



**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
April 02, 2013
6:00 PM**

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

Please Note:

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

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

II. CLOSED SESSION (6:00 PM):

A. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager, Administrative Services Director

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

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

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

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

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

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

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

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

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

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

2. Openings on Boards and Commissions:

Arts and Culture Commission

1 unexpired term

2 full terms

Open until filled

3. Mayor's Office Hours:

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

4. Benicia Arsenal Update: Verbal update

B. PROCLAMATIONS.

1. In Recognition of National Library Week - April 14 – April 20, 2013

2. In Recognition of Child Abuse Prevention Awareness Month - April 2013

C. APPOINTMENTS.

1. Appointment of Pete Turner to the Solano Transportation Authority (STA) Pedestrian Advisory Committee for a three year term

D. PRESENTATIONS.

1. **Solano Fit Magazine and the Solano County Library Foundation**
Jessica Adele, Publisher, Solano Fit Magazine
Dilenna Harris, Executive Director, Solano County Library
Foundation
Jim Dunbar, Board Chairman, Solano County Library Foundation
Promoting SoFitCity and presenting a plaque thanking Council for
Benicia's participation in the 2012 SoFitCity event

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT.

B. PUBLIC COMMENT.

VII. CONSENT CALENDAR (7:30 PM):

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

A. APPROVAL OF THE MINUTES OF THE MARCH 12, 2013 AND MARCH 19, 2013 CITY COUNCIL MEETINGS. (City Clerk).

B. RESPONSE TO 2012-2013 GRAND JURY REPORT "BENICIA CITY CEMETERY". (Parks and Community Services Director)

The 2012-2013 Solano County Grand Jury investigated the Benicia City Cemetery for compliance with local and state laws. The Grand Jury issued a report on February 5, 2013, which identified five findings and associated recommendations to which the City of Benicia needs to respond to in writing. Under State law, the City Council must approve the response.

Recommendation: Approve, by minute action, the response to the 2012-2013 Grand Jury Report entitled "Benicia City Cemetery."

C. DENIAL OF THE CLAIM AGAINST THE CITY BY GINGER RENEE KELLEY AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

Claimant alleges that while her vehicle was parked in the Marina Parking Lot in front of 224 East E Street that water seeped in her vehicle from the flood, causing damage.

Recommendation: Deny the claim against the City by Ginger Renee Kelley.

D. DENIAL OF THE CLAIM AGAINST THE CITY BY SUSAN MIRKOVICH AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

Claimant alleges that during the December storm, mud from the open space behind her property flowed into her swimming pool. Claimant further alleges that the open space behind her property is maintained by the City. City staff has confirmed that this area is not maintained by the City.

Recommendation: Deny the claim against the City by Susan Mirkovich.

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

VIII. BUSINESS ITEMS (7:45 PM):

A. INTRODUCTION AND FIRST READING OF AN ORDINANCE CHANGING THE ELECTION DATE FOR GENERAL MUNICIPAL ELECTIONS TO EVEN-NUMBERED YEARS AND EXTENDING THE TERMS OF CURRENT COUNCIL MEMBERS BY UP TO 12 MONTHS. (City Attorney)

At the February 5 and 19 meetings, the City Council directed the preparation of an ordinance to change the election date from odd-numbered years to even-numbered years. Doing so will save the City money with each election since it allows the election to be consolidated with other elections. It may also increase voter turnout. It does increase the terms of the elected officials by one year.

Recommendation: Introduce and adopt the attached ordinance which would change the election date for General Municipal Elections.

B. RESOLUTION OF INTENTION AND INTRODUCTION OF AN ORDINANCE AMENDING THE CONTRACT BETWEEN THE CITY OF BENICIA AND

PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR LOCAL SAFETY EMPLOYEES TO PROVIDE SECTION 20516 (5.41% EMPLOYEES SHARING COST OF ADDITIONAL BENEFITS) APPLICABLE TO SECTION 21362.2 (3% @ 50 FULL FORMULA) AND SECTION 21363.1 (3% AT 55 FULL FORMULA) FOR LOCAL FIRE MEMBERS IN BENICIA FIREFIGHTER'S ASSOCIATION (BFA). (Administrative Services Director)

In 2012, the City concluded negotiations with the Benicia Firefighter's Association (BFA). This unit agreed to share in the City's cost of the employer's share of PERS, and contribute 5.41% towards that cost. In order to finalize this change with CalPERS, it is necessary for the City's contract with CalPERS to be amended to reflect the sharing of this cost by all BFA members.

Recommendation: Adopt the resolution of intention and introduce the ordinance to amend the contract between the City and Public Employee's Retirement System (CalPERS) to provide Section 20516 (5.41% Employees Sharing Cost of Additional Benefits) applicable to Section 21362.2 (3% @ 50 full formula) and Section 21363.1 (3% @ 55 full formula) for local fire members in Benicia Firefighter's Association (BFA).

C. APPEAL OF PLANNING COMMISSION USE PERMIT APPROVAL TO MODIFY BILLBOARD AT 4850 PARK ROAD. (Community Development Director)

CBS Outdoor proposes to lease the former "Nationwide" I-680 freeway-oriented electronic billboard sign that is located on City property adjacent to Park Road and Interstate 680. The modified sign will have roughly the same overall sign area and the same height as the existing sign. The electronic reader board will be upgraded to digital LED technology. This matter was heard at the January 15, 2013 City Council regular meeting; however, due to the lateness of the hour, appellant rebuttal was inadvertently omitted from the proceedings, and so the matter is being re-heard.

Recommendation: Adopt a resolution upholding the Planning Commission action approving a request by CBS Outdoor to modify an existing billboard sign at 4850 Park Road.

IX. ADJOURNMENT (9:30 PM):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency

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

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

Disabled Access or Special Needs

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

Meeting Procedures

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

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet

is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.



PROCLAMATION

In Recognition of
NATIONAL LIBRARY WEEK
APRIL 14 – APRIL 20, 2013

WHEREAS, National Library Week is being celebrated in public libraries throughout the United States from April 14 to April 20, 2013; and

WHEREAS, more than 21 million people use California's public libraries each year; and

WHEREAS, California's public libraries are changing and dynamic places, offering books, reference, computers, Internet access, e-mail, eBooks and other innovative services to connect their users with ideas and information; and

WHEREAS, California's public libraries are valued community centers, providing education, information, knowledge and entertainment; and

WHEREAS, California's public libraries provide equal and economical services to library users, and in many cases, serve as a community's only point of access to resources for learning; and

WHEREAS, California's public libraries are important community educational resources, providing books and innovative programs and services such as preschool literacy readiness, Toddler story times, and Summer Reading Programs; and

WHEREAS, California's public libraries preserve our cultural heritage, inform our present, and inspire our future.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby proclaim April 14 through April 20, 2013, as National Library Week. I encourage all residents to visit the library and take advantage of the wonderful resources available at your library.

Elizabeth Patterson,
April 2, 2013





PROCLAMATION

IN RECOGNITION OF APRIL 2013 AS CHILD ABUSE PREVENTION AWARENESS MONTH AND SUPPORTING THE CHILD ABUSE PREVENTION COUNCIL'S BLUE RIBBON CAMPAIGN

WHEREAS, child abuse prevention is a community problem and finding solutions depends on involvement among people throughout the community; and

WHEREAS, child abuse is a national tragedy with an estimated 905,000 annual victims of substantiated abuse or neglect in the United States; and

WHEREAS, 45 percent of child abuse victims with substantiated allegations experienced neglect, 12 percent were physically abused, 4.7 percent were sexually abused, 8.6 percent were emotionally or psychologically maltreated and 14 percent had an absent or incapacitated parent; and

WHEREAS, the estimated annual cost of child abuse and neglect is \$103.8 billion, according to a 2007 study conducted by Prevent Child Abuse America; and

WHEREAS, scientific studies confirm a direct link between child abuse and a significantly greater risk later in life of alcoholism, depression, drug abuse, eating disorders, obesity, sexual promiscuity, smoking, suicide and certain chronic diseases; and

WHEREAS, the number of children with allegations of abuse or neglect between January 1, 2011 and December 31, 2011 in Benicia, California were 172; and

WHEREAS, effective child abuse prevention programs succeed because of collaborative partnerships created among the courts, social service agencies, schools, religious organizations, law enforcement agencies, community organizations, medical institutions, and the business community; and

WHEREAS, the Solano County Child Abuse Prevention Council and the Children's Network along with the Family Resource Center Network are sponsoring the Solano Blue Ribbon Campaign to heighten awareness of the need to support families; and

WHEREAS, all Solano County residents should become more aware of child abuse and its prevention within the community and become involved in supporting parents and other caregivers to raise their children in safe, nurturing environments.

NOW, THEREFORE, BE IT RESOLVED, that I, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, hereby recognizes April 2013 as Child Abuse Prevention Month and calls upon all residents to increase their participation in efforts to prevent child abuse, thereby strengthening our communities.

Elizabeth Patterson, Mayor
April 2, 2013



RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF PETE TURNER TO THE SOLANO TRANSPORTATION AUTHORITY (STA) PEDESTRIAN ADVISORY COMMITTEE FOR A THREE YEAR TERM

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Pete Turner to the Solano Transportation Authority (STA) Pedestrian Advisory Committee by Mayor Patterson is hereby confirmed.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 2nd day of April 2013 and adopted by the following vote:

Ayes:

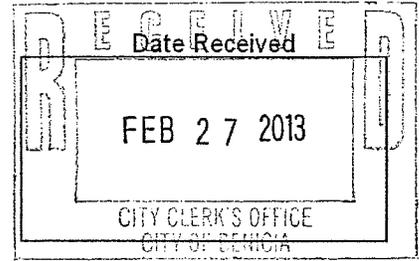
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

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

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

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

Solano Transportation Authority (STA) Pedestrian Advisory Committee

Name: PETE TURNER

Address: [REDACTED]

Phone: (Work) 7072358124 (Home) _____

(Cell) _____ Fax: pete_a_turner@yahoo.com

Email: Pete A Turner@Yahoo Years as Benicia resident: 20+

Occupation/Employer: Consultant

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

Contract assessment of community projects over past 5 years

Please describe any applicable experience/training: EXTENSIVE EXPERIENCE

on planning committees Developing projects in developing countries

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

Signature: [Signature] Date: 25 Feb 13



Planning Commission Application

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

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

I've been through the minutes of the past few meetings. I feel its valuable for a citizen to involve themselves in the public planning process. My experience has taught me that this type of participation leads to greater cohesion of a town, village etc.

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

I will make the time to meet the obligation of this commission.

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

I'm open to the needs of the commission.

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

The quality of life must be a function of the people. Without these types of commissions, there are no plans, no voice for the people. zoning seeks to maintain balance & priority for businesses in Benicia. The general plan is feed by these entities.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
March 12, 2013

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

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 6:01 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

Vice Mayor Campbell was absent. Council Member Strawbridge arrived at 6:03 p.m. All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Claire McFadden led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. ADOPTION OF AGENDA:

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

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

IV. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Two items received (copies on file).

B. PUBLIC COMMENT

1. Elizabeth d'Huart - Ms. d'Huart announced upcoming events at the Benicia Historical Museum.

2. Constance Beutel - Ms. Beutel discussed an upcoming Clean Tech Expo being put on by the Community Sustainability Commission (CSC).

V. BUSINESS ITEMS:

A. COMPLETION OF OPEN GOVERNMENT AWARENESS TRAINING AND ANNUAL REVIEW OF THE CODE OF CONDUCT AND RULES OF PROCEDURE

Heather McLaughlin, City Attorney, completed the Open Government Awareness Training and Annual Review of the Code of Conduct and Rules of Procedure.

B. UPDATE OF STRATEGIC PLAN AND PRIORITY PROJECT LIST

Brad Kilger, City Manager, and Staff reviewed the staff report and a PowerPoint presentation.

Staff and Council would discuss items on the list, and periodically ask for public comment throughout the meeting.

Council Member Hughes and Staff discussed the collateral that is being used for the bonds for the solar projects.

Mayor Patterson discussed the STA and funds (\$250,000) that were approved for the Benicia Industrial Park Intermodal and freeway access improvements, and the improved status with the Benicia Industrial Park and the State with regards to the enforcement aspect.

Public Comment:

1. Constance Beutel - Ms. Beutel discussed the strategic item 'Community Health & Safety.' She asked Staff to look into purchasing portable solar panels for use during an emergency. She suggested the Climate Action Plan should be under strategic issue #2.

Council Member Schwartzman and Staff discussed the possibility of the sale of any of the City's property inventory, which could help with the current budget shortfall.

Mayor Patterson and Staff discussed the possibility of private/public partnerships (with regards to real estate property).

Council Member Hughes and Staff discussed the property off of East 2nd Street owned by Discovery Builders (Seeno). He suggested the City approach the builder to see if they have any plans to build there. It is a valuable piece of property that City could gain revenue from. The City is reliant on Valero for

income. If they were ever to shut their doors, the City would be in trouble. He would like the City to have another source of revenue.

Mr. Kilger stated he needed Council direction on what it wanted to do regarding the Seeno property.

Council Member Strawbridge asked to see the City's inventory list of assets. Staff confirmed they would present it to Council when it was completed.

Mr. Kilger stressed that any approach on the City taking initiative on a development project needed to be thoroughly discussed, as it shouldn't be undertaken unless there was a full consensus of the Council.

Mayor Patterson discussed past development projects that were successful. She clarified that there was consensus of Council and agreement in the community that the Seeno property should be developed. Anyone who wants to try and bridge the community relations gap with the developer is welcomed to do so.

Council Member Hughes discussed the need to identify revenue opportunities in the community.

Mr. Kilger discussed the need for Staff to have clear direction on what is expected and how it is to be approached prior to moving forward with any land use development. He discussed the current staffing constraints with regards to land use projects.

Mayor Patterson clarified that Council could fit the issue into the strategic plan and priority project list, have a focused discussion, and based on the information received, provide direction to staff. It would be a phased processed, which would allow the City to get over the current hump of the budget situation.

Council Member Schwartzman suggested that with the City's current situation, the discussion on the above issue might be more appropriate for the formal strategic plan update in 2014.

Mr. Kilger suggested Staff and Council work on the current budget, he would give it some thought and talk to staff. Sometime after June (2013), staff will try to structure a discussion on the issue. Mayor Patterson confirmed that was the direction to staff.

Public Comment:

None

Council Member Hughes and Staff discussed the Tree Master Plan update.

Council and Staff clarified that each item in the Strategic Plan would not be discussed separately. The main projects were reviewed, and if Council had questions on the remaining items, they could submit them in writing to staff.

Council Member Schwartzman and Staff discussed when the financial update for the Solar Energy Project would be ready. Staff noted it would be presented at one of the upcoming budget study sessions. They discussed the progress of the boatyard cleanup, the upcoming IT upgrade, pension reform, and how the Affordable Healthcare Act will affect the City.

Council Member Strawbridge and Staff discussed the Downtown Retailer Attraction Plan and the Council Chamber Upgrade project.

Mayor Patterson and Staff discussed the issue of the scope of work for the broadband service for the Benicia Industrial Park.

Public Comment:

None

Council Member Schwartzman asked Staff for clarification on what their understanding was regarding use of the City's budget reserve funds (using 10%, 15% or 20%). Ms. Reid was not sure that Council discussed a set amount of reserves to use. She stated Staff would provide Council with options when they bring the proposed budget forward in June 2013. They will provide Council with the different scenarios and seek direction regarding the level of use of the reserves.

Mr. Kilger clarified that Council indicated at a previous meeting possibly utilizing 10-15% of the reserve funds. Staff understood that to mean that Council was open to the concept of using some reserves. Staff will provide the pros and cons and consequences of using the various levels of reserves. Mayor Patterson confirmed that was correct.

Mayor Patterson requested Staff provide Council with the criteria for setting up parameters of effectiveness and efficiency when looking at City services, and the rational basis for that. She would like to see a more in-depth/analysis of the value of the services that are provided by the citizens/volunteers (this should fit in to the 'next steps').

Mayor Patterson and Staff discussed the issue of public/private partnerships, and how they could benefit the City.

Public Comment:

None

Mayor Patterson and Staff discussed the vision for public participation in the budget process. Ms. Reid stated that the public would be included in the budget workshops and the Finance Committee meetings. Mayor Patterson asked Staff to use as many channels as possible to get the public involved in the budget process.

VI. **ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 7:34 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
March 19, 2013

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

I. CALL TO ORDER:

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

II. CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: 1 case- regarding the County's Property Tax Administration Fee
- B. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (1 case)

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:02 p.m..

A. ROLL CALL

Council Member Strawbridge was absent. All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Rona Leon led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

Ms. McLaughlin reported that Council took the following actions:

1. Item II.A - Council received information and authorized the initiation of litigation against the County for the Property Tax Administration Fee.
2. Item II.B - Council received information from Staff.

2. Openings on Boards and Commissions:

Staff clarified there were two full-term and one partial term openings on the Arts & Culture Commission.

3. Mayor's Office Hours:

4. Benicia Arsenal Update: Written update from City Attorney.

Heather McLaughlin, City Attorney, reviewed the staff report.

B. PROCLAMATIONS

1. In Recognition of National Poetry Month - April 2013
2. In Recognition of Sunshine Week - March 10-16, 2013

C. APPOINTMENTS

1. Appointment of Vice Mayor Tom Campbell to a City Council Subcommittee for a one-year term ending March 19, 2014

RESOLUTION 13-18 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF VICE MAYOR TOM CAMPBELL TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE FOR A ONE-YEAR TERM ENDING MARCH 19, 2014

Vice Mayor Campbell discussed concerns regarding violating The Brown Act with regards to the appointment subcommittee process. He would be willing to serve, with the stipulation that Council receives confirmation from the Fair Political Practices Commission (FPPC) that the current process does not constitute a violation.

Ms. McLaughlin stated the California Attorney General would be the appropriate office to make a judgment regarding The Brown Act. She reviewed the current Council Appointment Subcommittee process.

Public Comment:

None

On motion of Mayor Patterson Council adopted Resolution 13-18, on roll call by the following vote:

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

2. Reappointment of Don Dean to the Planning Commission for a four year term ending January 31, 2017

RESOLUTION 13-19 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF DON DEAN TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-19, on roll call by the following vote:

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

D. PRESENTATIONS

1. Poetry Out Loud Contest Winners - Lois Requist - Benicia Poet Laureate

V. ADOPTION OF AGENDA:

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

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

One item received (copy on file).

B. PUBLIC COMMENT

None.

Mayor Patterson discussed the recent Local Government Commission Ahwahnee Conference she attended.

VII. CONSENT CALENDAR:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: (None)

Council pulled item VII.B for discussion.

A. APPROVAL OF MINUTES OF THE FEBRUARY 19, 2013 CITY COUNCIL MEETING

B. BENICIA'S SAFE ROUTES TO SCHOOL (SR2S) LOCAL PLAN UPDATE

RESOLUTION 13-20 - A RESOLUTION APPROVING BENICIA'S SAFE ROUTES TO SCHOOL (SR2S) LOCAL PLAN UPDATE, FORWARDING THE RECOMMENDED PROJECTS AND PROGRAMS TO THE SOLANO TRANSPORTATION AUTHORITY (STA) FOR INCLUSION INTO THEIR COMMUNITYWIDE SR2S PLAN UPDATE, RETAINING THE BENICIA SR2S COMMUNITY TASK FORCE TO CONTINUE STEERING PROJECTS AND PROGRAMS, AND DESIGNATING THE SR2S LOCAL PLAN UPDATE AS A GUIDING DOCUMENT

Mayor Patterson discussed her suggested amendment (adding a paragraph - handout - see copy on file).

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Resolution 13-20, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: (None)

C. DENIAL OF THE CLAIM AGAINST THE CITY BY LISA WILKERSON AND REFERRAL TO INSURANCE CARRIER

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

VIII. BUSINESS ITEMS:

A. VALERO IMPROVEMENT PROJECT (VIP) ACCOUNT FUNDING RECOMMENDATIONS

RESOLUTION 13-21 - A RESOLUTION APPROVING ALLOCATIONS FROM THE VIP ACCOUNT AS FUNDS BECOME AVAILABLE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DOMINICAN UNIVERSITY AND A CONTRACT AMENDMENT FOR THE CLIMATE ACTION COORDINATOR

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

Vice Mayor Campbell and Staff discussed the Climate Action Coordinator (Sonoma State) item. Staff suggested removing the line in question. They discussed the climate action coordinator role.

Mayor Patterson and Staff discussed the performance measures for the Climate Action Plan.

Council Member Schwartzman and Staff discussed Dominican University item. Mr. Knox clarified that Council approved the program, but staff did not have the contracts, etc. available at that time. The formal documents are in tonight's packet. Council Member Schwartzman asked that when future funding is proposed, a contract should be presented first.

Council Member Schwartzman and Staff discussed the issue of accounting. Staff stated Staff and the Good Neighbor Steering Committee were very close on agreement of the funds. Ms. McLaughlin clarified that at a previous meeting, the three parties were in agreement that the Dominican project could be paid for.

Council Member Schwartzman suggested approving the extra \$15,000, but hold off on the extra contract year until the City has gotten through the budget issues, because he wanted the Council to have some flexibility. Although the money is coming from the settlement funds, this would affect staff time, which comes out of the City's budget. Mr. Knox stressed the importance and need for an almost full time climate action coordinator.

Council Member Schwartzman and Staff discussed the grant proposals and clarified that the proposed funding was for one year. He asked for clarification on the grants and whether they could cover salaries. Staff discussed the portion of the various grants that would cover administrative costs.

Council Member Hughes and Staff discussed the issue of accounting, and the need to make sure all parties involved (CSC, Valero, Good Neighbor Steering Committee, etc.) agrees to the accounting. He would like to see a simple ballot sheet that would provide him with a comfort level that all parties are on the same page.

Mr. Kilger discussed the settlement agreement.

Karan Reid, Finance Director, discussed the issue of accounting.

Council Member Schwartzman and Staff discussed what the dollar amount was on the items that the parties were not in agreement on (under \$100,000).

Council Member Schwartzman disclosed an ex parte communication he had with Dana Dean, who thinks the number is much larger than \$100,000. It sounds like Council needs to get a clear answer and get the issue resolved.

Mr. Kilger discussed concerns regarding the disagreement of the dollar amount that the parties are not in agreement on. If there is disagreement from other members, he did not think Council should act on any items tonight, with the exception of the Dominican item.

Kathy Kerridge, Good Neighbor Steering Committee, discussed the accounting, and the difficulties in tracking the revenues and expenditures, and how things should be allocated. She indicated that Ms. Dean has said in an email that there is at least \$850,000 in funds that have not been allocated. They need to go back and check the accounting to see what the actual figures are. The committee was confident that there was plenty of money to fund all the items tonight, with plenty left over.

Council Member Hughes stressed the need for a complete and accurate accounting of the funds.

Mr. Kilger discussed how difficult it had been to get all the parties together at one time. Staff would not bring any recommendations to Council unless the funds were financially sound.

Council Member Hughes and Staff discussed the pilot program regarding the residential plumbing fixtures.

Vice Mayor Campbell and Staff, and members of the Benicia Tree Foundation discussed the proposed Benicia Tree Foundation grant. Vice Mayor Campbell discussed concerns regarding how the funds had been spent (80% of funds spent to date have gone towards salaries/administrative costs). Benicia Tree Foundation members reviewed what they have done since the foundation was started.

Mayor Patterson clarified that tonight's meeting was not for questioning grantees on costs, as they were not asked to make formal presentations tonight. They had

already made presentations to the CSC. The CSC had recommended the proposed grants for approval. If Council wants to get specific costs etc., the item should be continued until the grantees can make formal presentations.

Council Member Schwartzman discussed concerns regarding how much of the grants were being used for salaries for the Arts & Culture Commission, Benicia Historical Museum, and the Benicia Tree Foundation grants.

Vice Mayor Campbell, Mayor Patterson, and Staff discussed what staff's recommendation was for this item.

Vice Mayor Campbell stated he was okay with everything except the Benicia Tree Foundation Grant.

Council Member Hughes stated that although he was concerned about the money being used for salaries, he was prepared to vote for all of the grants.

Council Member Schwartzman suggested voting on all of the items Council had agreement on, and bringing the items back that they had questions on.

Vice Mayor Campbell discussed concerns regarding the Arts & Culture Commission grant regarding the sustainable art piece (\$30,000). Regarding the Benicia Tree Foundation grant, he would like more assurances that more trees would be planted.

Mayor Patterson clarified that the grants that Council would like more information on were the Benicia Historical Museum, and Benicia Tree Foundation grants.

Vice Mayor Campbell stated that he wanted an assurance from the Benicia Tree Foundation that they would be planting the 1,000 trees, as they originally stated they would. Ms. Fleck discussed the foundation's commitment to their goal.

Mayor Patterson clarified that proposed action was to move forward with all of the grants with the exception of the Benicia Historical Museum, Arts Benicia, Benicia Historical Museum, Arts & Cultural Commission, and possibly the Benicia Tree Foundation grants.

Vice Mayor Campbell clarified that he would like to include the Benicia Tree Foundation grant tonight.

Mayor Patterson clarified the proposed action for the public, which was to approve the staff recommendations with the exception of the grant for Arts Benicia, Benicia Historic Museum, and the Arts & Cultural grant proposals.

Public Comment:

1. Rona Leon - Ms. Leon clarified that the Arts and Culture Commission made two grant requests, so Council should separate them or pull both.
2. Constance Beutel - Ms. Beutel confirmed that the CSC had similar

questions to the the ones previously raised and discussed by the commission.

3. Patty Gavin - Ms. Gavin spoke in support of the public art piece proposed by Arts Benicia.
4. Bob Nelson - Mr. Nelson asked Council to postpone bringing the public art piece back for discussion until Larnie Fox is back in the country to respond to Council's questions.
5. Lee Wilder Snyder - Ms. Wilder Snyder spoke in support of the proposed public art piece.
6. Larry Lauffer - Mr. Lauffer spoke in support of the proposed public art piece.

Mayor Patterson stated that the discussion tonight had been valuable. The future presentations will be enriching and valuable for the public to hear. The presentations would be made at the 4/16 Council meeting.

Council Member Hughes asked if Council would consider approving all of the grant proposals and have the groups come back in the near future with updates and details.

Council Member Schwartzman stated that after reviewing the numbers, he was okay with the museum and public art proposals (as the labor/in-kind labor was acceptable amount), but was concerned with the tree and Arts Benicia items because too much was going toward salaries.

Vice Mayor Campbell stated he would move forward with the tree item. He was concerned about the cost of the public art item. He would be okay moving forward with all of the proposed items, but hoped he would not regret his decision.

Ms. McLaughlin clarified the content of the motion was to adopt the resolution on page VIII.A.5. Council needed to make a change to add the trees in (as they are not listed on page VIII.A.6), amend the contract for the CAP coordinator (deleting the sentence about variable salaries), and possibly adding performance measures for the tree grant.

Mayor Patterson clarified that Council wanted to have a report brought back on all of the grants. Council would be making the technical correction of adding the trees, and having a report brought back (similar to the accounting that is done by the Human Services Board). Those would be the significant changes to the resolution.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council adopted Resolution 13-21, as amended, on roll call by the following vote:

Ayes: Patterson, Campbell, Hughes
Noes: Schwartzman

B. Council Member Committee Reports:

1. **Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: March 20, 2013**
2. **Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: April 18, 2013**
3. **Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: March 22, 2013**
4. **League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: April 18, 2013**
5. **School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: June 13, 2013**
6. **Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: May 3, 2013**
7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: May 9, 2013**
8. **Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: April 10, 2013**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson) Next Meeting Date: April 11, 2013**
10. **Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: April 18, 2013**
11. **Tri-City and County Cooperative Planning Group. (Council Member Hughes) Next Meeting Date: June 10, 2013**
12. **Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: March 20, 2013**

13. **Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: March 27, 2013**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. <http://www.baywaterforum.org/> (Mayor Patterson)Next Meeting Date: TBD**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member Hughes and Council Member Schwartzman) Next Meeting Date: March 21, 2013**

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:15 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
CONSENT CALENDAR

DATE : March 7, 2013

TO : City Manager

FROM : Parks and Community Services Director

SUBJECT : **RESPONSE TO 2012-2013 GRAND JURY REPORT "BENICIA CITY CEMETERY"**

RECOMMENDATION:

Approve, by minute action, the response to the 2012-2013 Grand Jury Report entitled "Benicia City Cemetery."

EXECUTIVE SUMMARY:

The 2012-2013 Solano County Grand Jury investigated the Benicia City Cemetery for compliance with local and state laws. The Grand Jury issued a report on February 5, 2013, which identified five findings and associated recommendations to which the City of Benicia needs to respond to in writing. Under State law, the City Council must approve the response.

BUDGET INFORMATION:

Reviewing the Grand Jury report and preparing the response to the Grand Jury requires staff time. The response to Recommendation 1 requires staff research time, which is being conducted as part of the budget process.

GENERAL PLAN:

Relevant General Plan goals:

Goal 2.28: Improve and maintain public facilities and services.

Goal 3.1: Maintain and enhance Benicia's historic character.

STRATEGIC PLAN:

Relevant Strategic Issues and Strategies and Actions:

- Strategic Issue 4: Preserving and Enhancing Infrastructure
 - Strategy 4.4: Provide adequate funding for ongoing infrastructure needs.
- Strategic Issue 5: Maintain and Enhance a High Quality of Life
 - Strategy 5.4: Preserve City-owned historic structures.
 - Action 4.b: Maintain City-owned historic structures.

BACKGROUND:

The 2012 – 2013 Solano County Grand Jury performed a review of the Benicia

City Cemetery. The Grand Jury investigated the Cemetery for compliance with local and state laws. The Grand Jury identified the following Findings and Recommendations to which the City is required to reply:

Finding 1 – The Fee Schedule for the Benicia City Cemetery was last revised on September 6, 2005.

Recommendation 1– The Benicia City Council review the Fee Schedule to determine if any modifications are required due to present economic conditions and cost of operation of the cemetery.

Finding 2– The City is not in compliance with Benicia City Cemetery Rules and Regulations in Section 2.3 when a burial site sale is made by other than the Parks and Community Services Department, specifically local funeral chapels.

Recommendation 2 – The City of Benicia require all sales of burial sites comply with Benicia City Cemetery Rules and Regulations Section 2.3 and be sold only by the Parks and Community Services Department. When a parcel is sold by an outside agency, the agency must comply with Section 2.3.

Finding 3 – The City of Benicia is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery.

Recommendation 3 – The city establish an endowment fund for the maintenance and operation of the cemetery.

Finding 4– There are no signs posted stating that this is a “NONENDOWMENT CARE” property at the entrance to the cemetery or at the office for sale of plots as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

Recommendation 4 – Appropriate signage be posted.

Finding 5 –During the Parks, Recreation and Cemetery Commission meetings, issues related to the cemetery are not agendized on a recurring basis.

Recommendation 5 – The Parks, Recreation and Cemetery Commission have a specific agenda item of City Cemetery, for each meeting, to ensure that cemetery issues are addressed.

Penal Code Section 933.05 requires the City Council to respond in writing to the Presiding Judge and to provide an electronic copy to the Grand Jury regarding the Findings and Recommendations contained in the report. The City is required to submit a response to the Grand Jury by May 6, 2013.

Penal Code Section 933 (c) requires the City Council to comment to the Presiding Judge of the Superior Court on the findings and recommendations of the Grand Jury. Penal Code Section 933.05 requires a formal response to the Grand Jury's report. This response requires the City to state whether it agrees, disagrees wholly, or disagrees partially with the findings. Further, the response should report what actions the City has or will take in response to the Grand Jury's recommendations. The attached response letter will be sent to the Presiding Judge of the Superior Court on behalf of the City Council.

Attachments:

- ❑ Cover Letter Conveying the Grand Jury Report to the City of Benicia
- ❑ Report on the Benicia City Cemetery by the 2012-2013 Solano County Grand Jury
- ❑ Proposed Response Letter from the City

GRAND JURY



Hall of Justice
600 Union Ave
Fairfield, California 94533
(707) 435-2575
Fax: (707) 435-2566

cdclower@solano.courts.ca.gov

January 31, 2013

Sent via email

lwolfe@ci.benicia.ca.us

ATTN: City of Benicia, City Counsel

RE: 2011-2012 Grand Jury Report Entitled: **Benicia City Cemetery**

Enclosed please find a copy of the above named report by the 2012-2013 Solano County Grand Jury. This report is provided to you **in advance of public release** as provided for in Penal Code §933.05(f). Please note that Penal Code §933.05(f) specifically prohibits any disclosure of the contents of this report by a public agency, its departments, officers or governing body prior to its release to the public, which will occur on **February 5, 2013**

You are required to respond in writing to the Presiding Judge and to provide an electronic copy to the Grand Jury regarding the Findings and Recommendations contained in the report pursuant to Penal Code §933.05. This section of the Penal Code is very specific as to the format of the responses. The Penal Code is also specific about the deadline for responses. You are required to submit your response to the Grand Jury by **Monday, May 6, 2013**.

Also, please provide an electronic copy, original form (not pdf) to the Grand Jury office at cdclower@solano.courts.ca.gov

Responses are public records. Should you have any questions, please contact Cheryl Clower, Administrative Assistant to the Grand Jury at (707)435-2575.

Sincerely

A handwritten signature in black ink, appearing to read 'Morland McManigal', is written over a light blue horizontal line.

Morland McManigal, Foreman
2012-2013 Solano County Grand Jury

MM/cc

VII.B.5



SOLANO COUNTY GRAND JURY
2012-13

BENICIA CITY CEMETERY

BENICIA CITY CEMETERY

2012-13 Solano County Grand Jury

I. SUMMARY

The 2012-13 Solano County Grand Jury investigated the Benicia City Cemetery in the City of Benicia, California for compliance with local and state laws. The Grand Jury identified a failure to track sales of plots, with supporting documentation, when sold by agencies other than the city. The Grand Jury also identified an issue with the Parks, Recreation and Cemetery Commission's failure to schedule cemetery issues as a regular agenda item during meetings. The Fee Schedule for services may be out of date. It was determined that appropriate signage related to "Nonendowment Care" is not evident.

II. INTRODUCTION

The California Legislature authorized the creation of public cemetery districts in 1909. California Health and Safety Code §8125-8137 authorize a city to operate a cemetery.

The Grand Jury elected to investigate the Benicia City Cemetery due to:

- The City Cemetery is the last of the public cemeteries in Solano County to be reviewed recently.
- The City Cemetery's long-term operational and financial stability is important to the community.

III. METHODOLOGY

The scope of the investigation focused on the governance and operation of the Benicia City Cemetery in Solano County. The Grand Jury:

- Toured the cemetery
- Interviewed Benicia City officials responsible for cemetery operation
- Interviewed members of Benicia Historical Society
- Interviewed an employee of Passalacqua Funeral Chapel, Benicia, California
- Reviewed various California Codes
- Reviewed Benicia Municipal Codes
- Reviewed Benicia City Cemetery Rules and Regulations including a plot map
- Reviewed and evaluated cemetery district fee schedules
- Reviewed City employee salaries related to cemetery operation
- Analyzed records obtained from City of Benicia

IV. STATEMENT OF FACTS

The Benicia City Cemetery was established in 1847. At that time, religious and service organizations handled cemetery operations. In 1978, the City of Benicia took over the operation and assigned it to the Parks and Community Services Department who currently maintains the cemetery plot map of gravesites.

The Benicia City Cemetery is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery. All burial fees go to the maintenance of the cemetery, such as landscaping, road repair, and maintaining vaults. In the past, funds given to the Historical Society paid for special projects as needed. The present fee schedule for cemetery services, including plot fees, was set by the city council in Resolution No. 05-148 dated September 6, 2005.

The Parks and Community Services Department sells available burial plots to an individual. A burial plot must be paid for before it can be used. Appropriate paperwork is completed at the time of purchase and kept on file with the city. On occasion, purchase of a plot is made through Passalacqua Funeral Chapel. The funeral chapel does this as a courtesy to clients and contacts the Parks Department to get a statement from the city indicating name, grave location, and total cost. The city then invoices the funeral chapel for payment, however, there is no signed paperwork provided by the funeral chapel to the city for the purchase of the plot in compliance with Benicia City Cemetery Rules and Regulations Section 2.3.

There are no signs posted stating that this is a “NONENDOWMENT CARE” property at the entrance to the cemetery or at the office for sale of plots such as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

The city could not provide an accurate number of gravesites in the cemetery due to missing prior operator records and missing or broken grave markers. They have opened a relatively new lawn area, which is being used for gravesites, along with an open plot of land that sits adjacent to the lawn area. This open area could be used for gravesites in the future.

Parks and Community Services Department workers, along with other assigned city workers, maintain the cemetery. Additional help is provided by volunteers and members of the Benicia Historical Society.

Pursuant to Benicia Municipal Code, Chapter 2.76, a Parks, Recreation and Cemetery Commission is appointed by the Mayor to advise the city council as to the city’s responsibility in the development of recreational programs, and to develop and implement all aspects of the city cemetery program. The members of the Cemetery Commission are volunteers and receive no payment.

The Parks, Recreation and Cemetery Commission meet the second Wednesday of each month. During these meetings, issues relative to the Cemetery Commission are frequently left off the agenda unless a problem has been reported.

V. FINDINGS AND RECOMMENDATIONS

The Grand Jury found that the Benicia City Cemetery overall is operated and maintained in an excellent manner considering budget limitations. They are to be commended for their efforts.

Finding 1 – The Fee Schedule for the Benicia City Cemetery was last revised on September 6, 2005.

Recommendation 1– The Benicia City Council review the Fee Schedule to determine if any modifications are required due to present economic conditions and cost of operation of the cemetery.

Finding 2– The City is not in compliance with Benicia City Cemetery Rules and Regulations in Section 2.3 when a burial site sale is made by other than the Parks and Community Services Department, specifically local funeral chapels.

Recommendation 2 – The City of Benicia require all sales of burial sites comply with Benicia City Cemetery Rules and Regulations Section 2.3 and be sold only by the Parks and Community Services Department. When a parcel is sold by an outside agency, the agency must comply with Section 2.3.

Finding 3 – The City of Benicia is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery.

Recommendation 3 – The city establish an endowment fund for the maintenance and operation of the cemetery.

Finding 4– There are no signs posted stating that this is a “NONENDOWMENT CARE” property at the entrance to the cemetery or at the office for sale of plots as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

Recommendation 4 – Appropriate signage be posted.

Finding 5 –During the Parks, Recreation and Cemetery Commission meetings, issues related to the cemetery are not agendized on a recurring basis.

Recommendation 5 – The Parks, Recreation and Cemetery Commission have a specific agenda item of City Cemetery, for each meeting, to ensure that cemetery issues are addressed.

REQUIRED RESPONSES

City of Benicia, City Council

COURTESY COPIES

Mayor, City of Benicia

Benicia Parks, Recreation & Cemetery Commission

Benicia Historical Society, Inc.

California Department of Consumer Affairs, Cemetery & Funeral Bureau

April 2, 2013

The Honorable Paul Beeman
Presiding Judge
Superior Court of California, County of Solano
Hall of Justice
600 Union Avenue
Fairfield, CA 94533

RE: City of Benicia Response to Findings and Recommendations of the 2012-2013 Grand Jury Report Titled “Benicia City Cemetery”

Dear Judge Beeman:

Pursuant to the provisions of Section 933 (c) of the California Penal Code, the governing body of any public agency subject to the Grand Jury’s reviewing authority must respond to recommendations and findings pertaining to matters under their control no later than ninety (90) of receipt of a grand jury report. Therefore, the purpose of this letter is to comply with the aforementioned law and to provide comment on the 2012-2013 Solano County Grand Jury Report titled “Benicia City Cemetery”.

The Grand Jury report included the five following findings and recommendations:

Finding 1 – The Fee Schedule for the Benicia City Cemetery was last revised on September 6, 2005.

Recommendation 1– The Benicia City Council review the Fee Schedule to determine if any modifications are required due to present economic conditions and cost of operation of the cemetery.

City’s Response: The City agrees. City of Benicia Parks & Community Services staff are currently surveying comparable public cemeteries’ fee schedules. Staff is also preparing an updated cost estimate for cemetery services. This information will be used to update the Fee Schedule in conjunction with the City’s annual budget process, which is currently underway and scheduled to be completed in June, 2013.

Finding 2– The City is not in compliance with Benicia City Cemetery Rules and Regulations in Section 2.3 when a burial site sale is made by other than the Parks and Community Services Department, specifically local funeral chapels.

Recommendation 2 – The City of Benicia require all sales of burial sites comply with Benicia City Cemetery Rules and Regulations Section 2.3 and be sold only by the Parks and Community Services Department. When a parcel is sold by an outside agency, the agency must comply with Section 2.3.

City’s Response: The City agrees. Future sales of burial sites will only be made directly by the Parks and Community Services Department, in compliance with Benicia City Cemetery Rules and Regulations Section 2.3.

Finding 3 – The City of Benicia is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery.

Recommendation 3 – The city establish an endowment fund for the maintenance and operation of the cemetery.

City’s Response: The City disagrees wholly. The City of Benicia’s cemetery is public cemetery operating under the provisions of California Health and Safety Code Division 8, Parts 1 and 2. The endowment fund provisions are for private cemeteries under California Health and Safety Code Division 8, Part 3. Unlike the operators of private cemeteries that may abandon their cemeteries (See Health and Safety Code Section 8825 et seq.), the City cannot abandon its cemetery. Per Health and Safety Code Section 8130 the management and operation of the City’s cemetery is under the jurisdiction and control of the City. An endowment fund is not required to operate the City cemetery.

Finding 4– There are no signs posted stating that this is a “NONENDOWMENT CARE” property at the entrance to the cemetery or at the office for sale of plots as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

Recommendation 4 – Appropriate signage be posted.

City’s Response: The City partially disagrees. The City agrees that no signs are posted but disagrees that such signs are required. As noted above, the California Health and Safety Code has different provisions for the regulation of public cemeteries and private cemeteries. The requirements for endowment funds and the related signage requirements are in the section of the Health and Safety Code that apply only to private cemeteries. The regulation cited does not apply to public cemeteries. In fact, the webpage for the Cemetery and Funeral Bureau specifically states under the FAQ that “The Cemetery Act specifically does not apply to cemeteries controlled or operated by religious corporations or entities, public cemeteries....”

Finding 5 –During the Parks, Recreation and Cemetery Commission meetings, issues related to the cemetery are not agendized on a recurring basis.

Recommendation 5 – The Parks, Recreation and Cemetery Commission have a specific agenda item of City Cemetery, for each meeting, to ensure that cemetery issues are addressed.

City’s Response: The City agrees. A specific agenda item of City Cemetery will be included on the agenda for all future Parks, Recreation and Cemetery Commission meetings.

This response, which was drafted by City staff, was approved by the City Council at their meeting of April 2, 2013.

Judge Beeman
April 2, 2012
Page 2

Please let me know if you have any further questions.

Sincerely,

Brad Kilger
City Manager

cc: City Attorney
Morland McManigal, Foreperson 2012-2013 Solano County Grand Jury

**AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
CONSENT CALENDAR**

DATE : March 12, 2013
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY GINGER RENEE KELLEY AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Ginger Renee Kelley.

