

April 1, 2008 Regular City Council Meeting

BENICIA CITY COUNCIL

REGULAR MEETING AGENDA

City Council Chambers

April 1, 2008

7:00 P.M.

I. CALL TO ORDER:

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/ PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS:

1. Announcement of action taken at Closed Session, if any.
2. Announcement of openings on boards and commissions:

Sky Valley Open Space Committee:

One unexpired term to September 30, 2010

Human Services and Arts Board:

Two unexpired terms, one to June 30, 2008 and one to June 30, 2009

Solano Transportation Authority Pedestrian Advisory Committee:

Immediate opening – Three-year term

Tri-City and County Cooperative Planning Group Citizen Advisory Committee:

Immediate opening - Term to be determined

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 746-4210 or by email acardwell@ci.benicia.ca.us.

4. Announcement by Mayor Patterson regarding The World Mayors and Local Governments Climate Protection Agreement

B. APPOINTMENTS:

C. PRESENTATIONS:

D. PROCLAMATIONS:

1. National Library Week – April 13-19, 2008

2. Sexual Assault Awareness Month – April 2008

3. National D.A.R.E. Day – April 10, 2008

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN

B. PUBLIC COMMENT

VII. CONSENT CALENDAR:

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council

Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

A. Approval of Minutes of March 18, 2008. (City Clerk)

B. Approval of modifications to the allocation of positions in the Benicia Police Department and establishment of the salary ranges for Lieutenant and Deputy Police Chief. (Police Chief)

With the addition of the Deputy Police Chief position, the Benicia Police Department administration structure will be comprised of one Deputy Chief position and two Lieutenant positions, replacing the current structure composed of three Captains. This action approves the job description for the Deputy Police Chief position and approves reclassifying two Captain positions to Lieutenants, replacing the three Captain positions presently authorized in the 2007-09 Budget. In addition, this action is establishing the salary ranges for the Lieutenant and Deputy Police Chief positions. This change is cost neutral, as it does not result in any additional positions and the salary adjustments will not increase overall personnel costs for the department.

Recommendation: Adopt the resolutions modifying the allocation of positions in the Benicia Police Department, establishing the salary ranges for Lieutenant and Deputy Police Chief, and approving the Deputy Police Chief job description.

C. Second reading of an ordinance amending Subsection B of Section 17.70.300 (Animals) of Chapter 17.70 (Site Regulation) of Title 17 (Zoning) of the Benicia Municipal Code.

(Community Development Director)

At a meeting on December 4, 2007, the City Council adopted an ordinance to amend the animal control provisions of the Benicia Municipal Code. This new ordinance currently conflicts with the existing Zoning Ordinance provisions for caring and keeping animals. The proposed zoning text amendments will remove any conflicts between the two code provisions. There are no fiscal impacts.

Recommendation: Adopt the ordinance to approve zoning text amendments to be consistent with recently adopted changes to Title 6 (Animals) of the Benicia Municipal Code.

D. Purchase of five tarp rollers for the James Lemos Pool. (Parks & Community Services Director)

The James Lemos Pool cover tarp rollers are used to remove and store the pool cover tarps from the 50-meter, L shaped and wading pool. The current rollers were purchased approximately 14 years ago and have been repaired several times and are currently non operational. Due to the age of the rollers it is very difficult to find parts. Therefore they need to be replaced. In addition, the current rollers cannot be safely operated or maneuvered by staff. The total cost of the rollers is \$32,000. Staff is recommending authorization of a transfer of Park Dedication funds from the 9th Street Park project for the purchase. The 9th Street Park project currently has a fund balance of \$71,030, leaving a project fund balance of \$39,030.

Recommendation: Adopt a resolution authorizing the purchase of five replacement pool cover tarp rollers at the James Lemos Pool in the amount of \$32,000.

E. Implementation of a Taxi Performance Monitoring Program. (Finance Director)

At the City Council meeting on February 5, 2008, the City Council approved the first reading of the revision to the City's taxicab ordinance to allow the acceptance of Vallejo taxicab permits within the City. During the discussion of the ordinance changes, the City Council directed staff to develop a taxicab performance monitoring program. The program is to achieve the

following: 1) Ensure that taxicabs operating in the City are picking up passengers within a reasonable amount of time, 2) Ensure that taxicabs are operating within the guidelines of the City's taxicab ordinance, and 3) Ensure that taxicabs are operating within their agreements with the City for the provision of the Safe Ride and Benicia Breeze Taxi Scrip Programs. Implementation of this program would cost approximately \$3,600 annually and funding would come from the Transit Fund.

Recommendation: By motion, authorize the City Manager to implement the proposed taxi performance monitoring program, with minor changes authorized by the City Attorney, to ensure that taxicab operators in the City comply with the City's taxicab ordinance and their agreements for the Benicia Safe Ride Program and Benicia Breeze Taxi Scrip Programs.

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

VIII. PUBLIC HEARINGS:

[A. Introduction and first reading of an ordinance transferring design review authority outside historic districts to the Planning Commission. \(Community Development Director\)](#)

At a special meeting on January 29, 2008, the City Council directed staff to process amendments to the zoning ordinance necessary to transfer authority for commission-level design review outside historic districts from the Historic Preservation Review Commission to the Planning Commission. At its February 14, 2008 regular meeting, the Planning Commission recommended approval of the amendments.

Recommendation: Approve the first reading of an ordinance to transfer authority for commission-level design review outside historic districts from the Historic Preservation Review Commission to the Planning Commission.

[B. Adoption of annual increases for the Capital Improvement License Tax, the Park Land Dedication Fee, and the Library Book Fee. \(Finance Director\)](#)

The City of Benicia currently collects one development impact tax and two development impact fees to support government activities, park improvements and expanded library circulation. The City ordinance governing the administration of the development impact tax and fees requires that each be adjusted annually by the change in the consumer price index or construction cost index. In accordance with California State law and local ordinances, the tax and fees will become effective 60 days after Council approval at a public hearing. The tax and fee increases will add an estimated \$5,260 per year and will be deposited into the respective funds.

Recommendation: Conduct a Public Hearing and adopt the resolutions approving increases for the Capital Improvement License Tax, the Park Land Dedication Fee, and the Library Book Fee.

IX. ACTION ITEMS:

[A. Petition for temporary relief under the Benicia Municipal Code Section 8.20.210 \(Noise Ordinance\). \(City Manager\)](#)

Evonne Marston, owner of the Captain Walsh House, an event facility, has again submitted a petition for temporary relief from the noise ordinance in order to host an event with amplified music past the time stated in the noise ordinance. Due to neighborhood impacts of the amplification, this request should be denied.

Recommendation: Deny the petition for temporary relief under Municipal Code Section 8.20.210, which will prohibit the owner of the Captain Walsh House from allowing amplified music for special events beyond the noise ordinance's stated time limits.

B. Confirmation of the updated Top Ten Policy Issues list for 2007-09. (City Manager)

At the February 26, 2008 Special City Council meeting, the City Council reviewed the list of current priority projects and policy issues. They evaluated them based on ratings of importance they assigned prior to the meeting, along with public input provided at the meeting. Council requested that an updated list of the priority projects be agendaized for a regular meeting in order to confirm the final list, which was done at the March 4, 2008 City Council Meeting. The prioritization of the policy issues remains to be finalized, and the results of the Council's recent rankings on the current issues are provided for confirmation at the April 1, 2008 City Council meeting.

Recommendation: By motion, confirm the updated list of Top Ten Policy Issues for the remainder of the current two-year budget period.

X. INFORMATIONAL ITEMS:

A. Reports from City Manager

1. Verbal update regarding transit consolidation. (Finance Director)

XI. COUNCIL MEMBER REPORTS:

XII. ADJOURNMENT:

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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-agendaized matters under public comment, and on agendaized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Dan Pincetich, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

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

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us 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.

 [IV-D-1.pdf](#)

 [IV-D-2.pdf](#)

 [IV-D-3.pdf](#)

 [VII-A MINUTES.pdf](#)

 [VII-B- PD.pdf](#)

 [VII-C ANIMALS.pdf](#)

 [VII-D POOL.pdf](#)

 [VII-E TAXI.pdf](#)

 [VIII-A DESIGN REV.pdf](#)

 [VIII-B FEES.pdf](#)

 [IX-A NOISE.pdf](#)

 [IX-B POLICY.pdf](#)



P R O C L A M A T I O N

National Library Week - April 13-19, 2008

WHEREAS, our nation's public, academic, school and special libraries make a difference in the lives of millions of Americans today, more than ever; and

WHEREAS, libraries play a vital role in supporting the quality of life in their communities; and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in the 21st century; and

WHEREAS, libraries are part of the American Dream – places for opportunity, education, self-help and lifelong learning; and

WHEREAS, library use is up nationwide among all types of library users, continuing a decade-long trend; and

WHEREAS, libraries play a vital role in supporting the quality of life in their communities; and

WHEREAS, libraries can help you discover a world of knowledge both in person and online, as well as personal service and assistance in finding what you need, when you need it; and

WHEREAS, libraries, librarians, library workers, and supporters across America are celebrating National Library Week with The Campaign for America's Libraries.

NOW, THEREFORE, be it resolved that I, Elizabeth Patterson, Mayor, hereby proclaim April 13-19, 2008, as National Library Week. Furthermore, I encourage all residents to visit the library this week to take advantage of the wonderful library resources available and thank their librarians and library workers for making information accessible to all who walk through the library's doors. Join the circle of knowledge @ your library.

Elizabeth Patterson, Mayor
April 1, 2008



P R O C L A M A T I O N

RECOGNIZING APRIL 2008 AS SEXUAL ASSAULT AWARENESS MONTH

WHEREAS, sexual violence is an act completed or attempted against a victim's will or when a victim is unable to consent due to age, illness, disability, or the influence of alcohol or other drugs. It may involve actual or threatened physical force, use of weapons, coercion, intimidation, or pressure; and

WHEREAS the National Violence Against Women Survey found that 1 in 6 women and 1 in 33 men in the United States has experienced an attempted or completed rape at some time in their lives; and

WHEREAS, according to the National Crime Victimization Survey, more than 260,000 rapes or sexual assaults occurred in 2000, 246,180 of them occurred among females and 14,770, among males; and

WHEREAS, according to the Department of Justice, fewer than half (48%) of all rapes and sexual assaults are reported to the police and females ages 12 to 24 are at the greatest risk for sexual assault; and

WHEREAS, the City of Benicia recognizes the importance of supporting citywide efforts to reduce the incidents of sexual assault and violence against all citizens and recognizes the efforts of SafeQuest Solano in providing public awareness to prevent such victimization and services to support those who have been victimized.

NOW, THEREFORE, BE IT RESOLVED, that I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, do hereby proclaim April 2008 to be "Sexual Assault Awareness Month," and recognize SafeQuest Solano and all local agencies working to eradicate sexual assault and violence in our communities.

Elizabeth Patterson, Mayor
April 1, 2008



P R O C L A M A T I O N

NATIONAL D.A.R.E. DAY 2008

WHEREAS, each year, Drug Abuse Resistance Education (D.A.R.E.) teaches millions of children across our country how to resist drugs and violence; and

WHEREAS, for more than two decades, D.A.R.E. programs have taught America's youth about the devastating effects of drug use and encouraged them to lead drug-free and violence-free lives of purpose; and

WHEREAS, youth development programs like D.A.R.E. encourage our Nation's children to make healthy choices that lead to a better future; and

WHEREAS, this year's National D.A.R.E. day is an opportunity to renew our commitment to building a strong, drug-free community; and

WHEREAS, we honor the individuals who help our Nation's young people avoid the dangers of substance abuse and becoming productive citizens.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, do hereby designate April 10, 2008 as "National D.A.R.E. Day" in the City of Benicia in honor and recognition of law enforcement, educators and students who have opened the lines of communication to help save lives and stop drug use before it starts.

Elizabeth Patterson, Mayor
April 1, 2008

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
MARCH 18, 2008

The special meeting of the City Council of the City of Benicia was called to order by Vice Mayor Campbell at 6:18 p.m. on Tuesday, March 18, 2008, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, and Schwartzman
Absent: Mayor Patterson (arrived after Closed Session began)

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

OPPORTUNITY FOR PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Vice Mayor Campbell read the announcement of Closed Session

CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9)
Name of case: City of Benicia v. Liebert Cassidy

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of Section 54956.9
Number of potential cases: 1

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:19 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MARCH 18, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, March 18, 2008, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Council Member Hughes led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Heather McLaughlin, City Attorney, reported the following actions in Closed Session:

Item A – Council gave direction to staff.

Item B – Council authorized litigation against Overaa Construction.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Human Services and Arts Board:
Two unexpired terms, one to June 30, 2008, and one to June 30, 2009
- Solano Transportation Authority Pedestrian Advisory Committee:
Immediate opening – three-year term
- Tri-City and County Cooperative Planning Group Citizen Advisory Committee:
Immediate opening - term to be determined

Mayor's Office Hours:

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

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

- Recognizing Spring 2008 as the Benicia Historical Museum Membership Season.

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Council received written communications from Miller Starr Regalia and a concerned citizen (hard copies on file).

PUBLIC COMMENT:

1. Bill Royal – Mr. Royal discussed concerns regarding corruption, incompetence, concerns regarding past actions of the City regarding his project, bribes, concerns regarding the City Manager’s actions, an illegal and unconstitutional search of his property, the lawsuit he was involved in with the City, and his \$10,000.
2. Carl Lunsted – Mr. Lunsted discussed concerns regarding non-historic homes in the Historic District. He will speak during the agenda item.
3. David Vida – Mr. Vida discussed concerns regarding his water bill for property he owns on East H Street and the arbitrary increase to his bill for the 4-plex building.

Council and Staff discussed the City’s upcoming sewer rate analysis, low-income rates, the way the City’s code is set up, fees charged on the number of dwelling units as opposed to the number of water meters, the City’s delay in identifying the incorrect billing process for the property, base fees, usage charges, AB 1600 requirements, consumption charges, standby charges, senior housing discounts, and section 8 housing discounts.

Ms. McLaughlin advised Council that it could not have an extended conversation on this issue, as it was not agendized. Council confirmed this would be brought back for future Council discussion.

Mr. Vida discussed concerns regarding relief for his situation. He could not wait to resolve this until later this year.

Staff will come back for some remedy to Mr. Vida's situation at the next Council meeting. Staff will continue its conversation with Mr. Vida in the meantime.

4. Susan Street – Ms. Street discussed a public forum that would be put on by the League of Women Voters on the effects of the State of California's budget deficit at the Camelia Tea Room on 3/19.
5. Council Member Schwartzman – Council Member Schwartzman discussed the subcommittee that was formed to address the appointment process. He was looking forward to the first meeting of the subcommittee.
6. Mayor Patterson – Mayor Patterson discussed the Ahwahnee Greenhouse Gas Emission Reduction Principles that were discussed at the recent Local Government Commission Annual Conference. The public could view the agenda and some of the PowerPoint presentations made by logging onto www.lgc.org.

CONSENT CALENDAR:

Council pulled items VII-A – minutes of February 19, 2008.

