648-4315 FAX 707-648-4691 www.ci.vallejo.ca.us

January 25, 2013

Janet Adams
Solano Transportation Authority
One Harbor Center, Suite 120
Suisun City, CA 94585

SUBJECT: Obligation to Pay for Pipeline Realignment at Green Valley Road

Dear Ms. Adams:

In past meetings, City staff and the Solano Transportation Authority (STA) have discussed who is required to pay for pipeline realignment (that is not within an existing Caltrans right-of-way) near Green Valley Road that is necessary to accommodate the I-80/I-680/SR12 Interchange Project (Project). The City pipeline in question, a portion of the City's North Bay Aqueduct (NBA) 39" water main that runs along, and in some cases under, Green Valley Road, STA claims that because the new street and highway facilities will be operated as a State facility, Caltrans Utility Policies will need to be followed. If we accept this as fact, then with respect to costs for relocating utility facilities, Section 13.04.01.00 of the Caltrans Right of Way Manual provides as follows:

Liability determination is the process of analyzing the occupancy rights of the owner of utility facilities being impacted by a highway project versus the State's rights. Prior and/or superior rights in the area of the impacted facility form the basis for determining responsibility for payment of relocation costs. The burden of establishing prior and/or superior rights rests with the Owner.

Thus, liability is based upon who had rights to the area first. Those with prior rights do not have to pay for relocations.

The area in contention is near the northwest corner of Green Valley Road and Business Center Drive, shown on **Exhibit A**, where both Vallejo and the City of Benicia have their NBA main lines. The only portion in dispute is that portion of the mainline not within an existing Caltrans right-of-way.

Initially in 2011, STA claimed that Vallejo's installation of Vallejo's mainline occurred after the adoption of the Freeway and Expressway (F&E). STA further claimed that because Vallejo has not produced evidence of a superior right, it is assumed that the mainline was installed pursuant to an encroachment permit. Streets and Highways Code section 673 provides that the owner of utility facilities installed under an encroachment permit is obligated to relocate those facilities at their expense. In this case, those costs are estimated at \$700,000. STA has not disclosed the F&E adoption date; however, after consulting our files, we have determined that Highway 40 became

Interstate 80 in 1964, and Vallejo's portion of the NBA was installed in 1986. However, we believe the F&E adoption date is beside the point. In 1964, Interstate 80 was nowhere close to Green Valley Road, so STA's focus on the F&E adoption date appears misplaced. The issue is not when Interstate 80 was built, but rather that the City's pipeline rights are superior to STA's as STA has only recently or has yet to acquire the necessary right of way for the construction of the Project.

As evidence for Vallejo's prior rights claim, the City of Fairfield submitted copies of a parcel map through which several easements were dedicated to the City of Fairfield (**Exhibit B**). According to the parcel map, the Redevelopment Agency of the City of Fairfield dedicated public service easements¹ to the City of Fairfield in 1992 for the area in contention. **Exhibit B** also shows, highlighted in green, the original location of Green Valley Road before it was moved in 1990 to its current location.

Furthermore, the final easements necessary to install the mainline for the NBA were obtained in 1987 (**Exhibit C**).

Based on the City's rights as detailed above, it is apparent that the City's rights predate any of STA's rights for the Project.

Analysis

STA's summary of the law is accurate. Based upon case and statutory law, the first in right generally does not pay for utility relocations (Civil Code § 3525, see e.g. *County of Contra Costa v. Central Contra Costa Sanitary Dist.* (1960) 182 Cal.App.2d 176, 5 Cal.Rptr. 783). Caltrans' Right of Way Manual provides a helpful list and discussion on how various interests in property can satisfy prior rights. According to Table 13.04-1, property rights will be based upon one of ten factors.

1. Fee Ownership
2. Easement
3. Implied/Secondary Easement
4. Joint Use and/or Consent to Common Use Agreements
5. Prescriptive Rights
6. Lease
7. License
8. Franchise
9. Encroachment permit
10. Trespass

Normally, categories 1-5 establish prior rights, while categories 6-10 usually require owner-funded relocations. Vallejo's right falls under Categories 2 and 3.

¹ A public service easement is: A right-of-way, easement, or use restriction acquired for public use by dedication or otherwise for sewers, pipelines, polelines, electrical transmission and communication lines, pathways, storm drains, drainage, canal, water transmission lines, light and air, and other limited use public easements other than for street or highway purposes. (Streets and Highways Code § 8306).

Category 2 – Easement

The public service easements dedicated to the City of Fairfield are not tied to and therefore benefiting any particular piece of property, it is an easement in gross, and based upon California law, an easement in gross is apportionable if exclusive. (*Salvaty v. Falcon Cable Television* (1985) 165 Cal.App.3d 798, 212 Cal.Rptr. 31). In this situation, the easement was dedicated by the Fairfield Redevelopment Agency to the City of Fairfield as a “public service easement,” which, as defined in footnote 1, covers just about any conceivable form of utility transmission. Due to the expansive nature of the easement, it can be reasonably concluded that the easement is exclusive to the City of Fairfield. Therefore, if the City of Fairfield desired to apportion the easement and allow the City of Benicia and Vallejo to build their mainlines within its boundaries, the City of Fairfield was well within its rights, without needing permission from the Fairfield Redevelopment Agency, to do so. (See *Salvaty*, at 804.)

Although it appears the easement may have been acquired after installation, an after-acquired easement authorizes the pre-existing use of property. (*Noronha v. Stewart* (1988) 199 Cal.App.3d 485, 490, 245 Cal.Rptr 94.)

Category 3 – Implied Secondary Easement

In addition to the dedicated public service easement, Vallejo also has a secondary easement for the mainline. According to Section 13.04.04.03 of Caltrans’ Right of Way Manual:

All city-owned facilities located in city streets and county-owned facilities located in county roads that were installed in the street or road within the city or county jurisdictional limits prior to their becoming a State highway are considered to be installed in the Owner’s implied easement reservation.

Thus, under this section, if a city installed its own facilities under or adjacent to a city street, then that satisfies the prior right requirement as “an implied easement reservation.” Since Green Valley Road is not a State highway and Vallejo installed the mainline adjacent to Green Valley Road, Vallejo’s mainline is within Vallejo’s implied easement reservation.

Any argument that the city street has to be within the jurisdictional limits of the same city is an incorrect analysis of the law. Public Utilities Code section 10101 provides as follows:

There is granted to every municipal corporation of the State the right to construct, operate, and maintain water and gas pipes, mains and conduits...all with necessary appurtenances, across, along, in, under, over, or upon any road, street, alley, avenue, or highway...in such manner as to afford security for life and property.

Thus, under this code section Vallejo has a right to install its mains in another jurisdiction’s streets. In situations between public agencies, “the long-standing rule is: facilities that are ‘prior in time’ are ‘prior in right.’” (*County of Orange v. Santa Margarita Water District* (1996) 44 Cal.App.4th 189,

193, 52 Cal.Rptr.2d 8, *Northeast Sacramento County Sanitation District v. Northridge Park County Water District* (1966) 247 Cal.App.2d 317, 55 Cal.Rptr. 494). This rule would appear to apply in this situation since STA is a public agency (Government Code section 6500) and Vallejo is a city. Since Vallejo installed the mainline well before the STA project, then Vallejo has the prior right and STA is obligated to pay for the relocation. There is no reason why the fact that Vallejo installed the lines outside of its jurisdictional limits should preclude application of this rule. In *Southern California Gas Co. v. City of Los Angeles* (1958) 50 Cal.2d 713, 329 P.2d 289, the California Supreme Court held that a city exercising its governmental functions to construct and maintain sewer lines in a public street outside its boundaries was not subordinate to another public utility's prior rights. Therefore, any assertion of a jurisdictional requirement is unwarranted.

