

April 7, 2009 Regular Meeting
BENICIA CITY COUNCIL
REGULAR MEETING AGENDA
City Council Chambers

April 7, 2009

7:00 P.M.

Times set forth for the agenda items are estimates.

Items may be heard before or after the times designated.

I. CALL TO ORDER (7:00 P.M.):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/ PROCLAMATIONS:

A. ANNOUNCEMENTS:

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

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:

One unexpired term to September 30, 2010

One full term to January 31, 2013

Parks, Recreation and Cemetery Commission:

One unexpired term to March 31, 2010

3. Mayor's Office Hours:

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

B. APPOINTMENTS:

1. [Appointment of Lawrence Grossman to the Finance, Audit and Budget Committee for one full term to January 31, 2011](#)

C. PRESENTATIONS:

1. Planned Parenthood: A trusted provider of Healthcare and Education

-Shanie Scott, Fernando Diaz, and Anissa Jassawalla of Planned Parenthood: Shasta Diablo

2. California of the Past

-Diane Smikahl, Library Director

3. Benicia - Tula Sister City Association - Annual Presentation

-Pepe Arteaga, Benicia - Tula Sister City Association

D. PROCLAMATIONS:

1. [Recognition of National Library Week](#)

2. [Recognition National Public Safety Telecommunicators' Week](#)

3. [Recognition of Sexual Assault Awareness Month](#)

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 (7:45 P.M.):

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

A. [Approval of Minutes of March 17, 2009.](#) (City Clerk)

B. [Denial of the claim against the City by Martha Brice and referral to insurance carrier.](#) (City Attorney)

Claimant alleges that a "roadwork" vehicle hit her vehicle while she was in the Senior Center. Although a city contractor was working in the area, there were no witnesses to the incident and no information is available that can be used to determine who caused the damage to the vehicle. The amount of the claim is \$700.

Recommendation: Deny the claim against the City by Martha Brice.

C. [Denial of the claim against the City by Terence Keenan and referral to insurance carrier.](#) (City Attorney)

Mr. Keenan submitted a claim for loss of rental income due to recurring raw sewage contamination. Mr. Keenan has already filed suit against the City regarding sewer issues. The amount of the claim is approximately \$18,000.

Recommendation: Deny the claim against the City by Terence Keenan.

D. [Review investment report for the quarter ended December 2008.](#) (Finance Director)

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance, Audit and Budget Committee has reviewed these reports and recommends acceptance.

Recommendation: Accept, by motion, the investment report for the quarter ended December 2008.

E. [Approval of Joint Agreement for receipt of Neighborhood Stabilization Program \(NSP\) grant funds.](#) (City Manager)

Benicia is eligible to receive approximately \$198,552 in federal funds to mitigate the impacts of abandoned and foreclosed properties. These funds would be made available from the State Housing and Community Development Department through its amended HUD Annual Plan Update of the 2005-2110 Consolidated Plan as allowed by federal legislation, referred to as Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes, or the

Neighborhood Stabilization Program (NSP). The City is required to execute a Joint Agreement with Solano County and three other cities in the County to receive this funding.

Recommendation: Approve, by motion, a Joint Agreement as required by the State of California for receipt of the City's grant allocation of Neighborhood Stabilization Program (NSP) funds, and authorize the City Manager to execute it on behalf of the City.

F. [Second reading of campaign disclosure ordinance.](#) (City Attorney)

At the January 6, 2009 City Council meeting, the Council directed that an improved campaign disclosure ordinance be drafted and presented to the Council so that it could take effect prior to the November elections. This ordinance has been drafted with the assistance of Steve Churchwell and incorporates some of the comments from the public as well.

Recommendation: Adopt the ordinance amending Chapter 1.40 (Disclosure in Candidate Elections) to include disclosure of contributions and expenditures in candidate and ballot measure elections.

G. [Authorization to file an application for Federal American Recovery and Reinvestment Act of 2009 \(ARRA\) funding and stating assurance to complete the project known as the East Second Street Overlay Project.](#) (Public Works Director)

The guidelines of the ARRA require that in order to receive regional ARRA funding for the East Second Street Overlay project, the City must first submit an application with the appropriate Metropolitan Planning Organization (MPO) for review and inclusion in the MPO's Transportation Improvement program (TIP). The Metropolitan Transportation Commission (MTC) is recommending that the City Council authorize the filing of an application and state the City's assurance to complete the project in order to secure the \$400,000 in federal funds allotted for the project.

Recommendation: Adopt a resolution of local support authorizing the Director of Public Works to file an application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) funding for the East Second Street Overlay Project and stating the assurance that the project will be completed.

H. [Acceptance and disbursement of grant funding for bay fill removal.](#) (Community Development Director)

BCDC previously approved an application by the City and a grant for \$172,500 for removal of mired barges within City water property between West C and D Streets. BCDC has recommended the City amend the contracts to remove additional bay fill off of the West C Street right-of-way. With Council approval, the City can receive up to \$242,425 to cover the costs associated with additional work.

Recommendation: Adopt a resolution authorizing the City Manager to amend contracts: (1) accepting grant funding from the San Francisco Bay Conservation and Development Commission (BCDC), and (2) disbursing those funds for work necessary to remove bay fill from City property in Southampton Bay in the West C Street right-of-way.

I. [Adoption of the proposed resolution establishing a Policy Permitting the Rental of Below Market Rate For-Sale Units on the Basis of Hardship.](#) (City Attorney)

The economic climate has put owner-occupied affordable housing at risk. Homeowners who want or need to sell affordable housing developed with City or State loans may be unable to do so. Allowing these property owners to rent their homes to very-low or low renters will help preserve the affordable units.

Recommendation: Adopt the resolution establishing a Policy Permitting the Rental of Below Market Rate For-Sale Units on the Basis of Hardship.

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

VIII. PUBLIC HEARINGS (7:55 P.M.):

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

A. Review of the animal permit keeper's permit for 45 Buena Vista. (City Attorney)

In June 17, 2008, a hearing officer heard testimony and issued a decision allowing Christina Topf to keep 40 adult rabbits at 45 Buena Vista. At the March 3, 2009 City Council meeting, the City Council asked that Ms. Topf's animal keeper's permit be amended after notice to the neighbors to allow the Council to consider allowing Ms. Topf to keep up to 95 adult rabbits. Staff recommends that the number of permitted rabbits for the property at 45 Buena Vista remain at 40.