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

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

Noes: None

Council approved the February 26, 2008, and March 4, 2008 City Council minutes.

Council approved the denial of the claim against the City by California State Automobile Association (CSAA) and referral to insurance carrier.

RESOLUTION 08-18 - A REQUESTING FROM THE CALIFORNIA DEPARTMENT OF FINANCE AN ALLOCATION OF PROPOSITION 1B BOND FUNDING FOR THE STATE PARK ROAD BIKE/ PEDESTRIAN BRIDGE AND TRAIL PROJECT AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO SUBMIT THE APPLICATION ON BEHALF OF THE CITY

RESOLUTION 08-19 - A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH PAKPOUR CONSULTING GROUP FOR ENGINEERING SERVICES FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT, APPROVING TASK ORDER NO. 1 IN THE AMOUNT OF \$496,334, APPROPRIATING \$185,100 FROM THE TRAFFIC IMPACT FEE FUND RESERVES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT AND TASK ORDER ON BEHALF OF THE CITY

Council approved the Investment Report for the quarter ended December 2007.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of the City Council Minutes of February 19, 2008:

Mayor Patterson requested adding 'and public health' to VII-A-7, change 'lead' to 'LEED' in two areas, change 'initial study' to 'a CEQA Initial Study' so it reads correctly, and lastly, and to add she discussed Low Impact Development.

Council discussed possibly attaching the transcript done by the City Attorney's office to the minutes, whether or not to add the comments regarding Low Impact Development to the minutes, not adding everything that was discussed into the action minutes, cherry picking individual comments to be inserted into the minutes, possibly expanding on the minutes and go back to the detailed format for these minutes, and making selective changes to the minutes.

On motion of Council Member Campbell, seconded by Mayor Patterson, Council did not adopt all of the changes requested by Mayor Patterson, on roll call by the following vote:
Ayes: Council Member Campbell and Mayor Patterson
Noes: Council Members Hughes, Ioakimedes, and Schwartzman

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the February 19, 2008 Council Meeting minutes, incorporating the addition of the 'and public health' and changes from lead to LEED, on roll call by the following vote:

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

Noes: None

PUBLIC HEARINGS:

Design review for non-historic homes in the Downtown Historic Overlay District:

Heather McLaughlin, City Attorney stated that there was a potential for four out of the five Council Members to have a conflict of interest because of the location of the Downtown Historic Overlay District. The City Clerk had four playing cards that the four Council Members would draw from, Ace being the highest card, and 2 being the lowest card. The Council Members with the two highest cards would participate in the discussion. The following cards were drawn: Council Member Ioakimedes 2, Vice Mayor Campbell 3, Council Member Schwartzman 4, and Mayor Patterson Ace. Council Members Campbell and Ioakimedes recused themselves from this portion of the meeting.

Charlie Knox, Community Development Director reviewed the staff report.

Council and Staff discussed the potential possibility of lifting the restriction on new single-family construction in the Historic District, there being some sense that Staff was recommending that it would be helpful to suggest to the HPRC that Council is in favor of it being inclusive of remodeling – but that there needed to be criteria and standards dealing with both the fees and what would rise to the level of HPRC review, coming up with forms for the folks that have non-historic homes (describing what process they have to go through, the level of review, costs, etc.), fee structure, fees charged in other

communities, how long the design review process typically is (usually 2-4 months), turnaround time for building permits (2 weeks), average revenues generated for design review fees (\$10,500 last year), number of vacant lots in Historic District (4), updating the Downtown Historic Conservation Plan (update should be done towards the end of summer), getting more certainty into the process, demolition ordinance, notification process for the potential change, notification to persons purchasing a historic home, what types of remodels require HPRC review, out of 492 parcels in the Downtown Historic District - 155 historic single family homes – 20 of which are landmarks, 150 non-historic single family homes, 130 of the buildings are duplexes, multi-family, commercial, etc., and the remaining 57 parcels are assumed to be non-historic, non-single-family.

Public Hearing Opened

Public Comment:

1. Mr. Lunsted – Mr. Lunsted discussed concerns regarding charges for non-historic homes in the Historic District, cost of window replacements, painting, roofing, and the notification process.

Council and Staff discussed the replacement of windows, roofs, etc. in non-historic homes.

2. Toni Haughey – Ms. Haughey discussed installing a deck/porch on a home in the Historic District on a non-historic home – would she need to go to the HPRC?

Council and Staff discussed the process for replacing windows, permits, restrictions for non-historic homes in the Historic District, new construction/remodeling in the Historic District, and fees.

3. Donald Dean – Mr. Dean discussed fees, the Historic District, the need to nurture and cherish the Historic District, the desire to keep things in balance between the historic and non historic homes in the Historic District. He would like the City to consider design review for those homes as well. The City should keep development happening within the context of the Historic District.
4. Leeann Taagepera – Ms. Taagepera discussed her love for Benicia's history, design review for non-historic homes in the Historic District, the Downtown Historic Conservation Plan, Secretary of Interior Standards, property values, the City's Certified Local Government (CLG) application, the Downtown Mixed Use Master Plan, the need to make the process easy and inexpensive, require design review for all buildings inside the Historic District including new single-family residences, including duplexes in the Historic District, and the City of Vallejo's requirements.
5. Bonnie Silveria – Ms. Silveria discussed the Downtown Historic District, what other cities' Historic Districts look like, putting some reign on this, and the need to look at what we want to see in the future.
6. Sandra Shannonhouse – Ms. Shannonhouse discussed her five properties in the Historic District, Benicia always wanting to reinvent the wheel, the need for buildings to fit into their surroundings, a recent article in the San Francisco Chronicle, the need to expand and maintain the protections for the Historic

District, and the need to implement a moratorium on all building permits in the Historic District until this issue is resolved.

Council and Staff discussed the Downtown Mixed Use Master Plan, loopholes, and mixed use on the side streets off of First Street.

7. Donnell Rubay – Ms. Rubay discussed the zoning changes to the side streets off of First Streets, Council having staff come back with a new proposal on fees, what should go through design review, imposing the rule on the current empty lots, have staff review for non-historic buildings that are going to have a foot print change, mirroring that in the Arsenal District, noticing, and property rights.
8. Bob Berman – Mr. Berman discussed the integrity of the Historic District, tourism, the need to establish a threshold for the size/height, tearing down of non-historic homes to rebuild bigger homes in the Historic District, and his support of design review for new non-historic homes.
9. Jon Van Landschoot – Mr. Van Landschoot discussed losing his rights as a property owner of a non-historic home in the Historic District, taking care of injustices, being a second class citizen, lowering the prices, the need to do this now.
10. Jeanine Seeds – Ms. Seeds discussed how hard it is to find ‘historic Benicia’ as described by the freeway sign, strip malls, fast food places, Starbucks, Council’s responsibility to the citizens.

Public Hearing Closed

Council and Staff discussed the boundaries of the Historic District, changing the rules in the middle of the game, requiring design review for new construction in the Historic District, not willing to go the extra step for requiring design review for other modifications, developing guidelines for non-historic homes in the Historic District including options and fee structures, notification process – reaching out to all 300+ homeowners in the Historic District, engaging them in the process, current design guidelines for new construction in the Historic District, the design guidelines in the Downtown Historic Conservation Plan, maintaining the integrity of the Historic District, the need for maintaining a balance, CLG compliance, the amount of time it takes to process and application, fees being onerous, vacant lots, demolition permit, having the HPRC look at the issue, the need for design guidelines and a plan, and the need for sufficient notice to the property owners in the Historic District.

On motion of Council Member Hughes, seconded by Mayor Patterson, Council gave direction to Staff to bring this issue back to the HPRC to develop guidelines and recommendations regarding the non-historic homes within the Historic District, including fee structure, design guidelines, so forth, and bring the recommendations with options back to Council in a reasonable timeframe (to the HPRC at the end of April and to Council at the second meeting in May), including direction that the HPRC provide written notice to all property owners in the Historic District, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, and Mayor Patterson

Noes: None

Abstain: Council Members Campbell and Ioakimedes

Introduction and first reading of an ordinance amending Subsection B of Section 17.70.300 (Animals) of Chapter 17.70 (Site Regulation) of Title 17 (Zoning) of the Benicia Municipal Code:

Charlie Knox, Community Development Director, reviewed the staff report.

Public Hearing Opened

Public Comment:

1. Christina Topp - Ms. Topp spoke in support of the proposed ordinance. She looked forward to having the zoning in compliance with the animal keepers permit and the ordinance.

Public Hearing Closed

ORDINANCE 08- - AN ORDINANCE AMENDING SUBSECTION B OF SECTION 17.70.300 (ANIMALS) OF CHAPTER 17.70 (SITE REGULATION) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO BE CONSISTENT WITH TITLE 6 (ANIMALS)

On motion of Council Member Schwartzman, seconded by Ioakimedes, the above Introduction and First Reading of an Ordinance was approved, on roll call by the following vote:

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

Noes: None

Approval of the updated Traffic Impact Fee Program:

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

Council and Staff discussed current rates, fees, rates in other cities, regional standard fees, cost per base trip, net effect of the fee adjustment, who the new fees apply to, whether the gap (from Seeno being subject to 2002 rates) could be made up in a development agreement, traffic calming, and the funding source for the \$25 million (infill development).

Public Hearing Opened

Public Comment:

None

Public Hearing closed

RESOLUTION 08-20 - A RESOLUTION APPROVING THE UPDATE TO THE TRAFFIC IMPACT FEE PROGRAM AND AUTHORIZING ASSOCIATED FEE ADJUSTMENTS

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

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

Noes: None

ACTION ITEMS:

Confirmation of the accuracy of the resolution certifying the Benicia Business Park EIR: Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

1. Jim Kushera – Mr. Kushera discussed being surprised that this item was brought back, the need for the City to protect itself with this project and leasing industrial space.
2. Dana Dean – Ms. Dean gave Council two letters (hard copies on file). She discussed the Final EIR, her idea of what took place at the 2/19 Council meeting, AB 32 standards, missing the forest for the trees, whether what was included is enforceable, the need to look at the new request to fill in some gaps when the document comes back - with a supplemental EIR or something, and the need for the City to be proactive with what this project should look like – a visionary project.
3. Susan Street – Ms. Street discussed what the City is facing with the project (strength, money, power that Seeno has), the need to strengthen our position, protect the town, consider adding as much as we need to add and put more in.
4. Jon Van Landschoot – Mr. Van Landschoot compared the situation to a poker game, the future of our town, and Seeno having money and lawyers, but no principles.

Council and Staff discussed the proposed changes suggested by Ms. Dean (hard copy on file), that the negotiations on 2/19 were done in good faith, the negotiations at the end of the discussion on 2/19 were rapid, Mayor Patterson's understanding that there was a non-verbal commitment to include Low Impact Development, her understanding that she heard a desire to have sustainable development, the need for better criteria, LEED, LEED-ND, being stuck, the need to bring both sides together on this issue, there being compromise on both sides at the 2/19 discussion, reviewing the transcript of the 2/19 discussion, Council Member Schwartzman's comment about not being sure at all about Low Impact Development, reaffirmation of Council Member Schwartzman's motion, the need to play straight, the proposed project being unacceptable, not being able to record what was never said, the need for people to say what they mean when they say it, and the need for a visionary project.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council confirmed the accuracy of the resolution language, as adopted on February 19, 2008, as listed on IX-A-12 (without ND), on roll call by the following vote:
Ayes: Council Members Campbell, Hughes, Ioakimedes, and Schwartzman
Noes: Mayor Patterson

INFORMATIONAL ITEMS:

Reports from City Manager:

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) Next Meeting Date: April 16, 2008.
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 24, 2008 – Spring General Assembly.
3. Audit & Finance Committee. - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: April 4, 2008.
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 16-17, 2008 – Legislative Action Days.
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 12, 2008.
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: April 2, 2008.
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: March 27, 2008
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 9, 2008
9. Solano Water Authority/Solano County Water Agency - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 10, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 17, 2008
11. Tri-City and County Cooperative Planning Group - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: March 24, 2008
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: April 24, 2008
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: March 26, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: March 24, 2008

COMMENTS FROM COUNCIL MEMBERS:

Request to agendize discussion of a Benicia Industrial Park Needs Assessment:
Council Member Ioakimedes reviewed the report.

Council discussed what was envisioned in terms of the needs assessment, scope, how big of a project it would be, whether the Benicia Industrial Park Association (BIPA) would participate in the cost of the assessment, rough preliminary cost of approximately \$40,000 for the assessment, the need to put the Business License Tax properly allocated, putting the money where the City promised it would go, street repairs, sidewalks, basic infrastructure improvements, identifying a timeframe as to when this should be brought back for discussion.

Ms. McLaughlin summarized the motion that Council was making: 'To agendize the consideration of a Benicia Industrial Park Industrial Needs Assessment, including a report on the use of the Business License Tax increase, which was supposed to go towards street repairs, lights, and sidewalks, and it should be moved up on the priority list so that it is not on the bottom, but closer to the top.'

Public Comment:

1. Dana Dean – Ms. Dean asked that the City consider her request to be an interested party in this item, and to be given formal written notice of any action related to it.

On motion of Council Member Ioakimedes, seconded by Council Member Hughes, Council agreed to bring this back for discussion at a future Council meeting, on roll call by the following vote:

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

Noes: None

Council Member Schwartzman discussed his concern regarding the byline in the Benicia Herald regarding his and the Mayor's 'battle of wits.' He would appreciate the paper using different language in the future.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:34 p.m.

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
CONSENT CALENDAR**

DATE : March 17, 2008

TO : City Council

FROM : City Manager

SUBJECT : **APPROVAL OF MODIFICATIONS TO THE ALLOCATION OF POSITIONS IN THE BENICIA POLICE DEPARTMENT AND ESTABLISHING THE SALARY RANGES FOR LIEUTENANT AND DEPUTY POLICE CHIEF**

RECOMMENDATION:

Adopt the resolutions modifying the allocation of positions in the Benicia Police Department, establishing the salary ranges for Lieutenant and Deputy Police Chief, and approving the Deputy Police Chief job description.

EXECUTIVE SUMMARY:

With the addition of the Deputy Police Chief position, the Benicia Police Department administration structure will be comprised of one Deputy Chief position and two Lieutenant positions, replacing the current structure composed of three Captains. This action approves the job description for the Deputy Police Chief position and approves reclassifying two Captain positions to Lieutenants, replacing the three Captain positions presently authorized in the 2007-09 Budget. In addition, this action is establishing the salary ranges for the Lieutenant and Deputy Police Chief positions.

BUDGET INFORMATION:

This change is cost neutral, as it does not result in any additional positions and the salary adjustments will not increase overall personnel costs for the department.

BACKGROUND:

The current command structure of the Police Department below the rank of police chief is three police captains. This change was made in 2006, from the more common structure of one deputy police chief and three lieutenants, when the then deputy chief retired. The restructure in 2006 was successful because each of the lieutenants had over 15 years of experience at that level and was able to effectively assume the responsibilities of captain.