Conclusion

Using Caltrans' utility manual, there are two justifications for STA to pay for the relocations caused by the STA project to relocate Green Valley Road. One, the City of Fairfield was dedicated a public service easement in the location under dispute. This public service easement is broad enough to allow the City of Fairfield to apportion the easement to Vallejo to allow for the mainline installation. Since the dedication and the mainline installation precede STA's project, Vallejo holds rights superior to STA. Two, because the mainline installation occurred adjacent to a Fairfield city street, Vallejo holds an implied secondary easement to the location, which precedes STA's rights. As a result, it is the City's opinion that STA is obligated to pay for the relocation.

The City looks forward to resolving this matter with STA. If you have any questions, or if you would like to request any additional information or documentation, then do not hesitate to contact Franz Nestlerode, Water Superintendent at 707 648-4308 or via email at franz@ci.vallejo.ca.us.

Very truly yours,



David A. Kleinschmidt
Public Works/Utilities Director

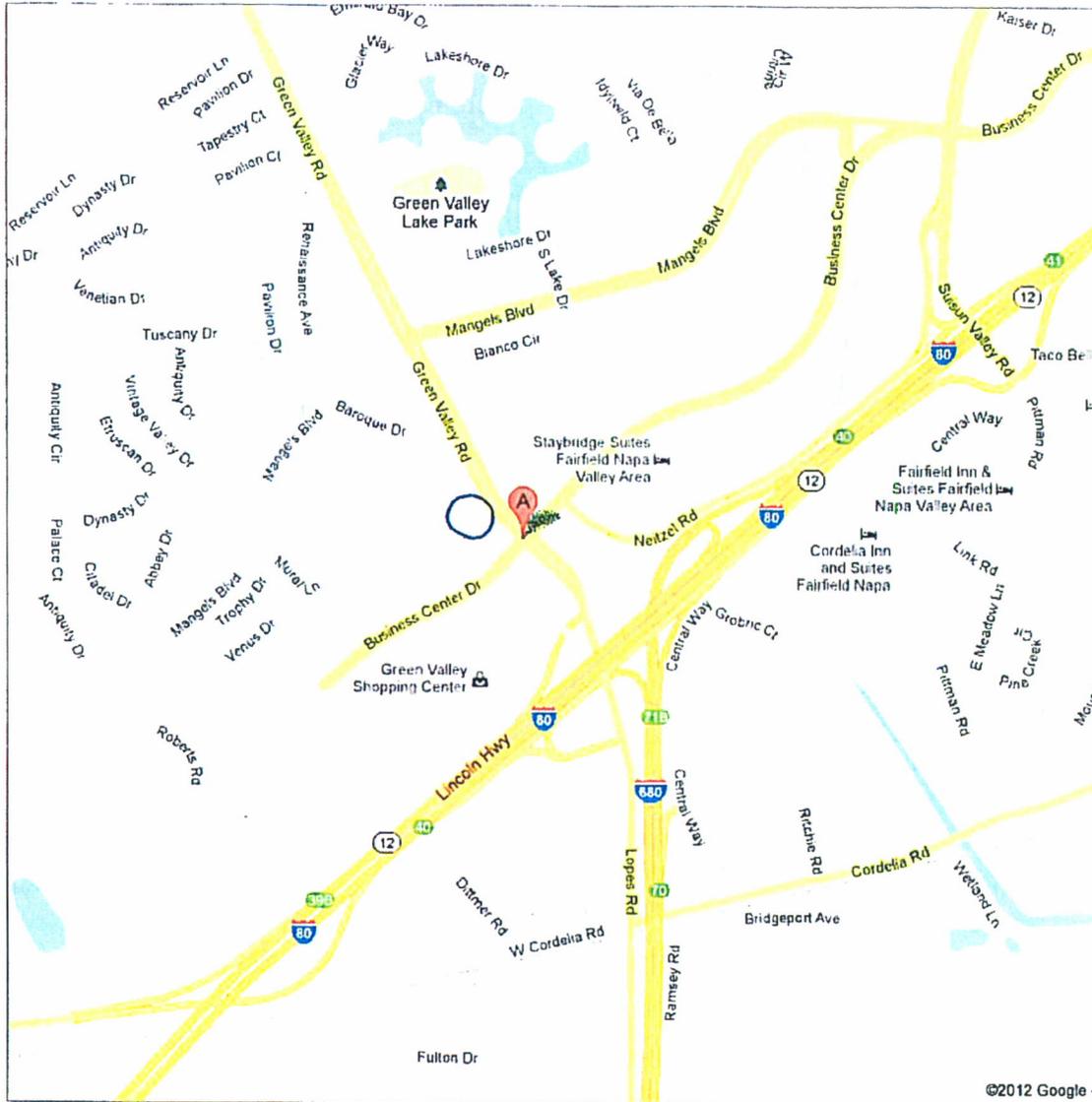
Enclosures

cc: Daniel Keen, City Manager
Franz Nestlerode, Water Superintendent



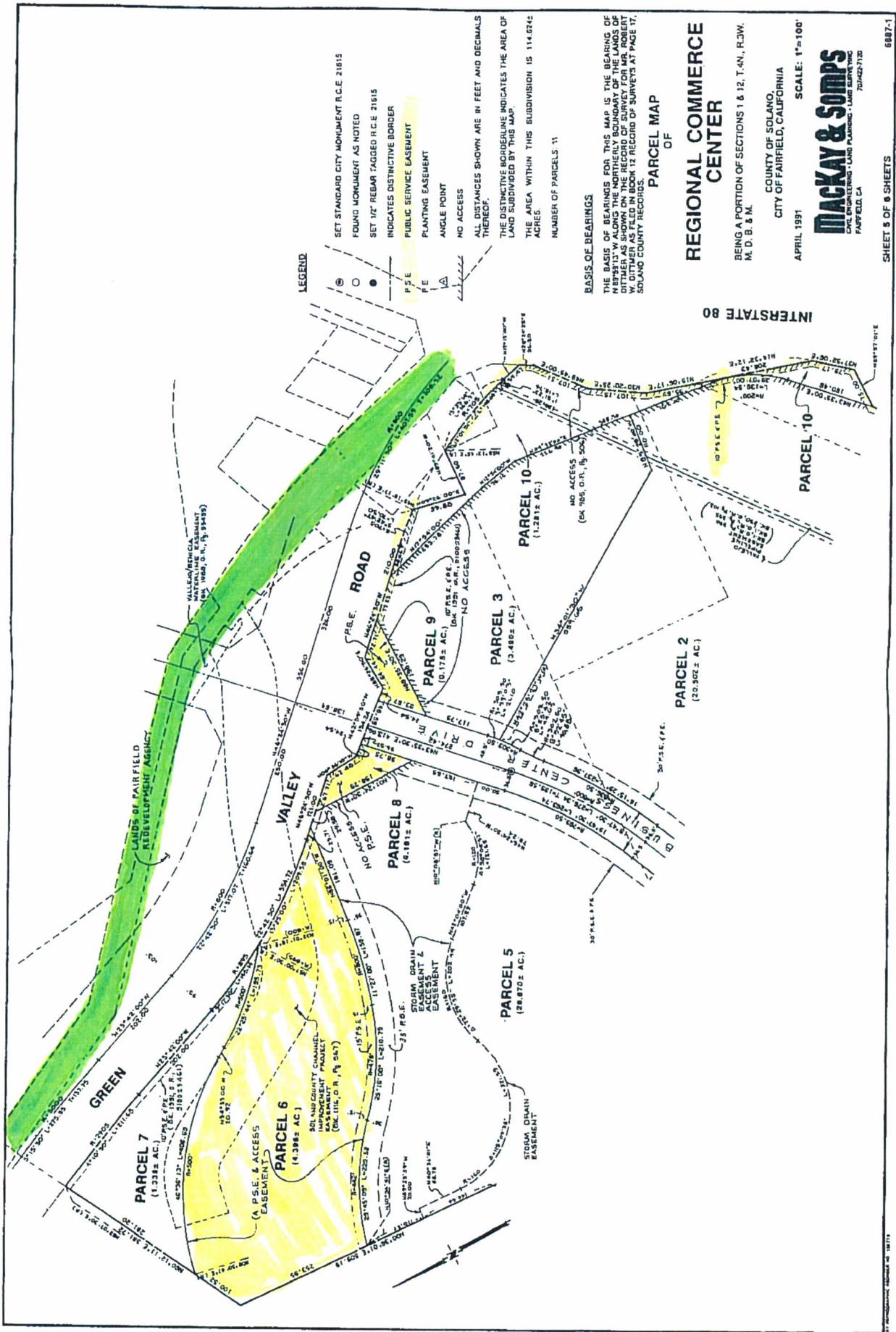
Address **Business Center Dr & Green Valley Rd**
Fairfield, CA 94534