EXECUTIVE SUMMARY:

Claimant alleges that while her vehicle was parked in the Marina Parking Lot in front of 224 East E Street that water seeped in her vehicle from the flood, causing damage.

BUDGET INFORMATION:

The amount of this claim is \$5,587.78.

STRATEGIC PLAN:

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

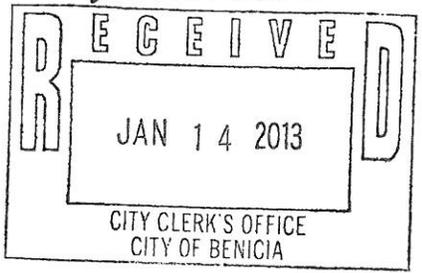
BACKGROUND:

Claimant alleges that while her vehicle was parked in the Marina Parking Lot, water seeped inside from the rising water during the flood. Claimant asserts that the City has been aware of this problem for years. Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

In Person



CLAIM AGAINST THE CITY OF BENICIA

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

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Ginger Renee Kelley

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

HOME PHONE: _____

WORK PHONE: _____

3. AMOUNT OF CLAIM: \$ 5587.78 (Attach copies of bills/estimates)

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

Limited Civil Case _____
Unlimited Civil Case _____

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

(Name)

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

5. DATE OF INCIDENT: ^{for} 2 Dec. 2012 TIME OF INCIDENT: ? all night 1st → 2ND A.M.

LOCATION OF INCIDENT: MARINA Lot in front of 224 East E St. @ Portside Village

6. Describe the incident or accident including your reason for believing that the City is liable for your damages: Flooding in Public Parking Lot. City has been aware of problem in this area for years!

7. Describe all damages which you believe you have incurred as a result of the incident: Water seeped into my car from rising water during flood.

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

[Signature]
Signature of Claimant

11 Jan. 2013
Date

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

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

(revised 12/18/02)

My Insurance will not pay out & let me keep car with salvaged title! They are only offering \$3600 to me & pay mechanic the \$1300 for diagnosis work & they take the car away to salvage yard! VII.C.3

not have any money to purchase a new car
& \$3600 won't cover the ~~\$6000~~. I put into
my car for servicing & body work over the
last 3 months. There was also a hit & run
on my car in same parking lot that I
had to pay for \$1000 out of pocket deductible
Included in above ~~\$6000~~ noted on my credit card,
I don't even think I will qualify for financing
on another car at this point!





I acknowledge notice & oral approval of an increase in the original estimated price.

SIGNATURE

BAR #: AD 227291
1857 Park Road
Benicia, CA 94510
Phone: 707.747.9753 FAX: 707.747.9743

Table with 2 columns: Customer/Specs and Quotes. Includes name KELLEY, GINGER, vehicle details (95 BMW 525I WHITE), and quote items with dates and prices.

CUSTOMER STATES/REQUESTS: WATER APPEAR TO BE LEAKING INSIDE VEHICLE CABIN NEAR PASSENGER FRONT SUN VISOR

DIAGNOSTIC Labor: \$270.00

CHECK AND ADVISE ON CUSTOMERS COMPLAINT & CONCERN - WATER APPEAR TO BE LEAKING INSIDE VEHICLE CABIN NEAR PASSENGER FRONT SUN VISOR

INSPECTED VEHICLE FOR WATER CONTAMINATION - FOUND CARPET SOAKED IN WATER - PARTIAL REMOVED FRONT SEATS AND DOOR TRIMS IN ORDER LIFT CONNER OF CARPET AND INSPECT FOR WATER CONTAMINATION - FOUND ABOUT TWO INCHES OF WATER UNDER THE CARPET LEFT AND RIGHT FRONT AND REAR OF THE VEHICLE - REMOVED PASSENGER FRONT SUN VISOR AND PARTIAL LOWER HEADLINER IN ORDER TO INSPECT FOR WATER CONTAMINATION - FOUND HEADLINER WET

REQUESTED MORE TIME FOR DIAGNOSTIC IN ORDER TO FIND SOURCE OF WATER CONTAMINATION - NOTE THAT VEHICLE CENTER CONSOLE, POSSIBLE DASH AND HEATHER BOX , CARPET, HEADLINER AND DOOR PANELS NEED TO BE REMOVED IN ORDER TO IDENTIFY SOURCE OF LEAK AND EXTENSION OF WATER DAMAGE

CUSTOMER INFORMED AND AUTHORIZED REMOVAL OF NECESSARY COMPONENTS IN ORDER TO IDENTIFY SOURCE OF WATER LEAK AND EXTENSION OF WATER DAMAGE

DIAGNOSTIC II Labor: \$1,080.00

CHECK AND ADVISE ON CUSTOMERS COMPLAINT & CONCERN - REMOVE NECESSARY COMPONENTS IN ORDER TO IDENTIFY SOURCE OF WATER CONTAMINATION AND EXTENSION OF WATER DAMAGE - NOTE THAT VEHICLE CENTER CONSOLE, POSSIBLE DASH, CARPET, HEADLINER AND DOOR PANELS NEED TO BE REMOVED IN ORDER TO IDENTIFY SOURCE OF LEAK AND EXTENSION OF WATER DAMAGE

REMOVED DRIVER AND PASSENGER SEATS - REMOVED REAR SEAT - REMOVED DOOR SEALS AND TRIMS - REMOVED DASH PANEL AND HEATHER BOX - REMOVED FRONT AND REAR CARPET AND PERFORM WATER LEAK TEST & INSPECTION - FOUND WINDSHIELD LEAKING - FOUND FRONT AND REAR DOORS VAPOR BARRIERS LEAKING

----->----->----->---Continued on the next page--->----->----->----->



BAR #: AD 227291
1857 Park Road
Benicia, CA 94510
Phone: 707.747.9753 FAX: 707.747.9743

DIAGNOSTIC II

RECOMMEND REMOVE AND REPLACE WINDSHIELD/RESEAL - RECOMMEND REMOVE AND REPLACE FRONT AND REAR CARPET - RECOMMEND REMOVE AND REPLACE FRONT AND REAR DOORS VAPOR BARRIERS

R&R CARPET & RE INSTALL INTERIOR

Labor: \$2,025.00

R&I R&I INTERIOR
COOLING
Repl A/M Antifreeze - Green - per Gal
Rpr Reset Electronic Components
AIR CONDITIONER & HEATER
Repl Evacuate & recharge
Repl Refrigerant recovery
ELECTRICAL
NOTE: DISCONNECT FROM BATTERY TO DISABLE SRS
RESTRAINT SYSTEMS
Repl System diagnosis
INTERIOR TRIM
Rpr RT Door trim panel leather 525i &
535i
0 0.00 0.5 M 0.0
NOTE: RE GLUE TRIM CLIP BRACKETS
15 * Rpr LT Door trim panel leather 525i &
535i
0 0.00 0.5 M 0.0
NOTE: RE GLUE DOOR TRIM BRACKETS
Repl LT FT DOOR WATER SHIELD
Repl RT FT DOOR WATER SHIELD
Repl LT RR DOOR WATER SHIELD
Repl RT RR DOOR WATER SHIELD
MATERIALS
WATER SHIELD & DOOR TRIM PNL ADHESIVE
Repl GAS PEDAL
Repl A/M FRONT & REAR CARPET
Repl A/M REAR CARPET & PAD
R&I REINSTALL INTERIOR

----->----->----->---Continued on the next page--->----->----->----->



BAR #: AD 227291
1857 Park Road
Benicia, CA 94510
Phone: 707.747.9753 FAX: 707.747.9743

R&R CARPET & RE INSTALL INTERIOR

5148 8 178 111	Vapor Barrier	1.0 @	32.96 =\$	32.96
51 48 8 178 115	Vapor Barrier	1.0 @	29.41 =\$	29.41
51 48 8 178 116	Vapor Barrier	1.0 @	29.41 =\$	29.41
51 47 8 126 382	Floor Carpet	1.0 @	544.02 =\$	544.02
41 47 8 126 398	Floor Carpet	1.0 @	460.11 =\$	460.11
51 48 8 178 112	Vapor Barrier	1.0 @	32.69 =\$	32.69
82 14 1 467 704	Bmw coolant	1.0 @	23.80 =\$	23.80
35 41 1 154 936	Accerator Pedal	1.0 @	21.83 =\$	21.83
08611	Vapor Barrier Sealant	1.0 @	22.20 =\$	22.20 1196.43

R&R WINDSHIELD

Labor: \$540.00

REMOVE AND REPLACE WINDSHIELD AND RE INSPECT FOR POSSIBLE FURTHER WATER LEAKS AFTER REPAIRS PERFORMED

51 31 8 117 303	Windshield Kit	1.0 @	352.14 =\$	352.14	352.14
-----------------	----------------	-------	------------	--------	--------

Recommendations: RECOMMEND REMOVE AND REPLACE STEERING BOX / RECOMMEND REMOVE AND REPLACE TRANSMISSION SUPPORT MOUNTS / RECOMMEND REMOVE AND REPLACE FRONT SWAY BAR LINKS / RECOMMEND MONITOR SPARE TIRE PRESSURE / DIAGNOSE CAUSE OF AIR BAG LIGHT WARNING LIGHT ON / REMOVE AND REPLACE VANOS OIL LINE

Payments to Benicia Motorworks

Cost Summary

----->----->----->---Continued on the next page--->----->----->----->

I hereby authorize the above repair work to be done with the necessary material and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on street, highways or elsewhere for the purpose of testing and/or inspection. An express mechanics lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto. You will not be held responsible for loss or damage to vehicle or articles left in vehicle in case of fire, accident or any other cause beyond your control.

(Signature) _____



Work Order No.

000005019 Order Date

BAR #: AD 227291
1857 Park Road
Benicia, CA 94510
Phone: 707.747.9753 FAX: 707.747.9743

Payments to Benicia Motorworks

Cost Summary

Labor	3,915.00
Parts	1,548.57
Haz Waste	10.00
Subtotal	5,473.57
Tax	114.21
Total	\$5,587.78
Payments	0.00
Bal Due	5,587.78

Status: New Work Order

Payments:

Thank you for choosing Benicia Motorworks

**AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
CONSENT CALENDAR**

DATE : March 12, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY SUSAN
MIRKOVICH AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Susan Mirkovich.

EXECUTIVE SUMMARY:

Claimant alleges that during the December storm, mud from the open space behind her property flowed into her swimming pool. Claimant further alleges that the open space behind her property is maintained by the City. City staff has confirmed that this area is not maintained by the City.

BUDGET INFORMATION:

This amount of this claim is for \$250.00.

STRATEGIC PLAN:

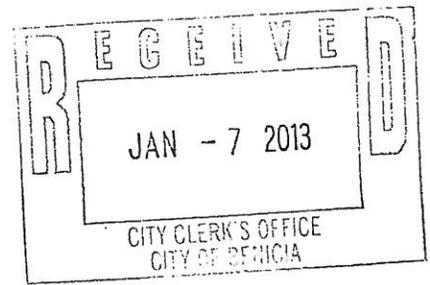
N/A-there is not a relevant Strategic Plan Goal that relates to this agenda item.

BACKGROUND:

Claimant asserts that during the December storm, water was pouring down the hill from the open space behind her property, filling her pool with mud. Claimant alleges that this is the second time this happened. Claimant understands this storm was an "act of god" however, it is very clear to her that the damage was caused as a result of the drainage ditch not being maintained by the City. City staff has confirmed that this area is not maintained by the City. Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City



CLAIM AGAINST THE CITY OF BENICIA

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

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Susan Mirkovich

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

HOME PHONE: _____ WORK PHONE: _____

3. AMOUNT OF CLAIM: \$ 250.00 (Attach copies of bills/estimates)

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

Limited Civil Case _____

Unlimited Civil Case _____

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

(Name)

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

5. DATE OF INCIDENT: 12/2/12 TIME OF INCIDENT: 10 AM

LOCATION OF INCIDENT: Backyard of

6. Describe the incident or accident including your reason for believing that the City is liable for your damages:

See attached sheet

7. Describe all damages which you believe you have incurred as a result of the incident:

See attached sheet

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

Susan Mirkovich
Signature of Claimant

1/6/13
Date

Lisa/Jayne
Please send to
APBAG at the
Bruce Carey.
Thye

Any person who, with intent to defraud, presents any false or frau by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government

(revised 12/18/02)

Claimant: Susan Mirkovich

Date of Claim: 12/2/12

6. Describe the incident or accident including your reason for believing that the City is liable for your damages:

When we woke up on the morning of December 2, 2012 following the torrential rainstorm, we noticed that the water was pouring down our hill from the open space filling our pool with mud. The water was coming down so fast that the pool was not able to empty the overflow fast enough. Unless we lowered the overflow, the water would eventually come into the lower level of our home. We called the fire department that was able to come out and empty the pool by six or seven inches. While they were here, our neighbor pointed out that there was a drainage ditch behind our fence. When they went up behind the fence, they cleared out some of the drainage ditch and the flow of water stopped immediately.

I contacted the Department of Public Works the next day and they came to inspect the ditch. They cleared it out some more and informed me that they were going to "bump" it up to their management. To date, we have not heard back from them.

7. Describe all damages which you believe you have incurred as a result of this incident.

This is the second time this has happened. The first time was in 2011, but we were not home and did not see the source of the water flow. This time we clearly saw that the water was coming from the open space behind us. Since the pool was filled with mud, we had to have it professionally cleaned out. In addition to the pool being filled with mud, we are also incurring the cost of having to refill our pool due to the vacuuming out of the mud and debris. We understand that flooding is an "act of God", however, it was very clear to us that the damage was caused as a result of the drainage ditch not being maintained. We are only asking that the cost of the cleaning of the pool be reimbursed.

NORTH BAY WATER SERVICES, INC.

Invoice

6180 Egret Court, Suite A
Benicia, CA 94510

DATE	INVOICE #
12/14/2012	20056

BILL TO
SUSAN MIRKOVICH

SERVICE ADDRESS
SUSAN MIRKOVICH

P.O. NUMB...	TERMS	TECH	COMPLET...	Toll Free Phone Number 1-800-448-0362 Calif. Contractor's Lic.# 664534	
	Due on receipt	MikeG	12/14/2012		
QUANTITY	ITEM CODE	DESCRIPTION		PRICE EACH	AMOUNT
2.5	Pool cleaning	Pool Cleaning - Muddy Pool Sales Tax		100.00 7.375%	250.00 0.00
					
We appreciate your business.				Total	\$250.00

**AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
BUSINESS ITEMS**

DATE : February 21, 2013

TO : City Council

FROM : City Attorney

SUBJECT : **INTRODUCTION AND FIRST READING OF AN ORDINANCE
CHANGING THE ELECTION DATE FOR GENERAL MUNICIPAL
ELECTIONS TO EVEN-NUMBERED YEARS AND EXTENDING THE
TERMS OF CURRENT COUNCIL MEMBERS BY UP TO 12 MONTHS**

RECOMMENDATION:

Introduce and adopt the attached ordinance which would change the election date for General Municipal Elections.

EXECUTIVE SUMMARY:

At the February 5 and 19 meetings, the City Council directed the preparation of an ordinance to change the election date from odd-numbered years to even-numbered years. Doing so will save the City money with each election since it allows the election to be consolidated with other elections. It may also increase voter turnout. It does increase the terms of the elected officials by one year.

BUDGET INFORMATION:

It is estimated that the City would save money per election cycle if the date of the election were changed to even-numbered years. There is a one-time cost to changing the election date since voters must be notified. There are currently 18,385 registered voters. This results in an estimated cost of notification of \$8,457.10 in postage plus supplies and labor to do the mailing. If an additional mailer to notify voters about the first reading of the ordinance is desired, it is estimated that the cost for the additional postcard mailer would be less than the estimated \$8,457.10 for the required mailer noted above.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A

BACKGROUND:

As noted in the February 5 and 19, 2013 staff reports, in 1997 the City Council

changed the election date for general municipal elections to elect Council members, the City Clerk and the City Treasurer to November of odd-numbered years. This change was codified in Section 1.16.010 of the Benicia Municipal Code. This section states "General Municipal elections shall be held on the same day as the regular election in November of odd-numbered years as that date is established in the California Elections Code...." A copy of that staff report is attached.

Elections Code Sections 1301 and 10403.5 allow a general law city to change its election date by the adoption of an ordinance so long as the change is approved by the Board of Supervisors. County representatives indicate that Fairfield is also seriously contemplating changing their election date to even-numbered years. The more cities and districts that change their elections to even-numbered years, the higher the costs will be for those who remain with odd-numbered year elections.

A postcard mailer was sent to households with registered voters. All of the comments received to date have been positive. See attached. Benicia Unified School District and other agencies have already taken steps to change to even year elections. At this point it seems that only Vallejo has not changed to an even year election. This may be due to the fact their charter governs when their election is.

CHANGING THE TERM OF OFFICE: The change of election date necessarily requires that the term of the elected officials either be extended or shortened. This change does not require voter approval. State law requires that the new election date may not increase or decrease the term of office for any elected official by more than 12 months. Changing the election date from November of 2013 to November of 2014 will result in just a 12 month increase in the term of office. If it were desired to decrease the term of office, the change in election date would necessarily have to be delayed so that the terms could be decreased a year.

The practical implication of changing the election date is this. The current terms of the elected city officials expire as follows:

- 2013 - Hughes and Schwartzman
- 2015 - Patterson, Strawbridge, Campbell, Wolfe, Autz

Changing the elections to even-years would extend the terms of the officials as follows:

- 2014 - Hughes, Schwartzman
- 2016 - Patterson, Strawbridge, Campbell, Wolfe, Autz

If it were desired to switch to even-year elections and shorten the terms of the officials, it would take an additional election to accomplish the results. This requires election in 2013, 2014 and 2016.

2013 - Schwartzman and Hughes' seats would be up for election.

2014 - Patterson, Strawbridge, Campbell, Wolfe, Autz' seats would be shortened from 2015 and up for election.

2016 - Candidate/Schwartzman and Candidate/Hughes' shortened seats would be up for election

ESTIMATED COSTS: Attached is a chart prepared by the County showing the estimated costs for elections. The differences in the potential odd/even year projections are a result of whether the County places items on the ballot. Whenever the County or Solano Community College places an item on the ballot, it greatly decreases our costs. We hope to have a representative from the County to assist with questions about costs at the meeting.

Changing the election date also requires that the City Clerk notify, by mail, all registered voters. This cost is not included in the attached chart, but is noted in the budget section of this report. The notice would tell voters that the date of the election has changed to November in even numbered years and that the term of office for the elected officials would be extended for a year.

VOTER TURNOUT: At the last council meeting there was a discussion about the City's voter turnout in the last election. Both 22% and 40% figures were discussed. The 22% figure was quoted from the staff report approving the election results. The number was provided by the County, but is actually incorrect when the numbers are added up. The correct numbers are:

Total Ballots Cast at Precincts	2,324
Vote By Mail Ballots	5,037
Total Provisional Ballots	104
Total # of Ballots Cast	7,465
Total Registered Voters	17,631
Total Voter Turnout %	42.34%

A copy of the Chicago Law article reference by the Mayor is also attached to this report.

TIMETABLE: A calendar of proposed steps to change the election date is attached.

By State law, school districts that have November of odd-numbered year elections must notify the county that conducts their election of the intention to change to an even-numbered election cycle, no later than 240 days before the

currently scheduled odd-numbered year elections (2nd week of March for the November 5, 2013 election). State law only requires cities to notify the county before the date that the City Council must adopt a resolution to call the election and request that the city's election be consolidated and conducted by the County's Registrar of Voters (approximately mid-June 2013).

Attachments:

- ❑ Ordinance
- ❑ Comments from the Public
- ❑ Elections Code Section 1301
- ❑ Elections Code Section 10403.5
- ❑ Estimated Elections Costs
- ❑ Chicago Law Article
- ❑ Timetable
- ❑ 1997 Staff Report on Election Date

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 1.16.010 (GENERAL MUNICIPAL ELECTION) OF CHAPTER 1.16 (GENERAL MUNICIPAL ELECTIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE TO MOVE THE DATE OF THE CITY'S GENERAL MUNICIPAL ELECTION FROM THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN ODD-NUMBERED YEARS TO THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN EVEN-NUMBERED YEARS AND INCREASE THE CURRENT TERMS OF ELECTED OFFICIALS BY AN AMOUNT NOT TO EXCEED ONE YEAR

WHEREAS, the City of Benicia currently holds General Municipal Elections on the first Tuesday after the first Monday of November in odd-numbered years; and

WHEREAS, California Elections Code Sections 1301 and 10403.5 authorize the City to reschedule its General Municipal Elections from the first Tuesday after the first Monday of November in odd-numbered years to the first Tuesday after the first Monday of November in even-numbered years; and

WHEREAS, the City Council of the City of Benicia has determined that its goals of encouraging maximum voter turnout and participation will be promoted by changing the General Municipal Election date of the City from the first Tuesday after the first Monday of November in odd-numbered years to the first Tuesday of the first Monday of November in each even-numbered year, to coincide with the statewide general election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA HEREBY ORDAINS AS FOLLOWS:

Section 1.

PURPOSE AND INTENT

The purpose and intent of this Ordinance is to reschedule the City's General Municipal Elections from the first Tuesday after the first Monday of November in odd-numbered years to the first Tuesday of the first Monday of November in each even-numbered year, to coincide with the statewide general election, by amending Section 1.16.010 "General Municipal Election" of Chapter 1.16 "General Municipal Election" of Title 1 "General Provisions" of the Benicia Municipal Code.

Section 2.

Section 1.16.010 (General Municipal Election) of Chapter 1.16 (General Municipal Election) of Title 1 (General Provisions) of the Benicia Municipal Code to read as follows:

1.16.010 General Municipal Election. The City shall hold its general municipal election on the first Tuesday after the first Monday in November of each even-numbered year.

Section 3.

ADJUSTING TERMS OF OFFICE

In accordance with the change of election date, the term of office of those members of the City Council elected in 2009 shall be extended for a period not to exceed twelve (12) months, until 2014. The term of office of those members of the City Council elected in 2011, the City Clerk and the City Treasurer shall be extended for a period not to exceed twelve (12) months, until 2016. Thereafter the term of office for all City Council members shall be for a four (4) year term.

Section 4.

TRANSMITTAL TO SOLANO COUNTY BOARD OF SUPERVISORS

In accordance with the provisions of Elections Code Section 10403.5(a)(1), the City Clerk is hereby directed to transmit a copy of this Ordinance to the Clerk of the Board of Supervisors of Solano County, together with the request that said Board approve this Ordinance and provide the City with notice of such approval.

Section 5.

NOTICE TO REGISTERED VOTERS

Within thirty (30) days after approval of this Ordinance by the Board of Supervisors of Solano County, the City Clerk shall cause a notice to be mailed to all registered voters in the City of Benicia informing them of the change in the election date and Council members' terms affected by this Ordinance, which notice shall be in accord with the requirements specified in Elections Code Section 10403.5(e).

Section 6.

CEQA DETERMINATION

The City Council finds, pursuant to Title 14 of the California Administrative Code Sections 15061(b)(3) and 15378(a), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt from the definition of a Project in Section 15378(b)(2) in that it concerns general policy and procedure making.

Section 7.

SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses, or phrases.

Section 8.

EFFECTIVE DATE; OPERATIVE DATE

This Ordinance shall take effect immediately after its final passage, pursuant to Government Code Section 36937(a). This Ordinance shall become operative upon approval by the Solano County Board of Supervisors. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code Section 33693.

Section 9.

CODIFICATION

Section Two of this Ordinance shall be codified in the Benicia Municipal Code. Sections 1, 3, 4, 5, 6, 7, 8, and 9 shall NOT be so codified.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 2nd day of April, 2013, and adopted at a regular meeting of the Council held on the _____ day of _____, 2013, by the following vote:

Ayes:

Noes:

Absent:

Mayor

Attest:

Elizabeth Patterson,

Lisa Wolfe, City Clerk

Jayne York - Election Date Change

From: Mae Howell
To: <jyork@ci.benicia.ca.us>
Date: 3/27/2013 12:08 PM
Subject: Election Date Change

Dear Ms. Jayne York

My name is Mae Howell and I am a Benicia resident. I am writing in full support of the proposed changes to change the election date to coincide with Presidential and Gubernatorial elections. I feel by making such a change we will not only save money, but we would have a greater turn-out of voters.

Thank you for your time.
Mae

Jayne York - even year elections

From: "Steve Clement"
To: <jyork@ci.benicia.ca.us>
Date: 3/21/2013 12:13 PM
Subject: even year elections

We can support the goal of saving city funds via the shift from odd-numbered years for elections to even. This shift effort is insignificant to the average voter. Perhaps it should have been implemented years sooner?

The Clement family
1140 East 7th Street
Benicia

Jayne York - election date change

From: Dede Case
To: <jyork@ci.benicia.ca.us>
Date: 3/19/2013 1:10:14 PM
Subject: election date change

I'm for it.

Dede

Jayne York - election options

From: Pat McKeever
To: <jyork@ci.benicia.ca.us>
Date: 3/18/2013 4:38 PM
Subject: election options

I think that changing the elections to even numbered years is a great idea. It might get more participation as well as decrease the election expense. A Win - Win situation.
Thanks for soliciting input from the electorate!

Pat McKeever

Jayne York - Comment: Election date proposal for city elections to even-numbered years

From: Thelma Bentley
To: <jyork@ci.benicia.ca.us>
Date: 3/18/2013 12:49 PM
Subject: Comment: Election date proposal for city elections to even-numbered years

Dear Ms York,

I would like to add a positive comment to moving the city election from odd to even years. As a seasoned pollworker for county election precincts, I do see the advantage of having it all on one ballot to reduce costs and have a better turnout when city election is aligned with Presidential and Gubernatorial ones. This offers an organized method to the public.

I vote "YES" to the proposal.

--

Best wishes Thelma
Notary Public

Jayne York - Changing Election Date for general city elections

From: Jeffrey Trybull
To: <jyork@ci.benicia.ca.us>
Date: 3/18/2013 8:29 AM
Subject: Changing Election Date for general city elections

Dear Jayne: Just a quick note in response the the recent mailing notice to express my support of changing Benicia city elections to even-numbered years in order to save the city money. Thanks.
Jeffrey J. Trybull, 560 Daffodil Drive, Benicia, CA 94510

From: Len Corbaley
To: "jyork@ci.benicia.ca.us" <jyork@ci.benicia.ca.us>
Date: 3/16/2013 6:38:02 PM
Subject: Even year elections

We agree that moving to even numbered years is the proper thing to do.

Joanne Corbaley
Len Corbaley
118 Gill Way
Benicia, Ca
745 3157

Sent from my iPad. W6LHC

Jayne York - Changing the election year

From: Wayne Potter
To: "jyork@ci.benicia.ca.us" <jyork@ci.benicia.ca.us>
Date: 3/16/2013 10:08 AM
Subject: Changing the election year

I'm always for anything that will save our tax dollars! Changing the election to 2014 (and even years) makes sense to me.

A. Wayne Potter
707-297-6563

Jayne York - election date change

From: Karen Thompson
To: "jyork@ci.benicia.ca.us" <jyork@ci.benicia.ca.us>
Date: 3/15/2013 7:34 PM
Subject: election date change

Hello Jayne York,

I support changing the city elections to even numbered years.

Thank you,
Karen Thompson

C**Effective: January 1, 2005**West's Annotated California Codes [Currentness](#)Elections Code ([Refs & Annos](#))▣ [Division 1](#). Established Election Dates ([Refs & Annos](#))▣ [Chapter 4](#). Local Elections ([Refs & Annos](#))→→ **§ 1301. General municipal election**

(a) Except as required by [Section 57379 of the Government Code](#), and except as provided in subdivision (b), a general municipal election shall be held on an established election date pursuant to [Section 1000](#).

(b)(1) Notwithstanding subdivision (a), a city council may enact an ordinance, pursuant to Division 10 (commencing with [Section 10000](#)), requiring its general municipal election to be held on the same day as the statewide direct primary election, the day of the statewide general election, on the day of school district elections as set forth in [Section 1302](#), the first Tuesday after the first Monday of March in each odd-numbered year, or the second Tuesday of April in each year. Any ordinance adopted pursuant to this subdivision shall become operative upon approval by the board of supervisors.

(2) In the event of consolidation, the general municipal election shall be conducted in accordance with all applicable procedural requirements of this code pertaining to that primary, general, or school district election, and shall thereafter occur in consolidation with that election.

(c) If a city adopts an ordinance described in subdivision (b), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (b), unless the ordinance in question is later repealed by the city council.

(d) If the date of a general municipal election is changed pursuant to subdivision (b), at least one election shall be held before the ordinance, as approved by the board of supervisors, may be subsequently repealed or amended.

CREDIT(S)

(Added by [Stats.1996, c. 1143 \(S.B.1200\)](#), § 24.5, eff. Sept. 30, 1996. Amended by [Stats.2003, c. 824 \(A.B.1521\)](#), § 1; [Stats.2004, c. 785 \(A.B.2790\)](#), § 1.)

HISTORICAL AND STATUTORY NOTES

Effective: January 1, 2005West's Annotated California Codes [Currentness](#)Elections Code ([Refs & Annos](#)) [Ⓜ] [Division 10](#). Local, Special, Vacancy, and Consolidated Elections ([Refs & Annos](#)) [Ⓜ] [Part 3](#). Consolidation of Elections ([Refs & Annos](#)) **→→ § 10403.5. Municipal election consolidated with statewide election or school district election; approval; effect on terms of office**

(a)(1) Any city ordinance requiring its general municipal election to be held on a day specified in [subdivision \(b\) of Section 1301](#) shall be approved by the board of supervisors unless the ballot style, voting equipment, or computer capability is such that additional elections or materials cannot be handled. Prior to adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) A city, by itself or in concert with other cities, may purchase or otherwise contribute to the purchase of elections equipment, including, but not limited to, a computer for the purposes of conducting a consolidated election when the equipment shall be owned by the county.

(b) As a result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive.

(c) If an election is held on a day specified in [subdivision \(b\) of Section 1301](#), and the election is consolidated with another election this part, except [Section 10403](#), shall govern the consolidation and, if the county elections official is requested to conduct the municipal election, [Section 10002](#) shall be applicable to that election.

(d) If a general municipal election is held on the same day as a statewide election, those city officers whose terms of office would have, prior to the adoption of the ordinance, expired no later than the next regularly scheduled city council meeting after receipt of the certification of the results from the elections official shall, instead, continue in their offices until not later than that meeting.

(e) Within 30 days after the ordinance becomes operative, the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected city officeholders will be changed.

CURRENT			
November - Odd Year	Voters	Voting Opp	\$ 1,000,000
City of Benicia	17,781	0.049058884	\$ 49,058.88
City of Fairfield	47,138	0.130056671	\$ 130,056.67
City of Vallejo	52,511	0.144881112	\$ 144,881.11
Benicia USD	17,826	0.049183042	\$ 49,183.04
Dixon USD	10,182	0.028092771	\$ 28,092.77
Fairfield-Suisun USD	60,482	0.166873596	\$ 166,873.60
Travis USD	9,826	0.027110545	\$ 27,110.54
Vacaville USD	41,139	0.113505057	\$ 113,505.06
Vallejo City USD	53,753	0.148307867	\$ 148,307.87
Solano County BOE *	30,181	0.083271254	\$ 83,271.25
Solano Irrigation District	19,661	0.054245921	\$ 54,245.92
Cordelia Fire Protection	1,962	0.00541328	\$ 5,413.28
	362,442	1.00	\$ 1,000,000
November - Even Year	Voters	Voting Opp	\$ 1,000,000
State/Federal Offices	199,077	0.337930121	\$ 337,930.12
County Offices	199,077	0.337930121	\$ 337,930.12
City of Dixon	8,767	0.014881847	\$ 14,881.85
City of Rio Vista	4,954	0.008409338	\$ 8,409.34
City of Suisun	12,905	0.021906037	\$ 21,906.04
City of Vacaville	44,377	0.07532927	\$ 75,329.27
River Delta Unified	5,222	0.008864264	\$ 8,864.26
Solano Community College	108,205	0.18367631	\$ 183,676.31
San Joaquin Comm College	5,239	0.008893121	\$ 8,893.12
Davis Joint USD	36	6.11094E-05	\$ 61.11
Winters Joint USD	606	0.001028676	\$ 1,028.68
Yolo County BOE	642	0.001089785	\$ 1,089.79
	589,107	1.00	\$ 1,000,000

POTENTIAL			
November - Odd Year	Voters	Voting Opp	\$ 1,000,000
City of Benicia	17,781	0.033464574	\$ 33,464.57
City of Fairfield	47,138	0.088715657	\$ 88,715.66
City of Vallejo	52,511	0.098827865	\$ 98,827.86
Benicia USD	17,826	0.033549266	\$ 33,549.27
Dixon USD	10,182	0.019162943	\$ 19,162.94
Fairfield-Suisun USD	60,482	0.113829615	\$ 113,829.62
Travis USD	9,826	0.018492937	\$ 18,492.94
Vacaville USD	41,139	0.077425292	\$ 77,425.29
Vallejo City USD	53,753	0.10116536	\$ 101,165.36
Solano County BOE*	199,077	0.374671113	\$ 374,671.11
Solano Irrigation District	19,661	0.037002812	\$ 37,002.81
Cordelia Fire Protection	1,962	0.003692565	\$ 3,692.56
	531,338	1.00	\$ 1,000,000
November - Even Year	Voters	Voting Opp	\$ 1,000,000
State/Federal Offices	199,077	0.328029225	\$ 328,029.22
County Offices *	199,077	0.328029225	\$ 328,029.22
City of Dixon	8,767	0.014445829	\$ 14,445.83
City of Rio Vista	4,954	0.008162956	\$ 8,162.96
City of Suisun	12,905	0.02126422	\$ 21,264.22
City of Vacaville	44,377	0.073122224	\$ 73,122.22
River Delta Unified	5,222	0.008604553	\$ 8,604.55
Solano Community College *	108,205	0.178294842	\$ 178,294.84
San Joaquin Comm College	5,239	0.008632565	\$ 8,632.56
Davis Joint USD	36	5.9319E-05	\$ 59.32
Winters Joint USD	606	0.000998537	\$ 998.54
Yolo County BOE	642	0.001057856	\$ 1,057.86
City of Benicia	17,781	0.029298651	\$ 29,298.65
Benicia USD			
	606,888	1.00	\$ 1,000,000

* County wide vs. 2-3 district offices

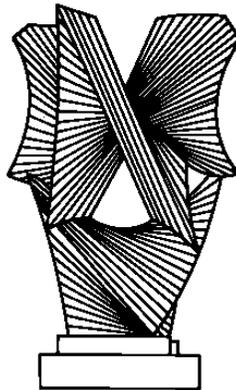
Solano Community College w/ one district (no county offices)

November - Even Year	Voters	Voting Opp	\$ 1,000,000	
State/Federal Offices	199,077	0.611228124	\$ 611,228.12	
County Offices *	-	0	\$ -	NO RUN-OFFS
City of Dixon	8,767	0.026917409	\$ 26,917.41	
City of Rio Vista	4,954	0.015210316	\$ 15,210.32	
City of Suisun	12,905	0.039622352	\$ 39,622.35	
City of Vacaville	44,377	0.136251151	\$ 136,251.15	
River Delta Unified	5,222	0.016033159	\$ 16,033.16	
Solano Community College *	26,094	0.080116672	\$ 80,116.67	1-TRUSTEE AREA WITH CONTESTS
San Joaquin Comm College	5,239	0.016085355	\$ 16,085.35	
Davis Joint USD	36	0.000110531	\$ 110.53	
Winters Joint USD	606	0.001860608	\$ 1,860.61	
Yolo County BOE	642	0.001971139	\$ 1,971.14	
City of Benicia	17,781	0.054593184	\$ 54,593.18	
	325,700	1.00	\$ 1,000,000	

CHICAGO

JOHN M. OLIN LAW & ECONOMICS WORKING PAPER NO. 536
(2D SERIES)

PUBLIC LAW AND LEGAL THEORY WORKING PAPER NO. 324



VOTERS, NON-VOTERS AND THE IMPLICATIONS OF ELECTION TIMING FOR PUBLIC POLICY

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September 2010

This paper can be downloaded without charge at the John M. Olin Program in Law and Economics Working Paper Series: <http://www.law.uchicago.edu/Lawecon/index.html> and at the Public Law and Legal Theory Working Paper Series: <http://www.law.uchicago.edu/academics/publiclaw/index.html> and The Social Science Research Network Electronic Paper Collection.

Voters, Non-voters, and the Implications of Election Timing for Public Policy

Christopher R. Berry *

Jacob E. Gersen **

Abstract

This paper makes use of variation in the timing of local elections to shed light on one of the core questions in democratic politics: what would happen if everyone voted? Does a low voter turnout rate imply that a small subset of special interest voters controls politics and policy? Or, are voters largely representative of non-voters such that neither the outcomes of elections nor resulting public policies would change even if everyone participated? Rather than rely on surveys of nonvoters to extrapolate their hypothetical behavior, we rely on a natural experiment created by a 1980s change in the California Election Code, which allowed school districts to change their elections from off-cycle to on-cycle. Because we are able to observe very large within-district changes in voter turnout resulting from changes in election timing, we are able to isolate the effect of turnout on policy outcomes, including teacher salaries and student achievement tests. Our analysis demonstrates that changes in voter turnout do affect public policy, but modestly.

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** Professor of Law, University of Chicago. We are grateful for useful discussion and comments from Stephen Ansolabehere, Ethan Bueno de Mesquita, Anne Joseph O'Connell, Paul Peterson, and Martin West. Excellent research assistance was provided by Sarah Anzia, CC Dubois, Monica Groat, Masataka Harada, William Sullivan, and Lindsay Wilhelm.

I. Introduction

How would public policy change if everyone voted? Does a low voter turnout rate imply that a small subset of special interest voters controls politics and policy? Or, are voters largely representative of non-voters such that neither the outcomes of elections nor resulting public policies would change even if all eligible voters participated in politics? These longstanding questions are at the core of democratic politics and they continue to beguile modern scholarship (Citrin, Schickler, and Sides 2003; Leighley and Nagler 2009).¹

The conventional approach to this question relies on survey data to compare the partisanship and policy preferences of voters with those of non-voters, makes extrapolations as to how non-voters would have voted (if they had voted), and asks whether their hypothetical votes would have changed election outcomes. While this approach is both sensible and has been quite fruitful, it also suffers from three notable limitations. First, it assumes that unobservable differences between voters and non-voters—that is, differences in attributes or attitudes not measured in the survey—do not confound the extrapolation from survey responses to vote choice. If a voter and a non-voter differ in some unmeasured way, then it may not be the case a non-voter would make the same vote choice as a voter with the identical observable characteristics. Second, the approach assumes that the politics surrounding the election would not change under the counterfactual of full turnout. But if politicians expected non-voters to turnout, other aspects of the campaign might change accordingly. For instance, if candidates changed their platforms or tactics to appeal to erstwhile non-voters, then the vote choice of *both* groups might change relative to the current state of the world. Finally, and in our view most

importantly, the survey-based approach can say little about how *policy* would change as a result of increased turnout. That is, regardless of whether the identity or party of the winning candidate changes, the ultimate question scholars of politics should care most about is whether implemented public policy would change if turnout increased. This latter question cannot be answered without an additional step of extrapolation beyond survey data.

This paper offers a new approach to these questions, one that we view as complementary to the existing literature. Our research design takes advantage of a 1980s change in the California Election Code that allowed school boards to change their elections from odd years (off-cycle) to even years (on-cycle). This simple change in scheduling, we will show, produced more than a 150 percent increase in voter turnout in school board elections. Because we are able to identify dramatic changes in turnout in similar elections over time that do not stem from differences in the underlying substance of the elections themselves, we are able to avoid some of the pitfalls that have challenged prior studies. We are able to observe elections within the same political jurisdiction under conditions of high and low voter turnout and to identify resulting changes in policy outcomes. We then analyze a conventional measure of interest group influence, teacher salaries, as well as a conventional measure of aggregate performance, student test scores. Our analysis demonstrates that dramatic changes in voter turnout for school board elections produce relatively small, but statistically significant, effects on substantive education policies. We cannot say whether this is because voters in an election with low turnout have similar preferences to voters in the high turnout case, but we can say that the effect of increased turnout on policy is relatively modest. Thus, using a new and different empirical approach that focuses on policy

¹ Andrew Gelman provides an accessible and informative introduction to these questions:

outcomes directly, our results are consistent with an accumulation of past studies suggesting that substantial increases in voter participation would not substantially alter the outcomes of the democratic process.

II. Background

There are three dominant views in political science about the relationship between voters and non-voters. One strand of scholarship dating at least back to Wolfinger and Rosenstone (1980) argues that changes in voter turnout would produce negligible effects on electoral outcomes. As Highton and Wolfinger put it (1999) “voters differ minimally from all citizens” (Bennett and Resnick 1990; Gant and Lyons 1993; Norrander 1989). And because nonvoters are a diverse group rather than one with uniform preferences, the probability that electoral outcomes would shift if nonvoters voted is thought to be relatively small. While low rates of political participation might be troubling for some independent theory of the political good, on this view, even significant increases or decreases in the voter turnout would be unlikely to change the outcomes of elections.

A second prominent view holds that the voting public actually has significantly different preferences from the nonparticipating public and that it matters for public policy. Leighley and Nagler (2009) argue that moderates are under-represented in the voting population (relative to the universe of nonvoters) and conservatives are over-represented, a gap that has increased in the past several decades. Voters, on this view, differ significantly from nonvoters at least raising the specter that elections with higher participation would generate different political outcomes.

http://www.stat.columbia.edu/~cook/movabletype/archives/2007/12/what_difference.html.

Other scholarship attempts to link policy outcomes and rates of voting with cross sectional data: states with higher rates of voting among less affluent demographic groups have policies that are friendlier towards low income populations (Hill and Leighley 1992, 1995).

A third view agrees with the descriptive claim that voters and nonvoters are different, but raise doubts that electoral outcomes would routinely differ even if more nonvoters were to vote, largely because so few elections are competitive enough for the differences to matter (Citrin, Schickler, and Sides 2003). Alternatively, even if the same officials would be elected, it could be that those officials would be more responsive to the views of voters than nonvoters (Griffin and Newman 2005; Bartels 2009; Gilens 2005), implying that policies might differ as a function of turnout even if the winners of any given election would not change.

Much of the related literature focuses on federal elections, but recent work has also targeted local elections, where turnout can be significantly lower, in which changes in turnout may be more likely to affect electoral outcomes (Hajnal, Lewis, and Louch 2002; Bridges 1997). For example, Hajnal and Trounstine (2005) find that in city elections, lower turnout leads to substantial reductions in the representation of Latinos and Asian Americans on city councils and in the mayor's office. Indeed, this recent work echoes much older work on the importance of differential turnout in local government elections as a determinant of policy outcomes. The possibility that single-function elections might be dominated by interests whose preferences deviate from the median voter in the broader electorate was a motivating insight in early work on school district elections (Rubinfeld and Thomas 1980; Rubinfeld 1977), which sought to use survey methods to demonstrate that large changes in turnout shifted the preference of the median voter on school funding questions.