With the recent retirement of one of the captains, and another expected in 2008, the Police Chief requested an independent management study of the department's command structure by Peace

Officer Standards and Training (POST). Following external and internal departments interviews with stakeholders, POST recommended restructuring the department to reflect one second in command position and two middle manager positions.

The study also recommends that the department be consolidated into two divisions, Operations and Services. Currently the department has three divisions, Operations, Services and Investigations, but the Investigations Division has so few personnel, it does not warrant a separate division.

The attached memo from the Police Chief provides additional information regarding the proposed structure, including the findings of the POST study and a cost analysis. The next step in implementing the reorganization is the approval of the Deputy Police Chief job description by the City Council.

Attachments:

- ❑ Resolutions
- ❑ Memorandum from Police Chief
- ❑ Deputy Police Chief Job Description

RESOLUTIONS

RESOLUTION NO. 08-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA MODIFYING THE ALLOCATION OF POSITIONS IN THE BENICIA POLICE DEPARTMENT AND ESTABLISHING THE SALARY RANGE FOR LIEUTENANT

WHEREAS, a reorganization of the Benicia Police Department was approved in 2006 that included the replacement of the Deputy Police Chief position with three Captains; and

WHEREAS, with expected changes to the current command structure of the department due to recent and upcoming retirements, an independent management study by Peace Officer Standards and Training (POST) was completed; and

WHEREAS, the findings of this study recommend a more traditional command structure of one Deputy Police Chief and two Police Lieutenants; and

WHEREAS, an updated salary range for Police Lieutenant is needed, as the position has not been utilized since 2006.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby establishes the following salary range for the position:

A	B	C	D	E
7,733	8,120	8,526	8,952	9,400

On motion of Council Member _____, seconded by Council Member _____ the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council on the 1st day of April, 2008, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

RESOLUTION NO. 08-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA MODIFYING THE ALLOCATION OF POSITIONS IN THE BENICIA POLICE DEPARTMENT, ESTABLISHING THE SALARY RANGE FOR DEPUTY POLICE CHIEF AND APPROVING THE JOB DESCRIPTION

WHEREAS, a reorganization of the Benicia Police Department was approved in 2006 that included the replacement of the Deputy Police Chief position with three Captains; and

WHEREAS, with expected changes to the current command structure of the department due to recent and upcoming retirements, an independent management study by Peace Officer Standards and Training (POST) was completed; and

WHEREAS, the findings of this study recommend a more traditional command structure of one Deputy Police Chief and two Police Lieutenants; and

WHEREAS, the proposed job description accurately reflects the management role and responsibilities necessary for the Deputy Police Chief position.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves of the job description of Deputy Police Chief and establishes the following salary range for the position:

A	B	C	D	E
9,464	9,937	10,434	10,956	11,504

On motion of Council Member _____, seconded by Council Member _____ the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council on the 1st day of April, 2008, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

MEMORANDUM FROM POLICE CHIEF



Police Department
MEMORANDUM

Date: March 13, 2008
To: Jim Erickson, City Manager
From: Sandra Spagnoli, Police Chief
Subject: **Police Department Reorganization Proposal
Position Allocation Modification**

Recommendation Summary:

Reorganize the administration structure of the Benicia Police Department to (1) deputy chief and (2) lieutenants.

Fiscal Impact:

This will be cost neutral, as there are no additional positions and the salary adjustments due to the rank adjustments will not increase overall personnel costs.

Background:

The current command structure of the Benicia Police Department below the rank of police chief is 3 police captains. This structure was adopted in 2006 and changed from a more traditional structure of 1 deputy police chief and 3 police lieutenants. This change was, in part, predicated on the fact that the then deputy chief retired. As a result, the deputy chief position was vacated and ultimately eliminated. The existing 3 lieutenants were elevated to the rank of captain. This change was significant because it completely flattened the command structure and required each captain to assume more responsibility by fulfilling the duties of a second in command police manager. The 2006 restructure was successful because each lieutenant had more than 15 years experience (as a lieutenant) at the time they were reclassified to police captains. This experience provided them the perspective and understanding to perform at the captain level.

Analysis:

With the recent retirement of 1 police captain and the certainty of a second within this calendar year, similar to 2006, now is a good time to re-evaluate our command

structure. For the reasons described above, POST (Peace Officer Standards and Training) completed an independent management study of the Benicia Police Department command structure at my request. A critical component of the POST study were the external and internal department discussions and interviews that were conducted with the following stakeholders:

INTERNAL:

- Police Chief
- Captains
- Sergeants
- Police Officers Association- President

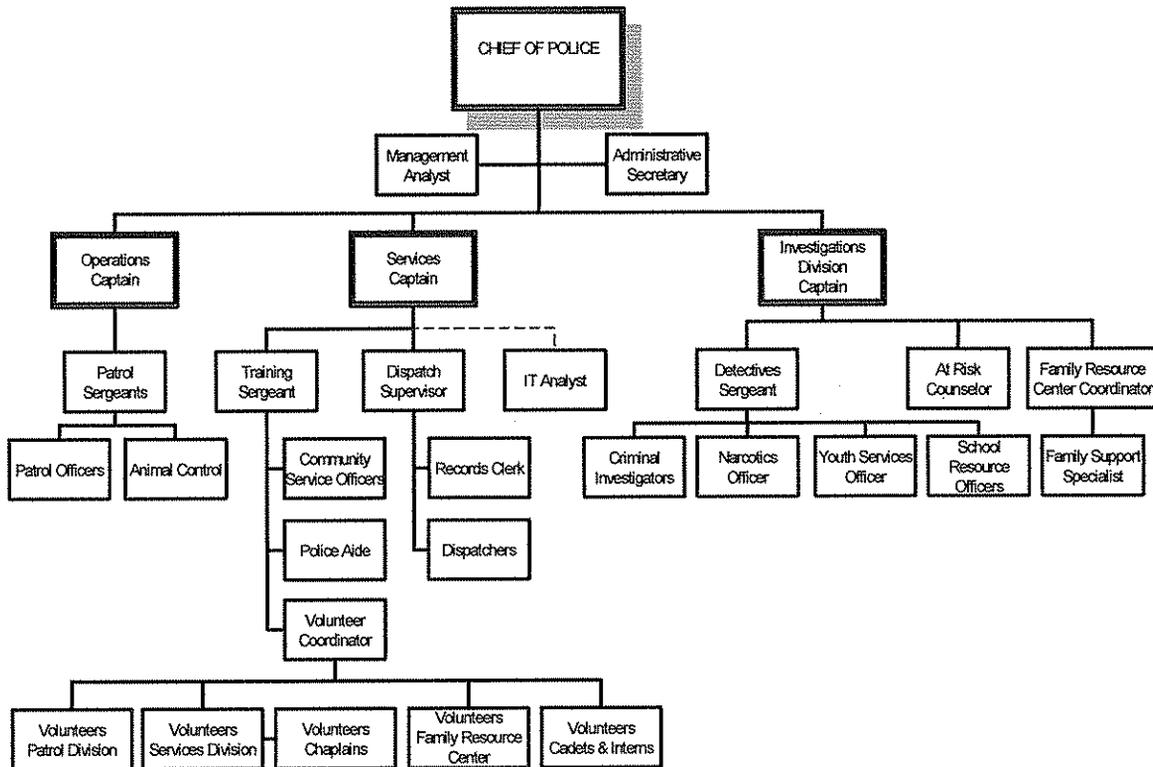
EXTERNAL:

- 2 Members of the Civil Service Commission
- City Manager

POST recommended restructuring the department to reflect (1) second in command position and (2) middle manager positions. As it stands now, police sergeant is the rank just below police captain. It is somewhat unrealistic to expect a first line supervisor (police sergeant) to directly transition into the role of a second in command police manager (police captain). Moreover, the promotion from supervisor to manager is typically the most challenging in terms of development. Because of this, new police managers require continual supervision and specific guidance. Under the current structure, the police chief must provide this direct supervision and guidance. Under the proposed structure, the deputy police chief would be responsible for managing the daily operations of the department. This position would assist the police chief in planning, organizing and directing the operations and activities of the police department such as patrol, investigations, administration and community relations. The addition of the deputy chief would increase management oversight and provide direction and mentoring to sworn and non-sworn managers and supervisors.

The POST study revealed that the current command structure will become less effective upon the retirement of the existing captains, who average approximately 30 years of police experience and 18 years in police management. The study affirmed that the promotion from sergeant to captain is not practical. Additionally, the study recommends consolidating the police department into two divisions because the investigative division is so small in number of personnel, it does not warrant a separate division.

Benicia Police Department Present Organizational Chart

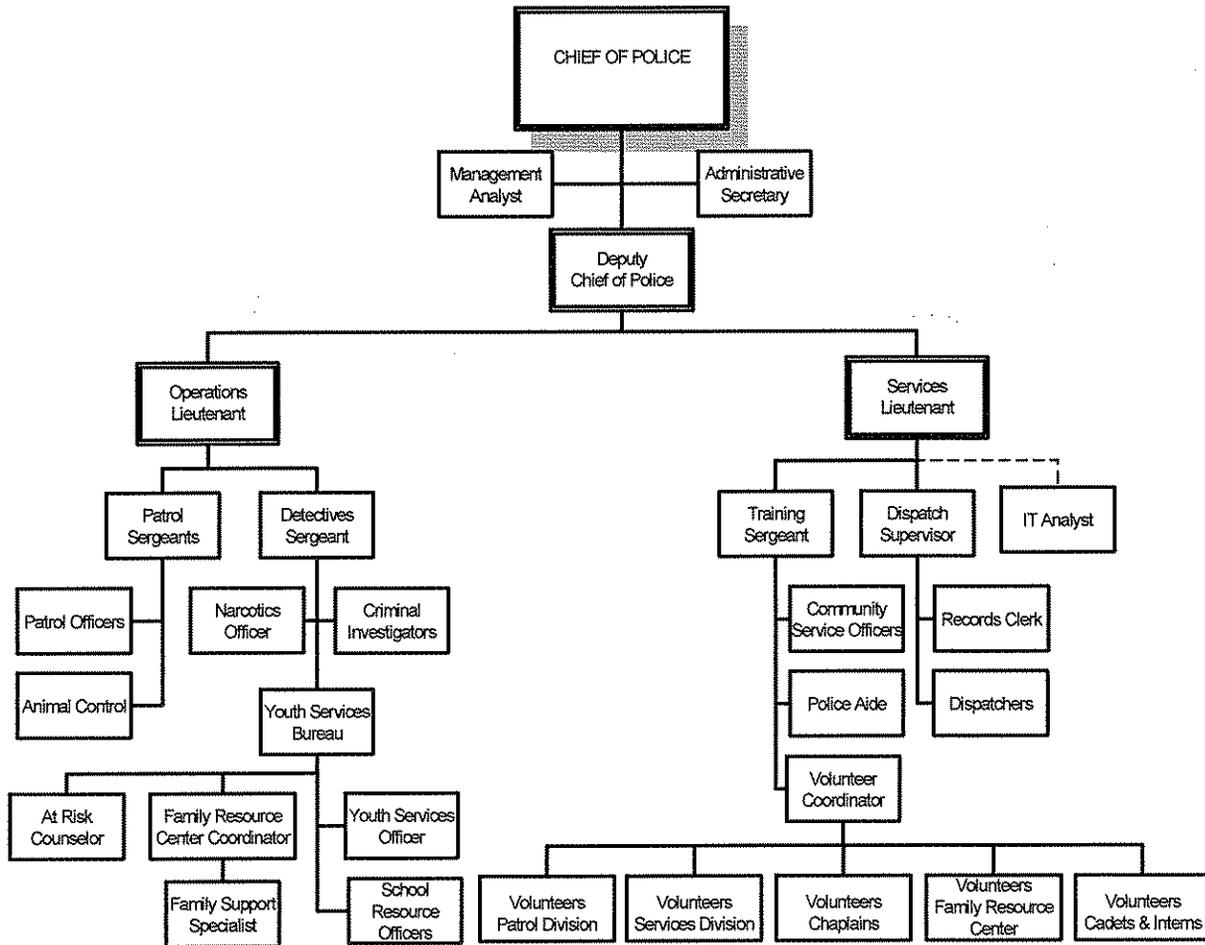


I am recommending returning to the deputy chief / lieutenant structure and consolidate the police department into two divisions (operations and services). This reorganization is supported by the majority of the organization. To accomplish this reorganization, the following recommendations would be implemented:

1. Eliminate the rank of captain upon the retirement and/ or promotion of the next captain and y-rate the captain's position to lieutenant should there be one captain left in this rank.
(Currently there are 3 captain's positions, one captain position is currently vacant, a second captain is projected to retire by year-end 2008 and the third Captain will be eligible to compete for the position of deputy chief.)
2. Return the deputy chief position that was eliminated in 2006. The deputy chief will be designated as second in command of the department. To fill this position, there would be an open and competitive process open to both internal and external candidates.

Below is the recommended structure:

Benicia Police Department Proposed Organizational Chart



Cost Analysis:
Current –Salary (Actuals)

	Annual Salary
Captain #1	\$120,074
Captain #2	\$120,074
Captain #3	\$120,074
Total Salary Cost	\$360,222

Staffing Summary

	Actual	Actual	Actual	Actual	Approved	Proposed
Approved Department Personnel	2003-04	2004-05	2005-06	2006-07	2007-08	Reorganization
Police Chief	1.00	1.00	1.00	1.00	1.00	1.00
Deputy Police Chief	1.00	1.00	-	-	-	1.00
Police Captain	-	-	-	3.00	3.00	-
Police Lieutenant	3.00	3.00	3.00	-	-	2.00
Sergeant - Patrol	4.00	4.00	4.00	4.00	4.00	4.00
Sergeant - Administration	1.00	1.00	1.00	1.00	1.00	1.00
Sergeant - Investigations	1.00	1.00	1.00	1.00	1.00	1.00
Volunteer Coordinator	1.00	1.00	1.00	1.00	1.00	1.00
Police Detective	4.00	4.00	4.00	4.00	4.00	4.00
Police Patrol Officer	17.00	17.00	17.00	17.00	17.50	17.50
Frozen Vacant Police Patrol Officer	(2.00)	(2.00)	-	-	-	-
Police Patrol: School Res.	2.00	2.00	2.00	2.00	2.00	2.00
SOLNET Officer (a)	1.00	1.00	1.00	1.00	1.00	1.00
SB823 Police Officer	1.00	1.00	1.00	1.00	0.50	0.50
Family Counselor (b)	-	-	-	1.00	1.00	1.00
Administrative Secretary	1.00	1.00	1.00	1.00	1.00	1.00
Management Analyst	-	-	-	1.00	1.00	1.00
Dispatch Supervisor	1.00	1.00	1.00	1.00	1.00	1.00
Public Safety Dispatcher	9.00	9.00	9.00	9.00	9.00	9.00
Animal Control Officer	1.00	1.00	1.00	1.00	1.00	1.00
Community Service I (Aide)	2.00	2.00	1.00	1.00	1.00	1.00
Community Service II (Aide)	-	-	1.00	1.00	1.00	1.00
Intern/Police Aide	-	-	-	0.50	0.50	0.50
Police Records Clerk	1.00	1.00	1.00	1.00	1.00	1.00
Total Approved	50.00	50.00	51.00	53.50	53.50	53.50
a) Partially funded by Solano County Solnet Grant. See 039-7439.						
b) Partially funded by ATCD/AIM Grant.						