Recommendation: Adopt the resolution denying the request for an animal keeper's permit for up to 95 rabbits. The previously permitted 40 rabbits would still be allowed.

IX. ACTION ITEMS (8:55 P.M.):

A. Introduction of amendments to the Animal Control Ordinance related to cats including feral cats and to animal keepers permit provisions. (City Attorney)

On March 3, 2009, the City Council reviewed the animal control ordinance and directed staff to prepare amendments to the ordinance for consideration. The changes would require cats to be restrained similar to the regulations for dogs. This will be a difficult and costly regulation to enforce. If this change is adopted, the Council may wish to consider removing the feral cat colony provisions since they are inconsistent with the restraint idea. In addition, the Council requested changes to the animal keeper permit provisions to require notice to neighbors and to have any appeals related to animal keepers permits heard by the Council instead of a hearing officer.

Recommendation: For the reasons noted in the staff report, no changes to the animal control ordinance are recommended related to cats or feral cats. If the Council wants to regulate cats, an ordinance to do so has been prepared.

(1) If desired, introduce the ordinance amending the animal control ordinance to require cats to be kept on their owner's property or restrained and remove the feral cat colony provisions; and

(2) Introduce the ordinance amending the animal control ordinance to require notice regarding animal keeper permits and to have appeals of animal keeper permit decisions heard by Council.

B. Review of the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018. (Finance Director) – Continued from the March 17, 2009 City Council Meeting.

The Short Range Transit Plan (SRTP) is a broad overview of how the transit system has been operating, as well as a look at how the system is currently operating and any potential changes in the future. The Benicia Breeze is required to update its SRTP every two years. This year's report was delayed due to the restructuring of the transit system following the turnover of Route 75 to Vallejo Transit as Route 78. This transition occurred on October 6,

2008. Benicia Breeze incorporated the following changes to complement the Route 78: Diablo Valley College/Sun Valley Mall area, two intra-city flex-routes, and Dial-a-Ride service to meet the needs of the community. Benicia Breeze continues to experience considerable financial pressure from not only a decline in Transportation Development Act Funding during the last two years, but State Budget cuts. Service levels have been adjusted accordingly and the Enterprise Fund should be able to begin repaying the General Fund loan of \$250,000 during this fiscal year.

Recommendation: Review and adopt the Short Range Transit Plan (SRTP) for Benicia Transit for Fiscal Years 2008-2018.

X. INFORMATIONAL ITEMS (10:00 P.M.):

A. City Manager Reports

1. [Status report on stimulus program projects. \(City Manager\) – Continued from the March 17, 2009 City Council Meeting](#)

On February 17, 2009 President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The total cost of the package is \$828 billion, and consists of nearly \$396 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects, \$144 billion in state and local fiscal relief, and \$288 billion in personal and business tax credits. Based on the information available to date, staff has submitted, or intends to submit, applications for seventeen (17) projects totaling \$62,828,068. Of this number, applications have been submitted for six projects valued at \$43,040,000. The remaining eleven (11) projects valued at \$19,788,068 will be applied for as specific funding sources are identified, and as eligibility and application guidelines are published. All departments are engaged in the frequent review of a wide variety of information resources about the ARRA to learn the sources and application procedures appropriate for their projects.

Recommendation: None. This report is for information only.

2. Verbal report on proposed downtown bike race. (City Manager)

XI. COUNCIL MEMBER REPORTS (10:15 P.M.):

A. [Request to agendize the topic of alternate members for boards and commissions. \(Vice Mayor Campbell\) – Continued from March 17, 2009 City Council Meeting](#)

Vice Mayor Campbell is requesting that the City Council consider agendizing the topic of appointing alternate members for City boards and commissions in an effort to allow more people to participate in local government and increase the various commissions' flexibility when dealing with absences and recusals.

Recommendation: Consider Vice Mayor Campbell's request to agendize this topic for future City Council meeting.

XII. ADJOURNMENT (10:25 P.M.):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per

speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

Disabled Access

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

Meeting Procedures

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

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

 [IV-B-1 Grossman Appointment.pdf](#)

 [IV-D-1 Library Week Proclamation.pdf](#)

 [IV-D-2 Public Safety Telecommunicators' Proclamation.pdf](#)

 [IV-D-3 Sexual Assault Awareness Proclamation.pdf](#)

 [VII-A Minutes.pdf](#)

 [VII-B Denial of Claim Brice.pdf](#)

 [VII-C Denial of Claim Keenan.pdf](#)

 [VII-D Investment Report.pdf](#)

-  [VII-E NSP Grant Funds Agreement.pdf](#)
-  [VII-F Campaign Disclosure Ordinance.pdf](#)
-  [VII-G ARRA Application.pdf](#)
-  [VII-H Bay Fill Removal Grant.pdf](#)
-  [VII-I Below-Market Rental Policy.pdf](#)
-  [VIII-A Animal Keeper's Permit.pdf](#)
-  [IX-A Animal Control Ordinance.pdf](#)
-  [IX-B Benicia Transit SRTP.pdf](#)
-  [X-A-1 Stimulus Program Projects Update.pdf](#)
-  [XI-A Request for Item on Council Agenda.pdf](#)

RESOLUTION NO. 09-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF LAWRENCE GROSSMAN TO
THE FINANCE, AUDIT AND BUDGET COMMITTEE TO A FULL TERM ENDING
JANUARY 31, 2011**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Lawrence Grossman to the Finance, Audit and Budget 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 7th day of April, 2009 and adopted by the following vote:

Ayes:

Noes:

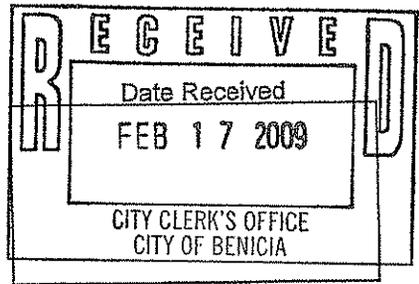
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

APPLICATION



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:

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

Name: Lawrence Grossman

Address: [REDACTED]

Phone: (Work) [REDACTED] (Home) [REDACTED]

(Cell) [REDACTED] Fax: [REDACTED]

Email: lawrence@grossmanfinancial.com Years as Benicia resident: 11

Occupation/Employer: self employed - Grossman Financial mgnt

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

Vice President, Congregation B'nai Israel (Vallejo)

Please describe any applicable experience/training: MBA, CFP, AIF

26 years in finance

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: 2-9-09



Audit & Finance Committee Supplemental Application

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

1. What interests you about serving on the Audit & Finance Committee?
Please describe your familiarity with the Committee.