An important empirical challenge for the voters versus nonvoters debate is that one must make counterfactual inferences about how nonvoters would behave if they were to vote or about what policies would have been selected had political participation been different. The most common approach is to estimate how citizens who did not vote would have voted by matching their demographics and political views to voters in the population. Unfortunately, using demographics to predict how nonvoters would have voted is challenging because the two groups differ in a key—arguably, *the* key—respect: their willingness to bear the costs of political participation. This dimension may also be correlated with political views and electoral behavior. Direct surveys of nonvoters make this task somewhat less heroic (e.g. Citrin et al. 2003), but one still needs to posit a model of political participation in the face of a revealed preference for nonparticipation.

If estimating the impact of differential turnout on who wins elections is hard, identifying an effect on real world policy is even more daunting. First, virtually all prior studies rely on cross sectional data, asking whether policy outcomes in a high turnout jurisdiction differ from the policy outcomes in a low turnout jurisdiction. But, of course, policy choices are the result of an enormous number of factors that differ across communities, some of which are observable but many of which are not. Thus, the inference problems that always challenge cross-sectional analysis are particularly relevant in this setting. Second, and related, prior scholarship has focused mainly on elections of general-purpose government officials, such as presidents, congress members, or governors, with responsibility for a wide variety of different policy issues. The marginal impact of turnout on any particular dimension may be small and extremely difficult to isolate in practice. To illustrate, one might study congressional elections during midterm

versus presidential years, thus usefully confining the analysis to the same jurisdiction under differential turnout conditions. However, it is not at all obvious how one would even go about asking whether public policy changed as a result.² To even begin to estimate the effect of voter turnout on public policy, one needs a relatively large change in turnout, preferably within the same jurisdiction over time, that is uncorrelated with the substance of the given elections, in an electoral setting with a clearly defined policy domain. This is what our research design seeks to accomplish.

III. Election Timing, Selective Participation, and Public Policy

Our approach is motivated by a small but growing literature on the timing of elections in local government (see Berry and Gersen 2010). That topic is important unto itself given that most elections in the United States are not federal elections, but state and local government elections. Indeed, there are more than 500,000 elected officials in the United States, and fewer than 600 of them are federal officials (Berry and Gersen 2009). Among local governments, moreover, there is enormous heterogeneity with respect to when elections are held. Some localities hold all elections on the same day in November; other local political jurisdictions hold elections for different offices on entirely separate days during at different times of the year. In some localities there is at least one local government election in eleven months of the year (Souzzi 2007). Amidst this great heterogeneity, one widely known and well accepted fact is that

² Halberstam and Montagnes (2009) compare the voting records of US Senators first elected in presidential election years relative to those first elected during midterm election years and find that the former exhibit more ideologically extreme voting patterns. Although their analysis does not speak to policy outcomes directly, they do show a clear linkage between concurrent elections and post-election behaviors of politicians which may have important policy implications.

turnout in local elections is notably higher when those elections are held concurrently with major national or state races (Hajnal et al. 2002).

While most of the literature on turnout and election timing is based on cross-sectional comparisons of jurisdictions with different election schedules, our analysis is based on a within-jurisdiction analysis over time. Specifically, we exploit a change in the law which led to massive increases in turnout in school board elections in California. Because we can observe policy outcomes within the same electoral environments, indeed the exact same jurisdictions, under conditions of high and low voter turnout, we can more directly link policy changes to changes in political participation. Rather than extrapolating from the preferences of voters to the preferences of nonvoters, from preferences to election outcomes, and from election outcomes to policy, we can simply compare policy outcomes before and after the change in election timing.

In considering the relevant policy outcomes for our analysis, we work from a simple model of voter behavior. We assume that whenever an election is held, there will be some citizens who are indifferent between voting and not voting. For this group of citizens, the benefits of voting are roughly equal to the costs of political participation. As participation costs increase, these voters will stop participating and as a result, the median voter in the group of actual voters will change. Similarly, as participation costs decrease, some citizens who were unwilling to bear the costs of voting previously may choose to participate, again changing the identity of the median actual voter in the election. That is, the observed or actual median voter is endogenous to the political participation cost structure (Dunne, Reed, and Wilbanks 1997). As participation cost rise, the voters who continue to participate in elections should be those with the most at stake in the outcome. Here, and elsewhere, we refer to this as *selective participation*

(Berry & Gersen 2010; Berry 2009): the pool of actual voters in a given election is a selective function of voter interest—potential gains or losses from the electoral outcome. Because rising costs of participation drive out potential voters from an election selectively, the substantive political preferences of actual voters should diverge from the political preferences of nonvoters in the jurisdiction. Importantly, this a comparative claim. As between two otherwise identical hypothetical elections, the pool of actual voters will differ as a function of the participation costs. The higher are the costs of participation, the greater the predicted divergence between the preferences of voters and non-voters.

To illustrate, consider two elections for school board membership. The first takes place in April and is the only election on that day. The second takes place in November on the same day and at the same location as elections for other local, state, and national offices. The selective participation framework suggests that the preferences of the voters in the oddly timed school board election will not only be different from the pool of voters in the November school board election (cf. Rubinfeld and Thomas 1980; Rubinfeld 1977; Berry and Gersen 2010), but also that the distance between the median voter and the pool of potential voters in the jurisdiction will be larger for the oddly timed election than the November election. Changes in participation costs associated with the timing of elections, therefore, provide a particularly natural way to shed light on the voter-nonvoter problem. Indeed, a couple of excellent papers have already explored these ideas in the context of school *bond* elections (Dunne, Reed, and Wilbanks 1997; Meredith 2009), showing that bonds are more likely to pass during elections held off-cycle, due to the differing, and more supportive electorate, that goes to the polls. Berry (2009) extends the logic from school bond elections to elections for governing boards.

In the case of school board elections, it is widely acknowledged that teachers unions are the single most influential interest group (Hess 2002). Moreover, Moe (2006) has shown that teachers are two- to seven-times more likely to vote in school board elections than are other citizens. The selective participation framework suggests that special interest voters—for example, union members—will be more influential in off-cycle than on-cycle elections. A standard measure of the political influence of public sector unions is the salary of public employees.³ Therefore, the first policy outcome we analyze is teacher salaries. Specifically, we ask whether the salary schedules negotiated between school boards and union representatives are more favorable when districts operate on low-turnout, off-cycle election schedules.⁴

Importantly, the selective participation argument is not a normative one. When participation is most costly only the voters who care most intensely about the issue at stake will turn out. On the one hand, special interests may use their electoral influence to secure particularistic benefits for themselves at the expense of nonvoters. On the other hand, special interests are likely to be precisely those voters with the most information and the greatest expertise regarding the issue at stake, and their participation may result in better candidates being elected (or worse candidates being voted out), ultimately leading to better public policy. Which of these two effects dominates in any given case is an empirical question.⁵ Thus, in addition to

³ We follow a significant literature in using public employee's salaries as a dependent variable in an analysis of political influence. The related literature is vast, but important contributions include Babcock and Enberg (1999), Baugh and Stone (1982), Bellante and Long (1981), Courant, Gramlich, and Rubinfeld (1979), Ehrenberg and Goldstein (1975), Farber (1986), Fogel and Lewin (1973), Freeman (1986), Freund (1973), Kleiner and Petree (1988), O'Brien (1992, 1994), Summers (1973), and Rose and Sonstelie (2006). Reviews of the literature, though now somewhat dated, are provided by Aaron, Najita, and Stern (1988), Gregory and Borland (1999), and Stone (2002).

⁴ Trounstine (2010) finds that municipal employees in cities with off-cycle elections earn more than those in cities with on-cycle elections, and Anzia (forthcoming) reports similar findings for teachers, although both analyses are strictly cross-sectional.

⁵ This basic tradeoff—namely that delegating to those with expertise may generate better decisions but also

teacher salaries, we also analyze student test scores. If off-cycle elections encourage participation by a more informed electorate, schools may ultimately perform better. If so, then we should expect to see student test scores decline following a change to on-cycle elections.

Before turning to the data, however, we note at least two good reasons to expect that our hypothesized effects might not, in fact, materialize. First, the selective participation thesis may simply be wrong. If the decision to vote is motivated by some factor that is unrelated to policy preferences—say, the sense of “duty” to vote—then voters may be a fairly representative sample of the electorate regardless of the timing of the election (Elcissor and Leighley 2001; Highton and Wolfinger 2001; Verba et al 1995). Second, in the context of local government specifically, some versions of the Tiebout model suggest that policy is shaped by interjurisdictional competition more than by local politics (Perroni and Scharf 2001; Sprunger and Wilson 1998; Rausher 1998; Rose-Ackerman 1983; Sonstelie and Portney 1978). If local governments compete with each other for an increased tax base, then the “right” bundle of public goods, taxes, and spending should be provided in each jurisdiction. Although this view is itself sometimes contested (e.g. Epple and Zelenitz 1981), a common theme in the local political economy literature is that “voting with your feet” makes voting at the ballot box superfluous.⁶ Ultimately, these are empirical questions, and we seek to shed light on them in the next section.

gives the expert some latitude to exploit the principal—is a very general problem and a core element of literature on mechanism design (Mas-Colell et al. 1995). The rationale for delegating authority to committees in Congress exhibits similar concerns (Shepsle and Weingast 1994). Delegating some policymaking authority to specialized committees may be an efficient way for the chamber to generate informed policies, but committees may also use their informational advantages strategically to benefit their members rather than the chamber (Krehbiel 1991; Gilligan and Krehbiel 1987).

⁶ For an extended discussion of these ideas, see Berry (2009, chap. 7).

IV. Empirical Analysis

We focus our analysis on local government elections in California for two reasons. First, there is a rich archive of electoral data available from the Center for California Studies at Sacramento State University. As explained below, this archive enables us to analyze thousands of local elections spanning 1996 through 2006. In most other states, by contrast, election data are maintained at the local level and must be collected on a cumbersome county-by-county basis.⁷

The second and more important reason for analyzing California is that there has recently been a large scale change in the timing of school board elections in the state. Prior to 1986, school district elections were held in odd-numbered years, while most local government and state government elections were held in even-numbered years. In the mid-1980s, the California Assembly passed Assembly Bill (AB) 2605, which authorized school districts to consolidate elections of board members with primary or general elections held in the county in which the district is located. The bill seems to have been overwhelmingly supported and the legislative history reveals that virtually all of the political rhetoric focused on the cost savings that would accrue from election consolidation and on the possibility of increasing voter turnout—generally described as an unqualified democratic good.⁸ Because of a then-recent change allowing other special districts to shift the date of their elections, had the bill failed, school districts would have

⁷ An exception is South Carolina, which “is the only state that centrally collects precinct-level election data for local school board races” (Berry and Howell 2007).

⁸ The Republican Analysis of AB 2605, California State Assembly, Assembly Elections and Reapportionment Committee (Aug. 22, 1986), explains that consolidated elections will increase voter turnout and thereby reduce the power of special interests like teachers’ unions. The Senate Rules Committee (July 3, 1986) noted that the bill would lead to cost savings by allowing for the consolidation of elections. Some supporters thought the bill would “would provide a broader base of support for the public school system” (Letter from Jeffrey N. Hamilton, Superintendent, Fort Jones Union Elementary School District, to Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Apr 4, 1986). Others emphasized cost savings (Letter from Bob L. Blacett, District Superintendent, Modoc Joint Unified School District, to Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Apr 2, 1986); Letter from James M. Donnelly, Director, Governmental Relations, to

been the only special district legally required to hold elections in odd years. As a result, at least one member of the legislature was concerned that school boards would be forced to pay all of what had been shared election costs.⁹ The modest debates in the press mirror these same concerns (e.g. Maeshiro 2005). The little opposition to the bill that did emerge was generally focused on a provision of the law that required approval from the board of supervisors of the county in which the school board changing election dates was located. Some administrators thought the decision should be left to the school boards alone.

Following the passage of AB 2605, California experienced a widespread shift in the timing of school district elections. Whereas all school board elections were held in odd years prior to the change in the law in 1986, our estimates indicate that roughly two-thirds of the state's districts had changed their election dates to even years by 2006.

The changes in local election timing were enabled by changes in state policy, namely the passage of AB 2506. Because these statewide changes were exogenous from the perspective of individual local jurisdictions, we have a sort of “natural experiment” that allows us to estimate the effect of election timing on political participation and policy outcomes. Indeed, a major distinguishing feature of our analysis is that we are able to observe electoral and policy outcomes within a jurisdiction over time before and after a change in election timing that results in massive increases in turnout. The advantages of this *differences-in-differences* approach are significant when compared to a traditional cross-sectional analysis. A cross-sectional analysis compares outcomes from one set of jurisdictions holding even-year elections to outcomes from a different

Johan Klehs, Chairperson, Assembly Elections and Reapportionment Committee (Feb 27, 1986). These letters are part of the legislative history of the bill and on file with the authors.

⁹ Assemblyman Richard Robinson noted that “without enactment of AB 2605, school districts could . . . be left to pay the full costs for conducting the expensive, low-turnout elections in the off years”) Letter from Richard Robinson, Assemblyman, 72d District, to George Deukmajian, Governor, State of California (Aug. 21, 1986).

set of jurisdictions holding odd-year elections. The differences between the two types of jurisdictions may be attributable to the effect of election timing, but the differences may also be due to other factors that differ systematically between jurisdictions holding even- versus odd-year elections. For example, California school districts that hold elections in even years are smaller and less urban than districts that hold elections in odd years, and have a lower proportion of students that are eligible for free or reduced-price lunch, an indicator of poverty (see Table 1). While it is, of course, possible to control for measurable district attributes in a statistical analysis, it is not possible to control for the unobservable aspects of the districts that are also correlated with election timing and voter participation (for example political interest or social capital). The policy change in California allows us to examine outcomes within the same district before and after a change in election timing. As long as other attributes of the district do not change before and after the shift in election timing, we can be more confident that the observed differences in outcomes are the result of the electoral regime.

Our analysis proceeds in two steps. First we examine the effect of election timing—specifically, the concurrence of major state and federal elections—on turnout in school board elections. Next, we investigate the effect of election timing on two related policy outcomes: teacher salaries and student test scores.

A. Timing and Turnout

That turnout in local elections is higher when they coincide with major national and state races is hardly a controversial proposition. For example, Hajnal, Lewis, and Louch (2002) found that turnout in California municipal elections roughly doubles (from about 18 to 35 percent of

adult residents) when those elections coincide with a presidential or gubernatorial election. Based on a national survey, Hess (2002) finds that turnout among registered voters in school board elections averages about 44 percent when those elections are concurrent with higher level offices, but only 26 percent when they are held separately. Like most of the literature, these two studies rely on cross-sectional data. A noteworthy exception is Townley, Sweeney, and Schneider (1994), who analyze changes in turnout within school districts in Riverside County, California, after many of those districts changed their election time from odd to even years. Their results are broadly consistent with the cross-section literature. They find that districts that changed their election timing experienced between a doubling and tripling of turnout in subsequent elections. Our empirical analysis of turnout essentially generalizes the latter study to include the entire state and extends the time frame with an additional decade's worth of election data.

We collected data on voter turnout from the California Elections Data Archive (CEDA) maintained by the Center for California Studies at Sacramento State University. The archive contains data on candidates, ballot designations, and vote totals for all county, municipal, school district, and community college elections held between 1996 and 2006. In total, we obtained data on over 4,900 school district elections held during this time period. CEDA contains the number of votes cast for each candidate in each election. Based on this information, we computed voter turnout as the total number of votes cast in the election divided by the voting age population in the jurisdiction.¹⁰ Because 94 percent of school district elections took place in November, we

¹⁰ We did not have access to data on the number of registered voters in the jurisdictions, so we rely on the number of voting-age residents. In addition, we had to drop observations from districts in which elections were held by ward rather than at large because we did not have census data by school district election area from which to compute the voting age population. As a result, we lose about 10 percent of districts, some of which are among the

excluded other months from our analysis. Roughly two-thirds of school district elections were held in even years. As shown in Table 2, elections held in odd years garnered less than half the level of voter participation as those held in even years— 13% versus 33% on average—and this differential was evident throughout all the years studied.

In order to confirm that the average turnout differentials are not result of differences in other attributes of the jurisdictions that hold their elections at different times, we ran a series of regression models controlling for population characteristics thought to influence voter turnout.¹¹ Specifically, we control for population size, as well as the racial and age composition of the jurisdiction. In addition, we control for the homeownership rate and the fraction of families with children, which are expected to be especially important determinants of participation in local elections. We emphasize that these variables measure the aggregate attributes of the population in the jurisdictions, not the attributes of individual voters, and therefore the usual cautions regarding the ecological fallacy apply (e.g., King 1997).

Table 3 shows the results of the turnout analysis. Models (1) and (2) show the regression of turnout on election timing and jurisdictional demographics. The coefficient for the odd-year dummy variable in model (1) is highly significant statistically and, at negative 20 percentage points, nearly equal to the simple difference in means. In other words, controlling for population demographics does not alter the basic story about turnout differentials between even and odd years.

Of course, we do not suggest that the evenness of the election year, per se, causes

largest in the state (e.g., Los Angeles and San Francisco Unified). For consistency, we also exclude these districts from the second stage (i.e., salary and test score) analyses. However, our results do not change notably if we include these districts in the second stage. Complete results are available on request.

¹¹ We obtained data the 1990 and 2000 US Censuses and linearly interpolated values for the intermediate years.

differences in voter participation. Rather, we hypothesize that the concurrence of major state and federal races in even years draws voters to the polls who otherwise might not vote in local elections. This hypothesis is tested more directly in model (2), which substitutes dummy variables for presidential, gubernatorial, and senatorial election years in place of the catchall odd year dummy variable.¹² The results indicate that turnout in school district elections is roughly 22 percentage points higher in presidential election years and 16 percentage points higher in gubernatorial election years, relative to odd years. The marginal effect on turnout of holding a U.S. Senate election coincident with a presidential or gubernatorial election is negligible.¹³

Models (3) and (4) of Table 3 introduce school district fixed effects, thereby isolating within-district differences in turnout between even and odd years. Identification in the fixed effects models comes from two sources. First, some districts held elections for school board seats in both even and odd years, usually due to the need for a special election to fill a vacant seat. Second, some districts changed their election timing from even to odd years during the course of our study period, as explained above. In both cases, we are able to observe how turnout differs within the same district between even and odd years. This specification purges the results of any time-invariant differences between districts that hold their elections on different schedules. The results do not change significantly from the OLS models. The only notable difference is that the senatorial election dummy becomes statistically significant—though remaining substantively

In addition, we linearly projected values forward through 2004.

¹² California gubernatorial elections occur in even years alternating with presidential elections. For example, there were presidential elections in 1996, 2000, and so on, while there were gubernatorial elections in 1998, 2002, etc. We cannot separately identify the effects of US House elections, because they always coincide with either a presidential or gubernatorial election. We can, however, identify the marginal effect of US Senate elections due to their staggered timing. For example, there was a senatorial election in 2000 and 2004, but not in 2002.

¹³ We cannot definitively attribute the turnout differential in presidential or gubernatorial election years to the presence of those offices on the ballot. In principle, any office that follows the same schedule of elections would produce the same coefficient in the model. However, we think it reasonable to attribute the turnout differentials to

small—with the inclusion of the district fixed effects.

The control variables in Table 3 perform generally as expected. The cross-sectional results (models 1 and 2) indicate that turnout is lower in larger districts, and in districts with a higher proportion of Hispanics, Native Americans, or “other” races. Turnout is higher in districts with more people over the age of 65, more families with children, and higher incomes. However, all but one of these effects dissipates when district fixed effects are added in models (3) and (4). The exception is the percent Hispanic variable, whose effect actually increases in the fixed effects specifications. To see why, recall that the dependent variable is defined as the number of votes over the voting age population. However, because they are disproportionately likely to be non-citizens, a simple count of the voting age population is particularly likely to overstate the number of eligible voters where there are many Hispanics.

B. Policy Consequences: Employee Compensation

Employee compensation represents a natural dependent variable for a test interest group influence in school board politics (e.g., Baugh and Stone 1982; Dunne et al. 1996; Kleiner and Petree 1988; Rose and Sonstelie 2006). First, there is clear evidence of selective participation by teachers’ union members in school district elections (Moe 2006). Second, higher salaries are a universal and unambiguous goal for teachers and their unions. Third, teacher salaries follow a rigid pay scale based on qualifications and experience, and comprehensive data on the pay scales are available from the California Department of Education (CDE). Thus, while teacher salaries represent just one special interest policy objective, they are a particularly direct, easily

the top offices on the ballot.

measurable, and unambiguous outcome for testing our theory.¹⁴

It is important to note that school districts do not have unfettered authority to set fiscal policy. Most states place limits on districts' fiscal autonomy, and California is extreme in the extent to which local budgets are determined at the state level (Hoxby 2001). As a result of voter-approved tax limits and court-ordered and legislative school finance reforms, the state government effectively determines local budgets and guarantees each district a roughly equal level of per pupil funding (Timar 2006).¹⁵ Individual districts have only limited ability to independently change the size of their budgets.¹⁶ Nevertheless, within the top-line budget constraint, districts retain nearly complete latitude in setting teacher salaries (Rose and Sengupta 2007).¹⁷

Each district determines its own salary schedule—that is, the salary paid to teachers with different combinations of education and experience—usually through a process of collective bargaining with union representatives. In other words, districts effectively decide how much of their budget to allocate to teacher compensation versus other expenditures.¹⁸ In practice there is tremendous heterogeneity in teacher salaries among districts within the state. For example, in 2005, the most generous district, Los Gatos-Saratoga, paid \$80,040, while the least generous district, Potter Valley Unified, paid only \$42,733 for equivalently qualified teachers at step 10 in

¹⁴ See footnote 3 above for additional references using public employee salaries as a measure of union political influence.

¹⁵ Categorical programs that provide supplemental funds for specific purposes, such as educating special-needs and low-income students or operating small schools, generate some variation in local revenue, meaning that per pupil spending is not perfectly equalized across districts.

¹⁶ Schools may enhance their budgets by raising voluntary contributions, but Brunner and Sonstelie (2003) show that such contributions account for a very small share of the variation in funding across schools.

¹⁷ Beginning in the 1999-2000 school year, the state mandated a minimum teacher salary of \$32,000, but the requirement was not binding for most districts (Loeb and Miller 2006).

¹⁸ On average in California, teacher compensation accounts for half of a district's total per pupil expenditures (Rose and Sengupta 2007).

the salary schedule. Indeed, in every year of our study, the highest paying district offered a salary roughly twice as high as that of the lowest paying district for comparably qualified teachers. Meanwhile, the 75th percentile district paid on average about 20% more than the 25th percentile district in each year. Thus, despite limits on districts' fiscal independence, there is substantial variation in teacher compensation across districts that remains to be explained. In the concluding section of the paper, we return to these issues and discuss the generalizability of our results beyond California.

We obtained the certificated salary and benefit schedule (form J-90) from the California Department of Education (CDE) for each school district and each year from 1999 through 2005.¹⁹ To identify comparable teachers across districts, we focus on those at step 10 in the salary schedule (BA degree plus 60 hours of continuing education), which is often taken to represent a “typical” teacher (e.g., Rose and Sengupta 2007).²⁰ This allows us to compare the salaries received by teachers with the same qualifications and experience in even-year and odd-year election districts.

Note that the policy reform that allowed school districts to change their elections from odd to even years occurred in 1986, while the first year for which district-level salary data are electronically available is 1999. Therefore, we first observe the outcome of interest more than 10 years after the change in election timing may have occurred. By this time, most of the districts that were to change to even-year elections had already done so. In order to enable a differences-

¹⁹ 1999 is the earliest year of data available. The data are obtained by CDE from local school districts through a survey. Although participation in the survey is voluntary, the response rate is 84 percent of districts representing 98 percent of the state's students. The responses are checked by CDE and reconfirmed with the districts before publication (CDE 2006, p. 1).

²⁰ Focusing on the starting salary, the highest salary, or the average salary yields comparable results to those presented below.

in-differences analysis, we collected additional teacher salary data for 1987, the last year before the policy change took effect.²¹ We collected the records from paper archives at the CDE and entered the data manually. As a result, we are able to estimate each district's change in salary relative to its baseline, or "pre-treatment" level. Thus, we are able estimate whether districts that switched to even year elections exhibited differential *changes* in salary relative to districts remaining on an odd-year election schedule. This approach effectively controls for (observable and unobservable) time-invariant attributes of districts that may differ between those that changed election timing and those that did not. We complement this analysis with a second differences-in-differences analysis using the relatively small number of districts—12 to be exact—that changed their election timing after 1999.

Throughout our analyses, we control for a variety of district level covariates that could influence teacher salaries.²² We control for the average wage in the local labor market, which provides a rough index of regional differentials that districts must offer to be competitive in attracting teachers. We use the annual average wage in the county as estimated by the Bureau of Economic Analysis.²³ We control for the size of the district, using the natural log of the number of students, to account for the possibility that unions are stronger in larger districts and therefore would extract more generous compensation independently from the timing of elections (Rose and Sonstelie 2006). We control for population density to capture potential differences between more or less urban districts. In addition, we control for the fraction of students receiving free or

²¹ The state law was changed in 1986; the first year in which an even-year election could have been held was 1988. Therefore, 1987 is the last "pre-treatment" year.

²² Our selection of control variables was influenced by Rose and Sonstelie (2006) and Rose and Sengupta (2007).

²³ In principle, we would prefer to use the average wage for a worker with education and experience comparable to that of the average teacher, as in Rose and Sengupta (2007). However, the Census data used by those authors are

reduced price lunch, according to the National Center for Education Statistics, because districts with more low-income students may be perceived as more challenging by teachers, requiring additional compensation (Rose and Sengupta 2007). We control for demographic factors that may influence the attentiveness of local voters to school board politics, namely: the fraction of the population that is over 65, the fraction of housing units that are owner-occupied, and the fraction of families with school-age children. These three variables are taken from the 1990 and 2000 Censuses and values are linearly interpolated for other years. Because costs may vary for different types of districts, we include dummy variables for elementary and high school districts. Unified districts (K-12), which enroll about 70% of pupils, are the omitted category. Finally, all models include year fixed effects to account for statewide trends over time in teacher salaries.

Model (1) of Table 4 reports the bivariate regression of teacher salary against election timing. Teachers working in districts where elections are held in even years earn roughly 5 percent less than those in districts with odd year elections. With the addition of relevant covariates in model (2), the election timing estimates drops by roughly one-third, to 3.4 percent.

The estimates in models (1) and (2) rely on cross-sectional comparisons between even- and odd-year election districts. As we suggested above, such estimates may be confounded by unmeasured differences between the two categories of districts. In model (3), we add the baseline (1987) teacher salary as a control variable, allowing us to estimate the differences-in-differences in salaries. The estimates in model (3) indicate that salaries in even year districts increased 2 percent less than salaries in odd-year districts, relatively to their 1987 pre-treatment levels. In model (4), we estimate a variation of the differences-in-differences model by making the

not available annually.

dependent variable the *change* between 1987 and 2004 salaries. Again the point estimate is roughly 2 percent.

As noted above, there are 12 districts that changed their election timing from odd to even years over the course of our study period. In model (5), we utilize data from these schedule-switching districts to identify the within-district change in teacher salaries before and after the change in election timing. Because we have so few observations and we are studying changes over a fairly short period of time, we do not include additional control variables in this model. Even with only 69 observations from 12 districts, the estimated effect of election timing is roughly equal in magnitude to the other within-district estimates, and the coefficient is significant at $p < 0.10$.

While all of the estimated salary differences between even- and odd-year election districts are statistically significant, they are nevertheless fairly small substantively speaking. With an average step 10 salary of \$54,000, the even-year salary differential of 2 percent amounts to about \$1000. While this amount may be substantial from the perspective of an individual teacher, the mean difference between the 75th and 25th percentile district salaries is ten times as much. Moreover, that the within-district estimates are about 40 percent smaller than the between-district estimates validates our concern that cross-sectional estimates, even within the same state and with a rich set of control variables, overstate the true effects.

Several of the control variables demonstrate significant relationships with teacher salaries. Districts in counties with higher average wages also pay higher teacher salaries, consistent with Rose and Sengupta (2007). In addition, larger districts pay higher salaries, as in Rose and Sonstelie (2006), as do more urban districts and those where there is a higher

proportion of families with school-age children.

B1. Robustness

As explained above, AB2605 was a reform that *allowed* school districts to change their election dates from even to odd years, but it did not *require* them to do so. As such, this is a situation in which there is endogenous selection into the treatment, and it is natural to worry that the districts that chose to change their election timing were otherwise prone to reduce teacher salaries for some reason. One response is to emphasize that our within-district analyses account for both observable and unobservable *time invariant* differences across districts. For example, we need not be concerned that the results above are an artifact of greater inherent fiscal conservatism among districts that changed their election timing, since such districts would have been expected to have lower teacher salaries even before the change in election timing.

There may be a lingering concern, however, that changes in districts over time might be correlated with both election timing and teacher salaries. Recall that the primary motivation given in the journalistic accounts of AB2605 was to save money on election administration. Suppose that the districts that were most motivated to save money on election administration were also the most motivated to keep teacher salaries in check over time—due to changing needs to spend the funds on other expenses, say. Then the districts that changed to even-year elections might be those that were most likely to have held the line on teacher salaries even without the electoral change. In this case, our estimates could be biased upward.

Given that we have just argued that the effect of election timing on teacher salaries is small, we are not especially troubled by the prospect that those estimates may be biased upward.

If the true effects were even smaller, this would only strengthen our argument. Nevertheless, to explore these endogeneity concerns, we conducted an instrumental variables (IV) analysis. Our instrument relies on the fact that districts' proposals to change the time of their elections had to be approved by the county board. In several notable cases—for example, Los Angeles and San Bernadino—district proposals were rejected. A common reason given in rejecting districts' attempts to change their election dates was that the November general election ballot was already crowded and that adding more offices would unduly burden voters. Based on this experience, our instrument is the number of elected offices in the county as of 1987, which we obtained from the Census of Governments. Our reasoning is that counties with more elected offices in existence prior to passage of AB 2605 would be less likely to consolidate school district elections onto an already congested ballot. At the same time, we see no reason why the number of elected offices in the county should affect teacher salaries, other than through its potential effect on election timing. Our IV model (not shown) yields a coefficient of 1 percent for the election timing variable, but it is imprecisely estimated (standard error of 2 percent).²⁴ We thus cannot reject the hypothesis that the IV results are equal to the OLS results ($p = 0.79$). The analysis therefore indicates no evidence of endogeneity.

As an additional robustness exercise, we repeated our analyses using matching methods. While matching does not address endogeneity concerns, it does allow us to test robustness by effectively restricting our comparisons to even-year and odd-year districts with overlap in the covariate distribution. In other words, if we were concerned that even-year and odd-year districts were so fundamentally different in observables that there was no common support, then we

²⁴ The instrument performs well in the first stage, with an F -statistic of 98.21. Complete results are available on request.

might not put much stock in the linear extrapolations required to produce the regression estimates shown above. In any case, the concern seems unfounded, as matching estimates produce results quite similar to those shown above. Using the same set of covariates in model (3) of Table (4), nearest neighbor matching, kernel-based matching, and the “doubly robust” estimator of Robins, Rotnitzky, and Zhao (1995) (Lunceford and Davidian 2004) all recover differences between even- and odd-year districts of roughly 2 percent, which is in line with the comparable regression estimates.²⁵

C. Policy Consequences: Test Scores

The effect of election timing on teacher salaries might be taken as evidence that special interests exert a nefarious, if modest, influence in low-turnout elections. One possible reading of the data is that teachers dominate school board elections held in odd years and subsequently are able to extract better deals during negotiations with a board they helped to select. On the other hand, a more positive gloss might be that parents or pro-education interests more generally dominate odd-year, low-turnout school board elections. Such interests, possibly including unions, might prefer higher teacher salaries in the hopes of attracting better teachers and thereby improving educational outcomes for children. By the same token, it may be that voters in off-cycle elections are generally better informed about the performance of their local schools. For instance, parents and teachers may have first-hand information about school performance that allows them to better discern which incumbent board members are worthy of reelection and which need to be replaced.²⁶ Changing elections to coincide with major state and federal races,

²⁵ Complete results are available on request.

²⁶ Chingos, Henderson, and West (2010) find that parents are better informed about school performance than are

therefore, may increase participation by less knowledgeable voters, thereby diminishing the overall quality of school governance. If either of these hypotheses is correct, then odd-year districts might exhibit an edge in student test scores due to having higher quality teachers, better governance, or both.

To investigate these issues, we analyze standardized test results on the state's Academic Performance Index (API) between and within districts in the same way that we did for teacher salaries. API scores are available beginning in 1999. We use school-level scores and match each school to its home district. We then assess whether schools in even-year election districts perform differently from schools in odd-year election districts. Because the formula used to compute the API can vary from one year to the next, the raw scores are not directly comparable over time (CDE 2009). Therefore, we normalized the scores to create percentile rankings across schools for each year. We computed the normalization separately for elementary, high school, and unified districts, so that each school is ranked with respect to others of the same type.²⁷

We begin by regressing API percentile scores on the election timing indicator, which is effectively a test of the difference of means between even- and odd-year districts. The results, shown in model (1) of Table 5, reveal that even-year districts score 7.2 percentile points higher than odd-year districts on the API. Controlling for school-level observables, however, substantially reduces the estimated differential. Model (2) introduces the following independent variables: school size, the percent of students receiving free or reduced-price lunch, the percent

other voters.

²⁷ The CDE provides decile rankings of schools—that is, a classification of schools into deciles of performance on the API. We obtain similar (and still significant) results when we use the CDE decile rankings; however our percentile rankings generate somewhat more precise estimates.

African American, and a school characteristics index (SCI) provided by the CDE.²⁸ With the addition of these controls, the estimated performance gap between even- and odd-year districts falls dramatically to 1.8 percentile points, but remains statistically significant. Finally, model (3) introduces district fixed effects, tying identification to within-district changes in performance from the 12 districts that changed election timing during the study period.²⁹ The point estimates in the final model are negative 1.7 percentile points, though nowhere near to being statistically significant.

Overall, we see little evidence to suggest that election timing, and by implication voter turnout, notably affects school performance. Most of the mean difference in performance between even- and odd-year districts can be adduced to differences in observable student characteristics. Even taking the estimates from model (2) at face value, however, a 2 percentile point differential is substantively quite small considering that the standard deviation in percentile scores is 29. Our findings are broadly consistent with those of Rose and Sonstelie (2006), who find no relationship between teacher salaries and student test scores in California (although they do not examine election timing).

V. Implications & Caveats

Our empirical analysis yields three main results. First, when school board elections are

²⁸ The SCI is a composite index, ranging from 100 to 200, computed by the CDE to represent the school's demographics. The components of the index include pupil mobility, pupil ethnicity, pupil socioeconomic status, teacher accreditation, class size, grade span, the percentages of gifted and disabled students, and the percentage of migrant students. For details of how the index is constructed, see CDE (2009, pp. 66-69). We experimented with using the component variables individually and found that they did not appreciably alter our estimates of the election timing dummy relative to using the more parsimonious SCI.

²⁹ We cannot estimate changes relative to baseline, pre-treatment levels because test scores are not available prior to 1999.

held to coincide with state and national elections, turnout is dramatically higher, on the order of 150 percent higher. Second, teacher salaries are between one and three percent higher when school board elections are held off-cycle. Third, neither the change in voter turnout nor the change in teacher salary is associated with a robust change in student achievement. From the perspective of education policy, these findings are of important in and of themselves. Our main interest, however, is in the implications of these results for the voter versus non-voters debate.

While judging the substantive magnitude of the observed effects is inevitably somewhat subjective, one obvious interpretation is that these results are of a piece with the conventional view that outcomes would not change importantly if everyone voted (e.g., Highton and Wolfinger 2002; Citrin et al. 2003). In the present case, while \$1000 may or may not be viewed as a large amount from the perspective of an individual teacher, it seems fair to say at a 2% increase in salary associated with a 150% increase in turnout is a very small elasticity. Indeed, if turnout changes this large are necessary to drive a substantive policy shift, it casts doubt on the idea that the more modest variation in turnout typically observed in general interest elections at the state or national level could be expected to generate major policy changes.

On the other hand, the analysis does demonstrate that changes in turnout, in fact, generate a robust measurable difference in a policy outcome. While the salary change is relatively small, it may be suggestive of potential effects along other unstudied dimensions. For example, if unions were also able to extract more favorable terms on tenure standards, working conditions, or other employment parameters not readily measured in this study, the aggregate effect on policy might be more consequential. Moreover, we have only examined one of the dozens of types of special-purpose local governments for which low-turnout, off-cycle elections are

commonplace. Berry (2009) argues that small increases in spending multiplied across multiple layers of government can produce significant aggregate consequences for public sector budgets. Thus, if a similar result were observed in all the special purpose elections in a given locality, the aggregate overall effects would obviously be much larger and more important from a policy perspective.

Aside from the magnitude of the effects, another important consideration is their generalizability. Indeed, one concern is that the effects we observe in California are particularly small because the state's school finance system leaves little room for local districts to alter the size of their budgets. On this question, two points are relevant. First, as explained above, districts have nearly complete latitude in setting teacher salaries and there is tremendous heterogeneity in salaries across districts within California. So lack of local discretion appears unlikely to be the primary explanation for the small observed effects. In addition, we note that two cross-sectional studies, one using national data (Trounstine 2010) and one using data from 8 states (Anzia forthcoming), find salary differences similar in magnitude to our own cross-sectional estimates (e.g., model (2) of Table 4). While we suspect that the cross-sectional estimates overstate the true size of the effects, for reasons elucidated above, that cross-sectional estimates from outside California comport with our own cross-sectional estimates suggests that the California system may not be so different as to limit the generalizability of the findings. That said, of course we place our stock on the within-district estimates rather than the cross-sectional estimates, and the only way to truly know whether those results generalize would be to replicate the study elsewhere using a comparable quasi-experiment of some kind.

Conclusion

Understanding the relationship between political participation and policy outcomes is one of the core tasks of modern political science. Our analysis complements past studies of the preferences of voters and non-voters by analyzing the relationship between turnout and policy more directly. By focusing on a special purpose election, school boards, we are able to draw on conventional measures of education policy, including teacher salaries and student achievement. In addition, we are able to take advantage of much larger differences in turnout than are typically observed for national offices; in this case turnout more than doubles between even and odd years. Finally, in comparison to past studies based on cross-sectional comparisons, we are able to make stronger causal inferences about the connection between turnout and policy. By virtue of the quasi-experiment in California, we are able not only to compare electoral outcomes across jurisdictions, but also within the same jurisdiction over time. That is, our analysis tests whether massive changes in voter participation are associated with changes in policy outcomes within the same jurisdiction. While certainly not the final word, we hope these results contribute to the accumulating literature on the topic by casting new light on the voters versus nonvoters debate in political science. Returning to the motivating question of the paper—would policy outcomes change if everyone voted?—our qualified answer is, *yes but not radically.*

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Table 1. Comparison of Even- and Odd-Year Districts

Variable	Mean	Std. Err. of Mean	Diff. of Means T	(p - value)
Step-10 Teacher Salary				
Odd	\$ 53,634	\$ 408		3.71
Even	\$ 51,631	\$ 365		(0.0002)
Population Density (county)				
Odd	929	73		2.09
Even	724	65		(0.037)
Avg. Wage per Job (county)				
Odd	\$ 34,594	\$ 751		-1.14
Even	\$ 35,858	\$ 818		(0.256)
Pct. Pop 65 and Over				
Odd	0.12	0.003		-0.44
Even	0.12	0.003		(0.66)
Pct. Owner Occupied Housing				
Odd	0.65	0.01		0.49
Even	0.65	0.01		(0.63)
Pct. Families with Children				
Odd	0.54	0.006		1.83
Even	0.52	0.005		(0.068)
Pct. Free/Reduced Lunch Eligible				
Odd	0.36	0.02		1.57
Even	0.32	0.02		(0.117)
Total Students				
Odd	8,169	653		2.81
Even	5,875	497		(0.005)

Source: 2000 US Census for all variables except free/reduced lunch and total students, which come from NCES, and average county wage, which comes from the BEA.

Table 2. Summary of School Board Election Turnout

Year	Median Turnout	Number of Elections
1996	38%	577
1997	15%	332
1998	31%	566
1999	12%	326
2000	36%	519
2001	14%	334
2002	26%	594
2003	10%	312
2004	37%	545
All even years	33%	2801
All odd years	13%	1304
All years	22%	4105

Table 3. Election Timing and Voter Participation: School Boards

	Model 1	Model 2	Model 3	Model 4
	OLS	OLS	FE	FE
Odd year election	-0.194*** (0.012)		-0.219*** (0.028)	
Election Day - President		0.223*** (0.014)		0.240*** (0.029)
Election Day - Governor		0.155*** (0.013)		0.181*** (0.028)
Election Day - US Senator		0.009 (0.008)		0.023*** (0.005)
Ln(Total Population)	-0.102*** (0.006)	-0.102*** (0.006)	0.089 (0.081)	0.092 (0.080)
% Black/African American Population	0.212 (0.154)	0.230 (0.153)	-0.258 (0.360)	-0.294 (0.352)
% American Indian/Alaska Native Population	-0.686*** (0.139)	-0.668*** (0.140)	-0.166 (1.249)	-0.229 (1.338)
% Asian, Native Hawaiian and other Pacific Islander Population	0.007 (0.084)	0.001 (0.084)	-0.240 (0.214)	-0.280 (0.210)
% Other Race Population	-9.110* (5.299)	-8.985* (5.227)	1.716 (3.638)	1.999 (3.590)
% Hispanic/Latino population	-0.260*** (0.054)	-0.254*** (0.054)	-0.396** (0.155)	-0.413*** (0.155)
% Persons 65+ years old	1.485*** (0.364)	1.530*** (0.369)	0.764 (0.673)	0.857 (0.671)
Ln(Ave. Household Income)	0.300*** (0.032)	0.310*** (0.033)	-0.048 (0.064)	-0.027 (0.063)
% Owner-occupied Housing Units	-0.186 (0.133)	-0.182 (0.132)	0.178 (0.289)	0.129 (0.292)
% Families and Subfamilies with Own Children	0.657** (0.280)	0.677** (0.281)	0.437 (0.319)	0.494 (0.308)
Constant	-2.070*** (0.367)	-2.396*** (0.378)	-0.361 (0.742)	-0.842 (0.761)
Number of observations	4,656	4,656	4,656	4,656
R2	0.360	0.366	0.061	0.099

Standard errors clustered by district reported in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 4. Election Timing and Teacher Salaries

	(1)	(2)	(3)	(4)	(5)
Even year election	-0.050*** (0.012)	-0.032*** (0.008)	-0.020*** (0.006)	-0.024*** (0.008)	-0.027* (0.015)
ln(Baseline 1987 salary)			0.527*** (0.069)	-0.508*** (0.081)	
Log County Avg. Wage		0.119*** (0.029)	0.100*** (0.022)	0.102*** (0.026)	
ln(Population per sq. mile)		0.013*** (0.004)	0.010*** (0.003)	0.013*** (0.004)	
Interpolated % Persons 65+ years old		0.222 (0.144)	0.159 (0.100)	0.127 (0.109)	
Interpolated % Owner-occupied Housing Units		-0.047 (0.039)	-0.026 (0.031)	-0.010 (0.035)	
% Families and Subfamilies with Own Children		0.244*** (0.087)	0.229*** (0.062)	0.233*** (0.065)	
% Ratio of Free Lunch Eligible		-0.030 (0.020)	-0.025 (0.016)	-0.026 (0.020)	
Constant	10.899*** (0.009)	9.210*** (0.312)	4.058*** (0.730)	4.460*** (0.828)	10.952*** (0.003)
Number of observations	1,848	1,842	1,842	309	69
R2	0.120	0.648	0.752	0.428	0.825

The dependent variable is the natural log of the Step-10 salary except in model (4) where the dependent variable is the log difference between the 1987 and 2005 Step-10 salaries. Standard errors clustered by district reported in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Table 5. Election Timing and Test Scores

	(1)	(2)	(3)
	OLS	OLS	FE
Even Year Election Dummy	7.246*** (2.661)	1.830** (0.770)	-1.712 (1.908)
Pct Free/Reduced Lunch Students		-0.479*** (0.023)	-0.049 (0.200)
School Characteristics Index		1.013*** (0.050)	0.307* (0.159)
Pct African American		-0.137*** (0.047)	0.151 (0.337)
Log Enrollment		0.987* (0.504)	7.087 (7.149)
Constant	46.024*** (2.036)	-101.037*** (11.621)	-53.297 (57.404)
Number of observations	31,311	27,629	630
R2	0.016	0.825	0.051

The unit of analysis is the school. The dependent variable is the school's percentile ranking on the API. Standard errors clustered by district reported in parentheses. *** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$.