Attachment: Deputy Chief Job Description

**DEPUTY CHIEF
JOB DESCRIPTION**



**CITY OF BENICIA
Deputy Police Chief**

DEFINITION

Under administrative direction, assists the Police Chief in planning, organizing and directing the operations and activities of the Police Department such as patrol, investigation, administration, community relations, and all other support services associated with law enforcement functions; performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS

This is a sworn position reporting to the Police Chief, and is responsible to assist in managing the Police Department through subordinate managers and supervisors. The Deputy Police Chief is also responsible for assisting in the development and control of the department budget and may act for the Police Chief in her/her absence.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Police Chief.

Exercises supervision over sworn and non-sworn assigned professional, supervisory, and management personnel and clerical staff.

EXAMPLES OF DUTIES – Duties may include, but are not limited to, the following:

Assist in the development of departmental goals and objectives; recommend changes in organization and programs to meet changing operational needs.

Assist and participate in the development and administration of the department budget; review and analyze additional funds needed for staffing, equipment, materials and supplies; recommend and approve expenditures.

Supervise assigned administrative staff as well as division commanders and supervisors of the department; select, assign, monitor and evaluate work performance. Provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Coordinate department activities with those of the other departments and outside agencies and organizations; provide staff assistance to Police Chief, the City Manager and Mayor and Council members; prepare and present staff reports and other necessary correspondence.

Assist and participate in the development of the departments work plan; assign work activities, projects and programs; monitor workflow; review and evaluate work products, methods and procedures.

Represent the department to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary.

Research and prepare technical and administrative reports and studies; prepare written correspondence as necessary.

Build and maintain positive working relationships with co-workers, other City employees, City Department, allied agencies and the public using principles of good customer service.

May act in the absence of the Police Chief.

DESIRABLE QUALIFICATIONS

Knowledge of:

Principles and practices of contemporary police administration and operations, and their applicability to specific situations.

Technical and administrative phases of crime prevention and crime reduction strategies, juvenile delinquency prevention, law enforcement, and related functions, including investigation and identification, patrol, traffic control and safety, record keeping and care and custody of persons and property.

Community Oriented Policing and Problem Solving Philosophy.

A working knowledge of managing and successfully implementing effective and contemporary policing strategies to achieve results.

Principles and practices of leadership, motivation, team building and conflict resolution.

Pertinent local, State and Federal laws, rules and regulations.

Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.

Principles and practices of organization, administration and personnel management.

Knowledge of:

Principles and practices of budget preparation and administration.

Principles of supervision, training and performance evaluation.

Ability to:

Assist in:

Planning, directing and controlling the administration and operations of the Police Department.

Developing and implementing department policies and procedures.

Developing, controlling and administering departmental budget and expenditures.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of City and Department goals.

Interpret and apply City policies, procedures, rules, and regulations.

Communicate clearly and concisely, both orally and in writing.

Supervise, train, mentor and evaluate assigned subordinate personnel.

Establish and maintain effective working relationships with diverse groups of people inside and outside the organization.

Ability to model, uphold the departmental values and empower others.

Gaining cooperation through discussion and collaboration.

Be a problem solver, work closely with other city departments and allied agencies, commit to professional development and possess a strong work ethic.

EXPERIENCE AND EDUCATION

Any combination of experience and education that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

Experience:

Increasingly responsible managerial/supervisory level experience in a Police Department or law enforcement agency. Experience at the rank equivalent to that of Lieutenant or higher.

Education:

Requires a Bachelor's Degree from an accredited college or university

LICENSE AND/OR CERTIFICATE

Possession of a valid Class C California Driver's License is required.

POSITION INFORMATION:

Originated: March 2008
Approved by Civil Service: N/A
Approved by City Council:
FLSA: Exempt
Bargaining Unit: PD Management

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
CONSENT CALENDAR**

DATE : March 19, 2008

TO : City Council

FROM : Community Development Director

SUBJECT : **SECOND READING OF AN ORDINANCE AMENDING
SUBSECTION B OF SECTION 17.70.300 (ANIMALS) OF
CHAPTER 17.70 (SITE REGULATION) OF TITLE 17 (ZONING)
OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

Adopt the ordinance to approve zoning text amendments to be consistent with recently adopted changes to Title 6 (Animals) of the Benicia Municipal Code.

EXECUTIVE SUMMARY:

At a meeting on December 4, 2007, the City Council adopted an ordinance to amend the animal control provisions of the Benicia Municipal Code. This new ordinance currently conflicts with the existing Zoning Ordinance provisions for caring and keeping animals. The proposed zoning text amendments will remove any conflicts between the two code provisions.

BUDGET INFORMATION:

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

ENVIRONMENTAL ANALYSIS:

The proposed zoning amendments are Categorically Exempt under Section California Environmental Quality Act Guidelines Section 15321 (Enforcement Actions by Regulatory Agencies) because they do not result in changes in land use.

SUMMARY:

This ordinance was introduced at the March 18, 2008 Council meeting. The last comprehensive review of the City's animal control regulations occurred in 1987. For the last several years, a subcommittee has worked on revising these regulations by researching current law and reviewing regulations from other agencies. The result of this work was the City Attorney drafting an ordinance Title 6 (Animals) that was introduced at the November 20, 2007 City Council meeting and adopted by the City Council on December 4, 2007.

The changes to the zoning code Section 17.70.300 (Animals) are very minor and delete outdated rules for care and keeping of animals in the City. These changes eliminate any inconsistency in the number of allowed animals by referencing the numbers in only one part of the Municipal Code.

Attachment:

- Proposed Ordinance

PROPOSED ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 08-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SUBSECTION B OF SECTION 17.70.300 (ANIMALS) OF CHAPTER 17.70 (SITE REGULATION) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO BE CONSISTENT WITH TITLE 6 (ANIMALS)

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

Section 1. Subsection B of Section 17.70.300 (Animals) of Chapter 17.70 (Site Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is added to read as follows:

B. Domestic and Exotic Animals. In an R district, or in conjunction with any residential uses in any other district, domestic and exotic animals, as defined by this title, are subject to the following requirements in addition to the regulations of Title 6.

1. Such animals, except cats, shall not be permitted to run at large, but shall be, at all times, confined within a suitable enclosure or otherwise be under the control of the owner of the property; and
2. Any enclosure shall be located in an interior side or rear yard and set back at least five feet from the property line; and
3. The number of allowed animals, as defined by this title, may not exceed the limits set forth in Title 6 unless the property owner has obtained an animal keepers permit and a staff level use permit.

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 the motion of Council Member _____, seconded by
Council Member _____, the foregoing ordinance was
introduced at a regular meeting of the City Council on the _____ day of _____, 2008,
and adopted at a regular meeting of the Council held on the _____ day of _____, 2008,
by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
CONSENT CALENDAR

DATE: March 25, 2008

TO: City Manager

FROM: Director, Parks and Community Services

SUBJECT: **PURCHASE OF FIVE TARP ROLLERS FOR THE JAMES LEMOS POOL**

RECOMMENDATION:

Adopt a resolution authorizing the purchase of five replacement pool cover tarp rollers at the James Lemos Pool in the amount of \$32,000.

EXECUTIVE SUMMARY:

The James Lemos Pool cover tarp rollers are used to remove and store the pool cover tarps from the 50-meter, L shaped and wading pool. The current rollers were purchased approximately 14 years ago and have been repaired several times and are currently non operational. Due to the age of the rollers it is very difficult to find parts. Therefore they need to be replaced. In addition, the current rollers cannot be safely operated or maneuvered by staff.

BUDGET INFORMATION:

The total cost to purchase five replacement pool cover tarp rollers is \$32,000. Currently we do not have funds budgeted for the purchase of the pool cover tarp rollers, therefore we are recommending the City Council authorize the transfer \$32,000 of Park Dedication funds from the 9th Street Park project for the purchase of the pool cover tarp rollers. The 9th Street Park project currently has a fund balance of \$71,030. The transfer will leave a project fund balance of \$39,030.

BACKGROUND:

Originally it was our intent to request a budget adjustment later this spring for funds to purchase the pool cover rollers, but with the recent opening of the swim season in February, aquatic staff expressed great difficulty in safely operating and maneuvering these rollers. As a result, beginning on March 20, 2008, we directed staff to leave the tarps off. The tarps will remain off the pool until new rollers have been received. It is staff's best estimate that our energy consumption will increase by approximately 35% without the replacement tarps on the pool.

As indicated, we do not have any funds allocated for the purchase of tarp rollers. Staff is proposing a transfer of \$32,000 from the 9th Street Park Project Park Dedication fund. The current allocation for 9th Street Park Project is \$71,030. The 9th Street Park Project consists of repair and replacement of the asphalt pathways and replacement of the playground equipment. It is our intent to request the City Council re-fund the 9th Street Park project when they consider mid-year adjustments later this spring.

Staff has received three bids and should be able to purchase and receive the order within two weeks upon approval.

Attachment:

- Proposed Resolution

Proposed Resolution

RESOLUTION NO. 08 –

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING THE PURCHASE OF FIVE REPLACEMENT POOL COVER
TARP ROLLERS AT THE JAMES LEMOS POOL IN THE AMOUNT OF
\$32,000, ALLOCATED FROM THE 9TH STREET PARK PROJECT FUND**

WHEREAS, the current rollers were purchased approximately 14 years ago and have been repaired several times and are currently non operational; and

WHEREAS, the absence of operational rollers prevents the pool from being covered each night with tarp covers; and

WHEREAS, tarp covers are essential to maintain and conserve water temperature; and

WHEREAS, time is of the essence to replace the rollers so that energy used to heat the pool water may be conserved; and

WHEREAS, funds are not budgeted for the purchase of the pool cover tarp rollers; and

WHEREAS, there are sufficient funds available in the 9th Street Park Project, Park Dedication funds for the purchase of the pool cover tarp rollers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia approves the purchase of five replacement pool cover tarp rollers for the James Lemos Pool in the amount of \$32,000 and appropriates \$32,000 from the 9th Street Park Project Park Dedication Fund for this purchase.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 1st day of April, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
CONSENT CALENDAR**

DATE : April 1, 2008
TO : City Manager
FROM : Finance Director
SUBJECT : **IMPLEMENTATION OF A TAXI PERFORMANCE
MONITORING PROGRAM**

RECOMMENDATION:

By motion, authorize the City Manager to implement the proposed taxi performance monitoring program, with minor changes authorized by the City Attorney, to ensure that taxicab operators in the City comply with the City's taxicab ordinance and their agreements for the Benicia Safe Ride Program and Benicia Breeze Taxi Scrip Programs.

EXECUTIVE SUMMARY:

At the City Council meeting on February 5, 2008, the City Council approved the first reading of the revision to the City's taxicab ordinance to allow the acceptance of Vallejo taxicab permits within the City. During the discussion of the ordinance changes, the City Council directed staff to develop a taxicab performance monitoring program. The program is to achieve the following: 1) Ensure that taxicabs operating in the City are picking up passengers within a reasonable amount of time, 2) Ensure that taxicabs are operating within the guidelines of the City's taxicab ordinance, and 3) Ensure that taxicabs are operating within their agreements with the City for the provision of the Safe Ride and Benicia Breeze Taxi Scrip Programs.

BUDGET INFORMATION:

Implementation of this program would cost approximately \$3,600 annually. This cost includes administrative time from the Transit Staff to monitor taxicab operations at least four hours per month. Funding to cover the administrative time would come from the Transit Fund.

BACKGROUND:

Local taxicab companies have been reluctant to adequately serve the City of Benicia because of low passenger revenues, particularly at night. As a result of marginal taxi service in Benicia, staff recommended, and the City Council approved, a taxi rate increase applicable to private passengers and the City-sponsored Safe Ride Program. The Council approved modifications to the taxi ordinance sections in the Benicia Municipal Code to accept driver permits issued by the City of Vallejo. The City Council also requested that staff develop a taxicab performance

monitoring program, to ensure that quality service in compliance with the taxicab ordinance is being provided, and that the Benicia Safe Ride Program and Benicia Breeze Taxi Scrip Program agreements with the City are being followed.

Staff reviewed the taxicab monitoring efforts of several transit agencies, including the City of Vallejo, City of Modesto, the San Diego Metropolitan Transit System, Sunline Transit Agency, Mongero Basin Transit Authority, and the Orange County Transportation Authority. The proposed performance measures are based on the best practices of these agencies adapted to Benicia's needs. Under this proposal, the Finance Department and Transit Services Division would implement the program and be responsible for ongoing monitoring of taxi performance. Staff would spend about 4 hours per month on the following tasks:

- Monitoring average taxi response times compared to objectives by reviewing dispatch logs included with invoices and randomly at the taxi company offices.
- Random inspections of vehicles and maintenance records to ensure that maintenance, safety and cleanliness standards are met.
- Random calls for taxi rides to evaluate dispatch protocols and taxi response times.
- Ensure that taxicab dispatchers are providing good customer service on the telephone and in-person in the vehicle.
- Marketing and promotion of the Safe Ride and Taxi Scrip Programs to increase ridership and participation.
- Prepare monthly reports summarizing the activities and performance of taxicab operators meeting the proposed standards.

Staff discussed the monitoring program with the two taxicab companies. Each company was amenable towards complying with the proposed measures, provided their rate increase was approved and the taxi ordinance was revised to accept taxicab permits issued by the City of Vallejo within Benicia. These two actions were recently accomplished. On March 11, 2008, the Vallejo City Council passed its taxi ordinance revisions that substantially tightened maintenance, safety, vehicle cleanliness, and driver background check requirements.

The attached "Addendum to the Tax Scrip and Safe Ride Programs" identifies the performance measures that will be included in the Benicia Safe Ride and Benicia Breeze Taxi Scrip Programs, as an amendment to agreements that are already in place with Vallejo/Benicia City Taxicab and Yellow Cab of Vallejo and Benicia.

Attachment:

- Addendum to the Taxi Scrip and Safe Ride Programs

Addendum to the Taxi Scrip and Safe Programs

Contractor Performance Measures

The CITY and CONTRACTOR shall work to achieve the performance measures shown below. These performance measures will assist in future planning and continuous monitoring of the service provided by the CONTRACTOR. CONTRACTOR shall report its compliance with each performance measure in its monthly invoice submittals to the CITY. CITY staff shall perform random checks to ensure compliance with the performance measures. Should the CONTRACTOR repeatedly fail to meet the performance measures established in this Agreement, the CITY retains the right to terminate this Agreement pursuant to Section 5.