Financial management is important to Benicia.
I believe I could be helpful.
Have attended 1 meeting, so my familiarity is low.
2. Please list current and past volunteer positions.

Vice President (finance) Congregation B'nai Israel,
Treasurer, East Bay Jewish Federation -
Treasurer, 940 Adams St (coop)
Financial Advisor, California Oak Foundation
Financial Advisor, Jewish Family & Children's Services
3. Participation on this Committee involves supporting the Audit & Finance Committee in a number of venues. These include: attending monthly Audit & Finance Committee meetings and sometimes appearing at City Council meetings. Do you feel you have the time and commitment to be a viable member of this committee?

Yes
4. If you could achieve one goal during your term as an Audit & Finance Committee member, what would it be?

Improve the financial planning ^{and management} process.
5. Is there anything else you would like to share with us regarding your qualifications and/or interests?

I am aiming to be helpful.



PROCLAMATION

IN RECOGNITION OF NATIONAL LIBRARY WEEK

APRIL 12 – 18, 2009

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

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

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

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

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

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

WHEREAS, libraries are a key player in the national discourse on intellectual freedom, equity of access, and narrowing the "digital divide;"

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

NOW, THEREFORE, be it resolved that I, Elizabeth Patterson, Mayor, hereby proclaim National Library Week, April 12-18, 2009, as National Library Week. Furthermore, I encourage all residents to visit the library this week to take advantage of the wonderful library resources available and thank their librarians and library workers for making information accessible to all who walk through the library's doors. Worlds connect @ your library.

Elizabeth Patterson, Mayor
April 7, 2009



IV-D-1-1



PROCLAMATION

IN RECOGNITION OF NATIONAL PUBLIC SAFETY TELECOMMUNICATORS' WEEK

APRIL 12 – 18, 2009

WHEREAS, over one-half million dedicated men and women are engaged in the operation of emergency response communication systems for Federal, State, and City governmental entities throughout the United States, including 9 full time and 4 part time who work for the City of Benicia; and

WHEREAS, the Benicia Police Department dispatchers handled 3,780 9-1-1 calls and 42,501 non-emergency phone calls in 2008 from the general public for police, fire, and emergency medical assistance and dispatched 16,792 calls for service to help save lives and property of our Benicia citizens; and

WHEREAS, these individuals serve the public in countless ways 365 days a year, 24 hours a day, often without due recognition by the beneficiaries of their services.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby designate April 12-18, 2009 as "National Public Safety Telecommunicators' Week" in the City of Benicia in honor and recognition of our Dispatchers and the vital contributions they make to the safety and well-being of our citizens.

Elizabeth Patterson, Mayor
April 7, 2009



IV-D-2-1



PROCLAMATION

IN RECOGNITION OF SEXUAL ASSAULT AWARENESS MONTH

APRIL 2009

WHEREAS, sexual violence is a devastating and intolerable crime, affecting men, women, and children of all races, ages, cultures, economic situations, and abilities; and

WHEREAS, sexual violence is a major social problem in homes, schools, and communities across Solano County and the City of Benicia, resulting in countless physical, mental, and other health consequences; and

WHEREAS, sexual violence seriously affects our youth, with one out of every three girls and one out of every six boys being sexually abused before the age of 18; and

WHEREAS, rape remains the most underreported crime in the United States; and

WHEREAS, in 2007, there were 9,047 reported sexual assaults in California; and

WHEREAS, in 2007, there were 121 reported sexual assaults in Solano County; and

WHEREAS, in 2007, there were 5 reported sexual assaults in the City of Benicia; and

WHEREAS, SafeQuest Solano and the City of Benicia, in conjunction with the Napa/Solano Sexual Assault Response Team (SART) and other organizations nationwide, designates the month of April as an additional opportunity to promote awareness and prevention of sexual violence; and

WHEREAS, SafeQuest Solano promotes services for survivors of sexual violence through provider trainings, counseling, and support services; outreach services in schools and communities throughout Solano County; and

WHEREAS, SafeQuest Solano is committed to eliminating sexual violence through education and community action across the City of Benicia, and promoting equality, safety, and respect among all individuals

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 2009, Sexual Assault Awareness Month in the City of Benicia, and urge all residents to participate fully in activities and events to observe Sexual Assault Awareness Month.



Elizabeth Patterson, Mayor
April 7, 2009

IV-D-3-1

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
MARCH 17, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:30 p.m. on Tuesday, March 17, 2009, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Patterson led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

None

PUBLIC COMMENT:

None

INFORMATIONAL ITEM:

Review of current economic conditions and the impact on the FY 2008-09 Municipal Budgets:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed the effects of a possible increase in gas prices over the summer.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:50 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MARCH 17, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, March 17, 2009, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
One full term to January 31, 2013
- Parks, Recreation and Cemetery Commission:
One unexpired term to March 31, 2010

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.

APPOINTMENTS:

None

PRESENTATIONS:

Update on the Visioning Process for the Solano County Fairgrounds:

Mr. Scott Goldie, Brooks Street, reviewed a PowerPoint presentation titled 'Solano 360.'

Council and Mr. Goldie discussed the acreage, possible date for breaking ground (2.5 – 3 years), horse race track, transit-oriented development, and the pedestrian connection between the development and the shopping facilities across the freeway.

PROCLAMATIONS:

1. Support of Earth Hour - March 28, 2009 from 8:30 – 9:30 p.m.
2. Recognition of Sunshine Week - March 15 – 21, 2009

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file)

PUBLIC COMMENT:

None

CONSENT CALENDAR:

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

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

Noes: None

The Minutes of February 24, 2009 and March 3, 2009 were approved.

Council approved the denial of the claim against the City by Francis Lagrimas and referral to insurance carrier.