Readers with comments should address them to:

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PROPOSED ACTION PLAN FOR CHANGING THE CITY'S GENERAL MUNICIPAL ELECTION TO NOVEMBER OF EVEN-NUMBERED YEARS

City Council directs staff to initiate formal actions to change the City's election cycle to November of even-numbered years	Tuesday, February 5 City Council meeting
City Council authorizes additional mailer	Tuesday, February 19 City Council meeting
City Manager's Report article regarding proposed change to the City's election cycle	Week of February 18
Announcements on City's website	Updated as the City Council takes formal steps
Announcement on Channel 27	Updated as the City Council takes formal steps
Citywide postcard to all residents with information regarding the proposed change to the City's election cycle	Mailed for delivery prior to March 19 (if desired)
First reading of the enabling ordinance to change to even-numbered year elections and lengthen current elected officials terms by one year	Tuesday, March 19 City Council meeting
Notification to Benicia Unified School District of City's intention to change the General Municipal Election to November of even-numbered years	With the first reading of the proposed enabling ordinance
Second reading of ordinance	Tuesday, April 2 City Council meeting
Date ordinance takes effect	May 2 (30 days after 2 nd reading)
City notifies Solano County Board of Supervisors and requests that the City's elections are consolidated with the presidential/statewide election ballot	April/May
Voter campaign to notify residents of change in election cycle	After Board of Supervisors adopts resolution approving consolidation and continuing to November 2013

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

DATE : May 13, 1997

TO : Mayor & City Council

FROM : City Manager

SUBJECT : GENERAL MUNICIPAL ELECTION DATES

RECOMMENDATION:

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

BUDGET INFORMATION:

Special Election: \$30,000 plus

Shared Election: \$ 6,500 (estimated)

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

SUMMARY:

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

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

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

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

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

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

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

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

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

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

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

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

Rio Vista November (even-numbered years)

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

Vacaville November (even-numbered years)

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

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

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

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

November of 1997, reducing the term of the two affected office holders by 4 months, and the subsequent election in November of 1999 will reduce the three affected members' terms by 5 months. These calculations are based on the assumption of office by the newly elected members at the first regularly scheduled meeting in December. All subsequent elections will provide elected candidates full terms of 4 years.



Otto Wm. Giuliani
City Manager

OWG:tb
/Agen520.97c

ATTACHMENTS:

- Ordinance amending the General Municipal Date (Clean Copy)
- Ordinance amending the General Municipal Date (Marked-Up Copy)
- Ordinance retaining the existing General Municipal Date
- Transcript of a portion of the December 20, 1994 City Council Meeting related to a discussion of election dates
- Memorandum to the City Council from City Manager, Michael Warren, dated September 28, 1994 regarding the April 1996 City election
- Copy of Ordinance No. 311 of the City of Benicia providing for Notice of General Municipal Election in the City of Benicia, adopted February 17, 1890
- Copy of Chapter 1.16 of the Benicia Municipal Code entitled "General Municipal Elections"
- Letter to City Clerk, Linda Purdy, from Solano County Registrar of Voters, dated April 17, 1997
- Copy of Division 1 established election dates, specifically Section 1001, entitled "Statewide Election Dates"
- Copy of Section 10403.5 of the California Elections Code

PROPOSED ORDINANCE

(CLEAN COPY VERSION)

CITY OF BENICIA

ORDINANCE NO. 97-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 1.16.010 OF THE BENICIA MUNICIPAL CODE RELATING TO THE GENERAL MUNICIPAL ELECTION

The City Council of the City of Benicia does ordain as follows:

Section 1.

Section 1.16.010 of the Benicia Municipal Code is amended to read as follows:

1.16.010 General Municipal Election.

1.16.010. General Municipal Election. General municipal elections shall be held on the same day as the regular election to select governing board members for the Benicia Unified School District as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code §12101.

Section 2.

Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City Council hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3

Effective date.

This ordinance shall become effective thirty (30) days after the date of adoption.

Section 4

Posting.

The City Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption.

On motion of Councilmember _____, seconded by Councilmember _____, the foregoing Ordinance was introduced at a regular meeting of the City Council on the _____ day of _____ 1997, and adopted at a regular meeting of the Council held on the _____ day of _____, 1997, by the following vote:

Ayes:
Noes:
Absent:

Jerry Hayes, Mayor

Attest:

Linda S. Purdy, City Clerk

hmc/kz
election.cln

PROPOSED ORDINANCE
(MARKED-UP VERSION)

TT-E-9
VIII.A.83

Chapter 1.16

GENERAL MUNICIPAL ELECTIONS

Sections. Section 1.

Section 1.16.010 of the Benicia Municipal Code is amended to read as follows:

1.16.010 General Municipal Election.

1.16.0106.010 General Municipal Election. General municipal elections shall be held on the same day as the statewide direct primary regular election to select governing board members for the Benicia Unified School District as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code §22830§12101.

Section 2.

Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City Council hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Hmc/kz
election.red

ORDINANCE NO. 95-3 N.S.

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF BENICIA CONCERNING
THE GENERAL MUNICIPAL ELECTION DATE

THE CITY COUNCIL OF THE CITY OF BENICIA DOES HEREBY ORDAIN AS
FOLLOWS:

SECTION 1. Section 1.16 of the Benicia Municipal Code is
amended to read as follows:

1.16.010--General Municipal Election.

General municipal elections shall be held on the same day as
the statewide direct primary as that date is established in the
California Elections Code.

SECTION 2. The City Clerk shall cause this ordinance to be
published and/or posted within 15 days after its adoption.

On a motion of Councilmember Arteaga, seconded by
Councilmember Hayes, the foregoing ordinance was
introduced at a regular meeting of the City Council on the 7th
day of March, 1995, and adopted at a regular meeting
of the Council held on the 21st, day of March,
1995, by the following vote:

Ayes: Councilmembers Arteaga, Corbaley, Hayes, Silva and Mayor Ciarrocchi
Noes: None



Ernest F. Ciarrocchi, Mayor

Attest:

Frances D. Greco
Frances D. Greco, City Clerk

smr/kz
ordatect.ion
2/26/95

T-E-11
VIII.A.85

MEETING OF DECEMBER 20, 1994

MUNICIPAL ELECTION

ERNIE: I think we knew that the Elections Department was not going to give in very easily. The easiest thing for them is to handle the election in November 1996 and that it is a one time only change if that is what we do. They are also saying that they could do the election in March if we want, but it is partisan primary election and so it is a chore for them to - what they will have to do is prepare separate packets for voters in various parties in the primary, but since our election is unpartisan, they would then have to include our stuff in everybody's packet. The County is apparently saying this is a big deal.

County also gave us the option to run our own election. What would be the cost of running our own election?

JERRY: One of my questions would be the cost if we do it ourselves in April and if we decide to do it ourselves and we feel we are capable of handling it - the election itself, running the polls and doing the count, etc., question arises about the publication of the sample ballots, the mailing, etc., and whether or not the County would be willing to do that if we decide to do the election ourselves.

The other question - if we looked at the potential of doing it in November of 1995, what else would be on that election - I presume it would simply be our School Board, and, secondly, could we legally do the election in November of 1995 and make the effective of taking the office the termination date, which is April 1996. I don't know if that is a legal possibility.

I believe the Board of Supervisors does that here in the County. They have an election and then a long wait before the actual taking of office, so that's another possibility. I would personally lean toward doing it ourselves, but seeing what the County can do as far as the handling of sample ballots, mailing, etc.

ERNIE: Bear in mind, doing it ourselves, as I said, it's not just the cost. It's having people go to the polls to vote twice in three (SHOULD BE TWO) weeks. Voting is not a lot of trouble, but on the other hand, keep that in mind. If Council does not want to go to November 1996, then I would encourage you to at least consider finding out whether the County can really handle and how well it can handle just doing ours in conjunction with the primary. That keeps it within three weeks (SHOULD BE TWO) from when we would normally do it. I think that makes more sense than making a major change if you don't want to go to 1996.

PEPE: I don't want to give not a single day over free or a single day before, even if it is expensive, I want to keep it exactly the same time - no more, no less.

JOHN: I think I would like to look into what the cost would be to do our own election, but I think looking at March, I would like more information on March, how much confusion there may or may not be. That would probably make more sense to do it in March than it would be trying to do it in April.

CAREY: This is a sticky issue, particularly for those of us sitting up here who this would affect most directly, being up for election the next go-round - sticky issue for all of us. I have concerns that if we simply insist upon having our own election, it is going to cost a bundle and I am wondering what do our citizens prefer that because of this situation where we've got the County saying "We're just not going to do it - we can't do it - you have to do it yourselves" - whether they prefer we bop our elections back or turns back six months or they prefer to foot the bill for us holding this election ourselves this time and I'm not real clear whether this is going to be an ongoing problem if we continue with our position that we have - April elections - every time there is a primary with the March date, I don't know whether it's going to continue to be a problem down here. At this point, I would like some more information on what the actual cost would be for us to hold our election, so I would like to get that information first and I would like follow-up information that has been requested by Councilmember Hayes as well.

ERNIE: I agree, we don't need to make a decision tonight. I think we are going to need to get some cost estimates, FRAN. Remember, we don't know whether this will be a chronic problem or not. We don't know if the State is going to keep the March primary. It's just one time only legislation, which is another reason why I'm thinking in terms of if you do it in conjunction with that it's within three weeks (SHOULD BE TWO WEEKS) from when we would normally have our election, just keep this in mind, so that if, in fact, the State decides that March is not good we can return to the April election and then we will not have changed things significantly three weeks (SHOULD BE TWO WEEKS) either way. Let's get the information, let's find out everything we can about what it would take to implement doing it ourselves in April, get whatever details the County can furnish in terms of what it would take to do it in conjunction with the March, and whether they have an opinion either way, 5/ November of 1995 or November of 1996.

III-E-13
VIII.A.87

MEMORANDUM

MAY 5 1994

September 28, 1994

TO: City Council

FROM: Mike Warren

SUBJECT: April 1996 City Election

As the City Clerk, Fran Greco, points out in her memo, Pat Kemper, the Registrar of Voters for Solano County, has requested that the City of Benicia change our April 1996 City Election. The Registrar of Voters says that they cannot handle an April election for the three Solano Cities two weeks after the State Primary Election. They are asking that we change our election to November 1996 and extend all terms seven months.

The following positions are up for election in April of 1996:

Mayor - Ernie Ciarrocchi
Council member - Jerry Hayes
Council member - John Silva
Treasurer - Virginia Souza
Clerk - Fran Greco

I asked Carol Starr to research other options than changing to November of 1996 (the City Attorney is out of the office this week and, therefore, has not had an opportunity to review this issue. He may want to clarify various points or options). It appears that unless we are willing to pay for our own special election, we will have to elect Benicia officials during a general state and/or national election. This may result in less attention focused on Benicia issues as the governor, president and statewide initiatives dominates the public's attention. On the other hand, there is generally a larger turnout in these general elections. These are the possible options:

1. Take the advice of the Registrar of Voters and switch to November of 1996. The cost of the election for Benicia would be \$3,500. Each affected elected official would have to have their term extended by seven months. This is the least expensive option.
2. Switch to November of 1995. This would cut the term of each of the affected elected officials by five months. The cost of switching to November of 1995 is \$15,000; more expensive because jurisdiction participating needs an individual ballot and there is no general election to help defray the overall cost. The Benicia Unified School District has their election at this time.
3. Switch to March 1996. This means we would be on the State primary ballot. As it is a primary election, this means partisan ballots. The Registrar of Voters strongly recommends against this option, as she says the ballots are very long, we would come at the

end of everything else, and she predicts that many voters would not get down to the city's part of the ballot. We would have to be on all the different ballot types (Democratic, Republican, Green, etc.) and also have a ballot for the independents. She was unable to give me a cost for us, but said it would be less than \$25,000.

We need to realize that the March 1996 primary election is a one-time state experiment on changing the primary. If we move to this election time and the state did not switch the primary permanently to March, we will end up paying the whole cost of the election which is approximately \$25,000.

4. Establish a special election in June of 1996. Since no one else would be having an election, we would need to stand the whole cost, which is \$25,000 for an election. And, of course, we would need to do this every other year on this cycle. This is the most expensive way to go.

5. Stick with the April election of 1996 and ask the Board of Supervisors to force the Registrar of Voters to deal with an election two weeks away from the primary. The Registrar of Voters flatly says they cannot do this and would lobby hard at the Board to maintain their position.

While we still have some time to decide this, the Registrar of Voters is asking all the affected cities to decide this Fall how they are going to handle this concern. The other two cities affected are Dixon and Rio Vista. Dixon is switching to November 1996 (which does not coincide with their School Board election). We do not know, at this time, which November Rio Vista will choose.

Unless we are going to try to maintain our April 1996 election through intervention by the Board of Supervisors, we will have to do the following steps to switch our election:

1. Consensus of the City Council on what to do
2. Hold a Public Hearing
3. Adopt an Ordinance requesting the required action needed.

Mike Warren

Mike Warren
City Manager

VIII-E-15
VIII.A.89

ORDINANCE NO. 311 M.C.

AN ORDINANCE PROVIDING FOR NOTICE OF GENERAL MUNICIPAL ELECTION IN THE CITY OF BENICIA.

THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOL

SECTION 1. General Municipal Elections in the City of Benicia for the election of members of the City Council, the City Clerk, the City Treasurer, shall be held on the second Monday in April in each even numbered year. The City Council must give notice of such elections by publishing the same newspaper published in said City successively for three weeks next preceding the election if a newspaper be published in said City. If no newspaper be published in said City, then by posting copies of such notice in three public places therein. The notice must designate the time when said election will be held, the boundaries of the election precincts, the officers to be elected, the polling places and the officers of election.

(Adopted Feb. 17, 1890)

COMPILED, CONSOLIDATED, REVISED AND INDEXED UNDER THE PROVISIONS OF THE MUNICIPAL CORPORATIONS LAW OF THE STATE OF CALIFORNIA, BEING ACT 5233, SECTION 852C, AS AMENDED BY STATUTES OF 1939, CHAPTER 1026, THE ABOVE ORDINANCE BEING FORMERLY NUMBERED _____ AND WHEN SO COMPILED, CONSOLIDATED, REVISED AND INDEXED, AS AFORESAID, ADOPTED BY THE CITY COUNCIL OF THE CITY OF BENICIA, ON THE _____ DAY OF October 1943, BY ORDINANCE NO. 402 M.C.

Chapter 1.16

GENERAL MUNICIPAL ELECTIONS*

Sections:

1.16.010 General Municipal Election.

1.16.010 General Municipal Election. General municipal elections shall be held on the same day as the statewide direct primary as that date is established in the California Elections Code. The city clerk shall publish a notice of the election in the manner prescribed by California Elections Code §22830. (Ord. No. 95-3 N.S.; Ord. 311 M.C. §1, 1890: amended during 1980 codification).

* For statutory provisions on municipal elections, see Election Code §22800 et seq.; for provisions on notice of elections, see Election Code §22830 et seq.

OFFICE OF REGISTRAR OF VOTERS



LAURA WINSLOW
REGISTRAR OF VOTERS
510 CLAY STREET
FAIRFIELD, CA 94533
PHONE (707) 421-6675

MAILING ADDRESS
REGISTRAR OF VOTERS
ELECTIONS
P.O. BOX "I"
FAIRFIELD, CA 94533

April 17, 1997

Linda Purdy, City Clerk
City of Benicia
250 East L St.
Benicia, CA 94510

Re: 1998 Municipal Election

Dear Linda:

Your letter dated April 10, 1997 requests an election calendar through the year 2000. As discussed in our phone conversation, your consolidation with the statewide direct primary makes it impossible to predict when the future elections will be held. You have several factors that fall into place with your consolidation.

ALTERNATING ELECTION DATES

The election code states that the 1996 Primary is held in March. The 1998 Primary will be held in June. These dates are in effect until January 1998. At that time the Primary reverts back to June. However, there is a proposal being discussed to move the Primary to September in the year 2000.

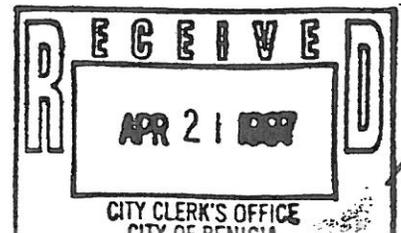
If they move to September, it will enable candidates to have a shorter fundraising period. Thus campaigning all at once, rather than two separate elections.

If this takes place, the Presidential Primary would be separately held earlier in the year.

If you choose to stay consolidated with the statewide direct primary, you may not know from year to year when your election will be held. The state may decide to move their election every two years. This will affect terms of your officeholders.

OVERCROWDED BALLOT

VIII.A.92



Due to the implementation of the "open primary", all voters will be eligible to vote for all candidates regardless of what their political party affiliation is. This will create an enormous increase in candidates for each ballot type. In the event we have too many candidates & issues for a particular ballot type, the local races and issues will be moved off of the votomatic card and placed on a separate datavote card. The voter will then be given multiple cards to cast their votes. The increase in statewide partisan candidates appearing in the sample ballot (along with photographs and candidate statements) which are also new to this election, will move your local candidates farther back in the sample ballot. The voters will be looking through many pages before reaching the local race.

ADDITIONAL COST

There are additional costs associated with a multiple card election. Since you are the only local race on the ballot, the entire cost of the supplemental card will be borne by your district.

Our office is in the process of looking at a revision of our fees associated with election costs. Our costs to cities and districts will be increasing due to the costs associated with computer programming, staff time, etc.

OPTIONS AVAILABLE

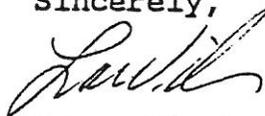
If you stay with the statewide direct primary, you run the risks described above.

With a move to the statewide general election in November even-years you will also run the risk of ballot overcrowding depending on how many statewide propositions will be on the ballot. The same situation as outlined above would be used regarding going on to a separate ballot card, including the additional cost.

Our recommendation is to consolidate with the UDEL (Uniform District Election) in November odd-years. This will enable you to split costs with Benicia Unified School District. There are no statewide candidates on this election. Local cities, schools, bd. of education, Solano Irrigation District and Cordelia Fire District are on this election cycle.

Please let me know as soon as possible of your decision. If I can be of any further assistance, please give me a call at (707) 421-6675.

Sincerely,



Laura Winslow,
Registrar of Voters

DIVISION 1. ESTABLISHED ELECTION DATES

Chapter 1. Election Dates

1000. Established elections dates.

The established election dates in each year are as follows:

(a) The second Tuesday in April of each even-numbered year.

(b) The first Tuesday after the first Monday in March of each odd-numbered year.

(c) The fourth Tuesday in March in any year which is evenly divisible by the number four.

(d) The first Tuesday after the first Monday in June of each year.

(e) The first Tuesday after the first Monday in November of each year.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Amended by Stats. 1996, c. 1143, §17.5.)

1000. Established election dates.

(a) The established election dates in each year are as follows:

(1) The second Tuesday of April in each even-numbered year.

(2) The first Tuesday after the first Monday in March of each odd-numbered year.

(3) The first Tuesday after the first Monday in June of each year.

(4) The first Tuesday after the first Monday in November of each year.

(b) This section shall become operative on January 1, 1998.

(Amended by Stats. 1996, c. 1143, §18.)

1001. Statewide election dates.

Elections held in June and November of each even-numbered year, and in March of any year evenly divisible by the number four, shall be statewide elections and these dates shall be considered statewide election dates.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Added by Stats. 1994, c. 920, §2.)

1001. Statewide election dates.

Elections held in June and November of each even-numbered year shall be statewide elections and these dates shall be considered statewide election dates.

This section shall become operative on January 1, 1998.

(Added by Stats. 1994, c. 920, §2.)

1002. Date of state, county, municipal, district, and school elections.

Except as provided in Section 1003, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections shall be held on an established election date.

(Amended by Stats. 1996, c. 1143, §19.)

1997-20

§10403.5.

(a) (1) Any city ordinance requiring its general municipal election to be held on a day specified in subdivision (b) of Section 1301 shall be approved by the board of supervisors unless the ballot style, voting equipment, or computer capability is such that additional elections or materials cannot be handled. Prior to adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) A city, by itself or in concert with other cities, may purchase or otherwise contribute to the purchase of elections equipment, including, but not limited to, a computer for the purposes of conducting a consolidated election when the equipment shall be owned by the county.

(b) As a result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive.

(c) If an election is held on a day specified in subdivision (b) of Section 1301, and the election is consolidated with another election this part, except Section 10403, shall govern the consolidation and, if the county elections official is requested to conduct the municipal election, Section 10002 shall be applicable to that election.

(d) If a general municipal election is held on the same day as a statewide election, those city officers whose terms of office would have, prior to the adoption of the ordinance, expired on the Tuesday succeeding the second Tuesday in April of an even-numbered year shall, instead, continue in their offices until not later than the fourth Tuesday after the day of the general municipal election, and until their successors are elected and qualified.

(e) Within 30 days after the ordinance becomes operative, the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected city officeholders will be changed. Leg.H. 1996 ch. 1143, effective September 30, 1996.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
BUSINESS ITEMS**

DATE : March 27, 2013

TO : City Manager

FROM : Administrative Services Director

SUBJECT : **RESOLUTION OF INTENTION AND INTRODUCTION OF AN ORDINANCE AMENDING THE CONTRACT BETWEEN THE CITY OF BENICIA AND PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR LOCAL SAFETY EMPLOYEES TO PROVIDE SECTION 20516 (5.41% EMPLOYEES SHARING COST OF ADDITIONAL BENEFITS) APPLICABLE TO SECTION 21362.2 (3% @ 50 FULL FORMULA) AND SECTION 21363.1 (3% AT 55 FULL FORMULA) FOR LOCAL FIRE MEMBERS IN BENICIA FIREFIGHTER'S ASSOCIATION (BFA)**

RECOMMENDATION:

Adopt the resolution of intention and introduce the ordinance to amend the contract between the City and Public Employee's Retirement System (CalPERS) to provide Section 20516 (5.41% Employees Sharing Cost of Additional Benefits) applicable to Section 21362.2 (3% @ 50 full formula) and Section 21363.1 (3% @ 55 full formula) for local fire members in Benicia Firefighter's Association (BFA).

EXECUTIVE SUMMARY:

In 2012, the City concluded negotiations with the Benicia Firefighter's Association (BFA). This unit agreed to share in the City's cost of the employer's share of PERS, and contribute 5.41% towards that cost. In order to finalize this change with CalPERS, it is necessary for the City's contract with CalPERS to be amended to reflect the sharing of this cost by all BFA members.

BUDGET INFORMATION:

There is no cost associated with this action. This action amends the contract with CalPERS to finalize a cost-sharing arrangement that allows the City recognize approximately \$146,000 in cost savings.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies include:
Strategic Issue 3: Strengthening Economic and Fiscal Conditions.

BACKGROUND:

The salary and benefit reductions approved by the Council as part of the current MOU with BFA includes a cost sharing of the employer's share of PERS. In order to finalize this modification with CalPERS, it is necessary to amend the City's contract. There is a defined process that needs to be followed to make such a contract amendment. The first step, per CalPERS regulations, is a resolution of intention and first reading of the ordinance to approve an amendment to the CalPERS contract be presented to the City Council and be made public at a public meeting at least twenty days prior to the adoption of any changes. Once that resolution of intent is approved, the Council will be presented with final reading of the ordinance at a subsequent meeting.

Attachments:

- ❑ Draft Resolution
- ❑ Draft Ordinance
- ❑ Contract Amendment – Exhibit

RESOLUTION NO. 13-

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF BENICIA TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF BENICIA

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Costs) 5.41% for local fire members in the Benicia Firefighters Association, LAFF Local 1186.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby give notice of intention to approve an amendment to the contract between the City of Benicia and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

* * * * *

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 2nd day of April 2013, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY OF BENICIA AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WHEREAS, the City of Benicia participates in the California Public Employees Retirement System (CalPERS) for the benefit of its employees and the public they serve; and

WHEREAS, implementing the amendment to the City's CalPERS contract to allow the employees to pay for a share in the employer's share of the CalPERS and will provide for cost savings in the current and future fiscal years; and

WHEREAS, Government Code Section 20471 provides that the City Council's adoption of the ordinance for the contract amendment be "not less than 20 days after the adoption of the resolution of intention...."

NOW, THEREFORE, the City Council of the City of Benicia does ordain as follows:

SECTION 1.

That the amendment to the contract between the City Council of the City of Benicia and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made part hereof as though herein set out in full.

SECTION 2.

The Mayor of the City Council of the City of Benicia is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION 3.

This ordinance shall become effect thirty days after the date of its adoption, and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least once in the Benicia Herald, a newspaper of general circulation, published and circulated in the City of Benicia and thenceforth and thereafter the same shall be in full force and effect.

* * * * *

On a motion of Council Member _____, seconded by Council Member _____, the foregoing Ordinance was introduced at a regular meeting of the City Council held on the 2nd day of April, 2013 and adopted at a regular meeting of said Council held on the _____ day of _____, 2013 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Benicia

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective October 1, 1967, and witnessed September 11, 1967, and as amended effective July 1, 1971, August 1, 1973, November 1, 1974, January 1, 1977, March 1, 1981, March 1, 1982, April 1, 1986, January 1, 1987, April 17, 1987, May 1, 1992, May 1, 1993, September 18, 1993, November 6, 1998, November 18, 2000, July 1, 2002, June 1, 2011, November 1, 2011 and October 1, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective October 1, 2012, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to October 1, 2012, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after October 1, 2012, age 50 for local safety members entering membership in the safety classification on or prior to June 1, 2011 and age 55 for local safety members entering membership for the first time in the safety classification after June 1, 2011.

VIII.B.7

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1967 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

NO ADDITIONAL EXCLUSIONS

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 1, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 1, 2002 and not entering membership for the first time in the miscellaneous classification after October 1, 2012 shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).
8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after October 1, 2012 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to June 1, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after June 1, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members only.
 - b. Section 20042 (One-Year Final Compensation) for local safety members entering membership on or prior to June 1, 2011 and for those local miscellaneous members entering membership on or prior to October 1, 2012.

- c. Section 20965 (Credit for Unused Sick Leave).
- d. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
- e. Section 20903 (Two Years Additional Service Credit).
- f. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
- g. Section 21024 (Military Service Credit as Public Service).
- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
- i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
- j. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local safety members entering membership for the first time in the safety classification after June 1, 2011.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after October 1, 2012.
- k. Section 20516 (Employees Sharing Cost of Additional Benefits):
Section 21362.2 (3% @ 50 Full formula) and Section 21363.1 (3% @ 55 Full formula) for local police members. From and after November 1, 2011 the police employees of Public Agency shall be assessed an additional 5.336% of their compensation for a total contribution rate of 14.336% pursuant to Government Code Section 20516.
- l. Section 20516 (Employees Sharing Additional Costs):

5.41% for local fire members in the Benicia Firefighters Association, LAFF Local 1186.

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 1, 1981. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
14. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
 - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
 - c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF BENICIA

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - APRIL 2, 2013
BUSINESS ITEMS

DATE : March 25, 2013

TO : City Manager

FROM : Community Development Director

SUBJECT : **APPEAL OF PLANNING COMMISSION USE PERMIT APPROVAL TO MODIFY BILLBOARD AT 4850 PARK ROAD**

RECOMMENDATION:

Adopt a resolution upholding the Planning Commission action approving a request by CBS Outdoor to modify an existing billboard sign at 4850 Park Road.

EXECUTIVE SUMMARY:

CBS Outdoor proposes to lease the former "Nationwide" I-680 freeway-oriented electronic billboard sign that is located on City property adjacent to Park Road and Interstate 680. The modified sign will have roughly the same overall sign area and the same height as the existing sign. The electronic reader board will be upgraded to digital LED technology. This matter was heard at the January 15, 2013 City Council regular meeting; however, due to the lateness of the hour, appellant rebuttal was inadvertently omitted from the proceedings, and so the matter is being re-heard.

BUDGET INFORMATION:

The proposed project is expected to provide the City of Benicia with a substantial revenue stream for many years. In fact, if this proposed billboard structure was classified as a business entity and its lease revenue as sales tax, it would rank as Benicia's third highest sales tax producing business. In addition, the lease agreement will provide the City with advertising time and space to promote community events, tourism and economic development.

ENVIRONMENTAL ANALYSIS:

The Planning Commission reviewed the project and determined that the proposed project is Categorically Exempt per the California Environmental Quality Act (CEQA) Guidelines Section 15302, which applies to replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The height of the sign will remain 42 feet 9 inches, and the area of the sign measured pursuant to the municipal code will increase from 869 to 989 square feet. Because the existing

sign includes an electronic readerboard sign with a changing message, the modified sign is not considered a change in purpose or capacity.

GENERAL PLAN:

Relevant General Plan goals, policies and programs include the following, as discussed in the Summary section below:

- GOAL 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.
- GOAL 2.7: Attract and retain industrial facilities that provide fiscal and economic benefits to—and meet the present and future needs of—Benicia.
- GOAL 2.13: Support the economic viability of existing commercial centers.
 - GOAL 3.3: Increase public awareness of cultural resources and activities.
 - POLICY 3.3.1: Preserve and enhance cultural organizations, resources and activities.
 - Program 3.3.A: Utilize the City's web page and other information sources to advertise cultural activities.
 - Program 3.3.E: Develop promotional materials that increase community awareness of the Camel Barn museum.
- GOAL 3.5: Promote events with wide community attraction.
 - POLICY 3.5.1: Support community-wide and special events, such as arts in the park, a farmers' market, and open studios.
- GOAL 3.6: Support and promote the arts as a major element in Benicia's community identity.
- GOAL 3.9: Protect and enhance scenic roads and highways.
 - POLICY 3.9.1: Preserve vistas along I-780 and I-680.
 - Program 3.9.A: Inventory scenic resources along I-780 and I-680.
 - Program 3.9.B: Investigate and apply for State Scenic highway designation of Interstate Highways I-780 and I-680.

STRATEGIC PLAN:

- Strategic Issue 3 – Strengthening Economic and Fiscal Conditions
 - Strategy 1 – Implement Economic Development Strategy

- Action (c) – Replace Nationwide sign with tourism sign on I-680 freeway

BACKGROUND:

There are presently six billboard structures located on Interstate 680. The first, a smaller wooden structure, originally owned by Andrew Siri and now owned and operated by Bay Alarm, was approved and erected in 1971.

In 1983, two more structures were approved and then erected in 1985. The Conditional Use Permit 67-83 was issued to Gannett Outdoor Company, then sold to Outdoor Systems Advertising, and now is owned by CBS Outdoor. This Conditional Use Permit was renewed in 1991 and again in 1998. It was due for renewal in 2003, but has not been acted upon by the applicant.

In 1986, the City, via the Surplus Property Authority of the City of Benicia, entered into an addendum to a Land Lease and Consent to Sublease agreement which provided for the erection of two more billboard structures by Viaduct Associates, which were subsequently sold to Eller Media, and are now owned by Clear Channel Outdoor. In 2000, prior to selling its interest, Eller Media secured a renewal to its use permit which will not expire until June 1, 2014. Clear Channel Outdoor received approval to amend and extend this use permit by the Planning Commission in November 2012 and is awaiting City Council consideration of a lease agreement that will definitively extend and amend the existing lease agreement.

The final structure was approved and erected in 1998 through a development agreement between the City of Benicia and Nationwide Auction Systems. It is this sign, located on City-owned property located at 4850 Park Road that is the subject of this Staff Report and the item before the City Council.

In July 2008, the City sought proposals from outdoor media companies to lease the 4850 Park Road site and replace the sign. The City's goals were to create a gateway statement, promote community events and foster community identity, attract visitors, provide general revenue or other benefits for the City, and offer an advertising opportunity for local business. CBS Outdoor was the selected respondent.

CBS Outdoor is proposing to enter into a lease with the City of Benicia, which owns the land, to allow upgrading and alteration of the existing sign. On November 27, 2012, the Planning Commission approved the applicant's request to upgrade the existing billboard with a state of the art LED display billboard. Copies of the staff report and draft minutes are attached to this report. On December 13, 2012, two appeals were filed with the Community Development Department. Copies of the appeals are provided as attachments to this report.

SUMMARY:

Please refer to the attached staff report to the Planning Commission ("PC") for the basic information on this project. The following information is provided to address the specific issues raised in the appeal. This includes information that was gathered after the issuance of the Planning Commission Staff report. A summary of the appellants' comments are provided below in **bold**, followed by staff's response.

Appeal No. 12PLN-00059 (Andres) Comments:

1. Use Permit is not valid / sign should have been removed.

Staff Response: The PC staff report notes that the subject sign obtained a Use Permit for the installation. To clarify the history of the existing sign, staff provides the following:

In 1998, Nationwide Auction Systems applied for and received Use Permit authorization for their proposed facility located at 1 Oak Road (PRJ 98-18). As part of that process, they entered into a Development Agreement (DA 98-1) in October 1998 with the City of Benicia for a deferral of specified public improvements. The agreement included the installation of the subject sign. Pursuant to the Development Agreement, the existing billboard sign was subsequently approved with a Sign Review permit in March, 1999 (S-13-99). The permit was not subject to an expiration date. BMC Section 18.24.010 states, *unless specifically authorized under other sections of this title, the following types of signs shall not be erected or maintained...a dilapidated or abandoned sign ... without application to and approval by the planning commission.*

Although the electronic reader board portion of the sign was no longer in use after Nationwide Auction System closed, the sign was not abandoned. The subject sign still provided a promotion for Benicia and was maintained by the City. Once a permit is issued, it runs with the land and does not terminate when the applicant leaves. The City assumed the reader board and Nationwide's rights to it, and currently holds the Caltrans Outdoor Advertising permit #41548 for the existing reader board sign. Although the City did not use the reader board function of the sign, it had the ability to do so and desired to see it used, as evidenced by the Request for Proposal in July 2008. The permit therefore has remained valid pursuant to BMC Section 18.24.010, which allows existing legally permitted billboards to remain and be modified.

2. Project conflicts with the General Plan.

Staff Response: As outlined in the PC staff report, staff determined that the applicable General Plan goals and policies include the following.

GOAL 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.

The proposed billboard modification is consistent with this broad goal. The proposed lease will provide substantial economic benefit to the City of Benicia over a number of years through the lease agreement.

GOAL 3.9: Protect and enhance scenic roads and highways.

POLICY 3.9.1: Preserve vistas along I-780 and I-680.

Program 3.9.A: Inventory scenic resources along I-780 and I-680.

Program 3.9.B: Investigate and apply for State Scenic highway designation of Interstate Highways I-780 and I-680.

The PC discussed the impacts of the proposed project on the vistas of I-680 identified in the General Plan and the Interstate's ability for State Scenic highway designation. According to the Scenic Highway Guidelines (California Department of Transportation), freeways are evaluated on the merits of how much natural landscape a traveler sees and the extent of visual intrusions.

According to Caltrans 2008 Scenic Highway Guidelines, visual intrusion may be natural or constructed, and the less affected the scenic corridor is by the intrusion, the more likely it is to be nominated [for designation]. Based on these requirements and the current extent of visual intrusions, as well as discussions with Caltrans, a designation of I-680 as a scenic highway appears very unlikely.

As detailed in the attached Caltrans Scenic Highway Guidelines (2008), seeking Scenic Highway designation for I-680 in Benicia would first require an act of the State legislature to amend the existing statewide map of "eligible" roadways. (Currently State Route 37, west of Vallejo is the only eligible roadway in Solano County). Next, the City would need to present a nomination to Caltrans for a segment at least one mile long. The proposal would need to assess existing visual intrusions between the roadway and adjacent areas of natural scenic beauty and demonstrate that such intrusions affect less than one-quarter of the length of the segment. If Caltrans believes the proposal has merit, the City likely would next need to amend the zoning ordinance to protect the corridor from encroachment by visually intrusive land uses and activities. A

public participation process would also be required prior to a Caltrans final determination on the matter.

Page 114 of the General Plan states, *when traveling from north to south [on Interstate 680]...once the Benicia City Limits are in reach, views briefly open up on both sides of the road; however, the focus is directly on several large storage tanks on the north side of the main ridge. When traveling from south to north, the focus is westward on the rolling hills above and below Lake Herman Road.*

The location of the subject sign does not impact any of the vistas in question as stated in the General Plan. The subject sign is located near the northern edge of the City limits. Extended views from I-680 in this area are predominately directly to the south towards several large storage tanks. The interstate is flanked by a low berm and several one and two story substantially sized industrial buildings. As a vehicle travels south, eastern and western views are blocked by trees and buildings. It is not until the middle of Park Road is reached, near the off-ramp, that any extended views are visible. The views to the west are primarily of the several large storage tanks and equipment buildings that encompass Valero Refinery. The proposed project would modify an existing sign that is not visible from any scenic vistas or residential areas. Because the sign already exists, the ability to designate the I-680 corridor as a scenic highway is not compromised. The proposed modifications do not further deteriorate the vista for travelers along I-680.

GOAL 2.7: Attract and retain industrial facilities that provide fiscal and economic benefits to—and meet the present and future needs of—Benicia.

Goal 2.7 is reflected in the proposed project by demonstrating to the thousands of daily commuters that travel along I-680 that the City of Benicia Industrial Park is developed with 21st Century technology. Demonstrating that the Industrial Park is able to meet the present and future needs of its businesses and attract new industrial facilities is key to its stability and growth.

GOAL 2.13: Support the economic viability of existing commercial centers.

GOAL 3.3: Increase public awareness of cultural resources and activities.

POLICY 3.3.1: Preserve and enhance cultural organizations, resources and activities.

Program 3.3.A: Utilize the City's web page and other information sources to advertise cultural activities.

Program 3.3.E: Develop promotional materials that increase community awareness of the Camel Barn museum.

GOAL 3.5: Promote events with wide community attraction.

POLICY 3.5.1: Support community-wide and special events, such as arts in the park, a farmers' market, and open studios.

GOAL 3.6: Support and promote the arts as a major element in Benicia's community identity.

Consistent with Goals 2.13, 3.3, 3.5, 3.6 and their associated policies and programs, the City will require a community benefits package as part of the lease agreement, including a specified amount of advertising time for City events, programs and activities. Final lease terms will be subject to City Council approval.

3. Project conflicts with the Sign Ordinance. The appeal states that the maximum allowable sign area is 200 square feet.

Staff Response: Pursuant to the Benicia Municipal Code, Section 18.12.030, the maximum sign area of 200 feet pertains to wall signs *only* and therefore does not apply to the proposed project. The proposed project to upgrade the existing billboard signs is consistent with the applicable section of the Benicia Municipal Code, Title 18, Sign Ordinance which allows for the alteration of existing permitted billboard signs as follows:

18.24.040 Billboards/non-accessory signs.

The city completely prohibits the construction, erection or use of any billboards or non-accessory signs other than those which legally exist in the city ... This provision does not prohibit agreements to relocate, remodel or enhance presently existing, legal billboards or non-accessory signs. (Ord. 07-25 § 6) (Emphasis added).

The subject billboard sign was originally constructed with City permits, including a sign review permit, and only after entering into a development agreement and lease agreement with the City of Benicia.

4. Local property owners were not notified.

Staff Response: The City provided one public notice for this project. On November 19, 2012, The City sent a Notice of Public Hearing for the subject use permit to the following:

- All occupants and property owners within a 300' radius of the subject property
- Posting on the subject property at 2 locations

Appeal No. 12PLN-00062 (Cohen-Grossman) Comments:

On the morning of March 27, 2013 Ms. Cohen-Grossman notified staff by email that she would be withdrawing her appeal. The responses to her issues were already drafted and have been left in this report for the Council's information.

1. The Sign is not “iconic” as per the 2008 Request for Proposal outlined.

Staff Response: As part of the PC packet, the applicant provided four different design options for the Commission's consideration. Each option included a location for the “Benicia – A Great Day by the Bay” tourism logo. Staff recommended two options they interpreted as the most clean and simple design to the PC for approval. Although some discussion was had in regard to the design, the PC's decision did not require a modification to the design, leaving any of the four presented options to be selected by the City Council as part of the lease agreement.

2. Sign design alternatives change design.

Staff Response: The proposed design is a more streamlined and modern design than the existing sign, so in that regard, the design alternatives do change the design. However, when considering whether or not the project was exempt from further environmental review, staff carefully reviewed the requirements for the exemption. Section 15302 of the CEQA Guidelines requires the replacement of an existing structure to have substantially the same purpose and capacity as the structure replaced. The modified sign will have the same height and less total sign area (per BMC 18.12.20, which states that sign area in this case is computed by including the maximum display surface visible by an encompassing rectangle). Because the existing sign is an illuminated electronic reader board sign with changing messages, the modified sign is not a change in purpose or capacity.

3. Project should generate broader Environmental Review.

Staff Response: As previously stated, the PC agreed with staff's recommendation and determined that the proposed project is Categorically Exempt per CEQA Guidelines Section 15302 for the reasons noted above.

In addition, the PC and staff acknowledged that billboards that are located adjacent to the freeway are highly regulated and are required to comply with the laws and regulations of multiple agencies regarding visual impacts and public safety, including the federal Highway Beautification Act of 1965 and the Outdoor Advertising Act enforced by California Department of Transportation. Additional restrictions on outdoor signage are found in the California Vehicle

Code (CVC). Section 21466.5, that prohibits the placing of any light source “...of any color of such brilliance as to impair the vision of drivers upon the highway.” Specific standards for measuring light sources are also provided in the CVC. The restrictions may be enforced by Caltrans, the California Highway Patrol or local authorities.