Get Google Maps on your phone
Text the word "GMAPS" to 466453

©2012 Google

EXHIBIT A



LEGEND

- SET STANDARD CITY MONUMENT R.C.E. 21615
- FOUND MONUMENT AS NOTED
- SET 1/2" REBAR TAPPED R.C.E. 21615
- INDICATES DISTINCTIVE BORDER
- PUBLIC SERVICE EASEMENT
- PLANTING EASEMENT
- ANGLE POINT
- NO ACCESS
- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THE DISTINCTIVE BORDERLINE INDICATES THE AREA OF LAND SUBDIVIDED BY THIS MAP.
- THE AREA WITHIN THIS SUBDIVISION IS 114.6742 ACRES.
- NUMBER OF PARCELS: 11

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS MAP IS THE BEARING OF THE DISTANT POINT TO THE MONUMENT OF THE DISTANT POINT AS SHOWN ON THE RECORD OF SURVEY FOR MR. ROBERT W. DITTMER AS FILED IN BOOK 12 RECORD OF SURVEYS AT PAGE 17, SOLANO COUNTY RECORDS.

PARCEL MAP OF

REGIONAL COMMERCE CENTER

BEING A PORTION OF SECTIONS 1 & 12, T. 4N., R. 3W. M. D. B. & M.

COUNTY OF SOLANO, CITY OF FAIRFIELD, CALIFORNIA

APRIL 1991

SCALE: 1"=100'

MACKAY & SOMPS
 CIVIL ENGINEERING - LAND PLANNING - LAND SURVEYING
 FAIRFIELD, CA 94508-1102

SHEET 8 OF 8 SHEETS 6887-1

37 PM 32

OFFICE OF THE DIRECTOR OF PUBLIC WORKS
CITY HALL
VALLEJO, CALIFORNIA

29 December 1987

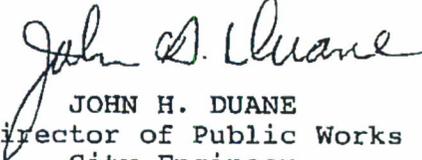
SUBJECT: Grant of Easement for North Bay Aqueduct (NBA)
Extension Pipeline for Cities of Vallejo and Benicia

TO: City Manager

We have secured the last easement needed for the NBA Extension Project. Drexel San Francisco Land, L.P., the present owner of the Mangels parcel, has negotiated with the City of Vallejo to grant the waterline easement on their property in consideration of \$3,475.00 which is the value as appraised by Conger and Fisk, 1506 Tennessee Street, Vallejo, California.

Enclosed is the signed Grant of Easement for your review.

An agenda item has been prepared.


JOHN H. DUANE
Director of Public Works
City Engineer

/scd
Enc.

AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
BUSINESS ITEMS

DATE : January 24, 2013

TO : City Council

FROM : Mayor Patterson

SUBJECT : **RESOLUTION SUPPORTING REDUCING GUN VIOLENCE**

RECOMMENDATION:

Adopt a resolution expressing support for the Congressional Gun Violence Prevention Task Force proposals to reduce gun violence.

EXECUTIVE SUMMARY:

As a result of the tragedy at Sandy Hook Elementary, there is renewed attention to the issue of guns and the prevention of gun violence. Congressman Mike Thompson chairs the Congressional Gun Violence Prevention Task Force. The task force will examine the president's proposals and the proposals of others. This is an opportunity to provide support.

BUDGET INFORMATION:

N/A

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A

BACKGROUND:

Congressman Mike Thompson is the chair of a Gun Violence Prevention Task Force that is reviewing President Obama's proposals to reduce and prevent gun violence. President Obama has announce a number of executive actions that can help achieve those goals. Other action is needed by Congress. Gun Violence Prevention Task Force will review the President's proposals as well as other proposals. Congressman Thompson's web page notes that the Task Force will be meeting with stakeholders on all sides of the issue and will develop "a comprehensive set of policy proposals that both respect peoples' 2nd Amendment rights and help keep our communities safe from gun violence."

Because the Task Force expects to release their policy recommendations in early February, this is a time-sensitive issue, if the City Council wants to weigh in. Mayor Osby Davis and I have issued a joint letter supporting the Task Force's efforts. A copy is attached. If the City Council would like to adopt a resolution it would need to be done at this meeting instead of going through the two-step process. A draft resolution is attached for your consideration.

Attachments:

- Draft Resolution
- Joint Letter

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SUPPORTING THE REDUCTION AND PREVENTION OF GUN VIOLENCE

WHEREAS, the recent tragedy at Sandy Hook Elementary has brought a renewed focus on gun violence and the need to prevent such violence; and

WHEREAS, the City of Benicia has conducted gun buyback programs and is planning another such program in conjunction with the City of Vallejo; and

WHEREAS, Congressman Mike Thompson is chair of a Gun Violence Prevention Task Force that is reviewing President Obama's proposals and other proposals to reduce and prevent gun violence; and

WHEREAS, practical common sense measures consistent with the Second Amendment and provide needed public safety; and

WHEREAS, meaningful regulation of assault weapons and high capacity ammunition magazines is needed as well as common sense criteria on the acquisition of guns and prohibition on gun ownership by unqualified people through background checks; and

WHEREAS, safeguards are needed to make sure that guns do not end up in the hands of those with mental health issues.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia, recognizing that time is of the essence, hereby supports the work of the Gun Violence Prevention Task Force in finding meaningful ways to reduce and prevent gun violence that are in compatible with the Second Amendment.

On motion of Council Member _____ and 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 5th day of February, 2013, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Dear Congressman Thompson:

We have jointly directed this letter to advise you of the efforts being coordinated by Vallejo Police Chief Joe Kreins in conjunction with Chief Bidou of the City of Benicia to conduct a gun buyback program in the month of February. Other cities in Solano County as well as other governmental agencies in neighboring cities and counties will be asked to participate.

We certainly agree that there are too many guns on the streets. The proliferation of guns in our society in general and automatic assault weapons in particular have created an unsafe and dangerous environment for society in general as well as families and our youth.

While we respect a person's right to own a gun, there must be better control over the type of guns we allow, who is allowed to possess them and the criteria by which those guns are acquired. We can no longer turn a blind eye to the type, the person and the criteria of gun ownership because of a strong gun lobby. It is time to put politics aside, use practical common sense and balance the safety of society, our families and our children with the right to own guns. To say that a person has a right to own assault weapons (including children) is ignoring what such weapons are made to do (get off a lot of rounds in a short period of times to maximize destruction).

We are not necessarily knowledgeable regarding all aspects of gun manufacturing, sales, rules and regulations but we are aware that the safety of our communities and especially our schools require some common sense control and regulation of guns. Gun control and common sense gun regulation has been discussed at the governmental level far too long. It is time to do something.