RESOLUTION 09-21 - A RESOLUTION ACCEPTING THE BIDS FOR THE CHEMICAL TRENCH AND WASTE CONTAINMENT TANK REPLACEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO LISTER CONSTRUCTION INC. OF VACAVILLE IN THE AMOUNT OF \$437,000, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

RESOLUTION 09-22 - A RESOLUTION APPROVING THE REPLACEMENT OF VEHICLE 8625 WITH THE PURCHASE OF A 2009 MODEL 420E BACKHOE LOADER FROM PETERSON TRACTOR FOR A PURCHASE PRICE OF \$112,000

RESOLUTION 09-23 - A RESOLUTION APPROVING A LICENSE AGREEMENT WITH PG&E FOR THE INSTALLATION OF COMMUNICATION EQUIPMENT ON EXISTING CITY-OWNED STREET LIGHT POLES AS PART OF PG&E'S SMART METER NETWORK

RESOLUTION 09-24 - A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE METROPOLITAN TRANSPORTATION COMMISSION FOR ALLOCATION OF TRANSPORTATION DEVELOPMENT ACT FUNDS FOR FISCAL YEAR 2008-09

RESOLUTION 09-25 - A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

Downtown Historic Resource Inventory Update and amendments to the Downtown Historic Conservation Plan:

Gina Eleccion, Management Analyst, reviewed the staff report.

Bonnie Silveria, Historic Survey Ad Hoc Committee - Ms. Silveria reviewed the committee's report. She discussed the Portuguese properties and the BDES Hall. She requested Council reinstate the Ad Hoc Committee to work with the HPRC (if the 6L status is not given on the requested properties).

Mayor Patterson disclosed ex-partè communications. She, Staff, and Ms. Silveria discussed the issue of '6L' status for certain properties.

Vice Mayor Campbell discussed ex-partè communications. He, Staff, and Ms. Silveria discussed a house (also known as the Star House) on West H Street, historic homes outside the Downtown Historic District,

Council Member Schwartzman, Staff, and Ms. Silveria discussed designating properties as '6L.'

Council Member Hughes, Staff, and Ms. Silveria discussed the issue of potential contributors, when the last time was that the boundaries were expanded, how many properties were added to the list, and the reaction of those property owners.

Mayor Patterson, Staff, and Ms. Silveria discussed the amount of time spent on this project, how long it would take to prepare the context statement (possibly this calendar year), the uniqueness of the residential integrity, and the issue of subjectivity.

Council Member Schwartzman discussed a home on East Second and F Street.

Ms. Silveria read excerpts from a letter to the City from the Benicia Historical Society (copy on file).

Public Hearing Opened

Public Comment:

1. Manuel Nary – Mr. Nary discussed a property on West J Street that was a church. He asked if the City could assist him with a loan for the repair work that is needed on his property.

Staff requested Mr. Nary contact them to discuss possibilities and options.

2. J.B. Davis – Mr. Davis stated that Ms. Hartzell and Ms. Small asked him to speak on their behalf. They had concerns regarding their properties being designated in the Downtown Historic District when other homes right next door to them are not. They would like the outline of the historic district changed to not include their houses.
3. Marlene Dean – Ms. Dean requested the properties at 165, 167, 169 and 171 West G Street be de-listed.
4. Kathleen Olson – Ms. Olson discussed the property located at 130 West E Street. The property owner would like the property de-listed from the Downtown Historic District.
5. Linda Lewis – Ms. Lewis requested that her properties at 282 West I Street and 401 West J Street be de-listed.

410 and 420 West K Street (salt boxes):

Staff discussed the recommendations of the ad-hoc committee and the HPRC to have the properties remain as contributors.

165/167/169/171 West G Street:

Staff discussed the lack of documentation to support Ms. Dean's point and its willingness to believe Ms. Dean to obtain the documentation. If the documentation supports Ms. Dean's points, staff would take the information back to the HPRC to get the designation changed.

Council and Staff discussed the process for delisting properties.

130 West E Street:

Staff confirmed Ms. Olson's points were correct. The property went through a number of revisions. It is recommended to be designated under criterion (A), not criterion (C). The HPRC vote on the property designation was a 3/3 vote, with one commissioner abstaining. There was clearly a division on the votes, where the other properties were clearly majority votes.

Council and Staff discussed the criterions (A-D) used for property designation and the Tannery Building.

Council Member Hughes disclosed ex-partè communications. He and Staff discussed the issue of disclosure, and concerns regarding boundaries.

Council Member Schwartzman disclosed ex-partè communications.

282 West I Street and 401 West J Street:

Staff discussed inaccuracies with the designation maps, updated designation map, staff's recommendation not to change the designation for 282 West I Street, and the recommendation to add 401 West J Street as a contributor (it was missed on previous inventories).

Mayor Patterson and Staff discussed the issue of a transfer of title ordinance.

Ms. Eleccion summarized staff's recommendations in the staff report which was to categorize all resources as either landmarks or contributors, expand the district boundaries to include 470 West J Street, 327 Gull Point Court, and the portion of East K Street between East Third and East Fourth Streets, which would an amendment to the Downtown Historic Conservation Plan (DHCP) maps (which would be updated to reflect those changes. In addition, staff was asking Council to approve the list of resources (by address) provided in the staff report, and APN and designation status, and to update the text of the DHCP to reflect those changes. Regarding the specific properties discussed tonight, it was Council's purview to make a decision on those. The only other recommendation Staff was making was to give the 10 Portuguese properties 6 L status. Staff would update the map and bring those back once a context is adopted where staff could evaluate those properties on.

Mayor Patterson stated that Council would then direct Staff to pursue the further actions referred to in the 'next steps' in the staff report. She would like to add to the further actions. She would like to add (E) - if restoration would bring property to historic status, that there be a process that staff would develop to get that listed. Staff confirmed it had not had time to get to the development of a demolition ordinance yet. Staff would try and address that in the next fiscal year. Staff confirmed that while the City did not have a demolition ordinance, demolition could not take place because the Downtown Mixed Use Master Plan requires it as a condition. Mayor Patterson suggested adding that to the list as (F).

Mayor Patterson and Staff discussed qualifications for properties that were post WWII, the need to develop a historic context in order to address that,

Council and Staff discussed concerns regarding the designation of 282 West I Street.

Council Member Ioakimedes disclosed ex-partè communications. He discussed the issue of 'heritage.'

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council approved not designating 130 West E Street as contributor, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Schwartzman

On motion of Mayor Patterson, seconded by Council Member Hughes, Council approved including 165, 167, 169, and 171 West G (retaining current status), on roll call by the following vote:

Ayes: Council Member Hughes, Ioakimedes, and Mayor Patterson

Noes: None

Abstain: Council Members Campbell and Schwartzman

There were no separate actions for 410 and 420 West K Street.