These provisions of law effectively regulate sign location and brightness to ensure that digital billboards will not be located in such a manner as to create hazards. Restrictions on digital billboards contained within the Outdoor Advertising Act establish conditions related to traffic safety. Caltrans regulates the location and size of each proposed digital billboard through its application process, as well as regulating the distance between such signs. California statutory provisions regulate brightness of displays. These laws and regulations prohibit such signage from displaying flashing lights or images.

4. Lack of public outreach on design.

Staff Response: Billboards and other signs are subject to BMC Title 18, Sign Ordinance. Although a separate design review process is not provided for these types of projects, City staff attempted to engage many groups with the City to provide information about the process and proposal. City staff provided information about the billboard proposals to the community at the following meetings:

- City Council Meeting, April 5, 2011, Staff provided an update on the status of the exclusive negotiating rights agreement (ENRA) with CBS Outdoor regarding the design and development of a lease agreement for a reader board sign which would replace the existing Nationwide sign.
- Planning Commission meeting, June 14, 2012, Staff provided a update under Staff Communications on the subject billboard applications as a notification of expected timing
- Chamber of Commerce Board of Directors meeting, October 23, 2012
- Economic Development Board Meeting November 15, 2012
- Benicia Industrial Park Association (BIPA) Board of Directors meeting, November 21, 2012
- Planning Commission meeting, November 29, 2012

As previously noted, the drawings circulated for the proposed project included four slightly different design options. The design of the project was mentioned, but was not the focus of PC deliberation.

5. Sign Ordinance Committee work should be complete prior to proceeding with any Use Permit applications.

Staff Response: Once an application is determined to be complete, State law requires the City to act expeditiously to take action. In addition, the work of the sign committee is occurring within the context of the Council having (1) both established a prohibition on additional billboards; and (2) having directed staff to bring a new lease agreement to the Council for consideration.

6. Signs Design minimizes the promotion of Benicia

See Staff Response to comment #1 above.

PROCEDURAL ISSUES:

Benicia Municipal Code Section 1.44.040 and the Council's Rules of Procedure set forth how the appeal hearing should be conducted. Any interested person may appeal a decision. An appeal needs to have "sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal." Appeal hearings are de novo or new hearings on the issue. This means that the Council should review the record of the previous hearing(s), as well consider the testimony and evidence provided during the de novo appeal hearing. As outlined in BMC Section 1.44.040 D, the evidence includes: "1. Any relevant evidence, including staff reports, etc., submitted at the time of the prior decision and at the appeal hearing, and 2. Findings, if any, and decision of the person or body whose decision is being appealed." Since the appeal is challenging the issuance of the billboard permit by the PC, the applicant for the permit, (CBS Outdoor), has the burden of proof pursuant to BMC Section 1.44.040 E.

The process at the hearing is as follows:

1. Staff Presentation
2. Presentation by the Appellant (up to 15 minutes)
3. Presentation by the Project Applicant (up to 15 minutes)
4. Open the public hearing
5. Comments from the Public
6. Rebuttal by the Appellant (up to 5 minutes)
7. Rebuttal by the Project Applicant (up to 5 minutes)
8. Close the public hearing
9. Consideration and decision by the Council.

The members of the public who wish to speak on the items are limited to 5 minutes. If there are a large number of speakers the Council could agree to reduce the 5 minute time limit. The Council rules request that if possible,

speakers try not to repeat the same information that someone else has provided. If there is organized opposition, the group should appoint a spokesperson who is entitled to 15 minutes of time.

Following the rebuttals, the Council should consider the evidence and “affirm, modify, or reverse, in whole or in part, the original decision and may make such order, requirement, decision or determination as is appropriate.” (BMC Section 1.44.040H)

This matter was heard at the January 15, 2013 City Council regular meeting. However, due to the lateness of the hour, Procedural Steps 6 and 7 were inadvertently omitted from the proceedings. Accordingly, the matter is being re-heard.

COMMENTS FROM PRIOR APPEAL HEARING:

A number of questions were raised at the January 15 hearing, as summarized below *with responses in italics* (in chronological order from the hearing).

Initial Council Questions

- Can the sign be relocated (Council Member Campbell)?

The sign ordinance allows relocation, but the City has only a footprint lease area in the Caltrans right-of-way.

- Will the proposed sign being angled away from Insight Glass help with the glare issue (Council Member Hughes)?

Yes, but it will present a blank backing to the business.

- Since the original sign permit was tied to a development agreement that has expired, CEQA review is necessary and should be based on public input; therefore the CEQA document is a failure (Mayor Patterson).

See response below to Mayor's question during Council Deliberation.

Appellant Craig Andres, part owner of Insight Glass

- The 300-foot notification area around the site should be 1500 feet.

Benicia Municipal Code Section 17.104.040.C. specifies that “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.”

- There needs to be a definitive study of the potential danger of distracted driving. *There are a variety of recent studies with different conclusions.*

- The City should compensate Insight Glass for decreased property value related to the new sign. *There is no means for achieving this, even if it could be shown*

to be true in the future.

- Shouldn't the sign have been torn down when Nationwide went out of business and/or when the sign stopped working. The City Council could have so directed, but instead chose to pursue replacement of the sign.

- If the sign is built, will the industrial park get all of the related revenue to the City? The City Council will determine where to direct revenue.

- What are the boundaries of the City lease area? The location of the proposed lease area totals 2,505 square feet and is 50.10 feet from the adjacent road.

- Isn't revenue to the City from Insight Glass greater than the potential from the billboard? The specific sales tax revenue received from each business by the City is confidential information. The projected revenue from the proposed lease agreement with CBS Outdoor is expected to generate approximately \$230,000 annually.

- How does this sign qualify as a billboard? Benicia Municipal Code Section 18.04.020 defines "Billboard or non-accessory sign" as "a sign which advertises or provides information about a business organization or event, goods, products, services or uses, not directly concerning the use on the property upon which the sign is located, and does not include community directional signs or open house signs."

Appellant Susan Cohen-Grossman, Planning Commissioner

- Can the proposed sign be more iconic and have larger lettering for city name? CBS has been asked to propose additional design options to achieve these objectives.

- How much will the sign increase revenue to the City? The amount is still a matter of lease negotiations, but the current expectation is the City will generate approximately \$230,000 annually in additional revenue.

- Was design review by HPRC required? No; the box for design review was mistakenly checked on the initial application form, but design review is not required under our existing City Ordinance.

- Will the Council consider the design to achieve an iconic design? Yes. Design can be adjusted by the Council during lease finalization, if not before.

- Should the sign ordinance update committee review the proposal? The Council could so determine if desired.

- Could a marketing group also be organized to review the design? *The Council could so determine if desired.*

Council Questions

- Can the sign be re-designed to limit its impact on Insight Glass and be iconic (Council Member Hughes)? *The CBS representative at the January 15 hearing indicated that design changes are possible.*

- Has CBS ever planted trees as a visual buffer (Council Member Campbell). *No.*

- When did the development agreement expire (Mayor Patterson)? *The development agreement expired when Nationwide executed the settlement agreement and mutual release on April 24, 2008.*

- Was there CEQA review for the existing sign (Mayor Patterson)? *Yes: The Council adopted a Mitigated Negative Declaration for the Nationwide use, including this sign, in 1998.*

John Bunch, former Benicia Planning Director

- Is this really a modification of an existing sign, which had a smaller reader board within a larger sign? *Benicia Municipal Code Section 18.24.040 allows "agreements to relocate, remodel or enhance presently existing, legal billboards or non-accessory signs." Therefore, the Council has the discretion to determine whether "enhance" allows complete replacement.*

- Is the sign a nonconforming use? *No. It is a conforming use because it meets the sign ordinance definition of billboard or non-accessory sign.*

- Was the size of the proposed sign calculated correctly. *No: the size reported in the January 15 staff report incorrectly indicated the new sign area would be 47 square feet smaller than the existing sign. The area computation method in Benicia Municipal Code Section 18.12.020 (which in this case, uses the calculation of the area of a rectangle encompassing "the maximum single display surface" of the proposed sign) indicates that the proposed sign area would actually be larger than the existing sign by 130 square feet.*

Council Deliberation

- Could a more extensive CEQA process have been used to define "iconic" and create a better design (Mayor Patterson)? *"Iconic" could have been better defined in the Request for Proposals. However, the design can still be controlled by the Council.*

- Would a mitigated negative declaration (instead of a categorical exemption) under CEQA have considered the design as part of the aesthetics analysis

(Mayor Patterson)? *It could have, but that doesn't mean the categorical exemption is inadequate. The categorical exemption for the project (CEQA Guidelines Section 15302) applies to "replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced," and subsection (b) enumerates "Replacement of a commercial structure with a new structure of substantially the same size, purpose and capacity." The exemption does not mention shape; in this case, vertical versus horizontal. CBS has indicated that at this site, they will only install an LED display 14 feet high and 48 feet wide, so a mitigation measure requiring another shape would result in no project.*

CONCLUSION:

The proposed billboard modification has no potential for adverse environmental effects because it is conditioned to comply with all State and federal regulations for illumination and display. The height and location of the sign adjacent to the freeway preclude its general visibility from any prominent Benicia locations (with the exception of I-680) or residential areas, so it is therefore consistent with the Municipal Code, General Plan, or other policy documents. The sign may be altered pursuant to the Sign Ordinance, which may include complete replacement at the discretion of the City Council.

FURTHER ACTION:

The City Council would have to approve a lease agreement with CBS Outdoor before this permit is considered as valid.

ATTACHMENTS:

- ❑ Draft Resolution
- ❑ Appeal dated 12-13-12 from Craig Andres
- ❑ Appeal dated 12-13-12 from Susan Cohen Grossman
- ❑ Draft Minutes of the November 29, 2012 Planning Commission Meeting
- ❑ Planning Commission Resolution No. 12-8
- ❑ Planning Commission Packet
- ❑ Caltrans 2008 Scenic Highway Guidelines

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DENYING THE APPEALS AND UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE A USE PERMIT TO MODIFY THE EXISTING BILLBOARD AT 4850 PARK ROAD

WHEREAS, On April 5, 2012, Robert Harbin on behalf of CBS Outdoor requested use permit approval to modify the existing billboard at 4850 Park Road; and

WHEREAS, the Planning Commission, at a special meeting on November 29 2012, conducted a public hearing and reviewed the proposed project; and

WHEREAS, the Planning Commission approved Resolution No. 12-8 for the modification of the billboard at 4850 Park Road; and

WHEREAS, the Planning Commission approved the proposed project to modify the existing billboard to an LED display; and

WHEREAS, On December 13, 2012, Craig Andres and Susan Cohen Grossman filed an appeal of the approval of the modification of the existing billboards to the City Council; and

WHEREAS, the City Council, at their regular meeting on January 15, 2013, reviewed the appeal to modify the existing billboard; however, due to the lateness of the hour, appellant rebuttal was inadvertently omitted from the proceedings; and

WHEREAS, Susan Choen-Gorssman withdrew her appeal on March 27, 2013; a

WHEREAS, the City Council, at their regular meeting on April 2, 2013, reviewed the appeal to modify the existing billboard.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby finds that:

1. The proposed project is a Class 2 Categorical Exemption from the California Environmental Quality Act because it can be seen with certainty that the proposed project does not have the potential to have any effects on the environment. The project is required to comply with all State and federal requirements and permitting for traffic safety and luminance. The site is not located near any sensitive habitat or archeological areas. The project area is located on previously disturbed fill soil between an existing industrial development project and the northbound lanes of I-680.

2. The proposed location of the use is in accord with the objectives of Title 17 and the purposes of the district in which the site is located because a use permit was previously approved for the existing billboard sign and Title 18 of the Municipal Code (Sign Ordinance) allows for its modification.
3. The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the City as demonstrated in the staff report because the sign alteration is required to be approved by Caltrans and subject to Caltrans permitting enforcement consistent with State and national regulations for placement, luminance, and safety.
4. The proposed conditional use will comply with the provisions of Title 17 as they apply, and consistent with Title 18, the Sign Ordinance.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia hereby denies the appeal of Mr. Andres and upholds the Planning Commission approval of the proposed project subject to the following conditions (as approved by the Planning Commission):

1. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City's development policies which affect the site, and there has been no change in the physical circumstances nor new information about the project site which would warrant reconsideration of the approval.
2. This approval shall only be in effect upon execution of a lease agreement between the City of Benicia and CBS Outdoor.
3. Prior to the issuance of any building permit, the applicant must demonstrate compliance with all State and federal requirements for the alteration and operation of the billboard and including the FHWA agreements with Caltrans of February 15, 1968, the Highway Beautification Act, the Outdoor Advertising Act, California Vehicle Code and FHWA Memoranda of July 17, 1996 and September 25, 2007. This requirement includes obtaining a permit from Caltrans, which requires consistency with the aforementioned.
4. The plans submitted for the building permit and construction shall substantially comply with the sample board date stamped received April 5, 2012, except as modified by the following conditions. Any change from the this approval including

substitution of materials, shall be requested in writing and approved by the Community Development Director, or designee, prior to changes being made in the field.

5. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
6. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director's, Historic Preservation Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

On a motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at the regular meeting of said Council held on the 2nd day of April, 2013, and adopted by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

DRAFT



**BENICIA PLANNING COMMISSION
SPECIAL MEETING MINUTES**

**CITY HALL COUNCIL CHAMBERS
Thursday, November 29, 2012
7:00 p.m.**

I. OPENING OF MEETING

A. Pledge of Allegiance

B. Roll Call of Commissioners

Present: Commissioners Cohen-Grossman, Dean, Oakes, Smith
(arrived 7:15 p.m.), Sprague, Chair Sherry
Absent: Commissioner Syracuse (excused)

Staff Present: Charlie Knox, Community Development Director
Amy Million, Principal Planner
Lisa Porras, Senior Planner/Recording Secretary
Mario Guiliani, Economic Development Manager
Kat Wellman, Contract Attorney

C. Reference to Fundamental Rights of Public

II. ADOPTION OF AGENDA

On motion of Commissioner Oakes to move item VI.C to VI.A, seconded by Commissioner Dean, the agenda was adopted by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Oakes, Sprague, Chair
Sherry
Noes: None
Absent: Commissioners Smith and Syracuse
Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

A. WRITTEN

Mr. Knox noted that we did receive one comment letter from Bob Berman in regard to Items VI. B and VI. C in addition to those comments already included in the staff report.

B. PUBLIC COMMENT

None.

IV. CONSENT CALENDAR

On motion of Commissioner Oakes, seconded by Commissioner Dean, noting the correction of the typo of love/work in item IV. A, the consent calendar was approved by the following vote:

Ayes: Commissioners Cohen-Grossman, Dean, Oakes, Sprague, Chair Sherry
Noes: None
Absent: Commissioners Smith and Syracuse
Abstain: Commissioner Cohen-Grossman (Items IV. A. and B)

- A. Approval of minutes from Joint PC/HPRC Workshop, September 13, 2012**
- B. Approval of minutes from October 11, 2012**
- C. 257 Essex Way – Annual bird death report**
- D. Planning Commission hearing calendar for 2013**

V. PRESENTATION

Ms. Porras gave a presentation on Benicia's two Priority Development Areas as they relate to the goals of SB375 and as preferred areas for transportation funding.

The Commissions and staff discussed the difference between Employment Investment Area vs. the Downtown PDA and the location of the 12 PDAs in Solano County and potential funding sources for PDAs.

Mr. Knox replied that employment investment areas focus on job retention and creation with an emphasis on transit-based mobility (housing is typically found outside the area, but in close proximity) whereas traditional PDAs are those with an emphasis on infill housing development with connectivity to transit. Ms. Porras responded that the majority of PDAs in Solano County are found in Fairfield, but that there are PDAs in other smaller jurisdictions within the County such as Suisun, Dixon, and Rio Vista.

VI. REGULAR AGENDA ITEMS

- A. WATERFRONT PARK MASTER PLAN – SELECT ONE MEMBER OF THE PLANNING**

COMMISSION TO SERVE AS A REPRESENTATIVE ON THE COMMUNITY ADVISORY COMMITTEE

Ms. Porras provided an overview of the item and described the number of workshops and meeting that would be required of the Planning Commission's representative.

Public comment opened.

Jon Van Landschoot asked that the representative please commit to the 6 required meetings.

Public comment closed.

Commissioner Cohen-Grossman stated that she would serve as the Commission's representative.

On motion of Commissioner Dean, seconded by Commissioner Oakes, the appointment of Commissioner Cohen-Grossman to the Waterfront Enhancement and Master Plan Committee was adopted by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Smith, Sprague, Vice-Dean, and Chair Sherry
Noes:	None
Absent:	Commissioner Syracuse
Abstain:	None

**B. USE PERMIT – REQUEST TO MODIFY THE EXISTING BILLBOARD SIGN (CBS)
12PLN-13 – Use Permit
4850 Park Road, Public Right-of-Way adjacent to APN 080-060-360**

Ms. Million presented the project, which was followed by a supplemental presentation given by Economic Development Manager Mario Guiliani.

Commissioner Cohen-Grossman asked why the Economic Development Board (EDB) recommended approval poste-haste. Mr. Guiliani responded that the EDB wanted to add emphasis to their recommendation, expressing their belief of project readiness.

The Commission directed several comments and questions to staff in regard to the sign ordinance committee, CEQA and the original use permit. Commissioner Cohen-Grossman questioned the proposed design. Mr. Guiliani replied that it was for aesthetic reasons and structural concerns – the existing structure cannot support the CBS proposal.

In response to a question a question from Commissioner Oakes, Mr. Knox clarified that Commission's approval for the two proposed signs would not commit the Commission to approving other signs in the future (3 others would be possible).

The Commissioners and staff briefly discussed the preliminary lease terms.

Public comment opened.

Kimball Goodman, chair of the EDB stated the recommendation from the EDB was unanimous. Mr. Goodman noted the EBD's position that the billboards will boost tourism, address the city's budget shortfalls with added revenues, and increase community involvement with public and non-profit signage.

Ed Ruszel, property owner on Bayshore Road, questioned the original use permit, mitigation of visual impacts and the process for how the City decides what public messages are displayed on the billboards.

Eric Hoagland, resident and business owner, stated that EDBs mission is to encourage business to come to Benicia. If if these signs are not approved it sends a wrong message – a message not to do business in Benicia.

Craig Andres, co-owner of Insight Glass (adjacent to the billboard), stated he has been in business in Benicia for 26 years and has produced economic benefits to the City. Mr. Andres stated that he recommended that Nationwide sign be removed when it became inoperable and believed that the City previously told him it would be removed. He further stated that his employees are there from 6 am until 6 pm, Insight Glass is home to his employees and their view of the straight.

Chris Terry stated he requested a sign on his East 2nd Street business and that all of his proposals were denied. Only one sign was approved and it is not noticeable.

Jon Van Landschoot, resident, stated he concurs with Commissioner Smith that the approval would set a precedent. People on the Sign Ordinance Committee are concerned about these types of signs, which he believes signs cause accidents. Billboards may soon be outdated with new technology able to cut in on radio and make an announcement based on location. This technology can replace electronic billboards. If the City goes forward they should limit it to just 1 LED sign. The lease agreement should be for 3 to 5 years because technology will change.

Donnell Rubay, resident, pointed out that the sign proposed is not the same as the one that is there and if we approve these the City should forget about the Sign Ordinance Committee since its purpose would be moot. She doubts that signs will benefit tourism. There should be more outreach and more discussion at the very least.

Public Comment closed.

Commissioner Dean asked Ms. Million and Mr. Guiliani to respond to the questions that were raised. Ms. Million replied that:

- use permits rest with the land (property) not the applicant
- the existing size of the sign area is 700 sq. ft. and the proposed sign area is less than that (Ms. Million referred to page A-1 of the application).
- the City notified all property owners within 300 ft. on Nov. 19, 2012 when the notices were sent out.

Mr. Guiliani replied that:

- because the billboard would be on City property, the City can regulate content beyond First Amendment rights. City and Community oriented content can be managed through Economic Development; all requests that would promote a city purpose or goal would be accepted.
- There is no contract between the City and Insight Glass with respect to the Nationwide sign.

The Commission and staff discussed what latitude the City has on signs on private property versus City property.

Commissioner Dean asked Commissioner Smith if she had a sense on where the Sign Ordinance Committee stood on this issue. Ms. Smith replied that she did not because it will continue to be discussed at the next meeting. Commissioner Dean requested more information on the original use permit. Mr. Guiliani replied that the sign was just for Nationwide, but that 30% of content for the proposed CBS billboard would be for community-based notices.

Commissioner Smith stated her position that the proposal is for a different use and should be subject to CEQA. Commissioner Smith referred the Commission to Gateways as defined in the General Plan and expressed that the viewsheds had not been analyzed.

Commissioners stated concerns about the CEQA exemption and the project conflicting with General Plan gateway policies.

The Commission asked Ms. Wellman to clarify the action. Ms. Wellman explained that the Planning Commission approves the Use Permit and the Council addresses the lease agreement.

Commissioner Oakes made a motion to approve the resolution with direction to staff to present the increased review of CEQA, general plan objectives as outlined by Commissioner Smith to the City Council.

The Commissioners discussed the CEQA exemption, general plan objectives and findings necessary for approval of a use permit.

Commissioner Smith asked Mr. Andres, the owner of Insight Glass, if he would be opposed to the billboard if it were moved. Mr. Andres expressed that he would still be opposed.

Commissioner Oakes withdrew his motion.

Commissioners expressed that they were dissatisfied with findings 1, 3, and 4.

RESOLUTION NO 12-8 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT TO MODIFY AN EXISTING BILLBOARD AT 4850 PARK ROAD (12PLN-00013)

On another motion of Commissioner Oakes, seconded by Commissioner Smith, noting the changes to the conditions of approval to reference the lease agreement as recommended by staff, the above resolution was approved by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Sprague
Noes: Commissioners Smith and Dean
Abstain: Chair Sherry
Absent: Commissioner Syracuse

C. USE PERMIT – REQUEST TO MODIFY TWO EXISTING BILLBOARD SIGNS (CLEAR CHANNEL)

12PLN-35 – Use Permit

3300 Park Road and 3190 Bayshore Road, APNs: 080-080-530, 200, 710

Ms. Million provided an overview of the project.

Dana Dean, on behalf of applicant presented the project and showed a video of LED examples next to lighted vinyl billboards in various cities.

Ms. Dean stated the signs are not flashing or blinking, instead they are sliding images and static in appearance. They are regulated to be moved at a

minimum of 8 second intervals. Ms. Dean cited the benefits, emergency signage and public notification opportunities. She referred to General Plan Goals 2.5, 2.7, 2.1.3, 3.3, 3.5, and 3.6, which in her view support the proposed project.

Commissioner Smith asked what the distance was between the two billboards. Ms. Dean responded that the minimum distance per Caltrans is 1,000 ft. (on the same side of the freeway) and the actual distance is 1,300 ft.

Public comment opened.

Kimball Goodman, EDB chair, stated that the EDB recommends approval of the Clear Channel billboards.

Ed Ruszel, owner of property on Bayshore Road, stated this approval would consist of two signs approved at the same time. They are very close to the freeway, opposes these signs, not aesthetic.

Public comment closed.

Commissioner Smith asked staff about the project phasing and the Sign Ordinance modification. She questioned the particulars of the community benefits package.

Staff stated that the details of the benefits are in the lease agreement.

Commissioner Smith stated she had ex-parte communications with Dana Dean on this project. She further asked staff if this was a gateway. Mr. Knox replied that where a gateway begins and where it ends is not defined in the General Plan. Commissioner Smith further asked if the City could establish standards for increased distance between billboards. Staff replied yes.

RESOLUTION NO 12-9 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A USE PERMIT TO MODIFY AN EXISTING BILLBOARD AT 3300 PARK ROAD AND 3190 BAYSHORE ROAD (12PLN-00035)

On a motion of Commissioner Oakes, seconded by Commissioner Smith, noting the amendments for lease agreement and references to the Mitigation Monitoring Reporting Program recommended by staff, the above resolution was approved by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Smith, Sprague
Noes:	Commissioner Dean
Abstain:	Chair Sherry
Absent:	Commissioner Syracuse

VII. COMMUNICATIONS FROM STAFF

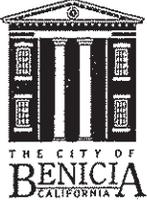
Ms. Porras announced that the regular Commission hearing of December 13, 2012 would be canceled.

VIII. COMMUNICATIONS FROM COMMISSIONERS

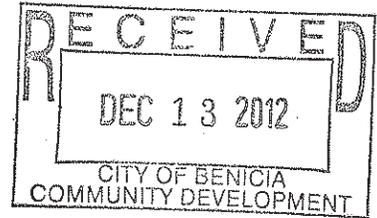
Commissioner Smith provided an update on the Sign Committee's recommendation to allow A-Frame signs with the requirement that the business owners assume the liability for it. She also noted her appreciation in regard to the Department's efforts to engage the commissioners to attend the Annual Planning Commissioners Seminar, but requested that earlier notice be provided, if possible.

IX. ADJOURNMENT

Vice-Chair Dean adjourned the meeting at 10:48 PM.



Community Development Department Planning Division



APPEAL FORM

1. Project Information.

Address/location: 4850 PARK RD
Project Name/Number BILLBOARDS SIGNS
Project Sponsor/Applicant CBS OUTDOOR

2. Type of Appeal. Indicate which type of decision you are appealing.

- Zoning Administrator
- Community Development Director
- Historic Preservation Review Commission
- Planning Commission

Hearing/Decision Date NOVEMBER 29, 2012
Decision Rendered APPROVAL OF RESOLUTION 12-8

3. Reason(s) for Appeal. State the reasons for the appeal, and the grounds on which the reasons are based. See separate "Appeal Information" handout. Please use a separate sheet of paper if necessary.

- (1) USE PERMIT NOT VALID
- (2) NOT WITHIN SIGN ORDINANCE
- (3) DOES NOT MEET GENERAL PLAN
- (4) NEVER NOTIFIED LOCAL PROPERTY OWNERS
- (5) SEE ATTACHED INFO.

4. Appellant Information.

Name CRAIG ANDRES Organization _____
Mailing address 771 TURRINI DR, DANVILLE, CA 94526
Phone 925 837-5932 Phone (2) 925 837-5932
E-mail _____ Fax 925 831-1517

5. Signature.

Appellant Date 12/13/12

12PLN-00059

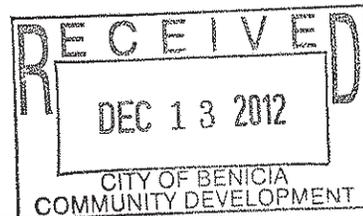
For Staff Use:	Appl # _____	Date Filed <u>12/13/12</u>
Date Entered <u>12/13/12</u>	Entered By <u>RAM</u>	Total Fees Paid \$ <u>150</u>



250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-8121

Community Development Department Planning Division

APPEAL FORM



1. Project Information.

Address/location DAVE RD & BAYSHORE RD
Project Name/Number ELECTRONIC BILLBOARDS
Project Sponsor/Applicant _____

2. Type of Appeal. Indicate which type of decision you are appealing.

- Zoning Administrator
- Community Development Director
- Historic Preservation Review Commission
- Planning Commission

Hearing/Decision Date _____
Decision Rendered _____

3. Reason(s) for Appeal. State the reasons for the appeal, and the grounds on which the reasons are based. See separate "Appeal Information" handout. Please use a separate sheet of paper if necessary.

(1) COMPLETE CHANGE IN USE PERMIT. NATIONWIDE SIGN WAS ABANDONED WHEN NATIONWIDE WENT BANKRUPT AND SIGN STOPPED WORKING. THE SIGN WAS TO BE REMOVED ON PERMITS MADE BY CITY TO INSIGHT W/BLAND ITS USE PERMIT. SIGN ORDINANCE STATES ABANDONED SIGNS SHALL BE REMOVED. NATIONWIDE PERMIT WAS FOR A SIGN, NOT A BILLBOARD. DEFINITION IN SIGN ORDINANCE CLEARLY MAKES

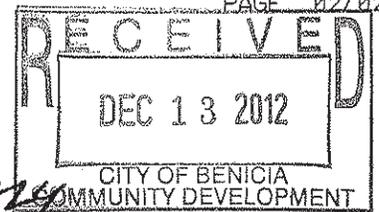
4. Appellant Information.

Name CRAIG ANDRES Organization _____
Mailing address 771 TURNER DR
Phone (925) 837-5937 Phone (2) (925) 786-7233 CEWA
E-mail CRAIG.ANDRES@CONCRETE-ART Fax _____

5. Signature.

Appellant Date 12/13/12

For Staff Use: Appl # _____		Date Filed _____	
Date Entered _____	Entered By _____	Receipt # _____	Total Fees Paid \$ _____



the sign non conforming. ORIGINALY
 NATIONWIDE WAS PERMITTED AS A free standing
 sign, NOT A BILLBOARD. NEW SIGN IS
 SIGNIFICANTLY DIFFERENT AND WOULD REQUIRE A CURRENT

CEQA DOCUMENT REVIEW, WHICH HAS NOT
 BEEN DONE. THE PROPOSED BILLBOARDS
 ARE IN VIOLATION OF SIGN ORDINANCE TO MAINTAIN
~~THE~~ 680/780 CORRIDOR. TITLE 18

SIGN ORDINANCE STATES THAT NO SIGNS SHALL
 BE A NUBANCE OR BUILT. SIGNS SHALL BE
 MAINTAINED OR THEY MUST BE REMOVED.

COMMERCIAL INDUSTRIAL SIGNS SHALL BE
 NO MORE THAN 200 SQUARE FT. PROPOSED SIGN

IS 670 SQUARE FEET. SIGN ORDINANCE MANDATES
 THAT NO SIGN SHALL BE MOVING OR FLASHING.

THE PROPOSED BILLBOARDS ~~WILL~~ CLEARLY MOVE & FLASH
 EVERY 8 SECONDS. NEW SIGN USAGE IS

NOT CONFORMING WITH THE GENERAL PLAN
 REQUIRING 680/780 AS A SCENIC HIGHWAY.

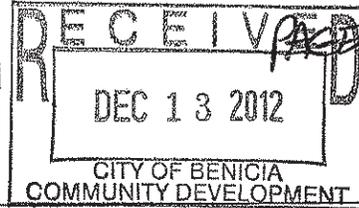
DECREASE IN REVENUE FROM INSIGHT GLASS
 TO CITY OF BENICIA. IF INSIGHT GLASS LEAVES.

PROPERTY OWNERS w/in 300 Feet. WAS NOTIFIED.
 ELECTRONIC BILLBOARDS NOT ENDORSED BY OTHER
 PROPERTY OWNERS, OR BIPA.



Community Development Department Planning Division

APPEAL FORM



1 OF 2

1. Project Information.

Address/location 4850 Park Road
Project Name/Number 12PLN-00013
Project Sponsor/Applicant CBS Outdoor

2. Type of Appeal.

 Indicate which type of decision you are appealing.

- Zoning Administrator
- Community Development Director
- Historic Preservation Review Commission
- Planning Commission

Hearing/Decision Date 11/29/12
Decision Rendered RESO 12-8 APPROVED / USE PERMIT GRANTED

3. Reason(s) for Appeal.

 State the reasons for the appeal, and the grounds on which the reasons are based. See separate "Appeal Information" handout. Please use a separate sheet of paper if necessary.

- 1.) DESIGN NOT "ICONIC" AS PER 2008 RFP (ATTACHMENT #2)
- 2.) SIGN DESIGN ALTERNATIVES CHANGE DESIGN OF EXISTING SIGN APPROVED FOR NATIONWIDE
- 3.) NEW "DESIGN" OF SIGN SHOULD GENERATE BROADER CEQA REVIEW
- 4.) LACK OF PUBLIC OUTREACH ON REPLACING NATION-WIDE SIGN WITH NEW DESIGN

4. Appellant Information.

(CONTINUED)

Name SUSAN COHEN GROSSMAN Organization _____
Mailing address 533 COVE WAY BENICIA CA 94510
Phone (707) 319-1053 Phone (2) N/A
E-mail susancg@pacbell.net Fax N/A

5. Signature.

Appellant *Susan Cohen Grossman* Date 12/13/12

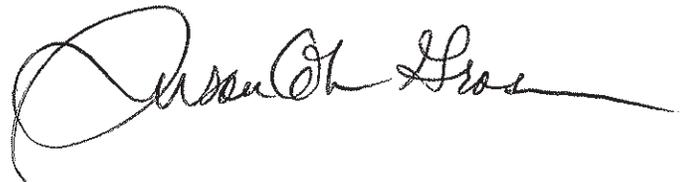
For Staff Use: Appl # <u>12PLN-00062</u>		Date Filed <u>12/13/12</u>
Date Entered <u>12/13/12</u>	Entered By <u>AM</u>	Receipt # _____
Total Fees Paid \$ <u>150-</u>		

(#3) REASONS FOR APPEAL (CONTINUED)

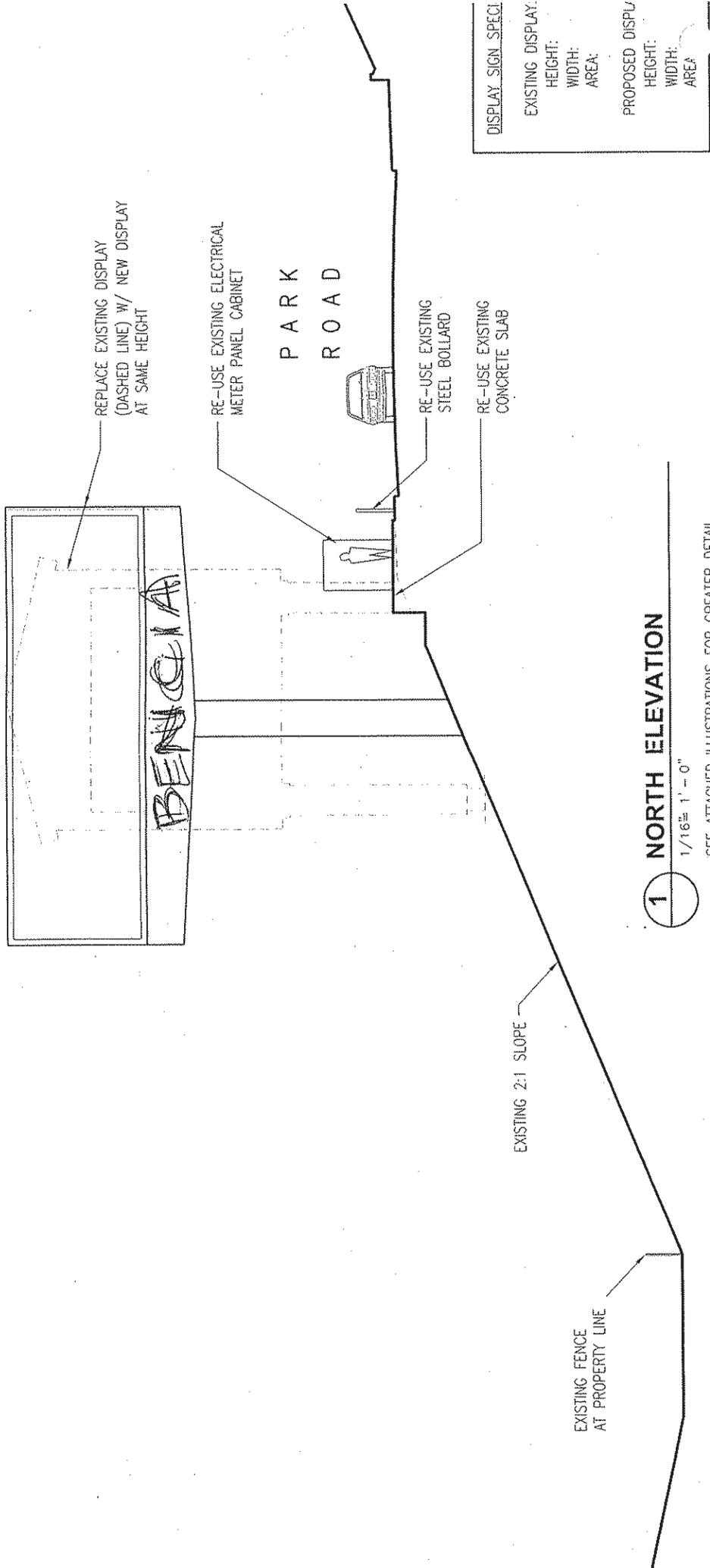
5.) SIGN ORDINANCE COMMITTEE'S WORK IS STILL IN PROGRESS. SEE ATTACHMENT #3, THEY SHOULD REVIEW INFORMATION ON DIGITAL BILLBOARDS/ELECTRONIC MESSAGE/READER BOARDS BEFORE ANY OF THE EXISTING SIGNS/BILLBOARDS ARE MODIFIED. THEY SHOULD MAKE A RECOMMENDATION TO PLANNING COMMISSION WHO ~~SHO~~ SHOULD THEN RECOMMEND TO CITY COUNCIL BEFORE ANY USE PERMIT APPLICATIONS ARE BROUGHT TO CITY COUNCIL OR PLANNING COMMISSION.

6.) SEE ATTACHMENT #1. OLD (NATIONWIDE) SIGN DESIGN CLEARLY PROMOTES BENICIA. NEW PROPOSED SIGN DESIGN MINIMIZES SIZE OF LETTERING WITH CITY NAME, THUS NEW SIGN WILL NOT ACHIEVE ~~THE~~ SAME GOAL OF WELCOMING DRIVERS TO TOWN.

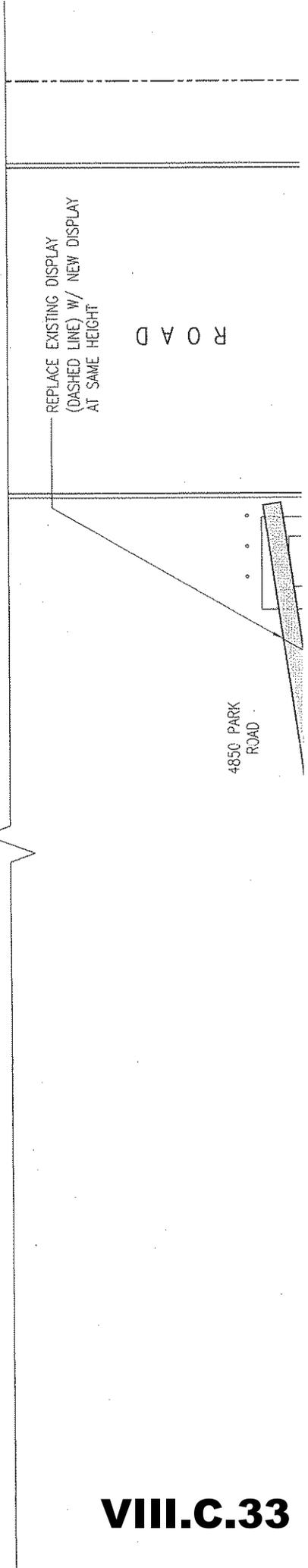
~~1) CITY~~

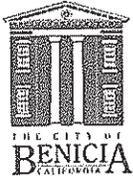


ATTACHMENT #1



SEE ATTACHED ILLUSTRATIONS FOR GREATER DETAIL





CITY OF BENICIA
REQUEST FOR PROPOSALS
LEASE OF CITY-OWNED PROPERTY WITH READER BOARD

I. INTRODUCTION

The City of Benicia, California ("City") seeks proposals from outdoor media companies who are interested in the responsibilities and opportunities involved in a lease of the City-owned parcel with existing California Department of Transportation (Caltrans) permitted reader board adjacent to Interstate 680 at milepost 2.14. The City's needs are outlined in this Request for Proposals (RFP).

Anticipated Schedule:

Issue RFP	July 18, 2008
Deadline for Submittal of Responses.....	August 29, 2008
Agreement Approved.....	December 2, 2008

The project manager is Economic Development Manager Amalia Lorentz (alorentz@ci.benicia.ca.us, 707-746-4215). The City will host a conference call about this RFP on July 31, 2008 at 3 PM.

II. BACKGROUND

The City of Benicia owns land adjacent to I-680, south of Lake Herman Road. The interstate connects the San Francisco Bay Area to Sacramento, the state capital. The area is zoned General Industrial (IG). This section of I-680 is not classified by Caltrans as landscaped freeway, scenic highway, or bonus segment.

The City Council approved a set of agreements with Nationwide Auctions, a private business with a location in Benicia, in 1999, one of which allowed the company to build a reader board on a portion of the City property ("Site"; legal description attached). As a result of a subsequent agreement entered into between Nationwide and the City earlier in 2008, the City assumed the reader board and Nationwide's rights to it and the Site were terminated. The City holds Caltrans Outdoor Advertising permit #41548 for the existing sign.

This RFP seeks to find a tenant that would lease the Site and rebuild the sign as an iconic display. The City's goals are to create a gateway statement, promote community events and foster community identity, attract visitors, generate revenue or other benefits for the City, and provide an advertising opportunity for local businesses.



The responses to this RFP will create a short list of experienced companies with reasonable proposals, which the staff selection committee will rank. The highest-ranked company will be asked to enter into a Lease Agreement, subject to Council approval. Among other items, the lease terms are expected to cover:

- Initial term length and any renewal options;
- Rental rates with annual escalators;
- General parameters of the new design;
- Free advertising in a negotiated amount for City and approved local non-profits' messages;
- Discounted advertising rates for Benicia businesses; and
- Prohibition on advertising for certain adult-oriented uses (alcohol, gambling, etc.).

The City may consider non-monetary compensation in addition to rent, such as weed abatement, billboard removal at other Benicia sites, downtown kiosks, and/or other creative concessions. The City will consider proposals that encompass a larger Site, expanded from its current boundaries, if necessary for a successful operation.

If at any point the first-ranked company declines to proceed, the City may at its discretion enter into a new lease or other agreement with the second-ranked company, and so on. The City will require the rights to all plans and studies prepared under an agreement with the City for the site.

The successful lessee will be responsible for obtaining or maintaining all local, state, and/or federal permits for the display. Respondents should note that while the City has a sign ordinance precluding new billboards, the City Attorney has determined that the rebuilding of an existing sign at this Site would not fall under this restriction.

III. INSTRUCTIONS TO PROPOSERS

1. The proposal should be submitted electronically in Microsoft Word or Adobe Acrobat file format no later than 12:00 PM on August 29, 2008 to the address below. All complete proposals received by then will be considered; postmarks not accepted. Proposals will not be accepted after this time. Please note that e-mail is only considered received if it is acknowledged by a return e-mail sent by the due date. Proposals should be addressed to:

Amalia Lorentz, Economic Development Manager
City Manager's Office, City of Benicia
250 East L Street
Benicia, CA 94510
alorentz@ci.benicia.ca.us
copy: tdavena@ci.benicia.ca.us

2. Response Contents: Responses should be prepared simply and economically, providing a concise description of the firm's qualifications to satisfy the requirements of the request. Responses do not need to be in a specific format, but they should provide the following information. They do not need to be lengthy.

- A. The name, structure, corporate background, and general local experience (with emphasis on past five years) of the company.
- B. The names, qualifications, and general local experience of each principal individual (the "Principals") who will be working on the City's project, and their areas of responsibility. Include an organizational chart for the company. Include all contact information for the

principal day-to-day contact responsible for the RFP response. This person should be able to negotiate and make representations on behalf of the company.