We are hopeful that your efforts will lead to practical and meaningful laws and regulations to at least end the sale of assault weapon and those manufactured for large-capacity ammunition magazines, etc. and that places common sense criteria on the acquisition of guns and prohibition on gun ownership by certain people.

Thank you for your efforts in this monumental task. We offer our support and endorsement to your efforts.

Osby Davis, Mayor
City of Vallejo

Elizabeth Patterson, Mayor
City of Benicia

**AGENDA ITEM
CITY COUNCIL MEETING DATE - FEBRUARY 5, 2013
BUSINESS ITEMS**

DATE : January 28, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **CHANGING THE DATE OF MUNICIPAL ELECTIONS FROM ODD NUMBERED YEARS TO EVEN NUMBERED YEARS AND EXTENDING THE TERM OF THE COUNCIL MEMBERS**

RECOMMENDATION:

Either direct staff to draft an ordinance to change the date of municipal elections to November 2014 and subsequent even number years or keep the odd year election date so that council members would be elected in November of 2013.

EXECUTIVE SUMMARY:

Changing the date for the municipal elections would save the City money and may increase voter turnout.

BUDGET INFORMATION:

It is estimated that the City would save money per election cycle if the date of the election were changed to even-numbered years. There is a one-time cost to changing the election date since voters must be notified. There are currently 18,385 registered voters. This results in a cost of notification of \$8457.10 in postage plus supplies and labor to do the mailing

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A

BACKGROUND:

In 1997 the City Council amended Section 1.16.010 of the Benicia Municipal Code. This section states "General Municipal elections shall be held on the same day as the regular election in November of odd-numbered years as that date is established in the California Elections Code...." A copy of that staff report is attached.

Elections Code Sections 1301 and 10403.5 allow the City to change its election date so long as the change is approved by the Board of Supervisors. The change of election date also may not increase or decrease the term of office for any elected official by more than 12 months. Changing the election date from November of 2013 to November of 2014 will result in just a 12 month increase in the term of office. If it were desired to decrease the term of office, the change in election date would necessarily have to be delayed so that the terms could be decreased a year.

Changing the election date also requires that the City Clerk notify, by mail, all registered voters. The notice would tell voters that the date of the election has changed to November in even numbered years and that the term of office for the elected officials would be extended for a year.

A calendar of proposed steps to change the election date is attached. Please note that the postcard mailing is not required and is not included in the budget information in the Budget Information section of this Report. Additional funds are required if this is desired.

Attached is a chart prepared by the County showing the estimated costs for elections. The differences in the potential odd/even year projections are a result of whether the County places items on the ballot. Whenever the County or Solano Community College places an item on the ballot, it greatly decreases our costs.

Attachments:

- 1997 Staff Report on Election Date
- Elections Code Section 1301
- Elections Code Section 10403.5
- Estimated Elections Costs

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 20, 1997
PUBLIC HEARINGS**

DATE : May 13, 1997

TO : Mayor & City Council

FROM : City Manager

SUBJECT : GENERAL MUNICIPAL ELECTION DATES

RECOMMENDATION:

Introduce an Ordinance of the City Council of the City of Benicia amending Section 1.16.010 of the Benicia Municipal Code relating to General Municipal Election.

BUDGET INFORMATION:

Special Election: \$30,000 plus

Shared Election: \$ 6,500 (estimated)

Data Card: \$ 6,500 (estimated), plus \$6,500 (estimated) for the election

SUMMARY:

The City Clerk recently requested that the County Registrar of Voters provide an election calendar for municipal elections through the year 2000. As a result of this request, we learned that because the City consolidated its election with the Statewide Direct Primary, it will be impossible to predict when future elections will be held.

Chapter 1 - Section 1001 of the California Election Code states that "Elections held in June and November of each even-numbered year and in March of any year evenly divisible by the number four, shall be statewide elections and these dates shall be considered statewide election dates." This section of the law remains in effect only until January 1, 1998. Another Section 1001 of the California Election Code becomes effective January 1, 1998. This section provides "Elections

held in June and November of each even-numbered year shall be statewide elections, and these dates shall be considered statewide election dates". As we know from the Election Code and our own history, the primaries for calendar year 1996 were held on March 26th of 1996. Because the County Registrar could not certify the election for several weeks, those members of Council elected to office in the March election of 1996 were not seated until the first meeting in May.

The Ordinance providing for the Notice of General Municipal Elections in the City of Benicia, which was adopted February 17, 1890, states that "elections shall be held on the 2nd Monday in April in every even-numbered year." However, in 1995 the City Council amended the Ordinance to state that "General Municipal Elections shall be held on the same day as the Statewide Direct Primary as that date is established in the California Elections Code." The City Council took this action to avoid the cost and responsibility of a special election. However, because of the Elections Code, the Statewide Primary in even-numbered years appear to never be held during the same month. In 1996, it was held in March and in 1998 the primary will be held in June. These dates are in effect until January of 1998 at which time the primary will revert back to June. To add even more uncertainty, there is a proposal currently being discussed in Sacramento which might move the primary to September in the year 2000.

It is clear that if the City stays consolidated with the Statewide Direct Primary, we may never know, from year to year, when our election will be held. The State may decide to move their election every two years. This will obviously have a direct impact on the terms of our local office holders. Further, due to the implementation of the "open primary", all voters will be eligible to vote for all candidates regardless of what their political party affiliation might be. The "open" primary" is expected to create an enormous increase in candidates for each ballot. In the event that too many candidates or issues are presented for a particular ballot, any local races or issues would be moved off the votomatic card and placed on a separate data vote card. According to the Registrar of Voters, the voter would then be given multiple cards to cast their votes. The increase in statewide partisan candidates appearing in the sample ballot, along with photographs and candidate statements, which are also new to the upcoming election, will move local candidates farther back on the sample ballot. Voters will be looking through many pages before reaching issues of local importance.

As in 1995, the County Registrar of Voters is recommending that the City consolidate its election with the Uniform District Election in November of the odd numbered years. This would enable the City to split the costs with the Benicia Unified School District. Further, since there are no statewide candidates on this election, local City candidates and issues would receive complete voter attention.

Since this is not a new issue, I reviewed the minutes of the Council Meeting of December 20, 1994, as well as a staff report prepared by the prior City Clerk, Fran Greco, dated February 28, 1995, to refresh my memory with the issues and concerns raised by the City Council at that time. Therefore, the following responses are provided as answers to the questions raised during that meeting, which I am sure are still applicable today.

- It was clear that the City Council appeared willing to go to an outside firm other than Solano County to conduct the election just to maintain an April election cycle. A special election would cost the City, at a minimum, \$30,000. Staffing levels at the County are extremely low, making it impossible for the County to conduct a special election in April of 1998 or subsequent years because of the close proximity to the State Primary. Even before the issue of "open primary", the County indicated that it would not be willing to conduct a special election for the City, given the close proximity and the workload placed upon the County for the primary election.

- If the City continues to stay with the June 1998 primary, we will, inevitably, be bumped to the "data card." Under this scenario, election costs will include, but not be limited to, the data card, election coordination/consolidation charges, computer set-up fees, per page charge and postage. The cost for almost everything, but the data card, will be going up shortly, however, those costs have not been set by the County as yet. The cost for the data card would be \$4,300, plus \$2,200 for staff time associated with the use of the card. The County Registrar of Voters stated that the County would be required to have one additional staff member per polling place in Benicia to keep the confusion of the voters at a minimum. It is important to note that under this scenario each voter would be given two ballots, the primary ballot and our own local data card ballot. It is obvious that with such a mass of information to vote on, the chances of error will be enormous, and inevitable both on the voting level and on the ballot tabulation level. In addition to the above costs, there would be the cost for the election. The last election in March of 1996 was \$4,000 for County charges, and \$1,470 for Candidate Statement printing charges, and checking of nomination papers. In addition, there was approximately \$75.00 in miscellaneous charges. Naturally, all the costs are approximate and will most likely be higher.