RESOLUTION 09-26 - A RESOLUTION ADOPTING THE DOWNTOWN HISTORIC DISTRICT SURVEY AND AMENDING THE DOWNTOWN HISTORIC CONSERVATION PLAN

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the above Resolution as amended, excluding 282 West I Street, and adding the 6L status, on roll call by the following vote:

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

Noes: None

Abstain: None

Mayor Patterson gave direction to Staff to add (E), the restoration to be considered for historic status and (F), the survey for all pre-1945 structures

Mayor Patterson called for a 6-minute break at 9:37 p.m.

The meeting resumed at 9:45 p.m.

ACTION ITEMS:

Campaign Disclosure Ordinance:

Steve Churchwell, Consultant, reviewed the staff report.

Council and Mr. Churchwell discussed the issue of 'neutral' committees, enforcement, slate mailers, phoning and surveys, last minute contributions and expenditures, blackout periods for contributions, name changes of contributors, and late contribution reporting.

Public Comment:

1. Jubal Biggs – Mr. Biggs discussed concerns regarding the proposed ordinance.

Council and Mr. Churchwell discussed removal of a candidate from office and material effects.

2. Norma Fox – Ms. Fox discussed concerns regarding post-election contribution reporting.

Council and Staff discussed communications by independent expenditures (not candidates), material effect, and outcome of an election.

3. Joe Kearns – Mr. Kearns discussed concerns with City government.

Council and Staff discussed the issue of public financing of elections, eliminating the requirement to submit fliers on their on behalf to the City Clerk, the proposed increased audits of 460's by the City Clerk, clarifying the issue of intent, removing the violation portion, deleting 1.04.080, removing 1.40.130, concerns regarding recorded telephone calls, candidates submitting written text if it was done on their own behalf, deleting the first two lines so the section would read 'the independent expenditure committee that makes an expenditure of \$200 or more for recorded phone calls, etc.', deleting the first sentence in section 1.40.080, and deleting 1.40.130.

ORDINANCE 09- - AN ORDINANCE AMENDING CHAPTER 1.40 (CAMPAIGN FINANCING OF CANDIDATE ELECTIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

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

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

Noes: None

On motion Vice Mayor Campbell, seconded by Council Member Hughes, Council approved hearing the next agenda item at 11:12 p.m., on roll call by the following vote:

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

Noes: Mayor Patterson

Update on Benicia Business Park: Citizen Advisory Committee Appointment Process and estimated schedule:

Jim Erickson, City Manager, and Charlie Knox, Community Development Director, reviewed the staff report.

Vice Mayor Campbell discussed having each Council Member nominate one person and have the Mayor appoint.

Council and Staff discussed giving the boards until 3/21 to come up with names, whether or not to include the Planning Commission, adoption of the resolution including the Planning Commission appointment, having the outside groups nominate before Council makes its nomination, having only one representative from each of the outside organizations, Council's Rules of Procedure, and clarification on the two-step process for bringing something back.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council agreed to direct Staff to bring this item back, only to address the issue of the makeup of the oversight committee, eliminating representation by the Traffic, Pedestrian and Bicycle Safety Committee and Planning Commission, on roll call by the following vote:

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

Noes: Mayor Patterson

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council agreed at 11:46 p.m. to hear the next agenda item, on roll call by the following vote:

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

Noes: None

Southern Specific Depot Schematic Site Plan:

Mike Marcus, Associate Planner, introduced the staff report.

Alice Carey, Carey and Co. Inc. reviewed a PowerPoint presentation.

Council and Staff discussed the rising sea level issue, clarification on the exemption from CEQA, adding language to the resolution that there would be a follow on physical project that will require the full CEQA review, the issue of cost estimates, and adding that the future project will require environmental review.

RESOLUTION 09-27 - A RESOLUTION APPROVING THE SCHEMATIC SITE PLAN AND ADA IMPROVEMENTS AT THE SP DEPOT LOCATED AT 90 FIRST STREET

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

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

Noes: None

Review of the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018:
Continued

INFORMATIONAL ITEMS:

Reports from City Manager:

Status report on stimulus program projects:

Continued

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: April 15, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 23, 2009 – Spring General Assembly
3. Finance, Audit & Budget Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: March 27, 2009

DRAFT

4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 15-16, 2009 – Legislative Action Days
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 11, 2009
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: May 6, 2009
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: April 30, 2009
8. Solano Transportation Authority (STA) – (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: March 18, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee – (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 9, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 16, 2009
11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Dates: Citizen’s Advisory Committee – May 20, 2009
12. Valero Community Advisory Panel (CAP) – (Council Member Hughes) - Next Meeting Date: To be determined
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: March 25, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: March 23, 2009

COMMENTS FROM COUNCIL MEMBERS:

Request to agendaize the topic of alternate members for boards and commissions:

Continued

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 12:03 a.m. on 3/18/09

AGENDA ITEM
CITY COUNCIL MEETING: April 7, 2009
CONSENT CALENDAR

DATE : March 11, 2009
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY MARTHA BRICE AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Martha Brice.

EXECUTIVE SUMMARY:

Claimant alleges that a "roadwork" vehicle hit her vehicle while she was in the Senior Center. Although a city contractor was working in the area, there were no witnesses to the incident and no information is available that can be used to determine who caused the damage to the vehicle.

STRATEGIC PLAN:

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

BUDGET INFORMATION:

The amount of this claim is \$700.00.