- C. Proposer's vision for the iconic display, and goals for project.
- D. Specific proposal for this site: lease rate and terms including other forms of compensation, type of creative display contemplated (include examples of similar displays), schedule, etc.
- E. The number of outdoor media displays (specify types) controlled by the company in Northern California, with some representative locations and clients identified. Distinct from the regional list, the company may include a list of or examples of company-wide outdoor advertising.
- F. The financial qualifications of the company are important insofar as it has the resources to fund the lease payments and construct a project under terms to be agreed upon with the City. Recent financial statements and/or relationship letters will show this. Include a statement of how the company typically funds, and at this point would expect to fund in the case of this project, lease costs and construction. Prior to entering into an agreement with the selected company, the City will conduct a detailed financial review of the company.
- G. At least three current (which means a lease signed or renewed between 2005 and 2008 and still in effect) landlord references, who have personal knowledge of the company's recent performance as a lessee, should be provided (name, title, phone number, e-mail address, site location, and any special situations). Public sector staff contacts are preferred. References should be familiar with the principals involved in this proposal.
- H. Other comments about this RFP, the project, or the process.

3. There will be an optional pre-submittal conference call on Thursday, July 31, 2008 at 3 PM, which all prospective submitters are encouraged to join. Economic Development, Community Development, and Public Works staff will participate. To receive the call-in number, request it in advance via an e-mail to alorentz@ci.benicia.ca.us.

4. Companies are requested to not contact members of the City Council regarding this project until after the RFP is closed and the staff review of the responses is complete.

IV. SELECTION PROCESS

The City will evaluate all responses received by the due date. Selected respondents may be invited to an interview. Only information that is received in response to the RFP or any subsequent interview will be evaluated. A committee of City staff will rank the responses and make a recommendation for the most qualified company with most suitable proposal based on the following criteria:

- Experience: Demonstrated experience with freeway-oriented signage construction, maintenance, and management, and history of high-quality completed projects. Experience with public sector partners is also valuable. The company's track record should reveal creative, attractive, and well-designed iconic displays that complement communities, and lack garish or gaudy features.

- Financial and technical capability: The company's financial resources to execute and sustain the project are crucial. Quality and availability of team, and proximity of office to the site should be covered.
- Proposal terms: The submitted proposal should address all the items listed on pp. 2-3 of this RFP, particularly design and compensation, as well as any other issues that the company feels are important to include in lease negotiations.
- Overall quality of proposal: Creativity, professionalism, and responsiveness to this RFP.

V. CONDITIONS OF REQUEST

General Conditions: The City reserves the right to cancel or reject all or a portion or portions of the RFP without notice, and waive minor irregularities. Further, the City makes no representations that any agreement will be awarded to any firm submitting a response. The City reserves the right to reject any and all responses submitted in response to this request or any addenda thereto. The City also reserves the right to reject any subconsultant or individual working on a team and to replace the subconsultant or individual with a mutually acceptable replacement. Any change to the RFP requirements will be made by written addendum.

Liability of Costs and Responsibility: The City shall not be liable for any costs incurred in response to this RFP. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Benicia. The selected company will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected company will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

Validity: The responder agrees to be bound by its proposal for a period of one hundred eighty (180) days commencing on the due date for responses, during which time the City may request clarification or correction of the response for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the response, but only the portion so amended or clarified.

Permits and Licenses: The selected company, and all of its subconsultants, at its and/or their sole expense, shall obtain and maintain during the term of any agreement, all appropriate permits, certificates and licenses including, but not limited to, a City of Benicia Business License, which will be required in connection with the performance of services hereunder.

Oral and Written Explanations: The City will not be bound by oral explanations or instructions given at any time during the review process. Oral explanations given during the review process become binding when confirmed in writing by an authorized City official. Any written responses to question(s) asked by one responder will be posted online at the City's website.

Authorized Representative: The person signing the response must be a legal representative of the firm who is authorized to bind the firm to an agreement in the event of the award. The City may request supporting documentation of this authorization.

Insurance: General liability, automobile, professional liability, and workers' compensation insurance will be required of the successful lessee in the minimum amount of \$3,000,000; a higher amount may be required depending on the specific proposal's contents.

Public Information: All documents and correspondence between the City and respondents are public information subject to the laws and regulations that govern the City, with exceptions only as provided for in those laws and regulations.

Site Condition: The City makes no representation as to the condition of the Site or existing sign. Companies are urged to review records and conduct investigations as they see fit.

VI. AVAILABILITY OF DOCUMENTS

More relevant information on this property is online at www.ci.Benicia.ca.us:
Zoning Code

Exhibit A: Legal Description of Site

(Note: graphic of approximate location online at

<http://maps.google.com/maps?hl=en&q=4901+park+road,+94510&ie=UTF8&ll=38.07796,-122.153721&spn=0.041619,0.134583&t=h&z=13>)

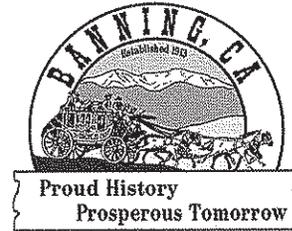
**EXHIBIT A
LEGAL DESCRIPTION**

Portion of City of Benicia Park Road Right of Way described as:

The southeasterly portion of the Park Road right-of-way adjacent to the State Highway I-680 between Stone Road and East Second Street designated as 5-1E (Park Road) on the parcel map recorded in Book 6 of Parcel Maps at Page 9 recorded on March 14, 1972 at the Solano County Recorder's Office.

CITY OF BANNING

MEMORANDUM



DATE: NOVEMBER 9, 2010

TO: HCED Listserve

FROM: Gini Sorenson, Development Project Coordinator

RE: **DIGITAL BILLBOARDS AND ELECTRONIC MESSAGE / READER BOARDS**

I have compiled and summarized the information and hope it will be useful to you:

- City of South Gate – Permitted in certain commercial and industrial zones – must be adjacent to the freeway – should be 300’ apart – 42’ high (from grade) (exceptions) – 672 sq ft in area

* Steve Lefever, Community Development Director for the City of South Gate, had some very interesting comments regarding maintenance and replacement problems with these types of signs in that city. I have included his comments: “The City of South Gate has two electronic (digital) readerboards. Both are along the east side of the I-710 (Long Beach) Freeway. They are about one-to-two miles apart and are located in the proximity of the city’s boundaries (north and south) along the I-710. Both signs feature aging, or in one case "ancient" technology. One board offers black and white script only, with minimal graphic capabilities. The other was in need of numerous repairs (due to poor construction/water damage) and when turned off for upgrades was vandalized and significantly damaged. The damage was so extensive, it rendered the sign useless. Re-design/re-construction costs are estimated to be in the \$500,000-\$1 million range. Both signs are Redevelopment Boards, with advertisers limited to businesses within the redevelopment project area, which encompasses more than 2,000 acres within the city, mostly along our primary arterials and within our downtown. One sign is on private property and is privately owned. The advertising on this sign primarily supports two nearby shopping centers (who are not freeway adjacent). The other is on City property, but is controlled by the Redevelopment Agency. It allowed advertising by businesses city-wide, including our downtown. The City’s agreement with a private management company recently expired and our Caltrans permit is also nearing expiration.

We will soon initiate conversations/possibly even negotiations with the owners of the private readerboard, with the intent to work together on a common/coordinated re-design, advertising, and management agreement/program.

Readerboards are governed in our Municipal Code pursuant to the standards contained in Section 11.31.100 Off-Premise Signs. This section governs the location, design, etc. of off-premise signs including billboards and electronic (digital) readerboards. A summary is provided below:

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

- 1) Off-Premise Freeway signs (and digital/electronic readerboards) are permitted in CM, M-2 and M-3 zones only, must be adjacent to a freeway, and maintain a minimum 300 foot separation, as measured from the base support structure for each sign. Off-premise surface street signs are not permitted (though we have some 40-50 non-conforming billboards, in varying sizes, scattered throughout the City), most on our primary arterials.
- 2) The maximum height of an off-premise sign shall not exceed 42 feet to the top of the sign panel, as measured from the adjacent "finished" grade of the adjacent freeway section. (Note: because the freeway's "finished" grade rises to bridge over a railroad adjacent to our sign, our digital readerboard/sign was allowed to be built to a height of approximately 90 feet, as measured from its foundation.)
- 3) The area for each sign panel shall not exceed 672 square feet, per panel.
- 4) Sign projections shall be limited to no more than 5.5 feet above the sign panel or 2.0 feet from the sides. Projections over the public ROW will be subject to the approval of the City and/or the State of California, as applicable.
- 5) The total of the combined area for all sign extensions/projections shall not exceed 200 square feet.
- 6) No off-premise sign shall block or obstruct the public view of signs on adjacent properties.
- 7) No off-premise sign shall be located on a site that is developed with 50% or more of residential uses.
- 8) Signs must be maintained in good repair.
- 9) All utilities serving the site and/or sign shall be underground.
- 10) Flashing, rotating, moving, and/or illumination is permitted subject to approval of both the City and/or the State of California, as applicable.
- 11) Roof mounted off-premise signs are prohibited.
- 12) Liquor advertisements shall not be permitted within 500 feet of a school, church or park.

Note: In 2008, the City approved a new 515,000 square foot shopping center which included as part of its entitlements the opportunity to include a major media component. The shopping center was conceived as a western version of "Times Square", or parts of Tokyo and/or Shanghai, China. The center's media architecture/sign plan included illuminated buildings, giant, oversized signs (on building facades, roof mounted, and/or as street/drive Burma Shave type blades), projected images and art, wall art, murals, sculptures (designed to function like trees), a central illuminated tower sign, billboards, digital viewing screens (one a 200 foot linear screen) located above the shops and restaurants that were situated around the shopping center's main "interior" plaza. Another digital screen was to be situated above the street lobby/entrance of a movie theater, which featured a glass atrium/entry providing a visual corridor through the theater building. The corner-wedge shaped theater, with its 70 foot double glassed walled, central lobby atrium was flanked by two plazas, the one noted above and a smaller "outside" plaza which was situated adjacent to one of the city's highest volume intersections. The center featured a very modern, urban design, with urban facades and setbacks. It was designed under a guiding manifesto of "no blank walls". It was conceived to be a light show disguised as a shopping center. Since it was located at the City's symbolic, eastern gateway, along the arterial that many consider our window or gateway to the world, we asked that the center adopt a "gateway" theme for all primary vehicle/pedestrian entry points, main driveways/circulation roads and store/restaurant entries. Corners buildings (principally the theater) should also serve as "gateways or portals", hence the glass atrium/lobby. We required all "public" walls to feature window displays, signs, art, murals, digital screens, landscaping, or serve as a canvas for projected images, water features, etc.

Unfortunately, the developer defaulted on his loan and the new developer is more conservative and very cautious (a sign of the times). We are pushing back as hard as we can to recapture some of the original vision. A proposal for another a new 300,000-400,000 sqft shopping center, this one on the west side of town (at our western gateway) is also in the works. Should know by the end of the year if it is a go. It will sit adjacent to a new community college that will open in 2014 with a 12,000-15,000 student capacity. The new shopping center, like that of the new college, could feature an adaptive re-use and sustainable design. The intent here is to redevelop portions of an old Firestone Tire plant (1.5 million square feet in size). The shopping center may may also include some of the "gateway", sign and media features noted above. The plans for one, maybe two new transit stations and TOD's, are also in the works and may also incorporate some of these same ideas. A couple of smaller shopping centers are also considering designs that could feature digital signs and billboards. We will see.

We are also in the process of conceptualizing a city wide branding, marketing and wayfinding program that could feature freeway/street art, static and digital information, advertising and directional signs, banners, murals, etc.”

- City of Selma – Permitted with a CUP – 75’ high – 800 sq ft in area – pulse rate and luminosity requirements
- City of Canyon Lake – Billboards are prohibited – message boards on pylon signs are permitted for movie theaters, arenas, stadiums, auto malls and shopping centers on 10+ acres
- City of Hawaiian Gardens – Standard billboards and electronic message boards are permitted with a CUP – 300’ apart – 40’ high – 600 sq ft in area
- City of Dixon – Permitted only on a multi-tenant, freeway oriented structure – 300 sq ft in area – pulse rate and luminosity requirements
- City of Delano – Permitted (electronic signs with changing displays) – no specific standards, but issues such as brightness, automatic dimming at night, duration of messages and fade-in fade-out time, and limitation on hours are all addressed in CUP process
- City of Huntington Park – Message boards are permitted on certain streets, in certain areas – brightness and pixels are regulated – height can be to roof or parapet – area can be 2.5 times lineal feet of frontage
- City of Calimesa – Readerboards are permitted if community sponsored and only in downtown business district – looking at possibly allowing digital freeway-oriented signs
- City of Mammoth Lakes – Currently not allowed – but in process of updating Zoning Code and do not know if it will change)
- City of Citrus Heights – Not permitted
- City of 29 Palms – Outdoor Advertising signs require Planning Commission approval – 25’ high – 240 sq ft in area – Minor Use Permit required for message boards

* Lorraine Okabe, Education & Information Program Director, for the League of California Cities, responded that there will be a session on this issue at the League's Planner's Institute on March 9, 2010. The session is entitled "Sign Regulation in the Digital Age": Review and discuss constitutional and other legal issues pertaining to the regulation of signs and billboards. Identify the implications of cities as billboard landlords and address current hot topics such as digital signs and billboards, super graphics, sign twirlers and spinners.

* USA Today, March 24, 2010, reported with the headline "More Cities ban digital billboards: As the USA cracks down on texting while driving, more than a dozen cities around the nation have banned what some consider a growing external driving distraction – digital billboards.

Digital billboards change images every four to ten seconds, flashing multiple messages from one of more advertisers on the same sign. Opponents such as John Regenbogen of Scenic Missouri deride them as "Television on a stick".

Several communities have banned digital billboards outright, the most recent being Denver earlier this month. Other places have put a moratorium on them pending a federal study on whether they distract drivers. At least two other cities and two states are studying moratoriums."

.....There are mixed points of view on this subjectthe article continues that some research indicates they are a distraction and some groups state they are not.....

"Digital billboards are a fast-growing segment of the outdoor advertising market. Since a federal rule against them was eased in 2007, the number of digital billboards has more than doubled to about 1,800 of 450,000 total billboards. At least 39 states allow them. They cost an average of \$200,000 to \$300,000 apiece, according to the industry group Outdoor Advertising Association of America."

* Tom Zeider, from the City of Sacramento Economic Development Department, offered two links to staff reports related to the City's approval of four new digital billboards earlier this year and I have included the links: (Takes a few minutes to download)

http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=2292&meta_id=198496

http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=2292&meta_id=198506

* It was suggested by Terry Blount, Planning Manager, of the City of Martinez, that the City of Los Angeles and the City of West Hollywood have very interesting sign regulations. I visited their web sites and there are sections on "Creative Billboards" and "Large Screen Video Signs" that are worth reading.

* Jen Daugherty, Associate Planner for the Town of Mammoth Lakes, provided some helpful comments from the City of Manteca that she gathered last summer and I have included them for your use: "The City of Manteca is considering amending its Zoning Code to allow for electronic LED billboard signs in certain locations that advertise for community events and possibly for commercial centers. Currently these types of signs are prohibited by our sign ordinance.

Are there any communities out there that allow these types of signs that have an example of the ordinance you can share? Also what are the regulations in terms of brightness, animation, hours of operation, permitted advertising, etc. Any information you can share or problems you have encountered would be much appreciated, and I will post all responses.

Contact	Response
Terry Blount, AICP Planning Manager City of Martinez	I would check with the Cities of West Hollywood and Los Angeles.
Debbie Whitmore City of Turlock	Turlock does not. We currently do not permit them.
David Randall City of Madera	You may want to try contacting the City of Bakersfield.
Steve Holsinger City of Willows	We do not, however we have allowed the use of Cal Trans & Traffic Safety Signs to be used for Special Events, such as the Farmers Market, annual Parade Events & Significant community announcements. In the current economy we have fielded frequent complaints from the business community concerning our Sign Ordinance and as a result adopted Economic Stimulus Relaxation standards for signs; attached. I thought perhaps you might want to consider limiting any changes your city might consider to a specific "temporary or trial" period..... Our Sign Ordinance is available on line at www.cityofwillows.org
Sarjit S. Dhaliwal, Ph.D, AICP Associate Planner City of San Rafael	The City of San Rafael does not allow billboard signs, electronic or otherwise. Therefore, I cannot help you with an ordinance example. However, my personal experience is that the electronic LED billboard signs distract drivers and are a great safety hazard. As you know, Caltrans seems to be very fond of them; for financial reasons, of course. There is a big protest building up in California against electronic billboards.
Chuen Ng Associate Planner City of Lancaster	Our Planning Commission just approved digital billboards at our last meeting. See attached staff report and resolution.
Noel M. Ibalio. Senior Planner City of El Cerrito	The City of El Cerrito does not have such an ordinance, however, check the City of Berkeley's
<i>Susan</i>	This inquiry has been posted in recent years, and I happened to save

<p><i>Hilinski, AICP</i></p> <p>City of Soledad</p>	<p>the results which I've attached for your use. CalTrans also has standards (minimal) concerning electronic display signs constructed in proximity to and visible from state highways and freeways. (See separate Response List)</p>
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Listserve query posted May 4, 2007:

Crescent City currently has only one electronic readerboard, established on State Fairgrounds property several years ago without city permit. Previous City Planners have rejected subsequent applications for readerboards on private commercial property based on our sign code prohibitions on signs that are visually distracting to motorists, e.g., signs containing flashing lights, changing colors, moving parts. We recently have received several inquiries for new readerboards on private commercial properties so I'm going to ask the Planning Commission for an interpretation on whether the prohibition should include readerboards. for reference, I would greatly appreciate a response to the following:

Does your jurisdiction prohibit electronic readerboards?

If you allow them, do you have standards, e.g., for overall number, proximity to other readerboards, hours of operation, frequency of message change, etc?

Thanks, I'll post responses.

Will Caplinger
City Planner/Economic Development Specialist
City of Crescent City

The City of Pittsburg currently does not allow reader boards; however, we are currently in the process of updating our sign ordinance and as part of that process, our planning commissioners have told us that they LIKE the reader boards and would like to allow them! I would be interested to see what kind of feedback you get on this inquiry, as we might be able to utilize it during our sign ordinance update process.

Thanks!

Kristin Vahl
City of Pittsburg
Planning Department

Although not enumerated as a prohibited type of sign per the ordinance, the City of Ojai would most likely not approve a readerboard sign. The City prohibits internally illuminated signs. The City also prohibits animated, blinking, flashing, fluctuating, moving, reflecting, revolving or other similar signs.

.....
Katrina Rice Schmidt, AICP
City Planner, City of Ojai

We used to prohibit them along with other animated, rotating and flashing signs but amended our ordinance last year to allow them by conditional use permit. This was a political move not initiated by the staff or Planning Commission. We are using the State standards [Section 5405 (d)(1) of Article 7 of Chapter 12 of Division 3 of the California Business and Professions Code]. This section applies to signs adjacent to freeways but

we felt we could use the same State frequency standards without having to go out and define our own. For the frequency of the display change and the intensity of the lighting. We have two and a third one under review.

Jim Griffin [jgriffin@ci.el-cajon.ca.us]

The City of Dublin allows electronic readerboard signs in our commercial and industrially zoned areas with approval of a Conditional Use Permit by the Planning Commission. If it is a wall mounted readerboard, you can have one per frontage up to 3 frontages. If it is a freestanding readerboard, you can have 1 per parcel; 2 or more readerboards per parcel would be subject to a Master Sign Program. In either case (a CUP and/or a Master Sign Program) it generates a discretionary review of the signs and gives us the ability to regulate them (i.e. frequency of message changes) through that process. To my knowledge we only have one electronic readerboard in our City and it is next to a used car dealership; I can send you the Resolution approving the Conditional Use Permit if you would like to see what restrictions we placed on the sign. Just let me know. Hope this helps.

Marnie R. Nuccio

Associate Planner
City of Dublin
925.833.6610 main
925.833.6628 fax

Our sign code prohibits any moving signage (Section 17.33.070.F of the West Sacramento Municipal Code). However, we have granted two exceptions, and both have been abused because we did not include standards and sanctions. In both those cases, the applicant said they wanted to have changeable signs to give notices of sales or features or different pricing, etc., and claimed that the electronic readerboard would be used for that purpose only, suggesting weekly or at most daily changes. In both cases, the applicant uses the readerboard as it is designed to be used, with a constant stream of letters and words that are always in motion. GRRR. Just say no.

Pascoe, Maureen [maureenp@cityofwestsacramento.org]

We do not permit them in commercial zones, but they are allowed for theaters of a certain size in public zones. However, you may find some of the standards useful (see attached code section).

0-2.1814 Public zone requirements.

1

In all "P" Public and Institutional zones, any new sign or change to existing sign, other than a change of copy, that exceeds thirty (30) square feet in area shall be subject to Planning Commission Design Review (Section 10-2.2502). Any new sign or change to existing sign, other than a change of copy, that is thirty (30) square feet or less in area shall be subject to Administrative Design Review (Section 10-2.2500).

(a) Electronic message displays. Electronic message displays may be permitted, subject to Planning Commission Design Review (Section 10-2.2502), and provided all of the following standards are met:

- (1) The electronic message display shall be on a site having a live performance theater with a seating capacity of not less than 1,000 seats;
- (2) The electronic message display shall not be located adjacent to or directed towards any street other than a major arterial as identified in the Master Plan of Streets in the Transportation and Circulation section of the General Plan;
- (3) The electronic message display shall be incorporated into a high quality decorative structure compatible with the architectural design of the building(s) on the site;

- (4) The maximum height of the sign structure containing the electronic message display shall be thirty (30) feet above the adjacent sidewalk grade along the street frontage;
- (5) The electronic message display component of the sign structure shall not exceed 120 square feet in area per sign face;
- (6) No more than one electronic message display shall be permitted on a site. The electronic message display may be single-faced or double-faced;
- (7) The electronic message display shall be an electronic LED (Light Emitting Diode) screen;
- (8) The pixel pitch of the LED electronic message display shall be 25.4 mm or less;
- (9) The color of the text in the electronic message display shall have the appearance of white on a black background, except that the use of additional colors may be permitted subject to specific conditions approved pursuant to Planning Commission Design Review;
- (10) The message shall not flash on and off. A message shall remain fixed for a minimum of eight (8) seconds. Fading in or out, or scrolling of text shall be permitted as transitions;
- (11) The electronic message display shall not be operated between the hours of midnight and 6:00 a.m.;
- (12) The electronic message display shall be maintained in good operating condition and external appearance at all times;
- (13) The electronic message display shall not result in unacceptable light intensity and glare impacting surrounding property;
- (14) The Planning Commission may impose additional, or more restrictive, requirements as necessary to limit impacts on surrounding property.

Randy Berler
Planning Director
City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277
310.318.0637

Back in 2005 I asked a question about animated or changeable signs, but there was a second part about off-site signage. I've attached the survey results. Just delete information regarding off-site signs if that doesn't apply to what you need. We don't allow the electronic reader board signs or any others that have movable/changeable copy (and we don't allow off-site signage).

Cathy Cain
Associate Planner
City of Hanford
317 N. Douty Street
Hanford, CA 93230
(559) 585-2578
ccain@ci.hanford.ca.us

Redding prohibits them. One got through before the urgency ordinance to prohibit them was adopted. Kent Manuel, Senior Planner

Yes. The City of Santa Barbara prohibits these types of signs.
Limon, Jaime [JLimon@SantaBarbaraCA.gov]

Carson allows electronic message centers with a conditional use permit. Typically, the signs are reserved for freeway oriented car dealerships. We do receive requests for electronic message signs for other businesses. The Planning Division advises that such a request will be recommended for denial. We have one church that was able to convince the City Council to approve a CUP for their sign (installed without benefit of a permit). Typically we require the

signs to change a 7 second intervals vs. the 4 second interval allowed by Caltrans. We do not allow for moving messages.

We also have a special authorization for electronic marquee signs for the Home Depot Center (sporting facility with a soccer stadium, tennis stadium, track & field and other venues). The zoning authorization was narrowly written to only allow the signs for this facility. There are 2 very large freeway oriented signs that include an electronic message center and outdoor advertising.

Sheri Repp Loadsman
Planning Manager

We have a similar situation with only the fairgrounds having a reader board and having an ordinance that does not permit them but time and temperature signs are permitted. We are anticipating getting an application for an amendment to our Zoning Ordinance to allow reader boards in the not too distant future because Walgreens is going to be locating in a new shopping center.

Can you share responses you get from places that allow reader boards? We would be interested in seeing criteria they have established.

Thanks

Leona Franke James
Senior Planner
City of Chowchilla
559/665-8615 ext. 402

Will, Walgreens has been doing reader boards for a while. Initially they were changeable copy letters. The newer ones are electronic, generally black background with red lit text. Last week I happened to notice the electronic reader board in Madera. Folgers coffee was on special xx pounds for \$\$\$\$. Sometimes they advertise men's briefs or milk or ... I personally am not fond of them and find them distracting. I also don't see a need for one user to advertise specials in that manner and personally object to that disruption on the streetscape. I'm kind of anxious to see if they'll pursue the code amendment and how they justify the sign. One thing for sure is that Walgreens knows that our ordinance doesn't allow their sign and they would need a code amendment to change it but they are committed to the site. So I'm thinking that they are able to give up the sign. I'm hoping!!!

I'll look forward to seeing the results you get. Thanks

Leona

Our jurisdiction's Zoning Ordinance also prohibits reader boards, but we are in a similar situation as you are in being that we have two schools in our jurisdiction that have electronic readerboards. However, we have not had any private inquiries for readerboards, so it hasn't been an issue with us.

Brandon Smith
Senior Planner, City of Visalia
bsmith@ci.visalia.ca.us
Phone: (559) 713-4636
Fax: (559) 713-4814

RESOLUTION NO. 12-8

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA
APPROVING A USE PERMIT TO MODIFY AN EXISTING BILLBOARD AT 4850
PARK ROAD (12PLN-00013)**

WHEREAS, On April 5, 2012, Robert Harbin on behalf of CBS Outdoor requested use permit approval to modify the existing billboard at 4850 Park Road; and

WHEREAS, the Planning Commission, at a special meeting on November 29 2012, conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby finds that:

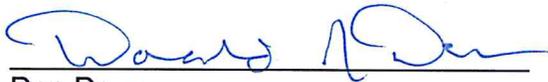
1. The proposed project is a Class 2 Categorical Exemption from the California Environmental Quality Act because it can be seen with certainty that the proposed project does not have the potential to have any effects on the environment. The project is required to comply with all State and federal requirements and permitting for traffic safety and luminance. The site is not located near any sensitive habitat or archeological areas. The project area is located on previously disturbed fill soil between an existing industrial development project and the northbound lanes of I-680.
2. The proposed location of the use is in accord with the objectives of Title 17 and the purposes of the district in which the site is located because a use permit was previously approved for the existing billboard sign and Title 18 of the Municipal Code (Sign Ordinance) allows for its modification.
3. The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the City as demonstrated in the staff report because the sign alteration is required to be approved by CalTrans and subject to CalTrans permitting enforcement consistent with State and national regulations for placement, luminance, and safety.
4. The proposed conditional use will comply with the provisions of Title 17 as they apply, and consistent with Title 18, the Sign Ordinance.
5. The proposed project is consistent with the purpose of the Benicia Municipal Code title 17.108 Design Review.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia hereby approves the proposed project subject to the following conditions:

1. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City's development policies which affect the site, and there has been no change in the physical circumstances nor new information about the project site which would warrant reconsideration of the approval.
2. This approval shall only be in effect upon execution of a lease agreement between the City of Benicia and CBS Outdoor.
3. Prior to the issuance of any building permit the applicant must demonstrate compliance with all State and federal requirements for the alteration and operation of the billboard and including the FHWA agreements with CalTrans of February 15, 1968, the Highway Beautification Act, the Outdoor Advertising Act, California Vehicle Code and FHWA Memoranda of July 17, 1996 and September 25, 2007. This requirement includes obtaining a permit from Cal Trans, which requires consistency with the aforementioned.
4. The plans submitted for the building permit and construction shall substantially comply with the sample board date stamped received April 5, 2012, except as modified by the following conditions. Any change from the this approval including substitution of materials, shall be requested in writing and approved by the Community Development Director, or designee, prior to changes being made in the field.
5. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
6. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director's, Historic Preservation Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

On motion of Commissioner Oakes, seconded by Commissioner Smith, the above Resolution was adopted at a regular meeting of the Planning Commission on November 29, 2012, by the following vote:

Ayes: Commissioners Cohen Grossman, Oakes and Sprague
Noes: Commissioners Smith and Dean
Absent: Commissioner Syracuse
Abstain: Chair Sherry



Don Dean
Planning Commission Vice-Chair

AGENDA ITEM
PLANNING COMMISSION MEETING: NOVEMBER 29, 2012
REGULAR AGENDA ITEMS

DATE: November 6, 2012

TO: Planning Commission

FROM : Mark Rhoades, Consultant

SUBJECT: Use Permit request to Modify an Existing Billboard Sign Located at 4850 Park Road (12PLN-00013)

RECOMMENDATION:

Approve Use Permit 12PLN-00013 to allow the modification of the existing billboard at 4850 Park Road, based on the findings and subject to the conditions of approval set forth in the draft resolution; and, determine that the project is Categorically Exempt per California Environmental Quality Act (CEQA) Guidelines.

EXECUTIVE SUMMARY:

CBS Outdoor proposes to lease the former "Nationwide" I-680 freeway-oriented electronic billboard sign that is located on City property adjacent to Park Road and Interstate-680. The modified sign will have the same overall sign area and height as the existing sign. The electronic reader board will be upgraded to digital LED technology.

New billboard signs are no longer allowed within the City of Benicia. However, Section 18.24.040 of the City of Benicia Sign Ordinance allows for the modification of existing billboard signs with approval from the City Council. Because the City of Benicia previously issued a use permit for the existing sign, the proposed use permit modification is consistent with the process required by the Zoning Ordinance.

BUDGET INFORMATION:

The proposed project is expected to provide the City of Benicia with a strong revenue stream for a number of years. In addition, the lease agreement provides the City with advertising time and space. The upgraded sign will be able to advertise City events and promote the City's economic and other benefits.

ENVIRONMENTAL ANALYSIS:

Staff has determined that the proposed project is Categorically Exempt per CEQA Guidelines Section 15302, which applies to replacement or reconstruction of existing structures and facilities where the new structure will be located on the

same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The existing sign has a height of 42' 9". The modified sign will have the same height. The sign area will actually decrease, from the existing 719 square feet to 672 square feet. Because the existing sign is an illuminated electronic readerboard sign with changing messages, the modified sign is not a change in purpose or capacity.

LED Illumination

The existing conventional billboards reflect light into the surrounding area. The anticipated ambient light projected within the viewing angle of a billboard is similar for conventional and digital billboards. Because LED technology has a focused beam and therefore an inherently more constrained viewing angle (spanning 120° or 60° on each side of center) in comparison to a conventional billboard (approaching 180° or 90° on each side of center), the anticipated light illuminated from the sides of the upgraded LED billboards is less than a conventional billboard. Thus, the proposed digital LED billboards would have less overall visible luminance than the existing conventional billboard.

The brightness of the LED display is subject to adjustment based on ambient conditions monitored by multiple light sensors. The display, for example, is brighter in the daytime than in darkness, and responds to changes in the ambient light conditions. Restrictions on digital billboards, imposed and enforced by Caltrans, preclude lighting that would be directed at motorists that is so directed or intense that it could blind or confuse drivers, or create conditions that make recognition of the roadway or official signage difficult.

These restrictions have been imposed for traffic safety reasons; however, they effectively regulate operation of any digital billboard to ensure it does not create a substantial new source of light or glare.

Additionally, there are no residences within 500 feet of the proposed billboards, at which distance any increases in luminance would be negligible.

On September 25, 2007 the Federal Highway Administration (FHWA) issued a Memorandum on the subject of off-premises Changeable Electronic Variable Message Signs (CEVMS). The Memorandum stated that proposed laws, regulations and procedures that allowed CEVMS subject to acceptable criteria would not violate the prohibition on "intermittent" or "flashing" or "moving" signs as used in the State agreements. The Memorandum identified "ranges of acceptability" relating to such signage, as follows:

- Duration of message: Duration of display is generally between 4 and 10 seconds; 8 seconds is recommended;
- Transition time: Transition between messages is generally between 1 and 4 seconds; 1 to 2 seconds is recommended;

- Brightness: The sign brightness should be adjusted to respond to changes in light levels;
- Spacing: Spacing between the signs should be not less than the minimum specified for other billboards, or greater if deemed required for safety;
- Locations: Location criteria are the same as for other signage; unless it is determined that specific locations are inappropriate.

The Project as proposed is required to comply with these existing criteria.

These provisions of law and regulation effectively regulate sign location and brightness to ensure that digital billboards will not be located in such a manner as to create hazards due to lighting conditions themselves. Restrictions on digital billboards contained within the Outdoor Advertising Act and enforced by Caltrans regulate the conditions that have been identified as relevant to traffic safety. Caltrans regulates the location and size of each proposed digital billboard through its application process as well as the distance between such signs. California statutory provisions regulate brightness of displays. Through State law and the Vehicle Code, such signage would be prohibited from displaying flashing lights or images.

The project includes conditions of approval that require compliance with all State and federal laws relevant to display and illumination.

Because construction is of minimal duration (7-21 days) and the site is an already disturbed section of roadway shoulder adjacent to I-680, there is no potential for any other environmental effects.

BACKGROUND:

In 1999, the City Council approved the installation of the existing electronic sign. City staff followed an extensive RFP (request for proposal) process to lease the sign and site, and CBS Outdoor is the preferred candidate. The project is located between Park Road and the southbound lanes of I-680. The site is located within Benicia's industrial zoning district.

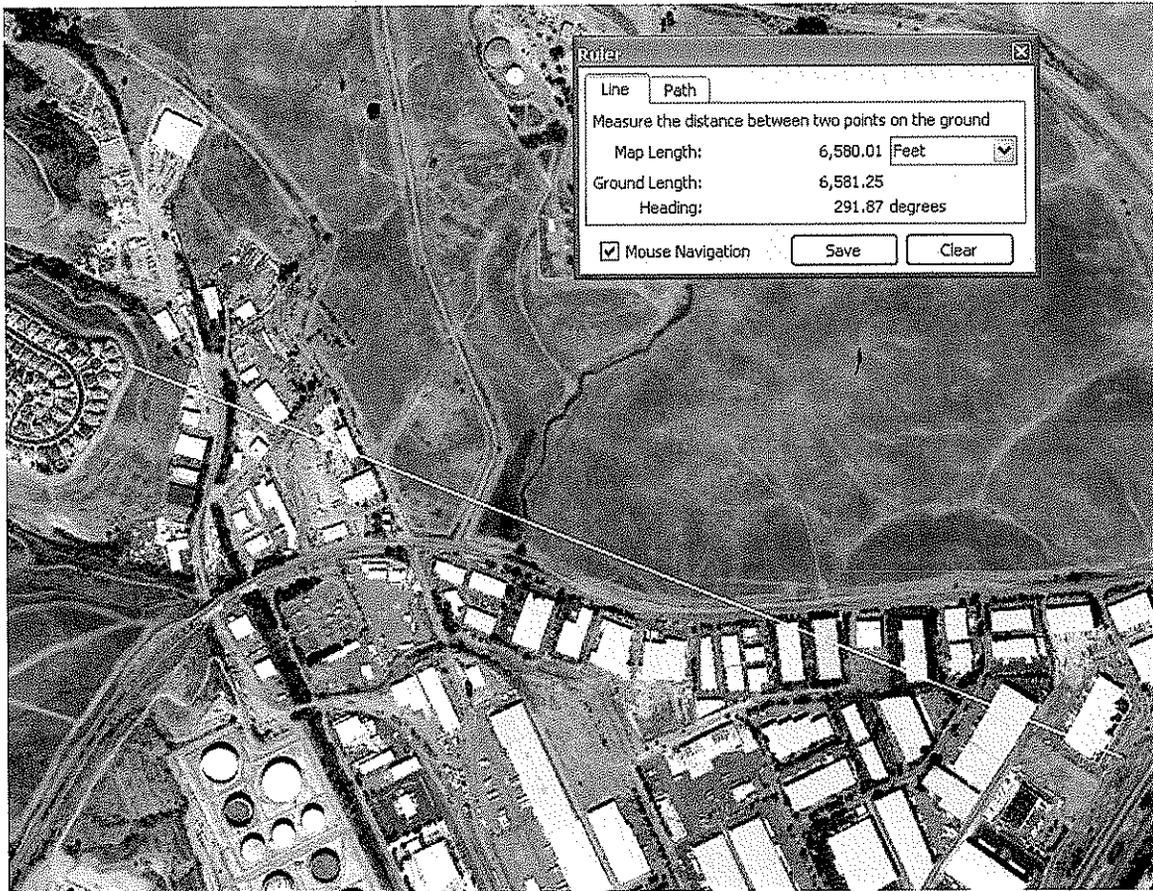


SUMMARY:

A. Project Description:

CBS Outdoor proposes to relocate and modify the existing billboard sign that is located on City of Benicia property at approximately 4850 Park Road in the IG (Industrial, General) zoning district. The site is the location of the former "Nationwide" electronic billboard sign located across Park Road from Insight Glass. The existing sign is 42'9" high as measured from its slab and the proposed modified sign is the same. The existing sign's area is 719 square feet in total, while the proposed new sign will be 672 square feet.

The site is entirely surrounded by intense urban and industrial uses, and a major freeway corridor. Lands on each side of the structure are composed of disturbed fill soils along the embankment between Park Road and the I-680 right-of-way. There are existing utilities already conveyed to the site for the existing billboard sign. The total construction period, which involves removing the existing sign, pouring a new sign footing, erection of the single pole, and placement of the modified sign, will take approximately seven to twenty-one (7- 21) days and will be conducted during the dry season (generally April to October).

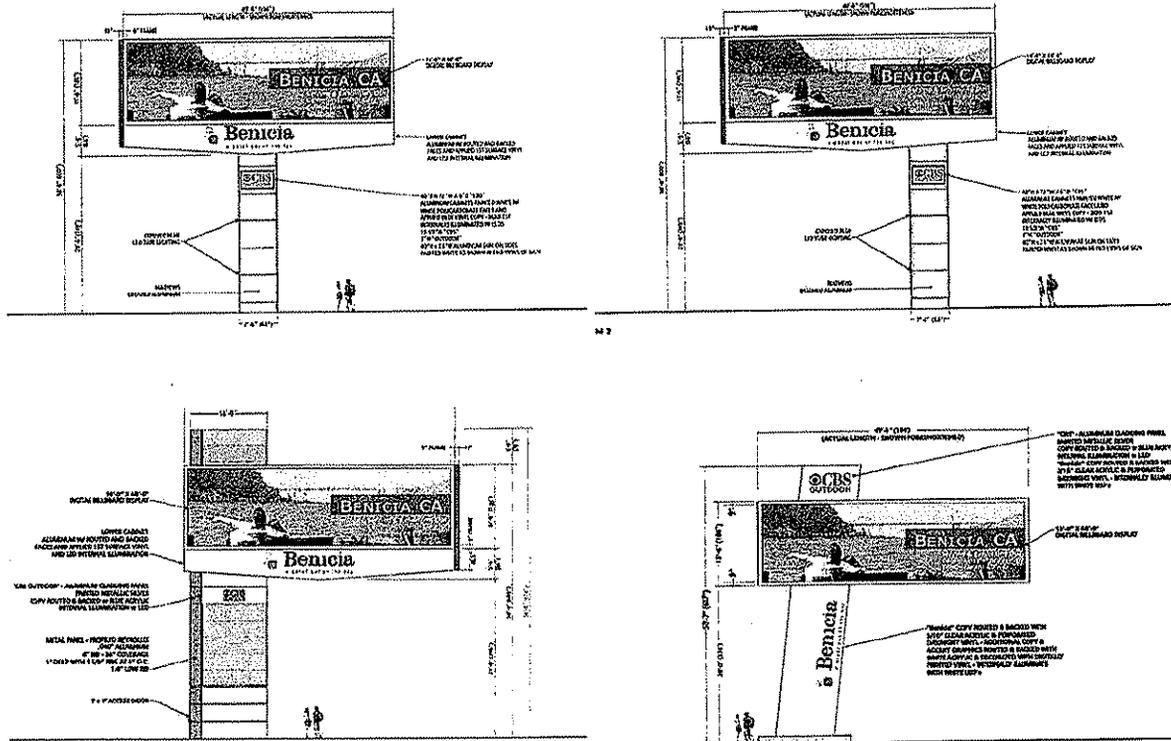


The project site is well removed from any residential or commercial areas and is not visible in staff's review from any residential area in Benicia. In fact, the location

is more than one mile from the nearest residential use and located on the far side of industrial uses that separate I-680 from any residential neighborhood. The sign is approximately the same height as the adjacent Insight Glass industrial building, which acts as a solid visual barrier from residential uses and even from most of the rest of the industrial park. The sign is not visible from East 2nd Street.

The site's freeway and industrial surroundings already provide a very high level of ambient nighttime light, rendering the sign obscure when viewed from more than a few hundred feet from the freeway.

The applicant has proposed four designs for the proposed modified sign as shown below and in more detail in the attached drawings. These include a center pole mounting option, an offset pole mounted option, and two options that provide for a more contemporary appearance. All of the designs are similar in size and height and will contain Benicia's tourism logo, "Benicia - a great day by the bay." Staff recommends approval of either of the two top options, below (and attached in more detail). They represent the cleanest and most simple designs.



Consistent with federal and State requirements (discussed below) and the requirements for the billboard modifications proposed further to the north, the proposed sign shall adhere to the following operational standards:

- Brightness of digital display: Lighting levels on the digital billboards will not exceed 0.3 foot candles over ambient levels, as measured using a foot

candle meter at a 250' distance according to the guidelines of the Outdoor Advertising Association of America (OAAA).

- Power: Central breaker panel with a primary feed of 200 amps at 120/240 single phase or 200 amps at 208Y/120 three phase primary feed; electrical connections would be UL and IEC-approved.
- Signage would be controlled remotely and would have remote maintenance software.
- Multiple light sensors would be installed with each sign to measure ambient light levels and to adjust light intensity to respond to such conditions.
- The billboards will be programmed for nighttime reduced (4 percent of peak power) power operation.
- LED lighting has a directional nature and the projected viewing angle values for the proposed billboards are $\pm 30^\circ$ vertically and $\pm 60^\circ$ horizontally. Shaders will be located above each row of lights to prevent light from projecting upward into the sky.

The primary differences from the existing sign to the proposed modification are as follows:

- CBS sign will have a single pole and more sleek/low profile design
- CBS sign will incorporate an LED display as opposed to the existing light-bulb style display
- CBS sign upgrade will have the same overall advertising area as the existing sign but with more area devoted to the electronic display.
- Message time will be reserved for the City of Benicia

B. Zoning Ordinance and Municipal Code Consistency

The sign ordinance allows for the alteration of existing permitted billboard signs. Neither the Zoning Ordinance nor the Municipal Code (Chapter 18, Sign Ordinance) allow for the placement of new billboard signs. However, as noted above, the existing "Nationwide" billboard sign was constructed with benefit of a use permit that does not expire until 2014.