- The following is a description of the current election cycle for the remaining cities in Solano County:

Vallejo	November (odd-numbered years)
Fairfield	November (odd-numbered years)
Dixon	November (even-numbered years)

However, the City did give consideration to consolidation with the School District two years ago, but that consolidation would have meant Council Members giving up one and a half years of their terms. Since the Election Code precludes modification of a Council Member's term of more than one year, it would have been illegal for Dixon to have changed at that time. They are concerned about the current problem and intend to revisit the issue.

Rio Vista

November (even-numbered years)

However, they are considering conducting their election with another County.

Vacaville

November (even-numbered years)

At the present time, they are pleased with their current election dates and are not giving much consideration to changing.

All major school districts, the Board of Education, Solano Irrigation and the Cordelia Fire District hold their elections in November of odd-numbered years.

- Should the Council elect to change to a November election cycle in odd-numbered years, candidates will be able to take out their papers 113 days prior to the election, on July 14, 1997. Officially, the City does not have to let the County Elections Department know until 88 days before the election that we want to participate.
- If the date of the City's election is changed to the date of the Statewide Direct Primary Election, the Statewide General Election or the School District Election, Election Code Section 10403.5 (b) provides that no term of office may be increased or decreased more than 12 months as a result of changing the election day.
- Future City Councils would be able to change election dates in the future in accordance with applicable law. The only limitation that would prevent a City Council from changing election dates to another allowable date is Election Code Section 1303 (d). This section requires that at least one election be held under an ordinance changing the election date before the Ordinance is amended or repealed. An election has been held since the last amendment to our Election Ordinance. Therefore, it would be legal for the Council to amend the Ordinance again.

It appears clear that the City will, at some point, need to change its election date to maintain the lowest cost and provide the voters with the least amount of confusion and focus on Benicia candidates and issues. Unfortunately, when this decision is made, the term of seated Council Members will undoubtedly be affected. As an example, should Council enact the amendment changing the election date to November in odd-numbered years, the next election will occur in

November of 1997, reducing the term of the two affected office holders by 4 months, and the subsequent election in November of 1999 will reduce the three affected members' terms by 5 months. These calculations are based on the assumption of office by the newly elected members at the first regularly scheduled meeting in December. All subsequent elections will provide elected candidates full terms of 4 years.



Otto Wm. Giuliani
City Manager

OWG:tb
/Agen520.97c

ATTACHMENTS:

- Ordinance amending the General Municipal Date (Clean Copy)
- Ordinance amending the General Municipal Date (Marked-Up Copy)
- Ordinance retaining the existing General Municipal Date
- Transcript of a portion of the December 20, 1994 City Council Meeting related to a discussion of election dates
- Memorandum to the City Council from City Manager, Michael Warren, dated September 28, 1994 regarding the April 1996 City election
- Copy of Ordinance No. 311 of the City of Benicia providing for Notice of General Municipal Election in the City of Benicia, adopted February 17, 1890
- Copy of Chapter 1.16 of the Benicia Municipal Code entitled "General Municipal Elections"
- Letter to City Clerk, Linda Purdy, from Solano County Registrar of Voters, dated April 17, 1997
- Copy of Division 1 established election dates, specifically Section 1001, entitled "Statewide Election Dates"
- Copy of Section 10403.5 of the California Elections Code

PROPOSED ORDINANCE

(CLEAN COPY VERSION)

CITY OF BENICIA

ORDINANCE NO. 97-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 1.16.010 OF THE BENICIA MUNICIPAL CODE RELATING TO THE GENERAL MUNICIPAL ELECTION

The City Council of the City of Benicia does ordain as follows:

Section 1.

Section 1.16.010 of the Benicia Municipal Code is amended to read as follows:

1.16.010 General Municipal Election.

1.16.010. General Municipal Election. General municipal elections shall be held on the same day as the regular election to select governing board members for the Benicia Unified School District as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code §12101.

Section 2.

Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City Council hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3

Effective date.

This ordinance shall become effective thirty (30) days after the date of adoption.

Section 4

Posting.

The City Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption.

On motion of Councilmember _____, seconded by Councilmember _____, the foregoing Ordinance was introduced at a regular meeting of the City Council on the _____ day of _____ 1997, and adopted at a regular meeting of the Council held on the _____ day of _____, 1997, by the following vote:

Ayes:
Noes:
Absent:

Jerry Hayes, Mayor

Attest:

Linda S. Purdy, City Clerk

hmc/kz
election.cln

PROPOSED ORDINANCE
(MARKED-UP VERSION)

TT-E-9
VIII.C.11

Chapter 1.16

GENERAL MUNICIPAL ELECTIONS

Sections. Section 1.

Section 1.16.010 of the Benicia Municipal Code is amended to read as follows:

1.16.010 General Municipal Election.

1.16.0106.010 General Municipal Election. General municipal elections shall be held on the same day as the ~~statewide direct primary regular election~~ to select governing board members for the Benicia Unified School District as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code ~~§22830~~ §12101.

Section 2.

Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City Council hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Hmc/kz
election.red

ORDINANCE NO. 95-3 N.S.

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF BENICIA CONCERNING
THE GENERAL MUNICIPAL ELECTION DATE

THE CITY COUNCIL OF THE CITY OF BENICIA DOES HEREBY ORDAIN AS
FOLLOWS:

SECTION 1. Section 1.16 of the Benicia Municipal Code is
amended to read as follows:

1.16.010--General Municipal Election.

General municipal elections shall be held on the same day as
the statewide direct primary as that date is established in the
California Elections Code.

SECTION 2. The City Clerk shall cause this ordinance to be
published and/or posted within 15 days after its adoption.

On a motion of Councilmember Arteaga, seconded by
Councilmember Hayes, the foregoing ordinance was
introduced at a regular meeting of the City Council on the 7th
day of March, 1995, and adopted at a regular meeting
of the Council held on the 21st, day of March,
1995, by the following vote:

Ayes: Councilmembers Arteaga, Corbaley, Hayes, Silva and Mayor Ciarrocchi
Noes: None



Ernest F. Ciarrocchi, Mayor

Attest:

Frances D. Greco
Frances D. Greco, City Clerk

SMR/kz
ordatect.ion
2/26/95

T-E-11
VIII.C.13

MEETING OF DECEMBER 20, 1994

MUNICIPAL ELECTION

ERNIE: I think we knew that the Elections Department was not going to give in very easily. The easiest thing for them is to handle the election in November 1996 and that it is a one time only change if that is what we do. They are also saying that they could do the election in March if we want, but it is partisan primary election and so it is a chore for them to - what they will have to do is prepare separate packets for voters in various parties in the primary, but since our election is unpartisan, they would then have to include our stuff in everybody's packet. The County is apparently saying this is a big deal.

County also gave us the option to run our own election. What would be the cost of running our own election?

JERRY: One of my questions would be the cost if we do it ourselves in April and if we decide to do it ourselves and we feel we are capable of handling it - the election itself, running the polls and doing the count, etc., question arises about the publication of the sample ballots, the mailing, etc., and whether or not the County would be willing to do that if we decide to do the election ourselves.

The other question - if we looked at the potential of doing it in November of 1995, what else would be on that election - I presume it would simply be our School Board, and, secondly, could we legally do the election in November of 1995 and make the effective of taking the office the termination date, which is April 1996. I don't know if that is a legal possibility.

I believe the Board of Supervisors does that here in the County. They have an election and then a long wait before the actual taking of office, so that's another possibility. I would personally lean toward doing it ourselves, but seeing what the County can do as far as the handling of sample ballots, mailing, etc.