BACKGROUND:

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 form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

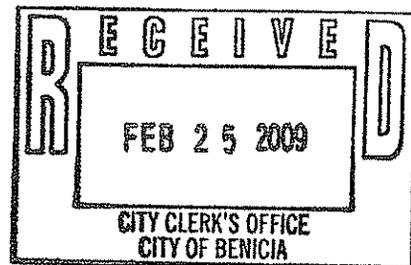
- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY

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): Martha Brice
- 2. CLAIMANT'S ADDRESS: 60 La Cruz Ave. Benicia, CA 94510
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: 707 746-0929 WORK PHONE: 707 319-5136

- 3. AMOUNT OF CLAIM: \$ 700 - (Attach copies of bills/estimates) \$ 500 Deductible
200 Car Rental

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: 11-4-08 TIME OF INCIDENT: Between 7-8 Am

LOCATION OF INCIDENT: 2nd Street (Senior Center)

- 6. Describe the incident or accident including your reason for believing that the City is liable for your damages: My car was hit by road work vehicle while I was voting. There was some street repairs being done at the time.
- 7. Describe all damages which you believe you have incurred as a result of the incident: The driver's side was damaged from the driver's door to the truck. I filed a police report that has more detail.
- 8. Names of public employee(s) causing the damages you are claiming: See Police Report

Martha Brice _____ 2.24.09
Signature of Claimant Date

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

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

Call Number: 083090077 Call Type.: 109 HIT & RUN Police
 Entry Day/Tm: 11/04/08 16:31:50 109 HIT & RUN Police

CmnN: SENIOR CENTER Agency.....: 001 BENICIA POLICE DE
 Location...: 187 E L ST Apt:
 City.....: BENICIA Block#: 100 Loc ID: C Mapr: P19
 Intersectn.: 2ND CULDESAC

Caller Name: Last:BRICE First:MARTHA Mid: See Caller:
 Address...: 60 LA CRUZ Apt:
 City/State: Phone#: 707-319-5136 CELL Source:

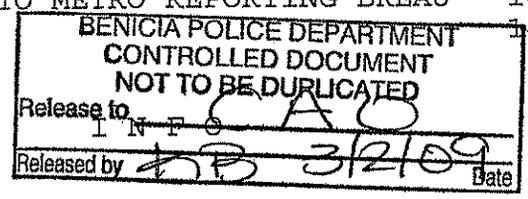
Call Taker.: 2687 KALUZA SUZANNE PDFRONT
 Dispatcher.: 2231 KRIMSKY LISA DSPFIRE

NARRATIVE

RPTS THIS MORNING BETWEEN 0715 - 0745 HRS, HER VEH WAS 16:32:10
 PARKED ON E 2ND STREET (NEXT TO THE ENTRANCE TO THE 16:34:23
 SENIOR CENTER) AND WAS 20002'D. DAMAGE IS TO THE REAR 16:34:23
 QUARTER PANEL. NO NOTE WAS LEFT AND NO (W)'S WERE FOUND. 16:34:23
 RP BELIEVES IT MAY HAVE BEEN ONE OF THE CONSTRUCTION 16:34:23
 VEHICLES. 16:34:23
 ** RP WAITING IN HER VEH, IN THE SAME SPOT AS THIS 16:34:23
 MORNING, FOR CONTACT./SK 16:34:23

**R/O MARTHA BRICE, STATED THAT SHE PARKED HER '07 TOYOTA 17:11:27
 COROLLA CA LIC# 5YKN464 ALONG THE W/CURB OF EAST 2ND ST, 17:11:27
 NEAR EAST L ST AT 0715 HRS AND WHEN SHE RETURNED TO HER 17:11:27
 CAR AT 0745 HRS, SHE NOTICED THAT SOMEONE HAD SIDESWIPE 17:11:27
 HER LEFT REAR QUARTER PANEL. 17:11:27

***CAD CALL RELEASED ON 111008 TO METRO REPORTING BREA 14:33:03
 FOR MARTHA BRICE, RP. DP 14:33:03



VEHICLE

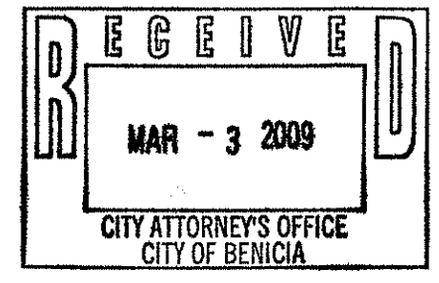
Vehicle Type:
 License# 5YKN464 Year: 07 Make: TOYOTA Model: COROLLA
 State: CA VIN : Color: GRY/

*NONE Unit Status History Information

11/04/08 16:34:23 18 Route Call Time RT
 11/04/08 16:35:34 18 Route Call Time RT

L1 Unit Status History Information

11/04/08 16:47:10 4 Dispatched D
 11/04/08 16:47:10 11 Assigned as Primary PR
 11/04/08 16:47:12 32 Enroute To Scene ER
 11/04/08 16:59:23 6 At Scene AS



1060 YOSICK, PAT

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 30, 2009
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY TERENCE KEENAN AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Terence Keenan and refer to insurance carrier.

EXECUTIVE SUMMARY:

Mr. Keenan submitted a claim for loss of rental income due to recurring raw sewage contamination. Mr. Keenan has already filed a suit against the city regarding sewer issues.

STRATEGIC PLAN:

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

BUDGET INFORMATION:

The amount of this claim is approximately \$18,000.

BACKGROUND:

Mr. Keenan is requesting loss of rental income based on \$1,500 per month from October 2008 until the property is rented again. His claim is based on his opinion that the inability to rent the property is because the sewer issues have not been corrected. 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 form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

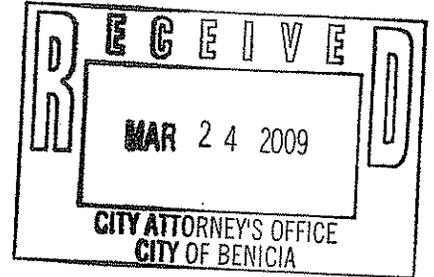
- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY

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): Terence C. Keenan
- 2. CLAIMANT'S ADDRESS: 773 La Salle Way Napa, Ca. 94559-4717
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: (707) 226-9510 WORK PHONE: _____

- 3. AMOUNT OF CLAIM: \$ 18,000.00 (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: October 1, 2008 TIME OF INCIDENT: _____

LOCATION OF INCIDENT: 720 West E Street Benicia, CA.

- 6. Describe the incident or accident including your reason for believing that the City is liable for your damages: Reoccurring raw Sewage Contamination

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

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

Terence C. Keenan
Signature of Claimant

3-24-2009
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)

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 9, 2009
TO : City Manager
FROM : Finance Director
SUBJECT : **REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT
FOR THE QUARTER ENDED DECEMBER 2008**

RECOMMENDATION:

Accept, by motion, the investment report for the quarter ended December 2008.

EXECUTIVE SUMMARY:

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Finance, Audit and Budget Committee has reviewed these reports and recommends acceptance.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity
 - Strategy 8.20: Measure and track service performance

BUDGET INFORMATION:

There is no effect on the City's budget.