Benicia Municipal Code, Title 18, Signs

Signs are specifically regulated by Title 18 of the Municipal Code and as such are not subject to the Zoning Ordinance except as necessary to modify the use permit that is still valid. (*emphasis added*):

18.24.040 Billboards/nonaccessory signs.

The city completely prohibits the construction, erection or use of any billboards or nonaccessory signs other than those which legally exist in the city, or for which a valid permit has been issued and has not expired, as of the date on which this provision is first adopted. No permit shall be issued for any billboard which violates this policy, and the city will take immediate abatement action against any billboard

or nonaccessory sign constructed or maintained in violation of this policy. In adopting this provision, the city council affirmatively declares that it would have adopted this billboard/nonaccessory sign policy even if it were the only provision in this chapter. The city council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this chapter or title may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable. This provision does not prohibit agreements to relocate, remodel or enhance presently existing, legal billboards or nonaccessory signs. (Ord. 07-25 § 6).

And because a use permit was previously approved for the sign, a new use permit (modification of the previous) is a part of the consideration for the proposed modification.

17.104.100 Changed plans – New application.

A. Changed Plans. A request for changes in the conditions of approval of a use permit or variance, or a change to development plans that would affect a condition of approval, shall be treated as a new application.

Therefore, the billboard sign may be altered if the Planning Commission approves the modification pursuant to the use permit provision of the Zoning Ordinance, and the City Council approves the agreement pursuant to the Sign Ordinance.

C. General Plan/Policy Consistency

Applicable General Plan goals and policies include the following.

GOAL 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.

GOAL 3.9: Protect and enhance scenic roads and highways.

POLICY 3.9.1: Preserve vistas along I-780 and I-680.

Program 3.9.A: Inventory scenic resources along I-780 and I-680.

Program 3.9.B: Investigate and apply for State Scenic highway designation of Interstate Highways I-780 and I-680.

Program 3.9.C: Develop a sign enforcement program along the freeways. The State scenic highway law calls for careful coordination in planning, design, construction, and regulation of land use and development on the band of land "generally adjacent" to the freeway. The

benefits of the designation to the community are that the State will officially refer to the freeways as scenic highways in its publications; the freeways will be eligible for "special scenic conservation treatment" and will receive special signage; and the law will prevent the placement of Caltrans facilities in the right-of-way without City approval.

The proposed billboard modification is consistent with both of these broad goals. First, the proposed lease will provide substantial economic benefit to the City of Benicia over a number of years. Second, the signs modify and improve an existing sign that is not visible from any scenic vistas or residential areas. Because the sign already exists, the ability to designate the I-680 corridor as a scenic highway is not compromised. The designation potential may in fact be improved by the design of the proposed modification. The proposed modifications do not further deteriorate the vista along I-680.

D. Federal and State Regulations

The following regulations are applicable to installation of billboards and compliance has been assumed in analysis of this Project as reflected in the findings and the conditions of approval.

Federal

The federal Highway Beautification Act of 1965 (23 U.S.C. 131) provides for control of outdoor advertising, including removal of certain types of signs, along the interstate highway system. The Act is enforced by the Federal Highway Administration (FHWA). As part of its enforcement effort, FHWA has entered into agreements regarding the Act with State departments of transportation. The agreements with California are described under the State provisions, below.

State

The California Department of Transportation (Caltrans) is involved in the control of "off-premise" displays along State highways. Such displays advertise products or services of businesses located on property other than the display. California has entered into two agreements with FHWA as part of the implementation of the Highway Beautification Act: one dated May 29, 1965, and a subsequent agreement dated February 15, 1968. The agreements generally provide that the State will control the construction of all outdoor advertising signs, displays and devices within 660 feet of the interstate highway right-of-way. The agreements provide that such signs shall be erected only in commercial or industrial zones and are subject to the following restrictions that are outlined in the Environmental Analysis section above and include those listed below:

- No signs shall imitate or resemble any official traffic sign, signal or device, nor shall signs obstruct or interfere with official signs;

- No signs shall be erected on rocks or other natural features;
- Signs shall be no larger than 25 feet in height and 60 feet in width, excluding border, trim and supports;
- Signs on the same side of the freeway must be separated by at least 500 feet; and
- Signs shall not include flashing, intermittent or moving lights, and shall not emit light that could obstruct or impair the vision of any driver.

Caltrans enforces these laws and regulations. Caltrans requires applicants for new outdoor lighting to demonstrate that the owner of the parcel consents to the placement of the sign, that the parcel on which the sign would be located is zoned commercial or industrial, and that local building permits are obtained and complied with. Most importantly as a result of FHWA recommendations, to ensure driver safety, no billboard manufacturers presently use moving displays, and they employ an approximately 8 second duration time between messages.

Some freeways are classified as "landscaped freeways." A landscaped freeway is defined as one that is now, or may in the future be, improved by the planting of lawns, trees, shrubs, flowers or other ornamental vegetation requiring reasonable maintenance on one or both sides of the freeway (Government Code §5216). Off-premise displays are not allowed along landscaped freeways except when approved as part of relocation agreements pursuant to §5412 of the Outdoor Advertising Act. This segment of I-680 is not classified as a landscaped freeway, though such a determination would be made during the approval process with Caltrans.¹ The Outdoor Advertising Act contains a number of provisions relating to the construction and operation of billboards:

- The sign must be constructed to withstand a wind pressure of 20 pounds per square feet of exposed surface (§5401);
- No sign shall display any statements or words of an obscene, indecent or immoral character (§5402);
- No sign shall display flashing, intermittent or moving light or lights (§5403(h));
- Signs are restricted from areas within 300 feet of an intersection of highways or of highway and railroad right-of-ways, but a sign may be located at the point of interception, as long as a clear view is allowed for 300 feet, and no sign shall be installed that would prevent a traveler from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway (§5404); and
- Message center signs may not include any illumination or message change that is in motion or appears to be in motion or that change or expose a message for less than four seconds. No message center

¹ California Department of Transportation, July 13, 2011, *Classified "Landscape Freeways"*, available at http://www.dot.ca.gov/hq/LandArch/lsfwy/pdf/class_ls_fwvy.pdf.

sign may be located within 500 feet of an existing billboard, or 1,000 feet of another message center display, on the same side of the highway (§5405).

Additional restrictions on outdoor signage are found in the California Vehicle Code. Section 21466.5, prohibits the placing of any light source "...of any color of such brilliance as to impair the vision of drivers upon the highway." Specific standards for measuring light sources are provided. The restrictions may be enforced by Caltrans, the California Highway Patrol or local authorities.

E. Findings

1. The proposed project is a Class 2 Categorical Exemption from the California Environmental Quality Act because it can be seen with certainty that the proposed project does not have the potential to have any effects on the environment. The project is required to comply with all State and federal requirements and permitting for traffic safety and luminance. The site is not located near any sensitive habitat or archeological areas. The project area is located on previously disturbed fill soil between an existing industrial development project and the northbound lanes of I-680.
2. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located because a use permit was previously approved for the existing billboard sign and Title 18 of the Municipal Code (Sign Ordinance) allows for its modification.
3. The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the general plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city as demonstrated in the staff report because the sign alteration is required to be approved by CalTrans and subject to CalTrans permitting enforcement consistent with State and national regulations for placement, luminance, and safety.
4. The proposed conditional use will comply with the provisions of this title as they apply, and consistent with Title 18, the Sign Ordinance.

CONCLUSION:

The proposed billboard modification has no potential for adverse environmental effects as described in the Environmental Analysis, above, because it is not

proximal to any residential use and is conditioned to comply with all State and federal regulations for illumination and display. The height and location of the sign adjacent to the freeway and on the east side of the industrial park preclude its visibility from any prominent Benicia locations (with the exception of I-680), or residential areas as noted above, so therefore is not inconsistent with the Municipal Code, General Plan, or other policy documents. The sign may be altered pursuant to the Sign Ordinance, subject to Planning Commission and City Council approval.

FURTHER ACTION:

The decision of the Planning Commission may be appealed to the City Council within ten (10) business days. The City Council must approve the lease agreement with CBS Outdoor before this permit may be acted on.

ATTACHMENTS:

- Draft Resolution
- Applicant's Statement
- Sign Design Alternatives
- Project Plans*

**If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the November 29, 2012 Planning Commission packet.*

DRAFT RESOLUTION

RESOLUTION NO. 12-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA
APPROVING A USE PERMIT TO MODIFY AN EXISTING BILLBOARD AT 4850
PARK ROAD (12PLN-00013)**

WHEREAS, On April 5, 2012, Robert Harbin on behalf of CBS Outdoor requested use permit approval to modify the existing billboard at 4850 Park Road; and

WHEREAS, the Planning Commission, at a special meeting on November 29 2012, conducted a public hearing and reviewed the proposed project.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Benicia hereby finds that:

1. The proposed project is a Class 2 Categorical Exemption from the California Environmental Quality Act because it can be seen with certainty that the proposed project does not have the potential to have any effects on the environment. The project is required to comply with all State and federal requirements and permitting for traffic safety and luminance. The site is not located near any sensitive habitat or archeological areas. The project area is located on previously disturbed fill soil between an existing industrial development project and the northbound lanes of I-680.
2. The proposed location of the use is in accord with the objectives of Title 17 and the purposes of the district in which the site is located because a use permit was previously approved for the existing billboard sign and Title 18 of the Municipal Code (Sign Ordinance) allows for its modification.
3. The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the City as demonstrated in the staff report because the sign alteration is required to be approved by CalTrans and subject to CalTrans permitting enforcement consistent with State and national regulations for placement, luminance, and safety.
4. The proposed conditional use will comply with the provisions of Title 17 as they apply, and consistent with Title 18, the Sign Ordinance.
5. The proposed project is consistent with the purpose of the Benicia Municipal Code title 17.108 Design Review.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia hereby approves the proposed project subject to the following conditions:

1. This approval shall expire two years from the date of approval, unless made permanent by the issuance of a building permit and the commencement of work that is diligently pursued to completion. Alternatively, the time period may be extended, by the Community Development Director, if the application for time extension is received prior to the end of the initial two year deadline and there has been no change in the City's development policies which affect the site, and there has been no change in the physical circumstances nor new information about the project site which would warrant reconsideration of the approval.
2. Prior to the issuance of any building permit the applicant must demonstrate compliance with all State and federal requirements for the alteration and operation of the billboard and including the FHWA agreements with CalTrans of February 15, 1968, the Highway Beautification Act, the Outdoor Advertising Act, California Vehicle Code and FHWA Memoranda of July 17, 1996 and September 25, 2007. This requirement includes obtaining a permit from Cal Trans, which requires consistency with the aforementioned.
3. The plans submitted for the building permit and construction shall substantially comply with the sample board date stamped received April 5, 2012, except as modified by the following conditions. Any change from the this approval including substitution of materials, shall be requested in writing and approved by the Community Development Director, or designee, prior to changes being made in the field.
4. The project shall adhere to all applicable ordinances, standard plans, and specifications of the City of Benicia.
5. The applicant or permittee shall defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director's, Historic Preservation Review Commission or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

* * * * *

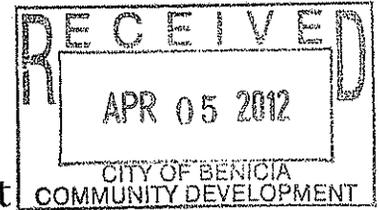
On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted at a regular meeting of the Planning Commission on November 29, 2012, by the following vote:

Ayes:
Noes:
Absent:
Abstain

Rod Sherry
Planning Commission Chair

APPLICANT'S STATEMENT

City of Benicia
Existing Sign Refurbishment Project



The City of Benicia owns land at 4850 Park Road (south of Lake Herman Road adjacent to interstate 680).

In 1999, the city council approved the installation of the existing electronic sign, which maintains a valid Caltrans permit (number 41548). The project simply seeks to modernize the current display.

This application before you is the result of an exhaustive RFP process that has been thoroughly vetted by all the appropriate city departments.

The project consists of the refurbishment of the existing sign currently located at the site. Unfortunately, the existing sign structure and electronics have been broken and are in disrepair, and the sign has been out of service for quite some time.

The existing two-post sign will be removed and a single-post display will be installed in its place using the existing graded pad area.

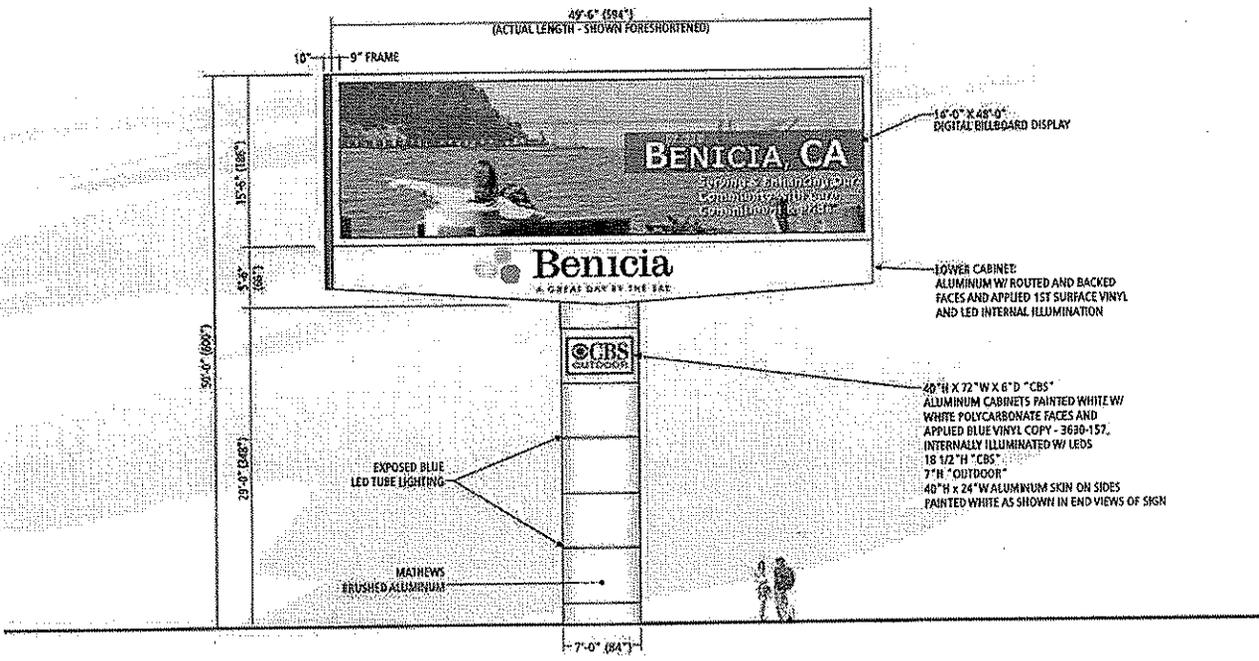
A few of the highlights of the project are:

- Upgrading and reuse of existing facilities at pre-approved site
- Modern technology that is upgradable over time to ensure reliable performance
- Community service advertising to support important local programs and community events throughout the year
- Reliable source of revenue for the city
- Construction/project financing provided by CBS

This project directly supports and meets the city's stated goals of creating an attractive gateway display promoting community events that attract visitors, generating revenue, and other benefits for the city. The project also provides advertising opportunities for local businesses.

CBS Outdoor is looking forward to working with the City of Benicia to create a custom, state-of-the-art advertising program that will not only provide Benicia with flexible leading-edge signage but will greatly enhance visibility and awareness in the community.

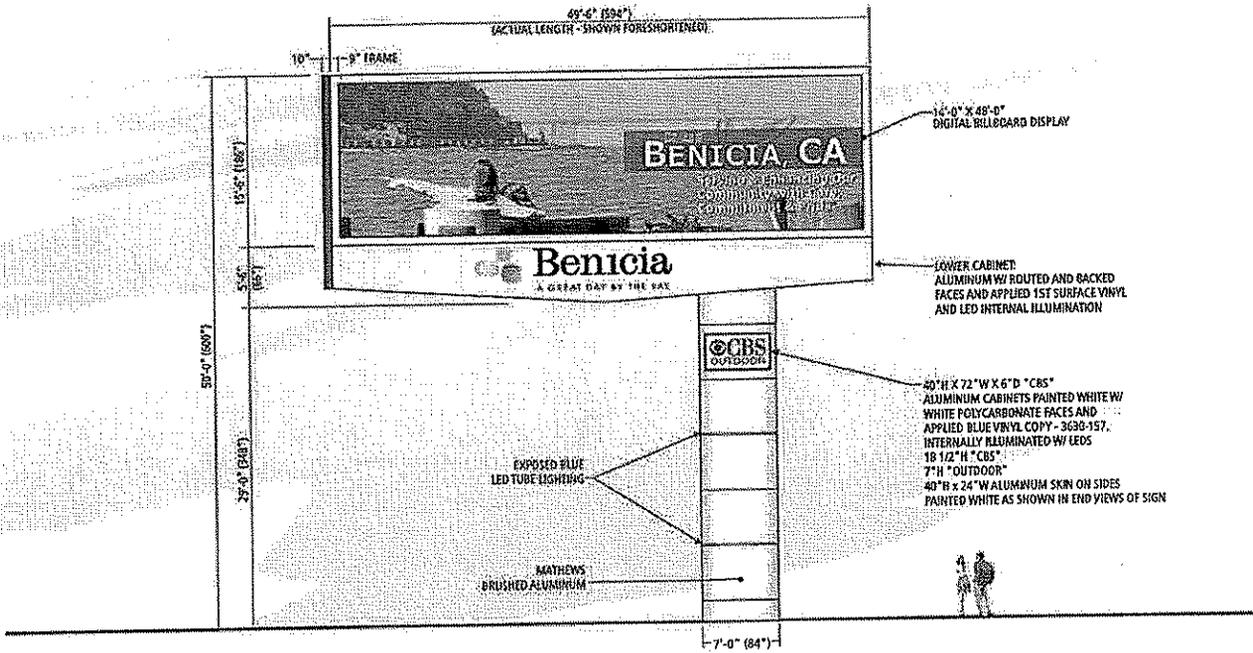
SIGN DESIGN ALTERNATIVES



OPTION 1 (NO LADDER)

FRONT ELEVATION

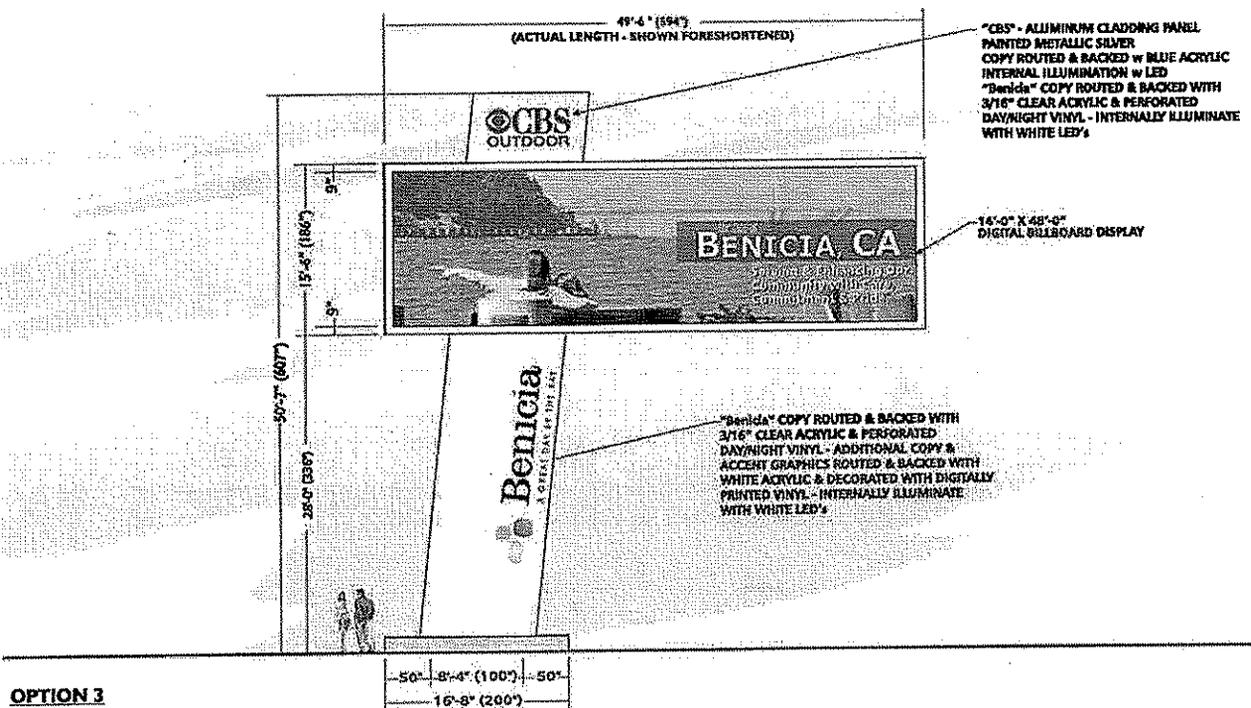
SCALE: 1/8" = 1'-0"



OPTION 2

FRONT ELEVATION

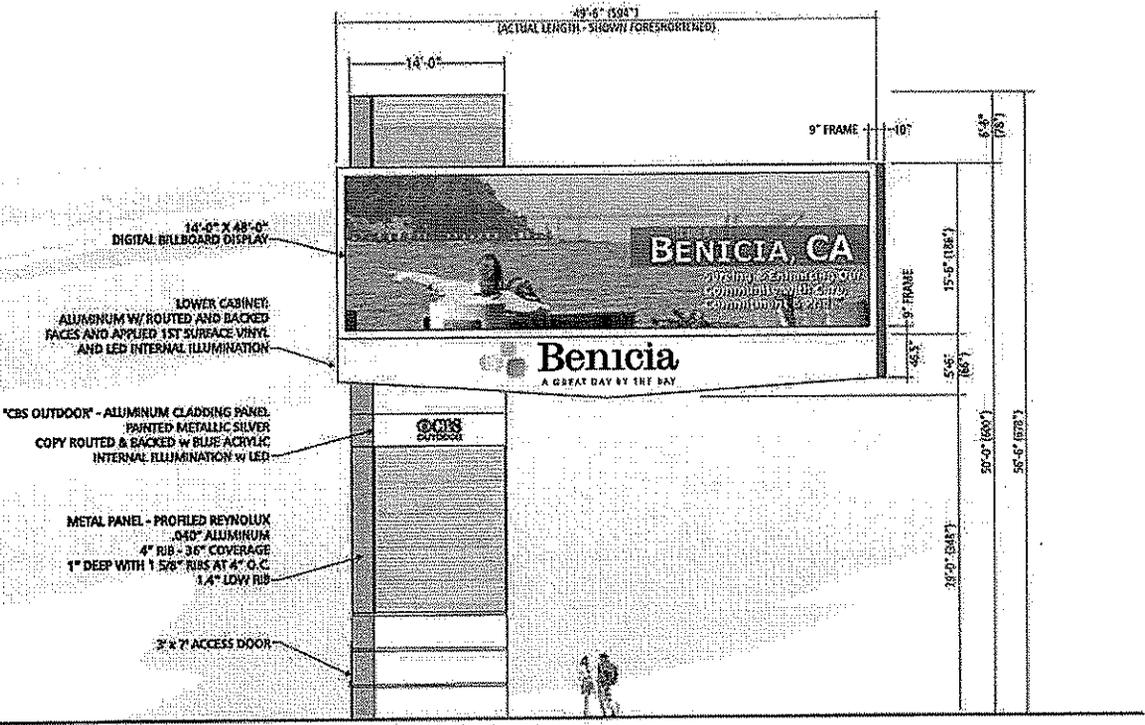
SCALE: 1/8" = 1'-0"



OPTION 3

FRONT ELEVATION

SCALE: 1/8" = 1'-0"



OPTION 4

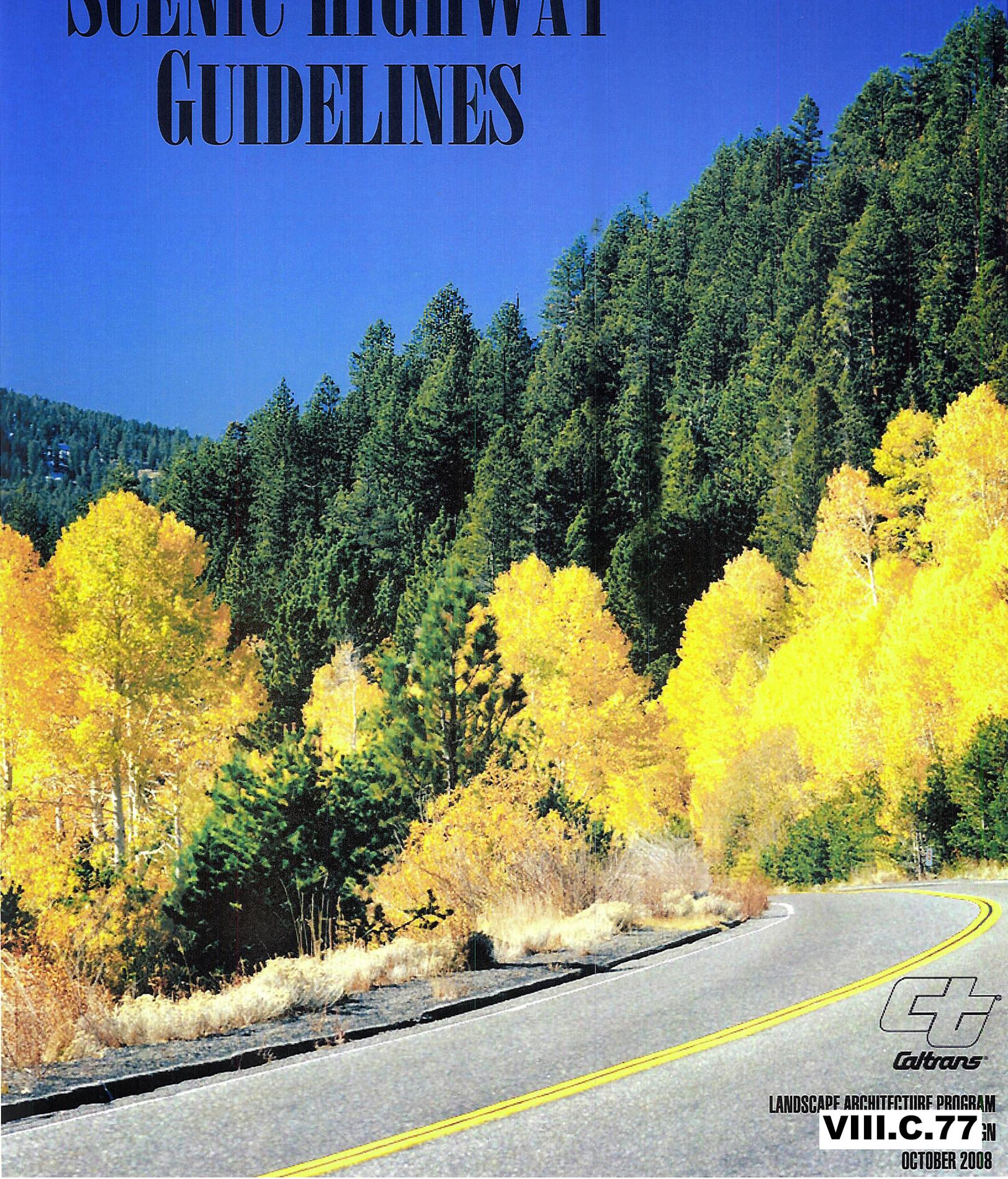
FRONT ELEVATION

SCALE: 1/8" = 1'-0"

PROJECT PLANS

**If viewing online, these attachments are available to view in the Community Development Department or in the Benicia Public Library in the November 29, 2012 Historic Preservation Review Commission packet.*

SCENIC HIGHWAY GUIDELINES



LANDSCAPE ARCHITECTURE PROGRAM
VIII.C.77
OCTOBER 2008

Scenic Highway Guidelines

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SECTION I: INTRODUCTION AND BACKGROUND

The Department of Transportation (Caltrans) manages the State Scenic Highway Program, provides guidance, and assists local government agencies, community organizations, and citizens with the process to officially designate scenic highways. The following information includes background and criteria for the Scenic Highway Program, and describes nomination steps for the official designation of State and County Scenic Highways. In addition, this guidance discusses compliance reviews and the revocation of scenic highway designations.

Scenic Highway Program History

In 1963, the State Legislature established the California Scenic Highway Program through Senate Bill 1467 (Farr). The bill declared:

"The development of scenic highways will not only add to the pleasure of the residents of this State, but will also play an important role in encouraging the growth of the recreation and tourist industries upon which the economy of many areas of this State depend."

Senate Bill 1467 added Sections 260 through 263 to the Streets and Highways Code. In these statutes the State proclaims intent to:

“establish the State's responsibility for the protection and enhancement of California's natural scenic beauty by identifying those portions of the State highway system which, together with adjacent scenic corridors, require special conservation treatment." (Scenic corridors consist of land that is visible from, adjacent to, and outside the highway right-of-way, and is comprised primarily of scenic and natural features. Topography, vegetation, viewing distance, and/or jurisdictional lines determine the corridor boundaries.)

Existing law provides Caltrans with full possession and control of all State highways. This legislation places the Scenic Highway Program under the stewardship of Caltrans.

The legislation further declares the intent of the State to assign responsibility for the regulation of land use and development along scenic highways to the appropriate State and local governmental agencies. A county highway component was later added to the Scenic Highway Program in Section 154 of the Streets and Highways Code. These and related statutes are located in Appendix A.

Scenic Highway Program Features

The following features characterize the program:

- ❖ A State Scenic Highway System list of highways eligible to become, or designated as, official scenic highways. Legislative action establishes and amends this list.
- ❖ A process for the designation of official State or County Scenic Highways whereby cities and/or counties (hereafter referred to as local governing bodies) develop and implement a Corridor Protection Program containing five legislatively required elements, generally accepted as land use planning standards.
- ❖ State and District Scenic Highway Coordinators who review and recommend eligible highways for official scenic highway designation to the Caltrans Director.

- ❖ Caltrans places scenic highway signs with the poppy logo along officially designated scenic routes (the California poppy serves as the logo for the California Scenic Highway Program).
- ❖ A process for revoking official State or County Scenic Highway designations that no longer comply with the program requirements.

SECTION II: SCENIC HIGHWAY CRITERIA

The goal of the California Scenic Highway Program is to preserve and enhance the natural beauty of California. California contains several distinct landscape regions and the merits of a particular landscape are considered within the context of its own region. Regardless of landscape region, the highway should traverse an area of outstanding scenic quality, containing striking views, flora, geology, or other unique natural attributes. Therefore, Caltrans evaluates the merits of a nominated highway on how much of the natural landscape a traveler sees and the extent to which visual intrusions impact the "scenic corridor." Visual intrusions may be natural or constructed elements, viewed from the highway, that adversely affect the scenic quality of a corridor. Adverse affects are characterized as minor, moderate, or major. Visual intrusions are evaluated in the following manner:

- ❖ The more pristine the natural landscape is and less affected by intrusions, the more likely the nominated highway will qualify as scenic.
- ❖ Where intrusions have occurred, the less impact they have on an area's natural beauty, the more likely the nominated highway will qualify as scenic.
- ❖ The extent to which intrusions dominate views from the highway will determine the significance of their impact on the scenic corridor.

State highways nominated for scenic designation must first be on the statutory list of highways eligible for scenic designation in the State Scenic Highway System. These highways are identified in Section 263 of the Streets and Highways Code (see Appendix A). A process for adding eligible highways to the statutory list is described in Section III: Obtaining Eligibility. *County* highways nominated for scenic designation that are believed to have outstanding scenic values are considered eligible and do not require any legislative action. Both State and county highway nominations follow the same process and have the same requirements.

Scenic highway nominations are evaluated using the following criteria:

- ❖ The State or county highway consists of a scenic corridor that is comprised of a memorable landscape that showcases the natural scenic beauty or agriculture of California (see definition for 'vividness', under Section III: Step 1, Visual Assessment).
- ❖ Existing visual intrusions do not significantly impact the scenic corridor (see definitions for 'intactness' and 'unity' below, under Section III. Step 1: Visual Assessment).
- ❖ Demonstration of strong local support for the proposed scenic highway designation.
- ❖ The length of the proposed scenic highway is not less than a mile and is not segmented.

When Caltrans determines the proposed scenic highway satisfies these qualifications, the local governing body, with citizen support, must adopt a program to protect the scenic corridor. The zoning and land use along the highway must meet the State's legislatively required elements for scenic highway corridor protection as stated in Section IV: Designation Process.

SECTION III: NOMINATION PROCESS

Obtaining Eligibility

A state route must be included on the list of highways eligible for scenic highway designation in Streets and Highways Code Section 263 (see Appendix A). State routes not listed must be added before they can be nominated for official designation. Additions and deletions can only be made through legislative action. Short (less than a mile) or segmented routes are not recommended for inclusion in the State Scenic Highway System. If several suitable routes within a jurisdiction are being considered, they may be incorporated by a single legislative action.

It is advisable for the local governing body to consult with the Caltrans District Scenic Highway Coordinator to determine suitability for scenic designation *before* seeking legislative action. Location and contact information for Caltrans Scenic Highway Coordinators is in Appendix D.

Eligible Scenic Highways

Once a state route is in Streets and Highways Code Section 263, it may be nominated for official designation by the local governing body with jurisdiction over the lands adjacent to the proposed scenic highway. The application to nominate eligible scenic highways for official designation requires the preparation of a visual assessment and Scenic Highway Proposal. The proposal must include a letter of intent from the local governing body, topographic and zoning maps, and a narrative description of the scenic elements in the corridor that includes a discussion of any visual intrusions on scenic views. Steps for completing the application are explained below. A flow chart summarizing the process and procedure is in Appendix B. The local governing body should contact the District Scenic Highway Coordinator before starting this process. See Appendix D for contact information.

STEP 1

Visual Assessment

The local governing body must prepare and submit a brief and concise visual assessment. The visual assessment must identify scenic attributes and visual intrusions, as viewed from the highway, and describe how those characteristics contribute or detract from the overall quality of the corridor's visual environment. The local governing body should consult with the District Scenic Highway Coordinator prior to preparing the visual assessment.

The visual assessment should include the following items for the proposed scenic highway:

- ❖ Identification of major landscape segments that represent unique characteristics or that correspond to previously named places or districts.
- ❖ An inventory of the natural landscape such as landforms, vegetation, water features.

- ❖ A description of visual intrusions and length of impact. Not more than one-quarter of the proposed scenic highway should be impacted by visual intrusions. For a mile segment, “one-quarter” is calculated either as 1/4 of a mile impacted by continuous intrusions on one or both sides of the highway, or intrusions occurring on one or the other side of the highway totaling 1/4 of a mile. Examples of visual intrusions are provided in Appendix E.
- ❖ Photo-images or other supporting graphics.

California contains several distinct landscape regions and the merits of a particular landscape are considered within the context of its own region. However, the highway should traverse an area of outstanding scenic quality, containing striking views, flora, geology, and other unique natural attributes.

The visual assessment should use the following terms in discussing visual quality of the proposed scenic highway:

- ❖ **Vividness** - The extent to which the landscape is memorable. This is associated with the distinctiveness, diversity and contrast of visual elements. A vivid landscape makes an immediate and lasting impression on the viewer.
- ❖ **Intactness** - The integrity of visual order in the landscape and the extent to which the natural landscape is free from visual intrusions.
- ❖ **Unity** - The extent to which visual intrusions are sensitive to and in visual harmony with the natural landscape.

STEP 2

Consultation with Caltrans

The local governing body must discuss and field review the visual assessment of the proposed scenic highway with the District Scenic Highway Coordinator before proceeding to Step 3.

STEP 3

Scenic Highway Proposal

The local governing body must prepare a Scenic Highway Proposal that consists of the following:

A. Letter of intent – The local governing body must submit a current letter of intent to seek official scenic highway designation. When more than one governing body is involved, a joint letter of intent may be submitted. The letter should cite the reason(s) (e.g., scenic protection, tourism) for seeking official scenic highway designation.

B. Topographic map and map overlay – A two-part mapping procedure is required to illustrate the visual quality of the proposed scenic highway.

A topographic map (USGS or comparable) should show the proposed scenic corridor boundaries and scenic highway limits. The map should show natural features in the landscape such as landforms, water, and vegetative cover.

The map overlay should be colored to indicate where minor, moderate, and major intrusions (see definitions and colors below) are visible from the highway. These colored intrusions should correspond and be identified by state highway post-mile designations. As an alternative to the map overlay, the topographic map may be colored to indicate the level of intrusions. Examples of intrusions are in Appendix E.

	Minor intrusions are those that are somewhat but not entirely compatible with the landscape or are of recognized cultural or historical significance. Color these yellow.
	Moderate intrusions are those that are not well integrated into the landscape and yet do not dominate the landscape or obstruct scenic views. Color these orange.
	Major intrusions are those that dominate the landscape, degrade or obstruct scenic views. Color these red.

C. Zoning map - A zoning map should delineate the scenic corridor and show existing and allowable land uses.

D. Narrative - A complete description of the elements that makes the route scenic, including natural features, structures of historical significance and other scenic resources that are visible from the highway. The narrative should describe the types of visual intrusions such as buildings, unsightly land uses, and noise barriers, and the percentage for minor, moderate, or major intrusions impacting the highway. In addition, provide a description of present zoning and planned zoning changes for lands in the scenic corridor. Include photo-images and other supporting graphics.

To calculate the percentage of the highway impacted by visual intrusions, determine the highway length impacted by each intrusion and divide it by the total mileage of the proposed scenic highway in one direction. When intrusions occur on both sides of the highway at the same location, measure and select only the more prominent intrusion (e.g., major over moderate, moderate over minor) for calculating length and percentage. As an example, when a 5-mile segment of proposed scenic highway has a 1/2-mile section that is impacted by moderate intrusions on one side and minor intrusions on the other, then it should be noted that approximately ten percent of the roadway is impacted by moderate intrusions.

The Scenic Highway Proposal should be placed on the agenda at a public meeting to allow public input at the beginning of the project. Include letters of support for the proposal from the public and other interested parties.

Examples of Scenic Highway Proposals are available on the Scenic Highways webpage at:
http://www.dot.ca.gov/hq/LandArch/scenic/guidelines/sr1_example.pdf
http://www.dot.ca.gov/hq/LandArch/scenic/guidelines/sr395_example.pdf

STEP 4

Caltrans Review of Scenic Highway Proposal

- ❖ Following completion of the Scenic Highway Proposal, the local governing body submits 1 electronic copy and 3 hard copies to the District Scenic Highway Coordinator.
- ❖ The District Scenic Highway Coordinator forwards a copy of the proposal to the State Scenic Highway Coordinator for concurrent review. The proposal is reviewed for

completeness and accuracy, and to ensure it complies with Section II: Scenic Highway Criteria.

- ❖ The District Scenic Highway Coordinator provides comments to the local governing body, including those by the State Scenic Highway Coordinator, for incorporating into the proposal.
- ❖ After the final package is accepted and the Scenic Highway Coordinators determine the route meets scenic highway criteria, the District Scenic Highway Coordinator directs the local governing body to begin the next step; preparation and adoption of the Corridor Protection Program as described in Section IV: Designation Process.

SECTION IV: DESIGNATION PROCESS

STEP 1

Corridor Protection Program

This step requires the local governing body to develop and adopt protection measures in the form of ordinances, zoning, and/or planning policies that apply to the area of land within the scenic corridor (see definition in Section I: Scenic Highway Program History). When there is more than one governing body involved, each jurisdiction shall jointly submit protection measures. Such ordinances and/or policies may already exist. They should be assembled in an easy-to-read format and arranged under the headings of the five legislatively required elements¹ listed below. They should be written in sufficient detail to avoid broad discretionary interpretation and demonstrate a concise strategy to effectively maintain the scenic character of the corridor. An effective protection program ensures that activities within the scenic corridor are compatible with scenic resource protection and consistent with community values, while still allowing appropriate development.

The five legislatively required elements of corridor protection² are:

- 1) Regulation of land use and density of development (i.e., density classifications and types of allowable land uses),
- 2) Detailed land and site planning (i.e., permit or design review authority and regulations for the review of proposed developments),
- 3) Control of outdoor advertising (i.e., prohibition of off-premise advertising signs³ and control of on-premise advertising signs),
- 4) Careful attention to and control of earthmoving and landscaping (i.e., grading ordinances, grading permit requirements, design review authority, landscaping and vegetation requirements), and

¹ See Appendix A, Section 261 of the Streets and Highways Code, Planning and Design Standards.

² For additional requirements on scenic highways see Appendix A, Section 320 of the Public Utilities Code, Undergrounding of Electric and Communication Distribution Facilities near State Scenic Highways.

³ See Appendix A, Section 5440.1 of the Business and Professions Code, Outdoor Advertising Act.

5) The design and appearance of structures and equipment (i.e., design review authority and regulations for the placement of utility structures, microwave receptors, wireless communication towers, etc.).

Examples of Corridor Protection Programs are available on the Scenic Highways webpage at: http://www.dot.ca.gov/hq/LandArch/scenic/guidelines/sr1_example.pdf
http://www.dot.ca.gov/hq/LandArch/scenic/guidelines/sr395_example.pdf

STEP 2

Public Participation

Public participation is important for the preparation of a Corridor Protection Program. Affected property owners, local citizens' committees, environmental groups and other stakeholders who might be impacted or interested in the proposed designation should be involved as early as possible to afford ample time for review and comment before official action is taken. Direct notification of affected parties by the local governmental body is strongly suggested. Effective citizen participation results in a protection program that meets local desires and reduces the probability of controversy.

STEP 3

Caltrans Review of Corridor Protection Program

Following adoption of the Corridor Protection Program, the local governing body(s) submits a request for official designation to the District Scenic Highway Coordinator. The submittal must include 1 electronic version and 3 hard copies of each:

- ❖ The adopted Corridor Protection Program, arranged under the headings of the five legislatively required elements,
- ❖ A brief description of the process employed for public participation, and
- ❖ Evidence of protection program adoption such as official resolution, copy of local ordinances, or planning policies.

The Corridor Protection Program is reviewed as follows:

- ❖ The District Scenic Highway Coordinator forwards a copy of the Corridor Protection Program to the State Scenic Highway Coordinator for concurrent review. The coordinators check for compliance with the five legislatively required elements and indicate to the local governing body any deficiencies of the Corridor Protection Program.
- ❖ After receiving an acceptable submittal that includes any deficiency corrections, the District Scenic Highway Coordinator submits a recommendation for official designation to the Caltrans District Director for concurrence.
- ❖ Upon District Director concurrence, a recommendation to designate the route is submitted to the State Scenic Highway Coordinator. If the State Scenic Highway Coordinator concurs with the District recommendation, then a final recommendation to designate the route is submitted to the Caltrans Director for approval.

STEP 4

Official Designation of Scenic Highways

If the Caltrans Director approves the scenic highway recommendation, the route becomes an official State Scenic Highway. In the case of a recommendation to designate a county highway, the Director authorizes the county to designate the highway as an official County Scenic Highway. State and County Scenic Highways are on the Caltrans scenic highway map and included with other information made available to the public.