ERNIE: Bear in mind, doing it ourselves, as I said, it's not just the cost. It's having people go to the polls to vote twice in three (SHOULD BE TWO) weeks. Voting is not a lot of trouble, but on the other hand, keep that in mind. If Council does not want to go to November 1996, then I would encourage you to at least consider finding out whether the County can really handle and how well it can handle just doing ours in conjunction with the primary. That keeps it within three weeks (SHOULD BE TWO) from when we would normally do it. I think that makes more sense than making a major change if you don't want to go to 1996.

PEPE: I don't want to give not a single day over free or a single day before, even if it is expensive, I want to keep it exactly the same time - no more, no less.

JOHN: I think I would like to look into what the cost would be to do our own election, but I think looking at March, I would like more information on March, how much confusion there may or may not be. That would probably make more sense to do it in March than it would be trying to do it in April.

CAREY: This is a sticky issue, particularly for those of us sitting up here who this would affect most directly, being up for election the next go-round - sticky issue for all of us. I have concerns that if we simply insist upon having our own election, it is going to cost a bundle and I am wondering what do our citizens prefer that because of this situation where we've got the County saying "We're just not going to do it - we can't do it - you have to do it yourselves" - whether they prefer we bop our elections back or turns back six months or they prefer to foot the bill for us holding this election ourselves this time and I'm not real clear whether this is going to be an ongoing problem if we continue with our position that we have - April elections - every time there is a primary with the March date, I don't know whether it's going to continue to be a problem down here. At this point, I would like some more information on what the actual cost would be for us to hold our election, so I would like to get that information first and I would like follow-up information that has been requested by Councilmember Hayes as well.

ERNIE: I agree, we don't need to make a decision tonight. I think we are going to need to get some cost estimates, FRAN. Remember, we don't know whether this will be a chronic problem or not. We don't know if the State is going to keep the March primary. It's just one time only legislation, which is another reason why I'm thinking in terms of if you do it in conjunction with that it's within three weeks (SHOULD BE TWO WEEKS) from when we would normally have our election, just keep this in mind, so that if, in fact, the State decides that March is not good we can return to the April election and then we will not have changed things significantly three weeks (SHOULD BE TWO WEEKS) either way. Let's get the information, let's find out everything we can about what it would take to implement doing it ourselves in April, get whatever details the County can furnish in terms of what it would take to do it in conjunction with the March, and whether they have an opinion either way, 5/ November of 1995 or November of 1996.

III-E-13
VIII.C.15

MEMORANDUM

MAY 5 1994

September 28, 1994

TO: City Council

FROM: Mike Warren

SUBJECT: April 1996 City Election

As the City Clerk, Fran Greco, points out in her memo, Pat Kemper, the Registrar of Voters for Solano County, has requested that the City of Benicia change our April 1996 City Election. The Registrar of Voters says that they cannot handle an April election for the three Solano Cities two weeks after the State Primary Election. They are asking that we change our election to November 1996 and extend all terms seven months.

The following positions are up for election in April of 1996:

Mayor - Ernie Ciarrocchi
Council member - Jerry Hayes
Council member - John Silva
Treasurer - Virginia Souza
Clerk - Fran Greco

I asked Carol Starr to research other options than changing to November of 1996 (the City Attorney is out of the office this week and, therefore, has not had an opportunity to review this issue. He may want to clarify various points or options). It appears that unless we are willing to pay for our own special election, we will have to elect Benicia officials during a general state and/or national election. This may result in less attention focused on Benicia issues as the governor, president and statewide initiatives dominates the public's attention. On the other hand, there is generally a larger turnout in these general elections. These are the possible options:

1. Take the advice of the Registrar of Voters and switch to November of 1996. The cost of the election for Benicia would be \$3,500. Each affected elected official would have to have their term extended by seven months. This is the least expensive option.
2. Switch to November of 1995. This would cut the term of each of the affected elected officials by five months. The cost of switching to November of 1995 is \$15,000; more expensive because jurisdiction participating needs an individual ballot and there is no general election to help defray the overall cost. The Benicia Unified School District has their election at this time.
3. Switch to March 1996. This means we would be on the State primary ballot. As it is a primary election, this means partisan ballots. The Registrar of Voters strongly recommends against this option, as she says the ballots are very long, we would come at the

end of everything else, and she predicts that many voters would not get down to the city's part of the ballot. We would have to be on all the different ballot types (Democratic, Republican, Green, etc.) and also have a ballot for the independents. She was unable to give me a cost for us, but said it would be less than \$25,000.

We need to realize that the March 1996 primary election is a one-time state experiment on changing the primary. If we move to this election time and the state did not switch the primary permanently to March, we will end up paying the whole cost of the election which is approximately \$25,000.

4. Establish a special election in June of 1996. Since no one else would be having an election, we would need to stand the whole cost, which is \$25,000 for an election. And, of course, we would need to do this every other year on this cycle. This is the most expensive way to go.

5. Stick with the April election of 1996 and ask the Board of Supervisors to force the Registrar of Voters to deal with an election two weeks away from the primary. The Registrar of Voters flatly says they cannot do this and would lobby hard at the Board to maintain their position.

While we still have some time to decide this, the Registrar of Voters is asking all the affected cities to decide this Fall how they are going to handle this concern. The other two cities affected are Dixon and Rio Vista. Dixon is switching to November 1996 (which does not coincide with their School Board election). We do not know, at this time, which November Rio Vista will choose.

Unless we are going to try to maintain our April 1996 election through intervention by the Board of Supervisors, we will have to do the following steps to switch our election:

1. Consensus of the City Council on what to do
2. Hold a Public Hearing
3. Adopt an Ordinance requesting the required action needed.

Mike Warren

Mike Warren
City Manager

VII-E-15
VIII.C.17

ORDINANCE NO. 311 M.C.

AN ORDINANCE PROVIDING FOR NOTICE OF GENERAL MUNICIPAL ELECTION IN THE CITY OF BENICIA.

THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOL

SECTION 1. General Municipal Elections in the City of Benicia for the election of members of the City Council, the City Clerk, the City Treasurer, shall be held on the second Monday in April in each even numbered year. The City Council must give notice of such elections by publishing the same newspaper published in said City successively for three weeks next preceding the election if a newspaper be published in said City. If no newspaper be published in said City, then by posting copies of such notice in three public places therein. The notice must designate the time when said election will be held, the boundaries of the election precincts, the officers to be elected, the polling places and the officers of election.

(Adopted Feb. 17, 1890)

COMPILED, CONSOLIDATED, REVISED AND INDEXED UNDER THE PROVISIONS OF THE MUNICIPAL CORPORATIONS LAW OF THE STATE OF CALIFORNIA, BEING ACT 5233, SECTION 852C, AS AMENDED BY STATUTES OF 1939, CHAPTER 1026, THE ABOVE ORDINANCE BEING FORMERLY NUMBERED _____ AND WHEN SO COMPILED, CONSOLIDATED, REVISED AND INDEXED, AS AFORESAID, ADOPTED BY THE CITY COUNCIL OF THE CITY OF BENICIA, ON THE 23 DAY OF October 1943, BY ORDINANCE NO. 402 M.C.

Chapter 1.16

GENERAL MUNICIPAL ELECTIONS*

Sections:

1.16.010 General Municipal Election.

1.16.010 General Municipal Election. General municipal elections shall be held on the same day as the statewide direct primary as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code §22830. (Ord. No. 95-3 N.S.; Ord. 311 M.C. §1, 1890: amended during 1980 codification).

* For statutory provisions on municipal elections, see Election Code §22800 et seq.; for provisions on notice of elections, see Election Code §22830 et seq.

OFFICE OF REGISTRAR OF VOTERS

LAURA WINSLOW
REGISTRAR OF VOTERS
510 CLAY STREET
FAIRFIELD, CA 94533
PHONE (707) 421-6675



MAILING ADDRESS
REGISTRAR OF VOTERS
ELECTIONS
P.O. BOX 71
FAIRFIELD, CA 94533

April 17, 1997

Linda Purdy, City Clerk
City of Benicia
250 East L St.
Benicia, CA 94510

Re: 1998 Municipal Election

Dear Linda:

Your letter dated April 10, 1997 requests an election calendar through the year 2000. As discussed in our phone conversation, your consolidation with the statewide direct primary makes it impossible to predict when the future elections will be held. You have several factors that fall into place with your consolidation.