Goal 1: Taxi service shall be reliable and convenient

Objective	Performance Measure	Performance Standard
Taxicab service shall be readily available to all passengers	Response Time	<ol style="list-style-type: none">1. Taxicabs shall pick up passengers within 30 minutes of a request for service or within 15 minutes of a scheduled pick up. Any pick up after these time limits shall be considered a "Delay" in providing service.2. Passengers shall be notified during their phone request if Delays are going to occur and shall be called immediately after a Delay has occurred.3. Once a Delay has occurred, the dispatcher shall note the reason for the Delay and shall dispatch another driver when available.4. Benicia staff shall work with CONTRACTOR to determine periods of acceptable Delays, such as during the 1st of month, etc.
	Service Hours	<ol style="list-style-type: none">5. Taxicab service shall be provided 24 hours per day within the City limits of the City of Benicia.
	Percent of trips provided	<ol style="list-style-type: none">6. At a minimum, 98% of all requests for service shall be conducted by the operator within the prescribed time limits.7. All Delays in providing service shall be noted by the dispatchers, including reasons explaining the Delay.8. Any denial or refusal to provide service shall also be noted by the dispatchers, including reasons why the request for service was not met.

Goal 2: Taxicab service will be safe and well maintained

Objective	Performance Measure	Standard
Provide reliable service through effective maintenance	Road calls due to mechanical failures	1. Less than one road call per 1,000 miles operated.
	Preventative Maintenance completed on schedule	2. 100% of PMI's within 100 miles of scheduled time.
	Vehicle Inspections	3. A satisfactory rating shall be achieved for taxicab vehicles operating in the City service, through a check by the City's taxicab mechanic or any official audit or spot check.
Provide safe taxicab service	Miles between preventable accidents	4. 30,000 miles between preventable accidents 5. Taxicab operators shall notify dispatch immediately, whom shall notify the City Transit Manager at 746-4600 within 24 hours of any accident related to the provision of taxicab service in the City.
	Training	6. Taxicab drivers and dispatchers shall receive orientation training that stresses adherence to all traffic laws according to the provisions of the California Vehicle Code.
	Drug & Alcohol Compliance	7. Taxicab operators shall conduct pre-employment, random and post-accident drug and alcohol testing in compliance with FTA requirements.

Goal 3: Transit service shall be accessible and attractive

Objective	Performance Measure	Standard
Provide taxicab services that is clean, accessible, comfortable and safe	Accessibility	<p>When Wheelchair services are offered:</p> <ol style="list-style-type: none"> 1. wheelchair accessible vehicles shall be available to those who request such service within 24 hours of request. 2. Wheelchair lift or ramp shall be checked to ensure operability before picking up passenger. 3. Wheelchair lift or ramp problems shall not exceed three per month. 4. In the event of wheelchair lift or ramp failure, another vehicle shall be sent to pick up passenger within 30 minutes. 5. All taxicab operators shall ensure they are sensitive towards the needs of a person in a mobility device.
	Cleanliness and Convenience	<ol style="list-style-type: none"> 6. At a minimum, all taxicab vehicles in service shall have interiors cleaned on a daily basis and exteriors cleaned at least monthly. 7. A rate chart shall be posted inside the vehicle and the Benicia Breeze Taxi Scrip and Safe Ride Program Decal shall be displayed appropriately.
	Comfort	<ol style="list-style-type: none"> 8. Air conditioning and heating systems shall be tested prior to entering service. Any failures of heating and/or cooling systems shall be repaired within five business days.

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
PUBLIC HEARING**

DATE : March 3, 2008
TO : City Manager
FROM : Community Development Director
SUBJECT : **INTRODUCTION AND FIRST READING OF AN ORDINANCE
TRANSFERRING DESIGN REVIEW AUTHORITY OUTSIDE
HISTORIC DISTRICTS TO THE PLANNING COMMISSION**

RECOMMENDATION:

Approve first reading of an ordinance to transfer authority for commission-level design review outside historic districts from the Historic Preservation Review Commission (HPRC) to the Planning Commission.

EXECUTIVE SUMMARY:

At a special meeting on January 29, 2008, the City Council directed staff to process amendments to the zoning ordinance necessary to transfer authority for commission-level design review outside historic districts from HPRC to the Planning Commission. At its February 14, 2008 regular meeting, the Planning Commission recommended approval of the amendments.

BUDGET INFORMATION:

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

ENVIRONMENTAL ANALYSIS:

The proposed zoning amendments are Categorically Exempt under Section California Environmental Quality Act Guidelines Section 15321 (Enforcement Actions by Regulatory Agencies) because they do not result in changes in land use.

SUMMARY:

The City of Benicia adopted design review regulations in 1987 and amended them in 1989, 1992, and 2001. The proposed ordinance is intended to focus the mission of HPRC within the historic districts and provide the Planning Commission with the direct opportunity to review the design of multifamily and commercial projects elsewhere in the city.

The proposed amendments to BMC Title 17, Section 108 (Design Review) would assign the Planning Commission with design review authority in the RS (nonresidential structures only), RM, RH, C, OS, PS, and PD districts, with the exception of Historic Districts; and maintain HPRC review in historic districts.

Attachments:

- Ordinance
- Redlined Ordinance
- Planning Commission Resolution

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 08-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS OF CHAPTER 17.108 (DESIGN REVIEW) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE ESTABLISHING THE PLANNING COMMISSION AS THE AUTHORITY FOR COMMISSION-LEVEL DESIGN REVIEW OUTSIDE HISTORIC DISTRICTS

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

Section 1.

Section 17.108.060 (Review responsibilities) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to allow commission-level design review outside historic districts by amending subsection B and adding subsection C to read as follows:

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the H overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.

C. By the Planning Commission. The planning commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, and PD districts, except within the H overlay districts, for projects not subject to community development director review. The planning commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the planning commission may be appeal to the city council in accordance with Chapter 1.44 of the BMC.

Section 2.

Section 17.108.070 (Review process and time limits) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to allow commission-level design review outside historic districts by adding a new subsection C and renumbering the existing subsections C and D to read as follows:

C. By the Historic Preservation Review Commission (H overly District). After a duly noticed public hearing, the historic preservation review commission shall approve, conditionally approve or disapprove the plans. Within five working days of a

historic preservation review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

D. By the Planning Commission (R, C, IP, OS, PS and PD Districts, and H Overlay District). After a duly noticed public hearing, the planning commission shall approve, conditionally approve or disapprove the plans. Within five working days of a planning commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

E. Action Required. All decisions shall be based on the findings required by BMC 17.108.040. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title.

Section 3.

Section 17.108.080 (Notice and public hearing by design review commission) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to change the title to read as follows:

17.108.080 Notice and public hearing by commission responsible for design review.

Section 4.

Section 17.108.090 (Effective date – Lapse and renewal - Alterations) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add the historic preservation commission and the planning commission and deleting the design review commission for renewal and changed plans by amending subsections C and D to read as follows:

A. Effective Date. Design review decisions shall become effective on the tenth day after the date of the notices of decision required by this chapter, unless appealed as provided in Chapter 1.44 BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or

2. An occupancy permit has been issued; or

3. The approval is renewed.

C. Renewal. The community development director, historic preservation review commission, or planning commission, as the case may be, may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director, the historic preservation review commission, or planning commission, as the case may be, may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the

intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications.

Section 5.

Section 17.108.100 (Appeals) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to change the appeal process by amending subsection A to read as follows and deleting subsection C:

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the planning commission. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission. Design review decisions of the planning commission may be appealed, by any interested party, to the city council.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 1.44 BMC.

Section 6. Section 17.108.110 (Design review guidelines) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to provide that the city may adopt guidelines to read as follows:

The city may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process.

Section 7.

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 the motion of Council Member _____, seconded by
Council Member _____, the foregoing ordinance was
introduced at a regular meeting of the City Council on the _____ day of _____, 2008, and
adopted at a regular meeting of the Council held on the _____ day of _____, 2008, by the
following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

REDLINED ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 08-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING VARIOUS SECTIONS OF CHAPTER 17.108 (DESIGN REVIEW) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE ESTABLISHING THE PLANNING COMMISSION AS THE AUTHORITY FOR COMMISSION-LEVEL DESIGN REVIEW OUTSIDE HISTORIC DISTRICTS

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

Section 1.

Section 17.108.060 (Review responsibilities) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to allow commission-level design review outside historic districts by amending subsection B and adding subsection C to read as follows:

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the ~~RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H~~ overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.

C. By the Planning Commission. The planning commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, and PD districts, except within the H overlay districts, for projects not subject to community development director review. The planning commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the planning commission may be appeal to the city council in accordance with Chapter 1.44 of the BMC.

Section 2.

Section 17.108.070 (Review process and time limits) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to allow commission-level design review outside historic districts by adding a new subsection C and renumbering the existing subsections C and D to read as follows:

C. By the Historic Preservation Review Commission (H overly District). After a duly noticed public hearing, the historic preservation review commission

shall approve, conditionally approve or disapprove the plans. Within five working days of a historic preservation review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

CD. By ~~the Design Review-Planning~~ Commission (R, C, IP, OS, PS and PD Districts, and H Overlay District). After a duly noticed public hearing, the ~~design review planning~~ commission shall approve, conditionally approve or disapprove the plans. Within five working days of a ~~design review- planning~~ commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

DE. Action Required. All decisions shall be based on the findings required by BMC 17.108.040. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title.

Section 3.

Section 17.108.080 (Notice and public hearing by design review commission) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to change the title to read as follows:

17.108.080 Notice and public hearing by commission responsible for design review commission.

Section 4.

Section 17.108.090 (Effective date – Lapse and renewal - Alterations) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to add the historic preservation commission and the planning commission and deleting the design review commission for renewal and changed plans by amending subsections C and D to read as follows:

A. Effective Date. Design review decisions shall become effective on the tenth day after the date of the notices of decision required by this chapter, unless appealed as provided in Chapter 1.44 BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or

2. An occupancy permit has been issued; or

3. The approval is renewed.

C. Renewal. The community development director, ~~or~~ historic preservation the design-review commission, or planning commission, as the case may be, may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director, ~~or~~ the historic preservation design-review commission, or planning commission, as the case may be, may approve changes to approved plans or in conditions of approval without a

public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications.

Section 5.

Section 17.108.100 (Appeals) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to change the appeal process by amending subsection A to read as follows and deleting subsection C:

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the ~~historic preservation review commission~~ **planning commission**. Design review decisions of the historic preservation review commission may be appealed, by any interested party, to the planning commission. **Design review decisions of the planning commission may be appealed, by any interested party, to the city council.**

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 1.44 BMC.

~~C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final.~~

Section 6. Section 17.108.110 (Design review guidelines) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is amended to provide that the city may adopt guidelines to read as follows:

The ~~design review commission~~ **city** may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process.

Section 7.

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 the motion of Council Member _____, seconded by
Council Member _____, the foregoing ordinance was
introduced at a regular meeting of the City Council on the _____ day of _____, 2008, and
adopted at a regular meeting of the Council held on the _____ day of _____, 2008, by the
following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**PLANNING COMMISSION
RESOLUTION**

RESOLUTION NO. 08-2 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENTS ESTABLISHING THE PLANNING COMMISSION AS THE AUTHORITY FOR COMMISSION-LEVEL DESIGN REVIEW OUTSIDE HISTORIC DISTRICTS

WHEREAS, on January 29, 2008 the City Council directed staff to prepare draft text amendments to Title 17.108 establishing the Planning Commission as the authority for commission-level design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, and PD Districts, except within Historic Districts, in order to allow the Historic Preservation Review Commission to focus on projects requiring Design Review in Historic Districts only; and

WHEREAS, the Planning Commission at a regular meeting on February 14, 2008, conducted a public hearing and reviewed the proposed text amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council approve zoning text amendments to change regulations for design review authority;

BE IT FURTHER RESOLVED THAT the Planning Commission finds that:

- a) The proposed amendments are categorically exempt from California Environmental Quality Act review under Guidelines Section 15321, which applies to actions by regulatory agencies to enforce a permit or other entitlement, or adopt an administrative decision to enforce a general rule, standard, or objective.
- b) The proposed zoning text amendments are consistent with the objectives and other provisions of Title 17 of the Benicia Municipal Code and the purposes of Section 108, Design Review.
- c) The proposed zoning text amendment are consistent with the goals, policies, programs, and maps of the General Plan.

BE IT FURTHER RESOLVED THAT the Planning Commission hereby recommends the City Council amend Section 17.108 Design Review to read as shown in attached Exhibit A.

* * * * *

On motion of Commissioner Ernst, seconded by Commissioner Syracuse, the above Resolution was adopted by the Planning Commission of the City of Benicia at a regular meeting of said Commission held on the 14th day of February, 2008 by the following vote:

Ayes: Commissioners Ernst, Healy, Sherry, Syracuse, Thomas and Chair Railsback
Noes: None
Absent: Commissioner Bortolazzo

Charlie Knox
Planning Commission Secretary

Exhibit A

17.108.060 Review responsibilities.

A. By the Community Development Director. The community development director shall be responsible for design review for projects in the IG, IL, and IW districts, and for projects outside the district that involve construction of less than 2,500 square feet of floor area.

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the ~~RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H~~ overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter ~~17.108.100~~ 1.44 BMC.

C. By the Planning Commission. The Planning Commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, and PD districts, except within the H overlay districts, for projects not subject to community development director review. The Planning Commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the Planning Commission may be appealed to the City Council in accordance with Chapter 1.44 BMC. (Ord. 07-67 § 1; Ord. 07-21 § 12; Ord. 01-6 N.S., 2001; Ord. 99-1 N.S.; Ord. 92-15 N.S. § 20, 1992; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. § 51, 1989; Ord. 87-4 N.S., 1987).

17.108.070 Review process and time limits.

A. Prerequisite for Review. Unless an applicant selects consolidated review, as provided in BMC 17.108.050(C), review of development plans shall follow design review.

B. By Community Development Director (IG, IL, and IW Districts). The community development director shall review plans submitted for design approval within 30 days of receipt and shall approve, conditionally approve, or disapprove the plans. Within five working days after a decision, notice shall be mailed to the applicant.

C. By the Historic Preservation Review Commission (H Overlay District). After a duly noticed public hearing, the Historic Preservation Review Commission shall approve, conditionally approve or disapprove the plans. Within five working days of a historic preservation review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

~~D. By the Design Review Planning Commission (R, C, IP, OS, PS and PD Districts, and except H Overlay District). After a duly noticed public hearing, the design review Planning Commission shall approve, conditionally approve or disapprove the plans. Within five working days of a design review Planning Commission decision, the secretary of the commission shall mail notice of the decision to the applicant.~~

~~E. Action Required. All decisions shall be based on the findings required by BMC 17.108.040. Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. (Ord. 01-6 N.S., 2001; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. §§ 52, 53, 1989; Ord. 87-4 N.S., 1987).~~

17.108.080 Notice and public hearing by commission responsible for design review ~~commission~~.

A. Time of Hearing. Within three working days after acceptance of a complete application for design review, the community development director shall set a date, time, and place for the hearing. A public hearing shall be held within 60 days of receipt of the application, unless the applicant agrees to a later date.

B. Notice. Notice of a public hearing required by this chapter shall be given in the following manner:

1. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.

2. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 300 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

C. Public Hearing. At the time and place set for the public hearing, the commission shall hear comments on the proposed design. The commission may continue a public hearing without additional notice. (Ord. 92-9 N.S. §§ 24, 25, 1992; Ord. 89-1 N.S. § 54, 1989; Ord. 87-4 N.S., 1987).

17.108.090 Effective date – Lapse and renewal – Alterations.

A. Effective Date. Design review decisions shall become effective on the tenth day after the date of the notices of decision required by this chapter, unless appealed as provided in Chapter ~~17.124~~ 1.44 BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or
2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director, or Historic Preservation ~~the design Review Commission~~, or Planning Commission, as the case may be, may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director, or the Historic Preservation design Review Commission, or Planning Commission, as the case may be, may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications. (Ord. 07-67 § 2; Ord. 92-9 N.S. § 24, 1992; Ord 89-1 N.S. §§ 55, 56, 1989; Ord 87-4 N.S., 1987).

17.108.100 Appeals.

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the ~~historic preservation review commission~~ Planning Commission. Design review decisions of the Historic Preservation Review Commission may be appealed, by any interested party, to the Planning Commission. Design

review decisions of the Planning Commission may be appealed, by any interested party, to the City Council.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter 17.124 1.44 BMC.

~~C. Limits on Appeals. Appeal decisions of the historic preservation review commission shall be final. (Ord. 07-67 § 3; Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).~~

17.108.110 Design review guidelines.

The ~~design review commission~~City may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process. (Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
PUBLIC HEARING**

DATE : March 19, 2008
TO : City Manager
FROM : Finance Director
SUBJECT : **ADOPTION OF ANNUAL INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE TAX, THE PARK LAND DEDICATION FEE AND THE LIBRARY BOOK FEE**

RECOMMENDATION:

Conduct a Public Hearing and adopt the following Resolutions:

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

EXECUTIVE SUMMARY:

The City of Benicia currently collects one development impact tax and two development impact fees to support government activities, park improvements and expanded library circulation. The City ordinance governing the administration of the development impact tax and fees requires that each be adjusted annually by the change in the consumer price index or construction cost index. In accordance with California State law and local ordinances, the tax and fees will become effective 60 days after Council approval at a public hearing. The tax and fee increases will add an estimated \$5,260 per year and will be deposited into the respective funds.

BUDGET INFORMATION:

Adoption of the resolutions will allow the City to collect the following additional revenues based upon an estimate of 20 single family homes to be built in fiscal year 2007-08 & 2008-09:

Capital Improvement License Tax +7.84%	\$1,480
Park Land Dedication Fee +3.18%	\$3,640
Library Book Fee + 3.18%	\$140
Total	\$5,260

I. CAPITAL IMPROVEMENT LICENSE TAX

Council adopted Chapter 5.36 of the Municipal Code in 1977 establishing the Capital License Tax. Section 1.20.020 of the Municipal Code allows for annual increases based upon the *San*

Francisco Construction Cost Index which increased 7.84% during the April 2006 to April 2007 period.

Adoption of the attached resolution will increase the Capital Improvement License Tax by \$74 or 7.84%, increasing the tax from \$949 per single family residence to \$1,023. Multi-family units would increase by \$37 from \$475 per unit to \$512 per unit, also a 7.84% increase. The commercial and industrial facilities tax would also increase 7.84%, as illustrated in the attached resolution. The table below illustrates the current rate and the new rate:

Capital Improvement License Tax for 2007-08

<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>
Single Family	\$949/dwelling unit	\$1,023/dwelling unit
Duplexes and Low Density Multiple Family	\$475/dwelling unit	\$512/dwelling unit

II. PARK LAND DEDICATION FEE

The Municipal Code (§1.20.020) provides for annual increases to the Parkland Dedication Fee based upon the Consumer Price Index in the San Francisco Metropolitan Bay Area for All Urban Consumers from February 2006 to February 2007. The following table provides an overview of the proposed changes, which represents a 3.18% increase or \$182 per single family residence:

Park Land Dedication Fee for 2007-08

<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>
Single Family	\$5,711/dwelling unit	\$5,893/dwelling unit
Duplexes and Low Density Multiple Family	\$4,950/dwelling unit	\$5,107/dwelling unit
Medium and High Density Multiple Family	\$3,806/dwelling unit	\$3,927/dwelling unit

III. LIBRARY BOOK FEE

Council adopted Chapter 5.37 of the Municipal Code and Resolution No. 92-33 in March of 1992. This Resolution created a Library Book Fee of \$7 per residential dwelling unit constructed in the City. The Resolution also allows for an annual adjustment based upon the Consumers Price Index for the San Francisco Metropolitan Bay Area for All Urban Consumers from February 2006 to February 2007 which represents a 3.18% increase or \$7 per housing unit.

The following table provides an overview of the proposed 2007-08 fee:

Library Book Fee

<u>Description</u>	<u>Current Rate</u>	<u>New Rate</u>
Each housing unit	\$219/dwelling unit	\$226/dwelling unit

Attachments:

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

RESOLUTIONS

RESOLUTION NO. 08-

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

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

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

WHEREAS, a Public Hearing was conducted on April 1, 2008 to consider modifications to the Capital Improvement License Tax; and

WHEREAS, said Construction Cost Index for the San Francisco Region has increased 7.84% between April 2006 and April 2007; and

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

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

1. The Capital Improvement License Tax set out in the Benicia Municipal Code Section 5.36.060 A through D is hereby increased and shall be computed as follows:
 - 5.36.060 A. Single-family Residence: \$1,023.00.
 - 5.36.060 B. Multiple Dwelling Structures: \$512.00 for each habitation unit to be contained in a multiple-dwelling structure.
 - 5.36.060 C. Commercial Facilities: For each square foot contained in a commercial facility:
 1. \$1.24 per square foot for the first 15,000 square feet, plus
 2. \$1.00 per square foot for the next 15,000 square feet, plus
 3. \$0.71 per square foot for the next 70,000 square feet, plus
 4. \$0.56 for each square foot over 100,000 square feet.

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

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

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

On motion of Council Member _____, seconded by Council Member _____, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the ___ day of April, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

RESOLUTION NO. 08-

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

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

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

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

WHEREAS, the Finance Director has calculated said increase to be 3.18% over the period February 2006 to February 2007; and

WHEREAS, a Public Hearing was conducted on April 1, 2008 to consider modifications to the Park Land Dedication Fee.

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

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

Single Family	\$5,893/dwelling unit
Duplexes and Low Density Multiple Family	\$5,107/dwelling unit
Medium and High Density Multiple Family	\$3,927/dwelling unit

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

On motion of Council Member _____, seconded by Council Member _____,
the resolution was introduced and passed by the City Council of the City of Benicia at a regular
meeting of said Council held on the ____ day of April, 2008, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

RESOLUTION NO. 08-

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

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

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

WHEREAS, a Public Hearing was conducted on April 1, 2008 to consider modifications to the Library Book Fee; and

WHEREAS, the Finance Director has calculated said increase to be 3.18% for the period February 2006 to February 2007; and

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

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

1. The Library Book Fee to be paid in accordance with Municipal Code Section 1.20.020 for each residential unit to be constructed in the City of Benicia shall be extended at the rate of two hundred twenty six dollars (\$226).
2. The Library Book Fee set out herein shall become effective 60 days after the adoption of this Resolution by the City Council.

On motion of Council Member _____, seconded by Council Member _____, the resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the ___ day of April, 2008, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2007
ACTION ITEMS**

DATE : March 13, 2008
TO : City Council
FROM : City Manager
SUBJECT : **PETITION FOR TEMPORARY RELIEF UNDER BENICIA
MUNICIPAL CODE SECTION 8.20.210 (NOISE ORDINANCE)**

RECOMMENDATION:

Deny the petition for temporary relief under Municipal Code Section 8.20.210, which will prohibit the owner of the Captain Walsh House from allowing amplified music for special events beyond the noise ordinance's stated time limits.

EXECUTIVE SUMMARY:

Evonne Marston, owner of the Captain Walsh House, an event facility, has again submitted a petition for temporary relief from the noise ordinance in order to host an event with amplified music past the time stated in the noise ordinance. Due to neighborhood impacts of the amplification, this request should be denied.

BACKGROUND:

Captain Walsh House at 235 East L Street hosts special events such as weddings and parties, some of which use amplified music for a band or DJ. The Captain Walsh House is located in a single-family residential district, with a use permit that allows events at the facility to be held until 10 PM. The use permit does not address amplified music; the City's noise ordinance permits amplification at businesses until 8:00 pm. Residential neighbors of the Captain Walsh House (which has residential uses on three sides, and the civic center complex on the fourth side) have called the police to report amplified music past 8:00 pm, a violation of the noise ordinance.

Evonne Marston, owner of the Captain Walsh House, submitted a "petition for temporary relief" from the noise ordinance as allowed for in the ordinance (BMC 8.20.210) on August 7, 2007. She rescinded that petition on August 9th following City staff's facilitation of a compromise with neighbors to allow a wedding scheduled for August 11th to proceed. However, she resubmitted the petition to the City Clerk's office on August 14th, and under the ordinance, the City must agendaize it at the next feasible regular meeting. The petition was heard at the September 4, 2007 City Council meeting. The petition was granted for two specific dates with the admonishment to not present such a request again.

Since that time, the Police Department has responded to noise related complaints at the Captain Walsh House. For example, on January 28, 2008, the Police Department responded to a call regarding loud music that was in violation of the City's noise ordinance. In this instance, the music could be heard from more than one block away as well as in the emergency communication center of the Police Department.

DISCUSSION:

Staff recommends that the City Council deny the request for temporary relief from the noise ordinance for the Captain Walsh House for the following reasons:

- ❑ Neighbor complaints indicate that the amplified music in the evening past 8:00 pm is disturbing, thus granting the temporary relief would “endanger the health, welfare, or safety of residents” (BMC 8.20.210) and should thereby be denied.
- ❑ The Municipal Code supercedes the terms of any use permit.
- ❑ Council has admonished Ms. Marston that they will not look favorably upon another request for temporary relief from the requirements for amplified music.

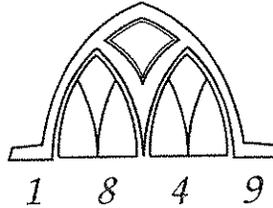
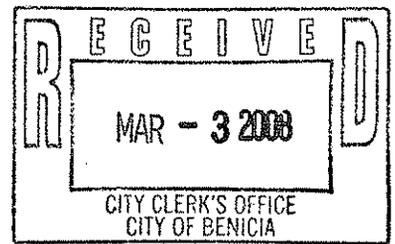
As an alternative to denial of the petition, the City Council could grant a period of up to 30 days temporary relief as authorized by the Municipal Code. The decision of the City Council is final.

Attachments:

- ❑ Correspondence from Evonne Marston dated March 3, 2008
- ❑ Response from City dated March 12, 2008
- ❑ BMC Chapter 8.20 (Noise Ordinance)
- ❑ Staff Report from the September 4, 2007 City Council Meeting (referenced attachments available upon request)
- ❑ Excerpt from minutes of September 4, 2007 City Council meeting

CORRESPONDENCE FROM EVONNE MARSTON

Captain Walsh House



March 3, 2008

City of Benicia
Office of City Clerk
250 East L St
Benicia, CA 94510

Re: Petition for temporary relief from regulation 8.20.210

To Whom It May Concern:

On behalf of The Captain Walsh House, I, Evonne Marston (owner) am petitioning for relief from regulation 8.20.210. I request this temporary relief for Saturday May 31, 2008. I am requesting the relief to allow us to have amplified music until 9:00 p.m. which coincides with the hours allowed for Sundays' and holidays for non-commercial events. This will be The Captain Walsh House's final event. Due to the enforcement of the 8:00 amplified music ordinance for Saturdays', it has been impossible to book future events and therefore we have lost our ability to earn our livelihood hosting these events. The house is currently for sale. It is so unfortunate for myself and my family and for the community of Benicia, that for nearly 20 years The Captain Walsh House has been known to host many weddings and can no longer do so. The Captain Walsh House has always had the reputation of being a happy place to hold special celebrations throughout the summer months and the community in general has been nothing but supportive.

Your urgent consideration would be most appreciated.

Sincerely,
Evonne Marston

A handwritten signature in cursive script that reads "Evonne Marston".

IX-A-4

RESPONSE FROM CITY



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4210 • FAX (707) 747-8120

JIM ERICKSON
City Manager

March 12, 2008

Evonne Marston
Captain Walsh House
235 East L Street
Benicia, CA 94510

Re: Request for temporary relief for regulation 8.20.210

Dear Ms. Marston:

I am in receipt of your letter dated March 3, 2008 requesting relief from the Benicia Municipal Code (BMC) Ordinance prohibiting amplified music. In accordance with BMC Section 8.20.210, your request has been scheduled to be heard by the City Council at their meeting of April 1, 2008. The agenda and supporting documents for that meeting will be issued on the afternoon of March 26, 2008.

Sincerely,

Jim Erickson
City Manager

c: City Attorney
Police Chief
Director of Community Development

BMC CHAPTER 8.20



Chapter 8.20 NOISE REGULATIONS¹

Sections:

- 8.20.010 Declaration of policy.
- 8.20.020 Definitions.
- 8.20.030 Sound-amplifying equipment – Purpose of provisions.
- 8.20.040 Sound-amplifying equipment – Registration – Required.
- 8.20.050 Sound-amplifying equipment – Registration – Statement filing and approval.
- 8.20.060 Sound-amplifying equipment – Registration – Fee.
- 8.20.070 Sound-amplifying equipment – Appeal from disapproval.
- 8.20.080 Sound-amplifying equipment – Use regulations.
- 8.20.090 Radios, television sets and similar devices.
- 8.20.100 Hawkers and peddlers.
- 8.20.110 Drums – Use restricted.
- 8.20.120 Schools, hospitals and churches.
- 8.20.130 Repealed.
- 8.20.140 Machinery, equipment, fans and air conditioning.
- 8.20.150 Construction of buildings and projects.
- 8.20.160 Vehicle repairs.
- 8.20.170 Motor-driven vehicles.
- 8.20.180 Sound level measurement criteria.
- 8.20.190 Ambient base noise level.
- 8.20.200 Excessive noise prohibited.
- 8.20.210 Petition for temporary relief from regulations.
- 8.20.220 Repealed.
- 8.20.230 Violation – Additional remedy.

8.20.010 Declaration of policy.

It is declared to be the policy of the city to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interests shall be systematically proscribed. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-101).

8.20.020 Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

A. "Ambient noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from any sources near and far. For the purpose of this chapter, ambient noise level is the level obtained when the noise level is averaged over a period of 15 minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

B. "Commercial purpose" means and includes the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of demonstrating such sound equipment.

C. "Decibel" means a unit of level when the base of the logarithm is the tenth root of 10 and the quantities concerned are proportional to power.

D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to

danger, or work by private or public utilities when restoring utility service.