BACKGROUND:

The City's investment portfolio consists of cash balances in checking accounts (less outstanding checks), Local Agency Investment Fund, treasury bills, federal agency notes and trustee accounts which manage the installment payments and reserves for bonds issued by the City.

The City has adequate investments to meet its expenditure requirements for the next six months. In addition, the City's investment portfolio is in compliance with Government Code Sections 53600 et seq. and the City's Investment Policy. The Finance, Audit and Budget Committee has reviewed these reports and recommends acceptance.

The attached schedules identify the City's investments by maturity date, investment type, custodian of investment and cost. The market value information is provided by Union Bank and California State Controller's Office for the LAIF investments.

Attachment:

- Investment Report for December 2008.

**INVESTMENT REPORT FOR
THE QUARTER ENDED DECEMBER 2008**

**City of Benicia
Investment Report
As of December 31, 2008**

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
On Demand							
L.A.I.F.	L.A.I.F.			2.540%	\$ 14,010,609.52	\$ 14,010,609.52	\$ 14,052,829.24
Checking	Bank of America			0.400%	1,654,377.33	1,654,377.33	1,654,377.33
Money Market	Union Bank			0.860%	706,277.94	706,277.94	706,277.94
Money Market	Union Bank			0.860%	111,609.04	111,609.04	111,609.04
Subtotal					16,482,873.83	16,482,873.83	16,525,093.55
Up to 6 Months							
US Obligation	FHLB	30-Sep-08	13-Mar-09	3.330%	750,000.00	738,725.00	749,925.00
US Obligation	FHLMC	5-Jun-07	24-Apr-09	4.690%	1,000,000.00	991,952.00	1,013,750.00
US Obligation	FHLB	8-Dec-06	15-May-09	5.280%	1,000,000.00	1,013,980.00	1,018,440.00
US Obligation	FHLMC	9-Aug-06	21-May-09	5.150%	980,000.00	981,991.36	998,068.75
US Obligation	FHLMC	18-Mar-08	21-May-09	5.150%	750,000.00	778,139.25	783,832.45
US Obligation	FNMA	20-Jun-07	15-Jun-09	6.210%	550,000.00	561,569.80	564,954.50
Subtotal					5,030,000.00	5,066,357.41	5,108,970.70
9 Months to 1 Year							
US Obligation	U.S. Treasury	23-Aug-06	15-Aug-09	4.740%	500,000.00	501,210.94	513,945.00
US Obligation	FFCB	6-Oct-06	21-Sep-09	4.850%	1,000,000.00	1,003,740.00	1,031,880.00
US Obligation	U.S. Treasury	30-Nov-06	15-Nov-09	4.460%	500,000.00	500,781.25	518,145.00
US Obligation	FNMA	27-Mar-08	15-Dec-09	4.470%	1,250,000.00	1,298,675.00	1,294,537.50
Subtotal					3,250,000.00	3,304,407.19	3,358,507.50
1 Year to 2 Years							
US Obligation	FHLB	15-Oct-08	15-Jan-10	3.750%	1,000,000.00	1,009,240.00	1,032,500.00
US Obligation	U.S. Treasury	3-Apr-07	15-Feb-10	4.530%	500,000.00	502,812.50	523,810.00
US Obligation	FNMA	15-May-08	12-May-10	3.960%	1,000,000.00	1,019,994.00	1,041,560.00
US Obligation	FNMA	29-May-08	28-May-10	3.480%	1,000,000.00	998,280.00	1,004,380.00
US Obligation	FHLB	29-Aug-07	11-Jun-10	4.940%	1,250,000.00	1,267,018.00	1,328,125.00
US Obligation	FHLB	23-Aug-06	11-Jun-10	4.940%	500,000.00	502,590.00	531,250.00
US Obligation	FHLMC	16-Jan-07	16-Aug-10	4.610%	500,000.00	497,190.00	529,305.00
US Obligation	FHLB	11-Mar-08	1-Sep-10	4.690%	1,000,000.00	1,059,102.00	1,065,310.00
US Obligation	FNMA	5-Dec-08	9-Sep-10	3.630%	1,250,000.00	1,253,320.31	1,256,250.00
US Obligation	FHLMC	30-Nov-06	8-Dec-10	4.450%	500,000.00	499,370.00	533,750.00
Subtotal					8,500,000.00	8,608,916.81	8,846,240.00

**City of Benicia
Investment Report
As of December 31, 2008**

Type of Investment	Name of Issuer	Purchase Date	Maturity Date	Current Yield	Par Value	Cost of Investment	Current Market Value
2 Years to 3 Years							
US Obligation	FFCB	18-Jan-08	18-Jan-11	3.350%	1,000,000.00	1,009,340.00	1,044,690.00
US Obligation	FHLMC	17-Dec-07	24-Feb-11	3.900%	750,000.00	752,227.50	793,597.50
US Obligation	FNMA	25-Mar-08	25-Feb-11	3.240%	1,250,000.00	1,250,000.00	1,254,300.00
US Obligation	FHLB	17-Nov-08	11-Mar-11	3.120%	1,250,000.00	1,250,650.00	1,303,125.00
US Obligation	FNMA	1-Apr-08	1-Apr-11	2.990%	1,000,000.00	999,750.00	1,005,000.00
US Obligation	FNMA	18-Apr-08	15-Apr-11	4.740%	965,000.00	1,022,186.87	1,043,705.40
US Obligation	FFCB	11-May-07	25-Apr-11	4.450%	500,000.00	498,780.00	539,220.00
US Obligation	FNMA	25-Jul-06	19-May-11	5.540%	500,000.00	499,218.75	507,345.00
US Obligation	FHLB	15-May-08	20-May-11	2.570%	1,000,000.00	979,335.00	1,022,810.00
US Obligation	FNMA	16-Jun-08	10-Jun-11	3.710%	500,000.00	492,105.00	505,940.00
US Obligation	FHLMC	22-Oct-08	15-Sep-11	4.960%	1,500,000.00	1,580,167.50	1,651,755.00
US Obligation	FHLMC	5-Dec-08	15-Sep-11	4.960%	1,370,000.00	1,477,892.98	1,529,467.80
US Obligation	FHLB	13-Nov-08	18-Nov-11	4.460%	1,400,000.00	1,476,021.40	1,528,632.00
US Obligation	FFCB	3-Apr-07	8-Dec-11	4.280%	500,000.00	495,205.00	540,315.00
Subtotal					13,485,000.00	13,782,880.00	14,269,902.70
3 Years to 5 Years							
US Obligation	FHLMC	17-Sep-07	5-Mar-12	4.380%	1,000,000.00	1,003,890.00	1,085,000.00
US Obligation	FHLMC	11-May-07	3-Apr-12	5.200%	500,000.00	499,820.00	504,685.00
US Obligation	FNMA	4-Oct-07	18-May-12	4.480%	750,000.00	756,780.00	816,795.00
US Obligation	FFCB	25-Sep-07	1-Aug-12	4.730%	500,000.00	509,923.50	554,690.00
Subtotal					2,750,000.00	2,770,413.50	2,961,170.00
Total (before fiscal agent accounts)					\$ 49,497,673.83	\$ 50,015,846.74	\$ 51,069,884.45
Fiscal Agent Accounts						980,923.23	980,923.23
TOTAL INVESTMENT PORTFOLIO					\$ 50,996,771.97	\$ 52,050,807.68	
WEIGHTED AVERAGE MATURITY OF THE INVESTMENT PORTFOLIO						1.78	Years