ALTERNATING ELECTION DATES

The election code states that the 1996 Primary is held in March. The 1998 Primary will be held in June. These dates are in effect until January 1998. At that time the Primary reverts back to June. However, there is a proposal being discussed to move the Primary to September in the year 2000.

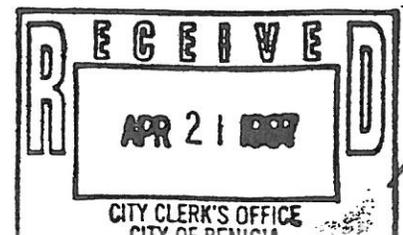
If they move to September, it will enable candidates to have a shorter fundraising period. Thus campaigning all at once, rather than two separate elections.

If this takes place, the Presidential Primary would be separately held earlier in the year.

If you choose to stay consolidated with the statewide direct primary, you may not know from year to year when your election will be held. The state may decide to move their election every two years. This will affect terms of your officeholders.

OVERCROWDED BALLOT

VIII.C.20



Due to the implementation of the "open primary", all voters will be eligible to vote for all candidates regardless of what their political party affiliation is. This will create an enormous increase in candidates for each ballot type. In the event we have too many candidates & issues for a particular ballot type, the local races and issues will be moved off of the votomatic card and placed on a separate datavote card. The voter will then be given multiple cards to cast their votes. The increase in statewide partisan candidates appearing in the sample ballot (along with photographs and candidate statements) which are also new to this election, will move your local candidates farther back in the sample ballot. The voters will be looking through many pages before reaching the local race.

ADDITIONAL COST

There are additional costs associated with a multiple card election. Since you are the only local race on the ballot, the entire cost of the supplemental card will be borne by your district.

Our office is in the process of looking at a revision of our fees associated with election costs. Our costs to cities and districts will be increasing due to the costs associated with computer programming, staff time, etc.

OPTIONS AVAILABLE

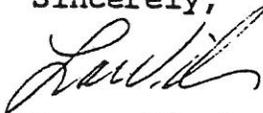
If you stay with the statewide direct primary, you run the risks described above.

With a move to the statewide general election in November even-years you will also run the risk of ballot overcrowding depending on how many statewide propositions will be on the ballot. The same situation as outlined above would be used regarding going on to a separate ballot card, including the additional cost.

Our recommendation is to consolidate with the UDEL (Uniform District Election) in November odd-years. This will enable you to split costs with Benicia Unified School District. There are no statewide candidates on this election. Local cities, schools, bd. of education, Solano Irrigation District and Cordelia Fire District are on this election cycle.

Please let me know as soon as possible of your decision. If I can be of any further assistance, please give me a call at (707) 421-6675.

Sincerely,



Laura Winslow,
Registrar of Voters

DIVISION 1. ESTABLISHED ELECTION DATES

Chapter 1. Election Dates

1000. Established elections dates.

The established election dates in each year are as follows:

- (a) The second Tuesday in April of each even-numbered year.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The fourth Tuesday in March in any year which is evenly divisible by the number four.
- (d) The first Tuesday after the first Monday in June of each year.
- (e) The first Tuesday after the first Monday in November of each year.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Amended by Stats. 1996, c. 1143, §17.5.)

1000. Established election dates.

(a) The established election dates in each year are as follows:

- (1) The second Tuesday of April in each even-numbered year.
- (2) The first Tuesday after the first Monday in March of each odd-numbered year.
- (3) The first Tuesday after the first Monday in June of each year.
- (4) The first Tuesday after the first Monday in November of each year.

(b) This section shall become operative on January 1, 1998.

(Amended by Stats. 1996, c. 1143, §18.)

1001. Statewide election dates.

Elections held in June and November of each even-numbered year, and in March of any year evenly divisible by the number four, shall be statewide elections and these dates shall be considered statewide election dates.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Added by Stats. 1994, c. 920, §2.)

1001. Statewide election dates.

Elections held in June and November of each even-numbered year shall be statewide elections and these dates shall be considered statewide election dates.

This section shall become operative on January 1, 1998.

(Added by Stats. 1994, c. 920, §2.)

1002. Date of state, county, municipal, district, and school elections.

Except as provided in Section 1003, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections shall be held on an established election date.

(Amended by Stats. 1996, c. 1143, §19.)

1997-20

§10403.5.

(a) (1) Any city ordinance requiring its general municipal election to be held on a day specified in subdivision (b) of Section 1301 shall be approved by the board of supervisors unless the ballot style, voting equipment, or computer capability is such that additional elections or materials cannot be handled. Prior to adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) A city, by itself or in concert with other cities, may purchase or otherwise contribute to the purchase of elections equipment, including, but not limited to, a computer for the purposes of conducting a consolidated election when the equipment shall be owned by the county.

(b) As a result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive.

(c) If an election is held on a day specified in subdivision (b) of Section 1301, and the election is consolidated with another election this part, except Section 10403, shall govern the consolidation and, if the county elections official is requested to conduct the municipal election, Section 10002 shall be applicable to that election.

(d) If a general municipal election is held on the same day as a statewide election, those city officers whose terms of office would have, prior to the adoption of the ordinance, expired on the Tuesday succeeding the second Tuesday in April of an even-numbered year shall, instead, continue in their offices until not later than the fourth Tuesday after the day of the general municipal election, and until their successors are elected and qualified.

(e) Within 30 days after the ordinance becomes operative, the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected city officeholders will be changed. Leg.H. 1996 ch. 1143, effective September 30, 1996.

Effective: January 1, 2005

West's Annotated California Codes [Currentness](#)

Elections Code ([Refs & Annos](#))

▣ [Division 10](#). Local, Special, Vacancy, and Consolidated Elections ([Refs & Annos](#))

▣ [Part 3](#). Consolidation of Elections ([Refs & Annos](#))

→→ § 10403.5. Municipal election consolidated with statewide election or school district election; approval; effect on terms of office

(a)(1) Any city ordinance requiring its general municipal election to be held on a day specified in [subdivision \(b\) of Section 1301](#) shall be approved by the board of supervisors unless the ballot style, voting equipment, or computer capability is such that additional elections or materials cannot be handled. Prior to adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) A city, by itself or in concert with other cities, may purchase or otherwise contribute to the purchase of elections equipment, including, but not limited to, a computer for the purposes of conducting a consolidated election when the equipment shall be owned by the county.

(b) As a result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive.

(c) If an election is held on a day specified in [subdivision \(b\) of Section 1301](#), and the election is consolidated with another election this part, except [Section 10403](#), shall govern the consolidation and, if the county elections official is requested to conduct the municipal election, [Section 10002](#) shall be applicable to that election.

(d) If a general municipal election is held on the same day as a statewide election, those city officers whose terms of office would have, prior to the adoption of the ordinance, expired no later than the next regularly scheduled city council meeting after receipt of the certification of the results from the elections official shall, instead, continue in their offices until not later than that meeting.

(e) Within 30 days after the ordinance becomes operative, the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected city officeholders will be changed.

C**Effective: January 1, 2005**West's Annotated California Codes [Currentness](#)Elections Code ([Refs & Annos](#))▢ [Division 1](#). Established Election Dates ([Refs & Annos](#))▢ [Chapter 4](#). Local Elections ([Refs & Annos](#))→→ **§ 1301. General municipal election**

(a) Except as required by [Section 57379 of the Government Code](#), and except as provided in subdivision (b), a general municipal election shall be held on an established election date pursuant to [Section 1000](#).