E. "Frequency" of a function periodic in time means the reciprocal of the primitive period. The unit is the hertz and shall be specified.

F. "Hertz" means the complete sequence of values of a periodic quantity which occurs during a period.

G. "Microbar" means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

H. "Motor vehicles" includes, but is not limited to, mini-bikes and go-carts.

I. "Noncommercial purpose" means the use, operation or maintenance of any sound equipment for other than a commercial purpose. "Noncommercial purpose" means and includes, but is not limited to, philanthropic, political, patriotic and charitable purposes.

J. "Period" of a periodic quantity means the smallest increment of time for which the function repeats itself.

K. "Periodic quantity" means oscillating quantity, the values of which recur for equal increments of time.

L. "Person" means a person, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature.

M. "Sound-amplifying equipment" means any machine or device for the amplification of the human voice, music, or any other sound. "Sound-amplifying equipment" shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound-amplifying equipment," as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

N. "Sound level" or "noise level," in decibels (dB), is the sound measured with the "A" weighting and slow response by a sound level meter.

O. "Sound level meter" means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American Standard Specifications for sound level meters S1.4-1971 or the most recent revision thereof.

P. "Sound truck" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound-amplifying equipment. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-102).

8.20.030 Sound-amplifying equipment – Purpose of provisions.

The council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety and welfare of its citizenry. While recognizing that the use of sound-amplifying equipment is protected by the constitutional rights of freedom of speech and assembly, the council nevertheless feels obligated to reasonably regulate corrective constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and unnecessary noise. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-501).

8.20.040 Sound-amplifying equipment – Registration – Required.

It is unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate within the city a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without first filing a registration statement and obtaining approval thereof as set forth in BMC 8.20.050 through 8.20.080. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-502).

8.20.050 Sound-amplifying equipment – Registration – Statement filing and approval.

A. Every user of sound-amplifying equipment shall file a registration statement with the city manager or his designee 15 days prior to the date on which the sound-amplifying equipment is intended to be used, which statement shall contain the following information:

1. The name, address and telephone number of both the owner and user of the sound-

amplifying equipment;

2. The maximum sound-producing power of the sound-amplifying equipment which shall include the wattage to be used, the volume in decibels of sound which will be produced, and the approximate distance for which sound will be audible from the sound-amplifying equipment;

3. The license and motor number if a sound truck is to be used;

4. A general description of the sound-amplifying equipment which is to be used; and

5. Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes.

B. The city manager, or his designee, shall return to the applicant an approved certified copy of the registration statement unless he finds that:

1. The conditions of the motor vehicle movement are such that in the opinion of the city manager, use of the equipment would constitute a detriment to traffic safety; or

2. The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or

3. The registration statement required reveals that the applicant would violate the provisions set forth in BMC 8.20.080 or any other provisions of this code.

C. In the event the registration statement is disapproved, the city manager or his designee shall enforce upon the statement his reasons for disapproval and return it forthwith to the applicant. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-503).

8.20.060 Sound-amplifying equipment – Registration – Fee.

Prior to the issuance of the registration statement, a fee in the amount of \$25.00 per day, or any portion thereof, shall be paid to the city, if the loudspeaker or sound-amplifying equipment is to be used for commercial purposes. No fee shall be required for the operation of a loudspeaker or sound-amplifying equipment for noncommercial purposes. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-505).

8.20.070 Sound-amplifying equipment – Appeal from disapproval.

Any person aggrieved by disapproval of a registration statement may appeal the disapproval to the city council pursuant to Chapter 1.44 BMC. (Ord. 07-37 § 1; Ord. 77-2 N.S. § 1, 1977; prior code § 12-504).

8.20.080 Sound-amplifying equipment – Use regulations.

The commercial and noncommercial use of sound-amplifying equipment shall be subject to the following regulations:

A. The only sounds permitted shall be either music or human speech, or both.

B. The operation of sound-amplifying equipment shall only occur between the hours of 9:00 a.m. and 8:00 p.m. each day except on Sundays and legal holidays. No operation of sound-amplifying equipment for commercial purposes shall be permitted on Sundays or legal holidays. The operation of sound-amplifying equipment for noncommercial purposes on Sundays and legal holidays shall only occur between the hours of 9:00 a.m. and 9:00 p.m.

C. Sound levels emanating from sound-amplifying equipment shall not exceed 15 decibels above the ambient base noise level.

D. Notwithstanding the provisions of subsection (C) of this section, sound-amplifying equipment shall not be operated within 200 feet of churches, schools, hospitals, or city or county buildings unless specifically authorized by the city manager or his designee.

E. In any event, the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensitiveness within the area of audibility. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-506).

8.20.090 Radios, television sets and similar devices.

A. Use Restricted. It is unlawful for any person within any residential zone of the city to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.

B. Prima Facie Violation. Any noise level exceeding the ambient base level at the property line of

IX-A-10

any property or, if a condominium or apartment house, within any adjoining apartment, by more than five decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-201).

8.20.100 Hawkers and peddlers.

It is unlawful for any person within the city to sell anything by outcry within any area of the city zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-202).

8.20.110 Drums – Use restricted.

It is unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city. This section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise duly authorized to engage in such conduct. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-203).

8.20.120 Schools, hospitals and churches.

It is unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use, or adjacent to any acute hospital, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such street, sidewalk or public place indicating the presence of a school, church or hospital. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-204).

8.20.130 Animals and fowl.

Repealed by Ord. 07-72. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-205).

8.20.140 Machinery, equipment, fans and air conditioning.

It is unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient base noise level by more than five decibels. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-206).

8.20.150 Construction of buildings and projects.

It is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-301).

8.20.160 Vehicle repairs.

It is unlawful for any person within any residential area of the city to repair, rebuild, or test any motor vehicle between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-401).

8.20.170 Motor-driven vehicles.

It is unlawful for any person to operate any motor-driven vehicle within the city in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance; provided, however, any such vehicle which is operated upon any public highway, street, or right-of-way shall be excluded from the provisions of this section. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-402).

8.20.180 Sound level measurement criteria.

Any sound level measurement made pursuant to the provisions of this chapter shall be measured with a sound level meter using the "A" weighting. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-103).

8.20.190 Ambient base noise level.

Where the ambient noise level is less than designated in this section the respective noise level in this section shall govern.

Zone		Sound Level A, decibels		
		Community Environment Classification		
		Very Quiet (rural, suburban)	Quiet (suburban)	Slightly noisy (suburban, urban)
R1 and R2	10:00 p.m. to 7:00 a.m.	40	45	50
R1 and R2	7:00 p.m. to 10:00 p.m.	45	50	55
R1 and R2	7:00 a.m. to 7:00 p.m.	50	55	60
R3 and R4	10:00 p.m. to 7:00 a.m.	45	50	55
R3 and R4	7:00 a.m. to 10:00 p.m.	50	55	60
Commercial	10:00 p.m. to 7:00 a.m.		55	60
Commercial	7:00 a.m. to 10:00 p.m.		60	65
M1	anytime		70	70
M2	anytime		75	75

(Ord. 77-2 N.S. § 1, 1977; prior code § 12-104).

8.20.200 Excessive noise prohibited.

A. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to wilfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

B. The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

1. The level of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The level and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates;
9. The time of day or night the noise occurs;
10. The duration of the noise;
11. Whether the noise is recurrent, intermittent, or constant; and
12. Whether the noise is produced by a commercial or noncommercial activity. (Ord. 77-2 N.S.

§ 1, 1977; prior code § 12-601).

8.20.210 Petition for temporary relief from regulations.

Any person may petition the city council for temporary relief from provisions of this chapter by

IX-A-12

written request directed to the city clerk. The city council shall hear such petition at the next regular city council meeting not less than five days after the filing of said request. Upon hearing all the evidence, the city council may grant temporary relief from the provisions of this chapter upon such terms and conditions as the council may see fit if the council finds that the temporary relief does not endanger the health, welfare or safety of the residents of the city. The temporary relief may not exceed 30 days in duration. The applicant for relief may not exceed the provisions of this chapter until such time as the permit of the city has been issued. The decision of the city council shall be final. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-701).

8.20.220 Violation – Penalty.

Repealed by Ord. 03-9. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-105).

8.20.230 Violation – Additional remedy.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-106).

¹

For statutory provisions on noise control, see Health and Safety Code § 46000 et seq.



**STAFF REPORT
SEPTEMBER 4, 2007**

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 4, 2007
ACTION ITEMS**

DATE : August 20, 2007
TO : City Council
FROM : City Manager
SUBJECT : **PETITION FOR TEMPORARY RELIEF UNDER BENICIA
MUNICIPAL CODE SECTION 8.20.210 (NOISE ORDINANCE)**

RECOMMENDATION:

Deny the petition for temporary relief under Municipal Code Section 8.20.210, which will prohibit the owner of the Captain Walsh House from allowing amplified music for special events beyond the noise ordinance's stated time limits.

EXECUTIVE SUMMARY:

Evonne Marston, owner of the Captain Walsh House, an event facility, has submitted a petition for temporary relief from the noise ordinance in order to host events with amplified music past the time stated in the noise ordinance. Due to neighborhood impacts of the amplification, this request should be denied.

BACKGROUND:

Captain Walsh House at 235 East L Street hosts special events like weddings and parties, some of which use amplified music for a band or DJ. The Captain Walsh House is located in a single-family residential district, with a use permit that allows events at the facility to be held until 10 PM. The use permit does not address amplified music; the City's noise ordinance permits amplification at businesses until 8 PM. Residential neighbors of the Captain Walsh House (which has residential uses on three sides, and the civic center complex on the fourth side) have called the police to report amplified music past 8 PM, a violation of the noise ordinance, during events as recent as August 2007.

After these complaints from the neighbors became more frequent, Evonne Marston, owner of the Captain Walsh House, submitted a "petition for temporary relief" from the noise ordinance as allowed for in the ordinance (BMC 8.20.210) on August 7, 2007. She rescinded that petition on August 9 following City staff's facilitating a compromise with the neighbors to allow a wedding scheduled for August 11 to proceed. However, she resubmitted the petition to the City Clerk's office on August 14, and under the ordinance, the City must agendaize it at the next feasible regular meeting. The request is for a period of almost 11 weeks, through October 31, although the noise ordinance specifies that the maximum relief period is 30 days.

DISCUSSION:

Staff recommends that the City Council deny the request for temporary relief from the noise ordinance from Captain Walsh House for the following reasons:

- Neighbor complaints indicate that the amplified music in the evening past 8 PM is undesirable, thus granting the temporary relief would “endanger the health, welfare, or safety of residents” (BMC 8.20.210) and should thereby be denied.
- The petition for 11 weeks of relief exceeds the stated 30-day period in the regulation allowing for the petition of temporary relief.
- The Municipal Code supercedes the terms of any use permit.

As an alternative to denial of the petition, the City Council could grant a 30-day period of temporary relief, from September 4 through October 3, to allow the business owner the maximum time authorized by the Municipal Code for temporary relief. The decision of the City Council is final.

If the business owner wishes to pursue other resolutions, there are two alternatives:

1. The City Council can consider amending the noise ordinance to relax the restrictions on amplified music; and/or,
2. The Walsh House can work more proactively with the neighborhood to resolve issues around events.

Attachments:

- ❑ Correspondence from Evonne Marston (August 13, 2007 petition, August 9, 2007 letter rescinding the petition of August 7, 2007, and August 7, 2007 petition)
- ❑ Correspondence from Peter Histed (August 24, 2007 letter)
- ❑ BMC Chapter 8.20 (Noise Ordinance)

EXCERPT FROM SEPTEMBER 4, 2007 MINUTES

ACTION ITEMS:

Petition for a temporary relief under Benicia Municipal Code 8.20.210 (Noise Ordinance):

Captain Ken Davena reviewed the staff report.

Petitioner:

Ms. Trammel, Captain Walsh House, stated that they were asking for the temporary relief for only two occasions, both of which were booked over one year ago. Ms. Trammel reviewed how her business and contracts worked.

Mr. Knox explained how use permits and noise ordinance work.

Public Comment:

1. Don Basso – Mr. Basso spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
2. Bob Sedrell – Mr. Sedrell spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
3. John McDowell – Mr. McDowell spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
4. Bobbie Enderlin – Ms. Enderlin spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
5. Nanette Hardy – Ms. Hardy spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
6. Ron Gessler – Mr. Gessler spoke in support of the temporary relief of the noise ordinance for the Captain Walsh House.
7. Peter Histed – Mr. Histed spoke in opposition of the temporary relief of the noise ordinance for the Captain Walsh House. If the petition is granted, the City must consider changing its laws. When there is a wedding or family barbeque at the site, there is a lot of noise, which is unsettling to his family. He urged Council not to grant the petition.

Ms. McLaughlin suggested spelling out the two specific days in question for the temporary relief, which are September 15, 2007 and October 6, 2007 until 9:00 p.m.

Vice Mayor Schwartzman stated that he sympathized with both parties. He discussed what both parties could have done to be more informed

Council Member Hughes stated that he was supportive of the relief for the two occasions until 9:00 p.m. After the two dates, if the petitioner comes back for additional extensions, he would not be receptive to the request.

Council Member Patterson suggested repositioning the speakers to help with the noise issue. The petitioners should use a decibel meter to police themselves. She was sympathetic to the petitioners however; she did not expect to have such a request from them again. She would like the noise ordinance addressed by Council in the future.

Council Member Whitney supported the relief for the two specific days.
On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman,
Council approved the petition for temporary relief under Benicia Municipal Code
8.20.210 (Noise Ordinance). The petitioner will monitor the decibel level and reposition
the speakers to lessen the noise. The motion was approved on roll call by the following
vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

INFORMATIONAL ITEMS:

Reports from the City Manager:

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 12:29 a.m. on 9/5/07.

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 1, 2008
ACTION ITEMS**

DATE : March 17, 2008
TO : Mayor & City Council
FROM : City Manager
SUBJECT : **CONFIRMATION OF THE UPDATED TOP TEN POLICY
ISSUES FOR 2007-09**

RECOMMENDATION:

By motion, confirm the updated list of Top Ten Policy Issues for the remainder of the current two-year budget period.

EXECUTIVE SUMMARY:

At the February 26, 2008 Special City Council meeting, the City Council reviewed the list of current priority projects and policy issues. They evaluated them based on ratings of importance they assigned prior to the meeting, along with public input provided at the meeting. Council requested that an updated list of the priority projects be agendaized for a regular meeting in order to confirm the final list, which was done at the March 4, 2008 City Council Meeting. The prioritization of the policy issues remains to be finalized, and the results of the Council's recent rankings on the current issues are provided for confirmation at the April 1, 2008 City Council meeting.

BUDGET INFORMATION:

No budget impact at this time.

BACKGROUND:

At the January 29, 2008 Special City Council meeting, the Council reviewed the current Top Priorities and Policy Issues. Before confirming the list of Top Ten Priorities, the Council requested additional information on a few of the current priorities and potential new policy issues. At the follow-up February 26th meeting, the Council was provided with additional information on each of the current and proposed priorities and policy issues, and was asked to rate the importance of the City's Top Ten Priorities and Policy Issues for 2007-09.