SECTION V: SCENIC HIGHWAY SIGNS

Upon official designation, Caltrans places and maintains scenic highway signs on *State Scenic Highways*. For *County Scenic Highways* the District, at its discretion, furnishes scenic highway signs to the county at no cost. The county is responsible for the installation and maintenance of these signs. Standards for scenic highway signing are published in the *Manual of Uniform Traffic Control Devices (MUTCD) California Supplement* and include guidance for:



Posting **G30** scenic highway signs (48" x 26"), when appropriate, with the words "scenic route," to identify routes that have been designated as official State Scenic Highways. The sign is installed on the right at the beginning of the scenic route. A standard sign indicating, "begin" (26" x 12") may be used with this sign.



Posting **G30A** scenic highway signs (12" x 18" or 18" x 27") at beginning, end and/or intermittent locations on the State Scenic Highway. These signs are posted below and on the same post as the route shields. On conventional highways, these signs will be installed at important urban and rural intersections and at three- to five-mile intervals in rural areas. **G30C** signs indicating "begin" (26" x 12") and/or **G30D** signs indicating "end" (18" x 12") may be used in combination with these signs.



Posting **G30B** five-sided scenic highway signs (18" x 18" or 24" x 24") at beginning and/or intermittent locations on the County Scenic Highway.

All requests for new or replacement signs must be ordered and approved by the Caltrans District Traffic Engineer.

SECTION VI: COMPLIANCE REVIEW

The degree to which a Corridor Protection Program is successful depends on enforcement of the protection measures. This requires that the District Scenic Highway Coordinator remains familiar with the requirements of the protection program and any significant visual changes to the corridor. Caltrans is authorized by statute to revoke an official scenic highway designation if it

determines that the Corridor Protection Program or the scenic quality of the corridor is no longer in compliance.

Caltrans defines non-compliance for a Corridor Protection Program as a program that:

- ❖ No longer complies with the five legislatively required elements under Section 261 of the Streets and Highways Code, or
- ❖ No longer affords protection because required elements have been amended or changed, or
- ❖ No longer is being enforced by the local governing body.

Non-compliance for scenic quality is defined as a route or route segment that has been significantly degraded due to visual intrusions.

To maintain the consistency and integrity of the California Scenic Highway Program, Caltrans conducts a compliance review of each designated scenic highway and its Corridor Protection Program every five years, or more often if the corridor has significant scenic degradation issues. The District Scenic Highway Coordinator initiates this effort and conducts a field review to assess the effectiveness of the route's protection program. At this time the local governing body(s) is asked to provide a copy of the protection program, that includes any amendments or updates, approved variances or exceptions that are relevant. If the local governing body chooses to forego this review it may request, by letter of intent, revocation of the scenic highway designation. For the complete process under this circumstance see Section VII: Revocation Process.

If it is determined that no scenic degradation or protection program infractions exist, or if infractions have been identified and are resolved, the District Scenic Highway Coordinator informs the State Scenic Highway Coordinator and certifies route compliance. When protection program infractions are identified, the District Scenic Highway Coordinator will notify the local governing body(s) to discuss a possible resolution. The local governing body(s) will be given a period of one year from the date of notification to remedy the infraction(s). The District Scenic Highway Coordinator documents the protection program infractions and whether or not they are resolved.

SECTION VII: REVOCATION PROCESS

Initiated by Caltrans

- ❖ When significant scenic degradation has occurred or when there are protection program infractions that cannot be resolved, the District Scenic Highway Coordinator informs the State Scenic Highway Coordinator.
- ❖ The District Scenic Highway Coordinator prepares the appropriate documentation and, with concurrence from the District Director, notifies the local governing body of the Department's intent to revoke the scenic highway designation.
- ❖ Following a meeting between the District and the local governing body to discuss this action, the District Scenic Highway Coordinator submits a recommendation for revocation to the State Scenic Highway Coordinator.

- ❖ If the State Scenic Highway Coordinator concurs with the District recommendation, then a final recommendation for revocation is submitted to the Caltrans Director for approval.
- ❖ The Director makes the final decision to revoke the scenic highway designation. If the Director approves revocation, the local governing body(s) receives official notification of this action. Caltrans removes scenic highway signs along the route and references in maps and other program materials.
- ❖ For County Scenic Highways the Director rescinds authority of the county to designate the highway as scenic and officially requests that the county remove the scenic highway signs along the route. References in maps and other program materials are removed.
- ❖ The appropriate portions of these State and county routes are no longer considered eligible and the local governing body (s) is no longer required to maintain its Corridor Protection Program.

Initiated by Local Governing Body

- ❖ A local governing body may request that Caltrans revoke a scenic highway designation within its jurisdiction at any time. The revocation proposal should be placed on the agenda at a public meeting to allow public input.
- ❖ A letter of intent by the local governing body must be submitted to the District Scenic Highway Coordinator. When more than one governing body is responsible for the scenic highway, a joint letter must be submitted. The letter should cite the reason(s) for the jurisdiction's desire to revoke the scenic highway designation.
- ❖ The District Scenic Highway Coordinator informs the Caltrans District Director and forwards the request, including documentation, to the State Scenic Highway Coordinator.
- ❖ After receiving the revocation request the State Scenic Highway Coordinator reviews and then forwards it to the Caltrans Director for approval.
- ❖ The Director approves the revocation and officially notifies the local governing body(s). Caltrans removes scenic highway signs along the State routes and for county routes requests that the county remove its scenic highway signs. References in maps and other program materials are removed.

SECTION VIII: CONFLICT RESOLUTION PROCESS

The Chief, Division of Design facilitates the resolution of Department or external conflicts regarding scenic highway designation or revocation proposals. Conflicts may arise from opposing recommendations between the District and the Landscape Architecture Program (LAP) for scenic highway designation or revocation proposals. Similarly, a local governing body may not agree with the Department's position on the merits of a designation or revocation proposal. The elevation of a conflict to the Chief, Division of Design, should be done only after both parties have consented to this course of action and all reasonable efforts have been made to reach agreement at the lowest level possible. Elevation of the issue should occur in a timely manner.

Initiated by Caltrans

For internal Department conflicts, issues are documented in memorandum form and forwarded to the Chief, Division of Design for discussion. The District and LAP describe their opposing positions in this memo, and provide the appropriate background, discussion, time factor, and recommendation. The Chief, Division of Design facilitates a meeting between the District and LAP representatives, and ensures that each party make a concerted effort to reach a consensus. If consensus cannot be reached, the Chief Engineer reviews the issue and determines the Department's official position for designation or revocation. The goal is to provide a unified Department response to the local jurisdiction for designation or revocation proposals.

Initiated by Local Governing Body

When the local governing body does not agree with the Department's position regarding scenic highway designation or revocation proposals, it requests a meeting with the Chief, Division of Design. The Chief, Division of Design facilitates a meeting between the local agency and the Department's representatives. Each party presents their case, and after careful consideration of this information, including scenic highway program guidance and statutes, the Chief, Division of Design recommends a resolution. If the local governing body does not agree to the resolution then they may submit an appeal to the Chief Engineer for reconsideration. The Chief Engineer reviews the appeal and makes a final determination on recommending scenic highway designation or revocation to the Director. If a revocation recommendation is forwarded to the Director for approval, full disclosure of any opposition by the local governing body is included.

SECTION IX: MISCELLANEOUS

Route Realignments and Relocation

When a route is realigned from its original location, scenic designation or eligibility status is not automatically carried over to the new location. A route may be eligible for designation when the new alignment is within the same corridor, or when the alignment is outside of the existing corridor and in an area of outstanding scenic quality. Scenic designation may be transferred if the new alignment remains within the protected scenic corridor. The Caltrans District Scenic Highway Coordinator makes these determinations with concurrence from the State Scenic Highway Coordinator.

Undergrounding of Utility Lines

Section 320 of the California Public Utilities Code requires the undergrounding of all new or relocated electric and communication distribution facilities within 1,000 feet of any highway designated an official scenic highway and visible from that highway where feasible. Appendix A provides the full text of Section 320. Copies of the Public Utilities Commission's Order and Court Decisions Relating to Section 320 are available from the Caltrans District Scenic Highway Coordinator, and provide more detail on utility undergrounding. The California Public Utilities Commission makes final determinations regarding exceptions to undergrounding utilities.

Effects of Official Designation on Highway Construction, Emergency Repairs and Maintenance Activities

Highway construction and emergency repairs proposed on designated State Scenic Highways are evaluated for visual impact to scenic views as part of the environmental process. If impacts occur, then appropriate mitigation measures are necessary. Generally, the designation of a route as an official scenic highway does not substantially alter the type of project proposed but it may limit the use of statutory or categorical exemption from the California Environmental Quality Act⁴ (CEQA).

Caltrans works with appropriate agencies to ensure the protection of scenic corridors to the maximum extent feasible. It identifies impacts to scenic corridors such as degradation and obstruction of scenic views as an integral part of its project planning, project development and maintenance operations.

⁴ See Appendix A, Public Resources Code Sections 21080.33 and 21084(b)

APPENDIX A

STATUTES RELATING TO THE CALIFORNIA STATE SCENIC HIGHWAY PROGRAM

STREETS AND HIGHWAY CODE

Division 1, Chapter 2, Article 2.5

260. LEGISLATIVE INTENT

It is the intent of the Legislature in designating certain portions of the state highway system as state scenic highways to establish the State's responsibility for the protection and enhancement of California's natural scenic beauty by identifying those portions of the state highway system which, together with the adjacent scenic corridors, require special scenic conservation treatment. It is further declared to be the intent of the Legislature in designating such scenic highways to assign responsibility for the development of such scenic highways and for the establishment and application of specific planning and design standards and procedures appropriate thereto and to indicate, in broad statement terms, the location and extent of routes and areas requiring continuing and careful coordination of planning, design, construction, and regulation of land use and development, by state and local agencies as appropriate, to protect the social and economic values provided by the State's scenic resources.

261. PLANNING AND DESIGN STANDARDS; COMPLETE HIGHWAY

The department shall establish and apply pertinent planning and design standards for development of official scenic highways. In establishing and applying such standards for, and undertaking the development of official scenic highways, the department shall take into consideration the concept of the "complete highway," which is a highway which incorporates not only safety, utility, and economy, but also beauty. The department shall also take into consideration in establishing such standards that, in a "complete highway," pleasing appearance is a consideration in the planning and design process. In the development of official scenic highways, the department shall give special attention both to the impact of the highway on the landscape and to the highway's visual appearance. The standards for official scenic highways shall also require that local governmental agencies have taken such action as may be necessary to protect the scenic appearance of the scenic corridor, the band of land generally adjacent to the highway right-of-way, including, but not limited to, (1) regulation of land use and intensity (density) of development; (2) detailed land and site planning; (3) control of outdoor advertising; (4) careful attention to and control of earthmoving and landscaping; and (5) the design and appearance of structures and equipment.

262. DESIGNATION OF SCENIC HIGHWAYS

Whenever the department determines that the corridor protection program for any state highway in the state scenic highway system established by this article has been implemented by local governmental agencies and a plan and program has been developed by the department for bringing the highway up to the standards for official scenic highways established by the department, including the concept of the "complete highway," as described in Section 261, the department shall designate the highway as an official state scenic highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

The department shall cause appropriate signs to be placed and maintained along the portions of the state scenic highway system which the department has designated as official state scenic highways that indicate that the highways are official state scenic highways.

If at any time the department determines that the corridor protection program of local governmental agencies, with respect to any highway which has been designated as an official state scenic highway, no longer adequately carries out responsibility of the local governmental agencies for the protection of the scenic corridor, it may revoke the designation of the highway as an official state scenic highway and remove the signs which so indicate the highway.

262.1 LOCATION AND CONSTRUCTION OF NEW DISTRICT FACILITY OF LOCAL AGENCY WITHIN SCENIC CORRIDOR; APPROVAL

A local agency as defined in subdivision (c) of Section 65402 of the Government Code, shall coordinate its planning with, and obtain the approval from, the appropriate local planning agency on the location and construction of any new district facility that would be within the scenic corridor of any state scenic highway.

263. SCENIC HIGHWAY SYSTEM; ESTABLISHMENT; COMPOSITION

The state scenic highway system is hereby established and shall be composed of the highways specified in this article. The highways listed in Sections 263.1 to 263.8, inclusive are either eligible for designation as state scenic highways or have been so designated.

263.1 THE STATE SCENIC HIGHWAY SYSTEM SHALL INCLUDE:

Routes 28, 35, 38, 52, 53, 62, 74, 75, 76, 89, 96, 97, 127, 150, 151, 154, 156, 158, 161, 173, 197, 199, 203, 209, 221, 236, 239, 243, 247, 254, and 330 in their entirety.

263.2 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 1 TO 4

The state scenic highway system shall also include:

- Route 1 from: (a) Route 5 south of San Juan Capistrano to Route 19 near Long Beach, (b) Route 187 near Santa Monica to Route 101 near El Rio, (c) Route 101 at Las Cruces to Route 246 near Lompoc, (d) Route 227 south of Oceano to Route 101 near Pismo Beach, (e) Route 101 near San Luis Obispo to Route 35 near Daly City, (f) Route 35 in San Francisco to Route 101 near the approach to the Golden Gate Bridge in San Francisco, (g) Route 101 near Marin City to Route 101 near Leggett.
- Route 2 from Route 210 in La Canada Flintridge to Route 138 via Wrightwood.
- Route 3 from: (a) Route 36 near Peanut to Route 299 near Douglas City, (b) Route 299 near Weaverville to Montague.
- Route 4 from: (a) Route 160 near Antioch to Route 84 near Brentwood, (b) Route 49 near Angels Camp to Route 89.

263.3 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 5, 8 TO 10, 12, 14 TO 18, 20, 24, 25, 27, 29, 30, 33 AND 36

The state scenic highway system shall also include:

- Route 5 from: (a) The international boundary near Tijuana to Route 75 near the south end of San Diego Bay, (b) San Diego opposite Coronado to Route 74 near San Juan Capistrano, (c) Route 210 near Tunnel Station to Route 126 near Castaic, (d) Route 152 west of Los Banos to Route 580 near Vernalis, (e) Route 44 near Redding to the Shasta Reservoir, (f) Route 89 near Mt. Shasta to Route 97 near Weed, (g) Route 3 near Yreka to the Oregon state line near Hilts.
- Route 8 from Sunset Cliffs Boulevard in San Diego to Route 98 near Coyote Wells.
- Route 9 from: (a) Route 1 near Santa Cruz to Route 2 near Boulder Creek, (b) Route 236 near Boulder Creek to Route 236 near Waterman Gap, (c) Route 236 near Waterman Gap to Route 35, (d) Saratoga to Route 17 near Los Gatos, (e) Blaney Plaza in Saratoga to Route 35.
- Route 10 from Route 38 near Redlands to Route 62 near Whitewater.
- Route 12 from Route 101 near Santa Rosa to Route 121 near Sonoma.
- Route 14 from Route 58 near Mojave to Route 395 near Little Lake.
- Route 15 from: (a) Route 76 near the San Luis Rey River to Route 91 near Corona, (b) Route 58 near Barstow to Route 127 near Baker.
- Route 16 from Route 20 to Capay.
- Route 17 from Route 1 near Santa Cruz to Route 9 near Los Gatos.
- Route 18 from Route 138 near Mt. Anderson to Route 247 near Lucerne Valley.
- Route 20 from: (a) Route 1 near Fort Bragg to Route 101 near Willits, (b) Route 101 near Calpella to Route 16, (c) Route 49 near Grass Valley to Route 80 near Emigrant Gap.
- Route 24 from the Alameda-Contra Costa county line to Route 680 in Walnut Creek.
- Route 25 from Route 198 to Route 156 near Hollister.
- Route 27 from Route 1 to Mulholland Drive.

- Route 29 from: (a) Route 37 near Vallejo to Route 221 near Napa, (b) The vicinity of Trancas Street in northwest Napa to Route 20 near Upper Lake.
- Route 30 from Route 330 near Highland to Route 10 near Redlands.
- Route 33 from: (a) Route 101 near Ventura to Route 150, (b) Route 150 to Route 166 in Cuyama Valley, (c) Route 198 near Coalinga to Route 198 near Oilfields.
- Route 36 from: (a) Route 101 near Alton to Route 3 near Peanut, (b) Route 89 near Morgan Summit to Route 89 near Deer Creek Pass.

263.4 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 37, 39 TO 41, 44, 46, 49, 50, 57, 58, 68, 70 AND 71

The state scenic highway system shall also include:

- Route 37 from: (a) Route 251 near Nicasio to Route 101 near Novato, (b) Route 101 near Ignacio to Route 29 near Vallejo.
- Route 39 from Route 210 near Azusa to Route 2.
- Route 40 from Barstow to Needles.
- Route 41 from: (a) Route 1 near Morro Bay to Route 101 near Atascadero, (b) Route 46 near Cholame to Route 33, (c) Route 49 near Oakhurst to Yosemite National Park.
- Route 44 from Route 5 near Redding to Route 89 near Old Station.
- Route 46 from: (a) Route 1 near Cambria to Route 101 near Paso Robles, (b) Route 101 near Paso Robles to Route 41 near Cholame.
- Route 49 from: (a) Route 41 near Oakhurst to Route 120 near Moccasin, (b) Route 120 to Route 20 near Grass Valley, (c) Route 20 near Nevada City to Route 89 near Sattley.
- Route 50 from Route 49 near Placerville to the Nevada state line near Lake Tahoe.
- Route 57 from Route 90 to Route 60 near Industry.
- Route 58 from Route 14 near Mojave to Route 15 near Barstow.
- Route 68 from Monterey to Route 101 near Salinas.
- Route 70 from Route 149 near Wicks Corner to Route 83 north of Corona.
- Route 71 from Route 91 near Corona to Route 83 north of Corona.

263.5 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 78 TO 80, 84, 88, 91, 92 AND 94

The state scenic highway system shall also include:

- Route 78 from Route 79 near Santa Ysabel to Route 86 passing near Julian.
- Route 79 from: (a) Route 8 near Descanso to Route 78 near Julian, (b) Route 78 near Santa Ysabel to Route 371 near Aguanga.
- Route 80 from: (a) Route 280 near First Street in San Francisco to Route 61 in Oakland, (b) Route 20 near Emigrant Gap to the Nevada state line near Verdi, Nevada.
- Route 84 from Route 238 to Route 680 near Sunol.
- Route 88 from Route 49 in Jackson to the Nevada state line via Pine Grove, Silver Lake, and Kirkwood.
- Route 91 from Route 55 near Santa Ana Canyon to Route 15 near Corona.
- Route 92 from Route 1 near Half Moon Bay to Route 280 near Crystal Springs Lake.
- Route 94 from Route 125 near Spring Valley to Route 8 west of Jacumba.

263.6 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 101, 108, 111, 116, 118, 120, 121, 125 AND 126

The state scenic highway system shall also include:

- Route 101 from: (a) Route 27 (Topanga Canyon Road) to Route 46 near Paso Robles, (b) Route 156 near Prunedale northeasterly to Route 156, (c) A point in Marin County opposite San Francisco to Route 1 near Marin City, (d) Route 37 near Ignacio to Route 37 near Novato, (e) Route 20 near Calpella to Route 20 near Willits, (f) Route 1 near Leggett to Route 199 near Crescent City, (g) Route 197 near Fort Dick to the Oregon state line.
- Route 108 from Route 49 near Sonora to Route 395.
- Route 111 from: (a) Bombay Beach in Salton Sea State Park to Route 195 near Mecca, (b) Route 74 near Palm Desert to Route 10 near Whitewater.
- Route 116 from Route 101 near Cotati to Route 1 near Jenner.
- Route 118 from Route 23 to DeSoto Avenue near Browns Canyon.

- Route 120 from: (a) Route 49 near Chinese Camp to Route 49 near Moccasin, (b) The east boundary of Yosemite National Park to Route 395 near Mono Lake.
- Route 121 from: (a) Route 37 near Sears Point to Route 12 near Sonoma, (b) Route 221 near Napa State Hospital to near the vicinity of Trancas Street in northeast Napa.
- Route 125 from Route 94 near Spring Valley to Route 8 near La Mesa.
- Route 126 from Route 150 near Santa Paula to Route 5 near Castaic.

263.7 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 138 TO 140, 142, 146, 152, 160, 163, 166, 168, 174, 178, 180, 190 AND 266

The state scenic highway system shall also include:

- Route 138 from Route 2 near Wrightwood to Route 18 near Mt. Anderson.
- Route 139 from Route 299 near Canby to the Oregon state line near Hatfield.
- Route 140 from Route 49 at Mariposa to Yosemite National Park near El Portal.
- Route 142 from the Orange-San Bernardino county line to Peyton Drive.
- Route 146 from Pinnacles National Monument to Route 25 in Bear Valley.
- Route 152 from: (a) Route 1 to the Santa Clara county line at Hecker Pass, (b) Route 156 near San Felipe to Route 5.
- Route 160 from Route 4 near Antioch to Sacramento.
- Route 163 from Ash Street in San Diego to Route 8.
- Route 166 from Route 101 near Santa Maria to Route 33 in Cuyama Valley.
- Route 168 from: (a) Route 65 near Clovis to Huntington Lake, (b) Camp Sabrina to Route 395, (c) Route 395 at Big Pine to Route 266 at Oasis.
- Route 174 from the Bear River to the Grass Valley city limits.
- Route 178 from the east boundary of Death Valley National Monument to Route 127 near Shoshone.
- Route 180 from: (a) Route 65 near Minkler to General Grant Grove section of Kings Canyon National Park, (b) General Grant Grove section of Kings Canyon National Park to Kings Canyon National Park boundary near Cedar Grove.
- Route 190 from Route 65 near Porterville to Route 127 near Death Valley Junction.
- Route 266 from the Nevada state line easterly of Oasis to Route 168 at Oasis.

263.8 ADDITIONAL INCLUSIONS; PORTIONS OF ROUTES 198, 210, 215, 251, 280, 299, 395, 580 AND 680

The state scenic highway system shall also include:

- Route 198 from: (a) Route 101 near San Lucas to Route 33 near Coalinga, (b) Route 33 near Oilfields to Route 5, (c) Route 99 near Goshen to the Sequoia National Park line.
- Route 210 from Route 5 near Tunnel Station to Route 134.
- Route 215 from Route 74 near Romoland to Route 74 near Perris.
- Route 251 from Route 37 near Nicassio to Route 1 near Point Reyes Station.
- Route 280 from Route 17 in Santa Clara County to Route 80 near First Street in San Francisco.
- Route 299 from: (a) Route 101 near Arcata to Route 96 near Willow Creek, (b) Route 3 near Weaverville to Route 5 near Redding, (c) Route 89 near Burney to Route 139 near Canby.
- Route 395 from Route 14 near Little Lake to Route 89 near Coleville.
- Route 580 from Route 5 southwest of Vernalis to Route 80.
- Route 680 from the Santa Clara-Alameda county line to Route 24 in Walnut Creek.

STREETS AND HIGHWAYS CODE

Division 1, Chapter 1, Article 3

154. COUNTY SCENIC HIGHWAYS; ENCOURAGEMENT; DESIGNATION; REVOCATION OF DESIGNATION

The department shall encourage the construction and development by counties of portions of the county highways as official county scenic highways and may furnish to the counties any information or other assistance which will aid the counties in the construction or development of such scenic highways.

Whenever the department determines that any county highway meets the minimum standards prescribed by the department for official scenic highways, including the concept of the "complete highway," as described in Section 261, it may authorize the county in which the highway is located to designate the highway as an official county scenic highway and the department shall so indicate the highway in publications of the department and in any maps which are prepared by the department for distribution to the public which show the highway.

If the department determines that any county highway which has been designated as an official county scenic highway no longer meets the minimum standards prescribed by the department for official scenic highways, it may, after notice to the county and a hearing on the matter, if requested by the county, revoke the authority of the county to designate the highway as an official county scenic highway.

PUBLIC UTILITIES CODE

Division 1, Part 1, Chapter 2

320. UNDERGROUNDING OF ELECTRIC AND COMMUNICATION DISTRIBUTION FACILITIES NEAR STATE SCENIC HIGHWAYS

The Legislature hereby declares that it is the policy of this State to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities which are proposed to be erected in proximity to any highway designated a state scenic highway pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible from such scenic highways if erected above ground. The commission shall prepare and adopt by December 31, 1972, a statewide plan and schedule for the undergrounding of all such utility distribution facilities in accordance with the aforesaid policy and the policy and the rules of the commission relating to the undergrounding of facilities.

The commission shall coordinate its activities regarding the plan with local governments and planning commissions concerned.

The commission shall require compliance with the plan upon its adoption.

This section shall not apply to facilities necessary to the operation of any railroad.

PUBLIC RESOURCES CODE

California Environmental Quality Act (CEQA)

Chapter 2.6: General

21080.33. EMERGENCY PROJECTS TO MAINTAIN, REPAIR OR RESTORE EXISTING HIGHWAYS; APPLICATION OF DIVISION; EXCEPTIONS (TO CEQA)

This division does not apply to any emergency project undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage.

This section does not exempt from this division any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsistence, gradual movement, or landslide.

21084. LIST OF EXEMPT CLASSES OF PROJECTS; PROJECTS DAMAGING SCENIC RESOURCES

b) No project which may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway designated as an official state scenic highways, pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, shall be exempted from this division pursuant to subdivision (a). This subdivision does not apply to improvements as mitigation for a project for which a negative declaration has been approved or an environmental impact report has been certified.

BUSINESS AND PROFESSIONS CODE

Outdoor Advertising Act

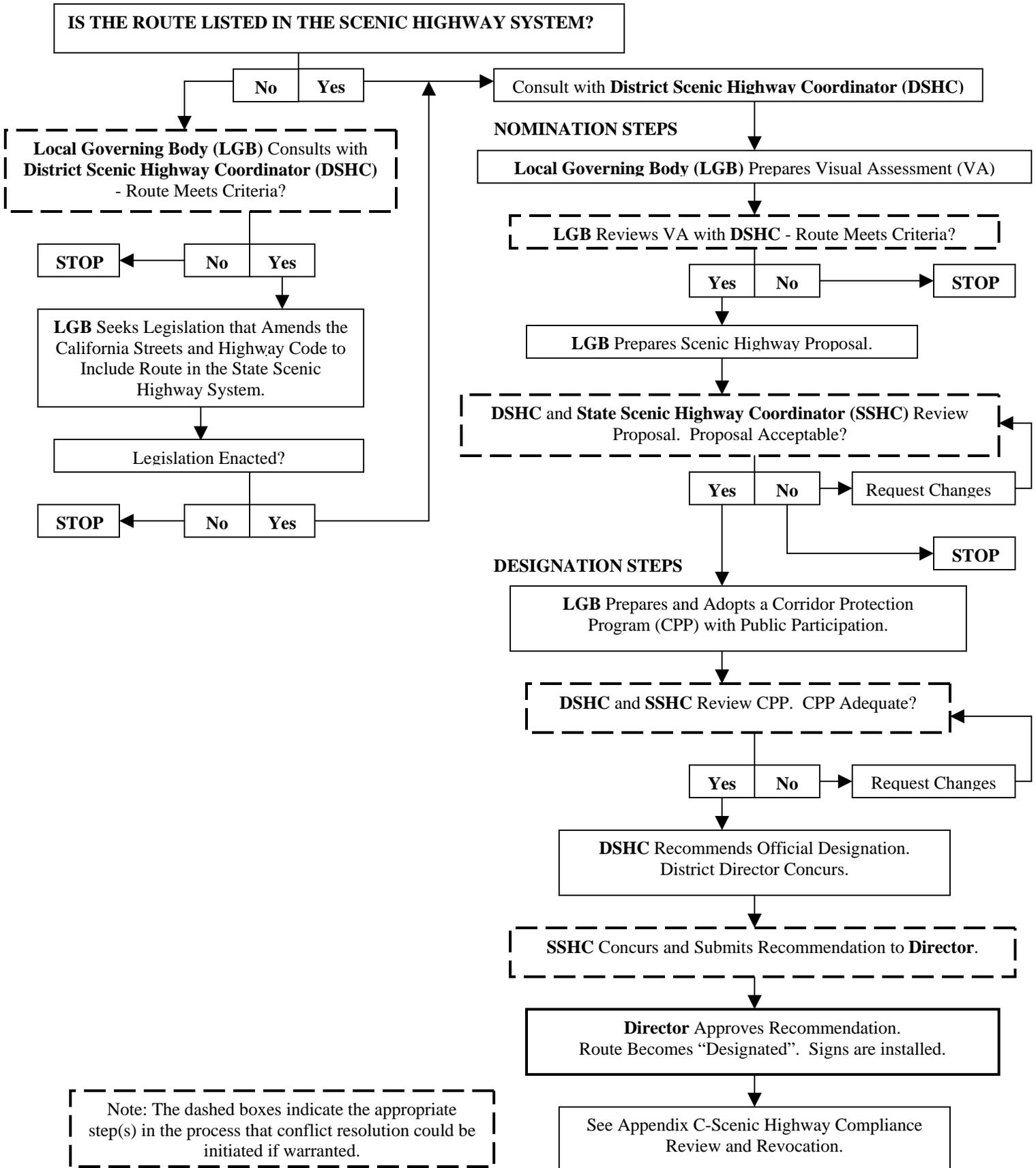
Division 3, Chapter 2. Advertisers

Article 8. Landscaped Freeways

5441. Removal of Structures, Signs

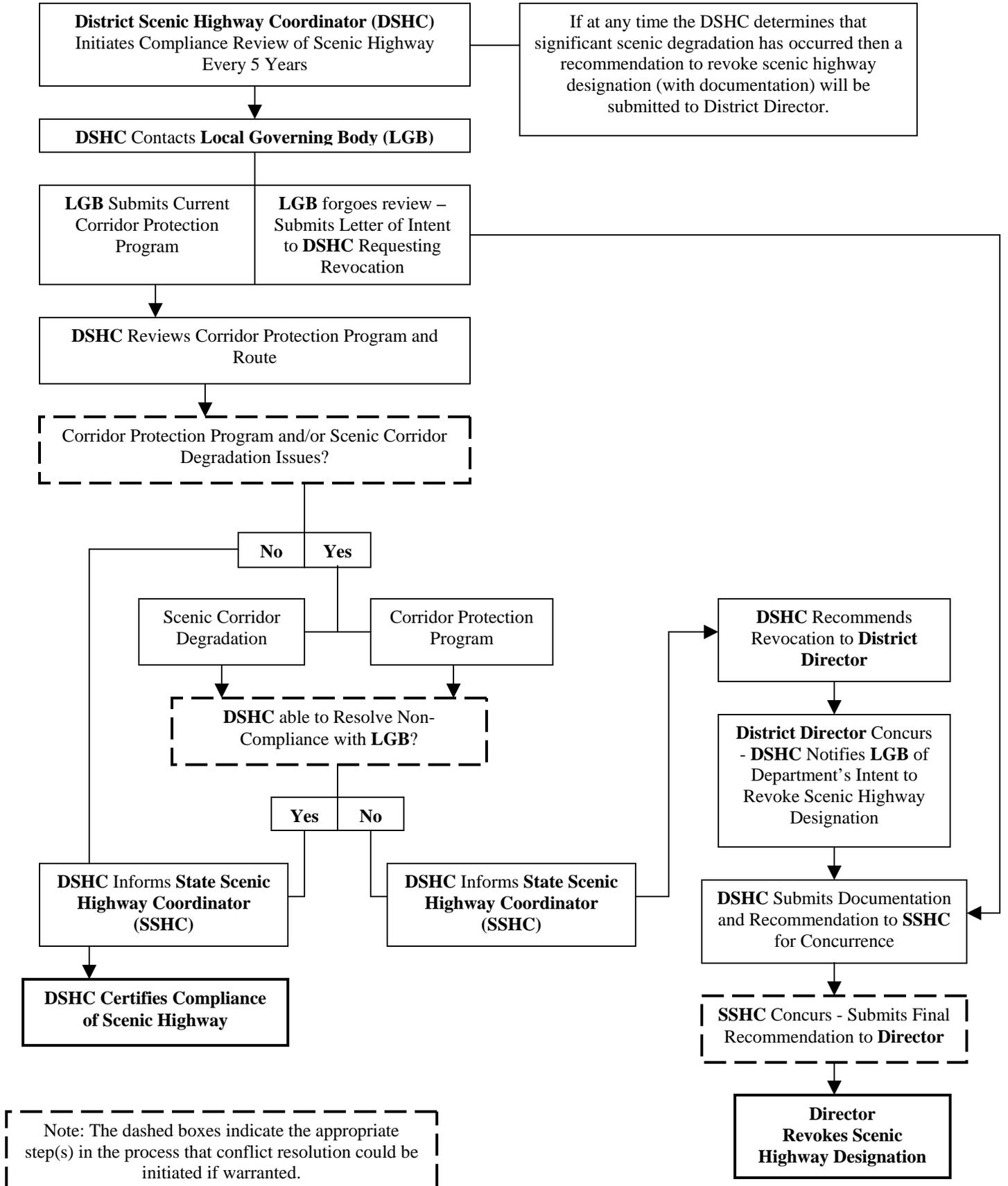
Except as provided in Section 5442.5, no advertising display may be placed or maintained along any highway or segment of any interstate highway or primary highway that before, on, or after the effective date of Section 131(s) of Title 23 of the United States Code is an officially designated scenic highway or scenic byway.

Appendix B Scenic Highway Designation



Appendix C

Scenic Highway Compliance Review and Revocation



APPENDIX D

CALTRANS HEADQUARTERS AND DISTRICT OFFICES

Below are the streets and mailing addresses for the Caltrans District Offices, and phone numbers of the District Scenic Highway Coordinators. Contact the District Scenic Highway Coordinator regarding general questions and prior to initiating the scenic highway nomination process. You may also contact the State Scenic Highway Coordinator at Caltrans Headquarters.

Caltrans Headquarters
1120 N Street, Sacramento CA 95814
Dennis Cadd
(916) 654-5370
TTY (916) 653-4086

District 1
1656 Union Street, Eureka CA 95501
(P.O. Box 3700, 95502)
Lindsay Walker
(707) 441-4680

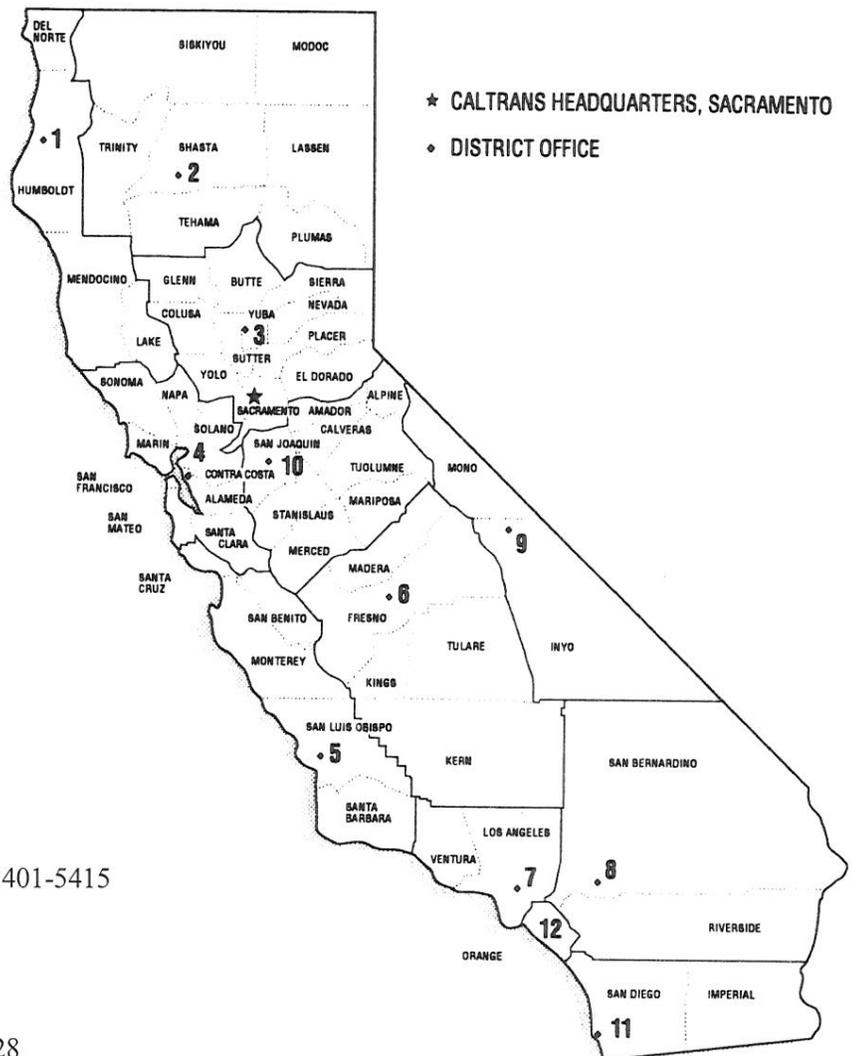
District 2
1657 Riverside Drive, Redding CA 96001
(P.O. Box 496073, 96049-6073)
Roberta McLaughlin
(530) 225-2848

District 3
703 B Street, Marysville CA 95901
(P.O. Box 911)
J. D. Adams
(530) 741-4436

District 4
111 Grand Avenue, Oakland CA 94612
(P.O. Box 23660, 94623-0660)
Bryan Walker
(510) 286-4833

District 5
50 Higuera Street, San Luis Obispo CA 93401-5415
Bob Carr
(805) 549-3083

District 6
1352 West Olive Avenue, Fresno CA 93728
(P.O. Box 12616, 93778-2616)
Michael Mills
(559) 230-3135



District 7
120 South Spring Street, Los Angeles CA 90012
Dahlia Persoff
(213) 897-0463

District 8
464 West Fourth Street, San Bernardino CA 92401-1400
Ray Desselle
(909) 381-4529

District 9
500 South Main Street, Bishop CA 93514
Bart Godett
(760) 872-1355

District 10
1976 East Charter Way, Stockton CA 95205
(P.O. Box 2048, 95201)
Kathleen McClaflin
(209) 948-7647

District 11
4050 Taylor Street, San Diego CA 92110
Tom Ham
(619) 688-6719

District 12
3337 Michelson Drive, Suite 380, Irvine CA 92612-8894
Sandy Ankhasirisan
(949) 724-2449

APPENDIX E

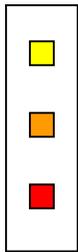
EXAMPLES OF VISUAL INTRUSIONS ALONG SCENIC CORRIDORS

The following examples do not include all visual intrusions possible within the corridor. These examples illustrate many of the typical built elements, and should be used as a guide when developing the mapping for the Scenic Highway Proposal. Where more than one example is listed, only one example needs to occur for an intrusion to be applicable. The District Scenic Highway Coordinator may be consulted for assistance in defining specific levels of visual intrusions.

LEVEL OF INTRUSION AND COLOR:  **Minor**  **Moderate**  **Major**

BUILDINGS:

Residential Development, Commercial Development, Industrial Development



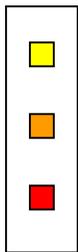
Minor - Widely dispersed buildings. Natural landscape dominates. Wide setbacks and buildings screened from roadway. Forms, exterior colors and materials are compatible with landscape. Buildings have cultural or historical significance.

Moderate - Increased numbers of buildings, not well integrated into the landscape. Smaller setbacks and lack of roadway screening. Buildings do not dominate the landscape or obstruct scenic view.

Major - Dense and continuous development. Highly reflective surfaces. Buildings poorly maintained. Visible blight. Development along ridgelines. Buildings dominate the landscape or obstruct scenic view.

UNSIGHTLY LAND USES:

Dumps, Quarries, Concrete Plants, Tank Farms, Auto Dismantling

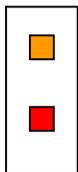


Minor - Screened from view so that most of facility is not visible from the highway.

Moderate - Not screened and visible but programmed/funded for removal and site restoration. Land use is visible but does not dominate the landscape or obstruct scenic view.

Major - Not screened and visible by motorists. Will not be removed or modified. Land use dominates the landscape or obstructs scenic view.

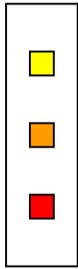
COMMERCIAL RETAIL DEVELOPMENT



Moderate - Neat and well landscaped. Single story. Generally blends with surroundings. Development is visible but does not dominate the landscape or obstruct scenic view.

Major - Not harmonious with surroundings. Poorly maintained or vacant. Blighted. Development dominates the landscape or obstructs scenic view.

PARKING LOTS



Minor - Screened from view so that most of the vehicles and pavement are not visible from the highway.

Moderate - Neat and well landscaped. Generally blends with surroundings. Pavement and/or vehicles visible but do not dominate the landscape or degrade scenic view.

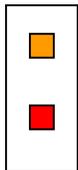
Major - Not screened or landscaped. Pavement and/or vehicles dominate the landscape or degrade scenic view.

OFF-SITE ADVERTISING STRUCTURES



Major - Billboards degrade or obstruct scenic view.

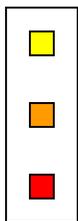
NOISE BARRIERS



Moderate - Noise barriers are well landscaped and complement the natural landscape. Noise barriers do not degrade or obstruct scenic view.

Major - Noise barriers degrade or obstruct scenic view.

POWER LINES AND COMMUNICATION FACILITIES



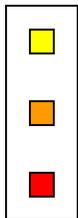
Minor - Not easily visible from road.

Moderate - Visible, but do not dominate scenic view.

Major - Towers, poles or lines dominate view. Scenic view is degraded.

AGRICULTURE:

Structures, Equipment, Crops



Minor - Generally blends in with scenic view. Is indicative of regional culture.

Moderate - Not compatible with the natural landscape. Scale and appearance of structures and equipment visually competes with natural landscape.

Major - Scale and appearance of structures and equipment are incompatible with and dominates natural landscape. Structures, equipment or crops degrade or obstruct scenic view.

EXOTIC VEGETATION

-  **Minor** - Used as screening and landscaping. Generally is compatible with scenic view.
-  **Moderate** - Competes with native vegetation for visual dominance.
-  **Major** - Incompatible with and dominates natural landscape. Scenic view is degraded.

CLEARCUTTING

-  **Moderate** - Clearcutting or deforestation is evident, but is in the distant background.
-  **Major** - Clearcutting or deforestation is evident. Scenic view is degraded.

EROSION

-  **Minor** - Minor soil erosion. (i.e., rill erosion)
-  **Moderate** - Rill erosion starting to form gullies.
-  **Major** - Large slip outs and/or gullies with little or no vegetation. Scenic view is degraded.

GRADING

-  **Minor** - Grading generally blends with adjacent landforms and topography.
-  **Moderate** - Some changes, less engineered appearance and restoration is taking place.
-  **Major** - Extensive cut and fill. Unnatural appearance, scarred hillsides or steep slopes with little or no vegetation. Canyons filled in. Scenic view is degraded.

ROAD DESIGN

-  **Minor** - Blends in and complements scenic view. Roadway structures are suitable for location and compatible with landscape.
-  **Moderate** - Large cut and fill slopes are visible. Scale and appearance of roadway, structures, and appurtenances are incompatible with landscape.