(b)(1) Notwithstanding subdivision (a), a city council may enact an ordinance, pursuant to Division 10 (commencing with [Section 10000](#)), requiring its general municipal election to be held on the same day as the statewide direct primary election, the day of the statewide general election, on the day of school district elections as set forth in [Section 1302](#), the first Tuesday after the first Monday of March in each odd-numbered year, or the second Tuesday of April in each year. Any ordinance adopted pursuant to this subdivision shall become operative upon approval by the board of supervisors.

(2) In the event of consolidation, the general municipal election shall be conducted in accordance with all applicable procedural requirements of this code pertaining to that primary, general, or school district election, and shall thereafter occur in consolidation with that election.

(c) If a city adopts an ordinance described in subdivision (b), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (b), unless the ordinance in question is later repealed by the city council.

(d) If the date of a general municipal election is changed pursuant to subdivision (b), at least one election shall be held before the ordinance, as approved by the board of supervisors, may be subsequently repealed or amended.

CREDIT(S)

(Added by [Stats.1996, c. 1143 \(S.B.1200\)](#), § 24.5, eff. Sept. 30, 1996. Amended by [Stats.2003, c. 824 \(A.B.1521\)](#), § 1; [Stats.2004, c. 785 \(A.B.2790\)](#), § 1.)

HISTORICAL AND STATUTORY NOTES

PROPOSED ACTION PLAN FOR CHANGING THE CITY'S GENERAL MUNICIPAL ELECTION TO NOVEMBER OF EVEN-NUMBERED YEARS

City Council directs staff to initiate formal actions to change the City's election cycle to November of even-numbered years	Tuesday, February 5 City Council meeting
City Manager's Report article regarding proposed change to the City's election cycle	Week of February 18
Announcements on City's website	Updated as the City Council takes formal steps
Announcement on Channel 27	Updated as the City Council takes formal steps
Citywide postcard to all residents with information regarding the proposed change to the City's election cycle	Mailed for delivery by the end of February ¹
First reading of the enabling ordinance to change to even-numbered year elections and lengthen current elected officials terms by one year	Tuesday, February 19 City Council meeting
Notification to Benicia Unified School District of City's intention to change the General Municipal Election to November of even-numbered years	With the first reading of the proposed enabling ordinance
Second reading of ordinance	Tuesday, March 5 City Council meeting
Date ordinance takes effect	April 3 (30 days after 2 nd reading)
City notifies Solano County Board of Supervisors and requests that the City's elections are consolidated with the presidential/statewide election ballot	April
Voter campaign to notify residents of change in election cycle	Starting after Board of Supervisors adopts resolution approving consolidation and continuing through November 2013.

¹ If a post card mailing is desired, it is an additional cost not included in the budget information in the staff report.

CURRENT			
November - Odd Year	Voters	Voting Opp	\$ 1,000,000
City of Benicia	17,781	0.049058884	\$ 49,058.88
City of Fairfield	47,138	0.130056671	\$ 130,056.67
City of Vallejo	52,511	0.144881112	\$ 144,881.11
Benicia USD	17,826	0.049183042	\$ 49,183.04
Dixon USD	10,182	0.028092771	\$ 28,092.77
Fairfield-Suisun USD	60,482	0.166873596	\$ 166,873.60
Travis USD	9,826	0.027110545	\$ 27,110.54
Vacaville USD	41,139	0.113505057	\$ 113,505.06
Vallejo City USD	53,753	0.148307867	\$ 148,307.87
Solano County BOE *	30,181	0.083271254	\$ 83,271.25
Solano Irrigation District	19,661	0.054245921	\$ 54,245.92
Cordelia Fire Protection	1,962	0.00541328	\$ 5,413.28
	362,442	1.00	\$ 1,000,000
November - Even Year	Voters	Voting Opp	\$ 1,000,000
State/Federal Offices	199,077	0.337930121	\$ 337,930.12
County Offices	199,077	0.337930121	\$ 337,930.12
City of Dixon	8,767	0.014881847	\$ 14,881.85
City of Rio Vista	4,954	0.008409338	\$ 8,409.34
City of Suisun	12,905	0.021906037	\$ 21,906.04
City of Vacaville	44,377	0.07532927	\$ 75,329.27
River Delta Unified	5,222	0.008864264	\$ 8,864.26
Solano Community College	108,205	0.18367631	\$ 183,676.31
San Joaquin Comm College	5,239	0.008893121	\$ 8,893.12
Davis Joint USD	36	6.11094E-05	\$ 61.11
Winters Joint USD	606	0.001028676	\$ 1,028.68
Yolo County BOE	642	0.001089785	\$ 1,089.79
	589,107	1.00	\$ 1,000,000

POTENTIAL			
November - Odd Year	Voters	Voting Opp	\$ 1,000,000
City of Benicia	17,781	0.033464574	\$ 33,464.57
City of Fairfield	47,138	0.088715657	\$ 88,715.66
City of Vallejo	52,511	0.098827865	\$ 98,827.86
Benicia USD	17,826	0.033549266	\$ 33,549.27
Dixon USD	10,182	0.019162943	\$ 19,162.94
Fairfield-Suisun USD	60,482	0.113829615	\$ 113,829.62
Travis USD	9,826	0.018492937	\$ 18,492.94
Vacaville USD	41,139	0.077425292	\$ 77,425.29
Vallejo City USD	53,753	0.10116536	\$ 101,165.36
Solano County BOE*	199,077	0.374671113	\$ 374,671.11
Solano Irrigation District	19,661	0.037002812	\$ 37,002.81
Cordelia Fire Protection	1,962	0.003692565	\$ 3,692.56
	531,338	1.00	\$ 1,000,000
November - Even Year	Voters	Voting Opp	\$ 1,000,000
State/Federal Offices	199,077	0.328029225	\$ 328,029.22
County Offices *	199,077	0.328029225	\$ 328,029.22
City of Dixon	8,767	0.014445829	\$ 14,445.83
City of Rio Vista	4,954	0.008162956	\$ 8,162.96
City of Suisun	12,905	0.02126422	\$ 21,264.22
City of Vacaville	44,377	0.073122224	\$ 73,122.22
River Delta Unified	5,222	0.008604553	\$ 8,604.55
Solano Community College *	108,205	0.178294842	\$ 178,294.84
San Joaquin Comm College	5,239	0.008632565	\$ 8,632.56
Davis Joint USD	36	5.9319E-05	\$ 59.32
Winters Joint USD	606	0.000998537	\$ 998.54
Yolo County BOE	642	0.001057856	\$ 1,057.86
City of Benicia	17,781	0.029298651	\$ 29,298.65
Benicia USD			
	606,888	1.00	\$ 1,000,000

* County wide vs. 2-3 district offices

Solano Community College w/ one district (no county offices)

November - Even Year	Voters	Voting Opp	\$ 1,000,000	
State/Federal Offices	199,077	0.611228124	\$ 611,228.12	
County Offices *	-	0	\$ -	NO RUN-OFFS
City of Dixon	8,767	0.026917409	\$ 26,917.41	
City of Rio Vista	4,954	0.015210316	\$ 15,210.32	
City of Suisun	12,905	0.039622352	\$ 39,622.35	
City of Vacaville	44,377	0.136251151	\$ 136,251.15	
River Delta Unified	5,222	0.016033159	\$ 16,033.16	
Solano Community College *	26,094	0.080116672	\$ 80,116.67	1-TRUSTEE AREA WITH CONTESTS
San Joaquin Comm College	5,239	0.016085355	\$ 16,085.35	
Davis Joint USD	36	0.000110531	\$ 110.53	
Winters Joint USD	606	0.001860608	\$ 1,860.61	
Yolo County BOE	642	0.001971139	\$ 1,971.14	
City of Benicia	17,781	0.054593184	\$ 54,593.18	
	325,700	1.00	\$ 1,000,000	