The Council confirmed the Top Ten Priorities at the March 4, 2008 City Council meeting, but the Top Ten Policy Issues list required revisions as a result of the Council input received at the February 26th meeting, and thus still remain to be confirmed. To aid the Council with prioritizing the revised list of policy issues, the Council was provided with an updated rating

form, as well as a number of supporting documents, including a summary of how the policy issues are aligned with Strategic Goals and 2006 Citizen Survey Results, along with staff recommendations on each issue (see attached).

Summarized below are the results of the Council’s ratings of the policy issues. Each column notes the total number of check marks each of the policy issues received from Council Members in the three categories (First Five, Next Five, or Drop). Those with the highest numbers in First Five column will, in general, be calendared preceding those with the most votes in the Next Five column. (Please note that not all issues were rated by all five council members, thus not all rows have a total of five.)

Policy Issue	First Five (√)	Next Five (√)	Drop
Police Facility Modernization & Space Needs	4	1	
Ahwahnee Principles	1	1	1
Boards and Commissions – Term Lengths & Limits, Unexcused Absences	1	3	
Cultural Arts Commission	3	1	
Intermodal Transportation Station	3	1	1
Sky Valley Open Space Committee – Purpose and Scope		3	
Sustainability Task Force	3		1
*Campaign Contribution Ordinance	2		3
*Voluntary Campaign Expense Limits	1	2	2
*Big Box Ordinance	1		4
*Formula Business Regulations		3	2

** Note: Council has already considered these issues within the past year. Typically such requests would be agendized under Council Member Reports as the first step in the two-step process to have an item reconsidered. In this instance, it is staff’s view that the request to place the policy issue on the list to be prioritized could be considered the first step in that process. Should a majority of the Council wish to schedule these items on the policy calendar, then they could be scheduled according to their priority rating.*

Based on the ratings, eight of the eleven policy issues received three or more votes in the First Five and Next Five columns combined:

- Policy Facility Modernization & Space Needs
- Cultural Arts Commission
- Intermodal Transportation Station
- Sustainability Task Force
- Boards & Commissions – Term Lengths & Limits, Unexcused Absences
- Voluntary Campaign Expense Limits
- Sky Valley Open Space Committee – Purpose & Scope
- Formula Business Regulations

The following issues received three or more votes indicating they should be dropped from the list:

- Big Box Ordinance
- Campaign Contribution Ordinance

Following confirmation of the updated list of policy issues, a policy calendar will be prepared incorporating the eight issues listed above. While other factors may also impact scheduling, the First Five and Next Five ratings will help guide the order in which the Council reviews the policy issues.

Attachment:

- March 17, 2008 Memo to City Council on Policy Issues

MEMO TO COUNCIL



Office of the City Manager
MEMORANDUM

Date: March 18, 2008
To: Mayor & Council
From: Jim Erickson
Re: Policy Issues Prioritization Worksheet

Please complete the attached worksheet, if you have not already, and return it to Anne Cardwell by Monday, March 24th for tabulation. We plan to have the results on the April 1st City Council agenda for discussion and confirmations.

Attached are some documents that may be helpful to aid in prioritization as well as to give perspective and clarity to the task.

Top Ten Council Policy Issues – FY 2007-09
March 4, 2008 City Council Meeting

Instructions: Please use the space provided below to indicate those five policy issues that you perceive to be the most important, followed by the next five most important, out of the total of 11 listed. If there are any you wish to “drop” from the list, you may note those as well. When you have completed the chart, there should no more than five check marks in each of the first two columns. Note, please only assign one check mark per policy issue.

Policy Issue	First Five (√)	Next Five (√)	Drop
Police Facility Modernization & Space Needs			
Ahwahnee Principles			
Boards and Commissions – Term Lengths & Limits, Unexcused Absences			
Cultural Arts Commission			
Intermodal Transportation Station			
Sky Valley Open Space Committee – Purpose and Scope			
Sustainability Task Force			
*Campaign Contribution Ordinance			
*Voluntary Campaign Expense Limits			
*Big Box Ordinance			
*Formula Business Regulations			
TOTAL	No more than 5	No more than 5	

* All four of these issues have already been considered by Council within the past year. Typically such requests would be agendized under Council Member Comments as the first step in the two-step process to have an item reconsidered. In this instance, it is staff’s view that the request to place the policy issue on the list to be prioritized could be considered the first step in that process. Should a majority of the Council wish to schedule these items, then they could be scheduled according to their priority rating.

**City of Benicia
Strategic Goals
FY 2007-09**

- 1.00 – Protect Community and Environmental Health and Safety
- 2.00 – Strengthen the Economy
- 3.00 – Strengthen Downtown
- 4.00 – Preserve and Enhance City Assets and Infrastructure
- 5.00 – Enhance Community Appearance
- 6.00 – Expand Youth Activities and Services
- 7.00 – Build Community Collaboration
- 8.00 – Build Organization Quality and Capacity
- 9.00 – Promote Arts, Culture and Continuous Learning



Top Ten Council Priority Projects – FY 2007-09

Top Six:

- Benicia Business Park Development
- Commandant's Residence – Restoration
- Community Center
- First Street Pedestrian Friendly Improvements
- Police Building Remedial Improvements
- State Park Road Bike/Pedestrian Bridge Project

Next Six:

- Arsenal Specific Plan
- Benicia High School Traffic Signal
- Energy Conservation/Air Quality/Reducing Our Carbon Footprint
- Ferry Service
- Library Basement Completion Project
- Tourism Plan

The first six priorities received the highest rankings from the City Council as part of the priority setting process on February 26, 2008.

Strategic Planning Priorities Projects and Policies Definitions

What is a Project?

- A tangible, desired result, e.g.,
 - obtaining a desired physical asset, like a Police Station or a park, (X-Park)
 - achieving an established policy goal, e.g., reducing our carbon footprint
 - completing an important plan, e.g., Downtown Master Plan
 - resolving an important problem, e.g., elimination of graffiti

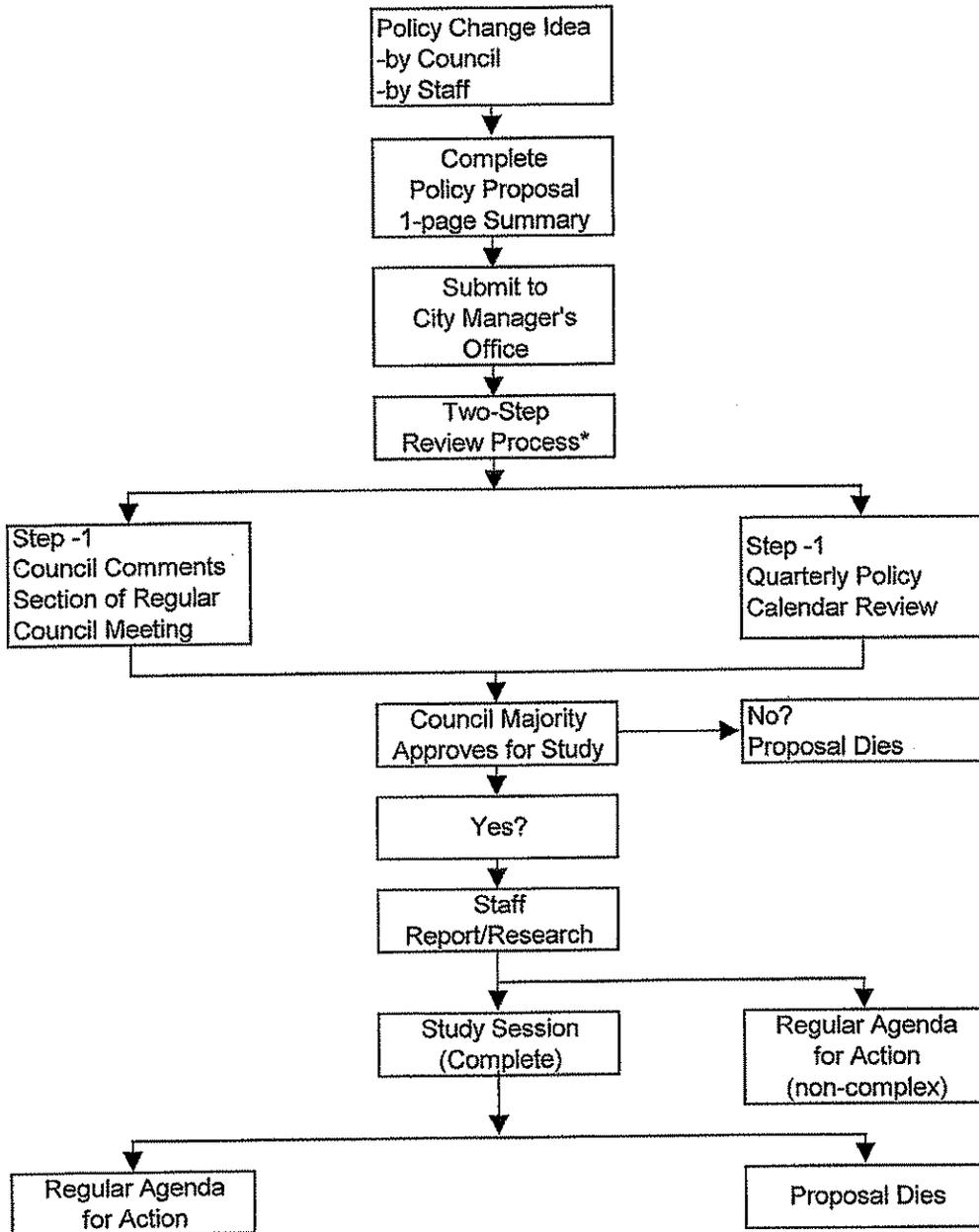
What is a Policy?

A policy is an agreed, pre-determined means or method for handling something, like handling specific problems, reacting to certain types of events, and responding to certain requests. For example, requiring design review by the HPRC for alterations to historic buildings is an existing policy.

What is a Policy Issue?

A policy issue is the belief or view that the existing means or method for responding to certain events, requests or problems is insufficient and should be improved. For example, there is the view that the existing policy of design review for building permits for properties in the H-District is insufficient and needs to include non-historic buildings.

Policy Issues Consideration Process
Flow Chart
 03/04/08



*Also applies to review of a matter decided in the last year (See Section I.B.1-2 of Rules of Procedure).

**Summary of Policy Issues by Strategic Goals,
Citizen Survey & Staff Recommendation
March 18, 2008**

Policy Issue	Primary Strategic Goals	Citizen Survey Policy Question Summary	Staff Recommendation
Policy Facility Modernization & Space Needs	#1, #4 and #9	37% - New or expanded police station is essential or very important	To schedule a study session in September or early fall, following completion of the current remedial projects.
Ahwahnee Principles	#1, #4 and #5	84% - Protecting the environment is essential or very important	Prior to establishment of a committee or task force, consideration be given to assignment of this task to the Planning Commission. Staff to the Planning Commission have the background and expertise to assist the Commission in such an effort.
Boards & Commissions	#8 and #9	N/A	Pending review of appointment process by Council subcommittee.
Cultural Arts Commission	#7, #8 and #9	44% - Resources and facilities for the arts are essential or very important	Explore community needs, expected goals, and amount of resources that will be needed for such a commission.
Intermodal Transportation Station	#1, #2 and #4	45% - Access to rail is essential or very important	Schedule discussion of the Intermodal Station concept in May 2008. Commitment of Regional Measure 2 dollars to Benicia becomes more questionable the longer we wait on addressing the issue.

*This column represents staff's view of the most applicable Strategic Goals for each policy issue, although other goals may also have alignment with each of the issues. Following this chart is a blank matrix that Council may utilize as a tool to help evaluate how policy issues align with each of the Strategic Goals.

**Summary of Policy Issues by Strategic Goals,
Citizen Survey & Staff Recommendation
March 18, 2008**

Policy Issue	Strategic Goals	Citizen Survey Policy Question Summary	Staff Recommendation
Sky Valley Open Space Committee – Purpose & Scope	#1, #4 and #5	62% - Open space is essential or very important	Prior to assignment of additional resources to this activity, Council should 1) clarify the goal of the committee, 2) consider the degree to which the goal has been met, and 3) consider the extent to which the committee can add value to the remaining work to be completed.
Sustainability Task Force	#1, #4 and #5	84% - Protecting the environment is essential or very important	See Ahwahnee Principles recommendation; the two issues appear to overlap.
Campaign Contribution Ordinance	#8 and #9	N/A	No recommendation.
Voluntary Campaign Expense Limits	#8 and #9	N/A	No recommendation
Big Box Ordinance	#1, #3 and #5	63% - Spend most of leisure time in town	Both issues were thoroughly discussed and decided within last year; do not recommend re- opening at this time.
Formula Business Regulations	#1, #3 and #5	78% - Enjoy dining, shopping, entertainment options in Benicia, 79% - Regularly visit downtown for these options	

*This column represents staff's view of the most applicable Strategic Goals for each policy issue, although other goals may also have alignment with each of the issues. Following this chart is a blank matrix that Council may utilize as a tool to help evaluate how policy issues align with each of the Strategic Goals.

Top 2007-09 Policies by Strategic Goals - Evaluation Matrix

Instructions: This matrix is provided as a tool, if you wish to utilize it in evaluating the policy issues. Please place an "X" under each Strategic Goal that you feel is most applicable to the policy issue.

Policy Issues	#1 - Protect Community & Env. Health & Safety	#2 - Strengthen the Economy	#3 - Strengthen Downtown	#4 - Preserve & Enhance City Assets & Infrastructure	#5 - Enhance Community Appearance	#6 - Expand Youth Activities & Services	#7 - Promote Arts, Culture, Learning & Historic Preservation	#8 - Build Community Collaboration	#9 - Build Organizational Quality & Capacity
Police Facility Modernization & Space Needs									
Ahwahnee Principles									
Boards and Commissions - Term Lengths & Limits, Unexcused Absenses									
Cultural Arts Commission									
Intermodal Transportation Station									
Sky Valley Open Space Committee - Purpose and Scope									
Sustainability Task Force									
Campaign Contribution Ordinance									
Voluntary Campaign Expense Limits									
Big Box Ordinance									
Formula Business Regulations									

2008-09 Policy Calendar

Draft

03/04/08

	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Scheduled Topics:																
Residential Design Review in H-District	18															
News Rack Ordinance		√														
Tree Ordinance		√														
L&L District: Fleetside Report			√													
YATF Recommendations			√													
Adult Entertainment Ordinance: Moratorium											√					
Unscheduled Topics:																
*Intermodal Transportation Station			√													
*Police Building Space Needs								√								
Cultural Arts Commission																
Sky Valley Open Space Committee																
Alhwanee Principles																
Sustainability Task Force																
Voluntary Campaign Expenditure Limits																
Board and Commissions: Consistency of Terms																
Campaign Contribution Ordinance																
Big Box Ordinance																
Formula Business Regulations																

*While these two topics have not yet been prioritized by the Council, staff's recommendation for scheduling is noted.