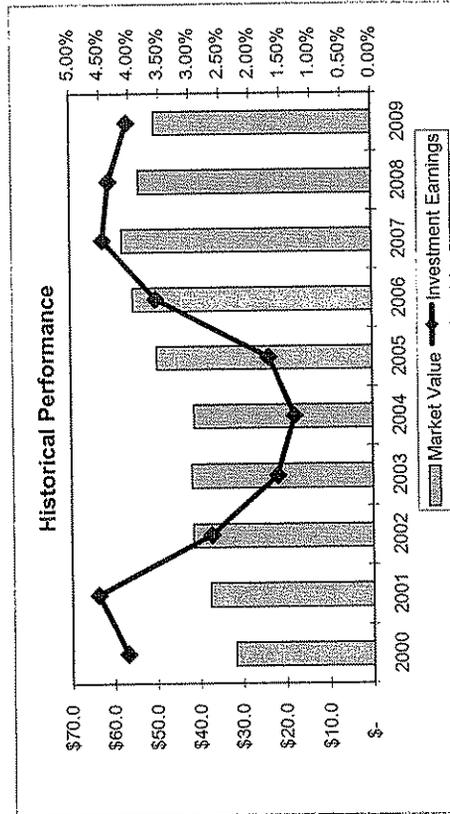
The City of Benicia complies with Government Code Sections 53600 et seq. and the City's Investment Policy. The source of market value is Union Bank of California. The City has the ability to meet expenditure requirements for the next six months. This report, to the best of my knowledge, is accurate representation of the City of Benicia's investments.


 Robert Sousa, Director of Finance

City of Benicia
Historical Portfolio Comparison

Market Value (Millions)					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	\$ 28.4	\$ 31.2	\$ 31.8	\$ 35.1	\$ 31.6
2001	33.0	36.7	37.7	42.8	37.5
2002	39.3	41.5	40.3	44.6	41.4
2003	39.7	43.4	39.5	44.8	41.8
2004	39.3	42.8	41.1	41.8	41.3
2005	38.7	53.8	50.0	56.6	49.8
2006	46.9	54.9	55.1	64.3	55.3
2007	57.4	59.3	54.4	60.1	57.8
2008	51.9	54.7	51.4	56.8	53.7
2009	48.1	52.1			50.1

Investment Earnings					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2000	3.53%	4.17%	4.15%	4.41%	4.06%
2001	4.76%	4.82%	4.58%	4.07%	4.55%
2002	3.62%	2.72%	2.27%	2.01%	2.66%
2003	1.90%	1.61%	1.41%	1.34%	1.57%
2004	1.38%	1.28%	1.24%	1.20%	1.28%
2005	1.31%	1.43%	1.74%	2.33%	1.70%
2006	2.52%	3.76%	3.84%	4.16%	3.57%
2007	4.34%	4.44%	4.46%	4.57%	4.45%
2008	4.56%	4.48%	4.20%	4.15%	4.35%
2009	4.01%	4.07%			4.04%



Investment Earnings - Dollars					
Fiscal Year / Quarter	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Annual Average
2008	319,769.25	789,398.11	474,719.57	731,456.95	\$ 578,835.97
2009	275,114.02	580,504.43			\$ 427,809.23

**AGENDA ITEM
CITY COUNCIL MEETING APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 24, 2009
TO : City Manager
FROM : Darrell Dearborn
SUBJECT : **APPROVAL OF JOINT AGREEMENT FOR RECEIPT OF NSP
GRANT FUNDS**

RECOMMENDATION:

It is recommended that the City Council approve a Joint Agreement as required by the State of California for receipt of the City's grant allocation of Neighborhood Stabilization Program (NSP) funds, and authorize the City Manager to execute it on behalf of the City.

EXECUTIVE SUMMARY:

Benicia is eligible to receive approximately \$198,552 in federal funds to mitigate the impacts of abandoned and foreclosed properties. These funds would be made available from the State Housing and Community Development Department through its amended HUD Annual Plan Update of the 2005-2110 Consolidated Plan as allowed by federal legislation, referred to as Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes, or the Neighborhood Stabilization Program (NSP).

The City is required to execute a Joint Agreement with Solano County and three other cities in the County to receive this funding.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

□ **1:00 PROTECT COMMUNITY AND ENVIRONMENTAL HEALTH AND SAFETY**

1.30 Strategy: Protect neighborhoods from risks to health and safety

BACKGROUND:

The State requires that NSP grant applications be for at least \$1,000,000. Jurisdictions receiving less than \$1,000,000 are required to join with other agencies through an agreement that allows the total of their separate allocations to meet this threshold in a single application. Accordingly,

Benicia would enter into a Joint Agreement with three smaller cities in Solano County including Rio Vista, Dixon and Suisun City, plus the County for its unincorporated areas, in order to receive its allocation. Vacaville has offered to act lead agency for the recipient jurisdictions, which will involve receiving and distributing funds allocated under the Agreement and performing other administrative tasks required by the State. The total funds available for these five jurisdictions is \$1,902,442.

The City's total allocation of \$198,552 would fund administrative costs of 5% retained by the State and an additional 2% that Vacaville would retain for its services to prepare and administer the Agreement. The net amount available for direct City services would be approximately \$186,000.

ANALYSIS:

NSP funds are to be used to mitigate the impacts of foreclosed and abandoned homes in communities throughout the country. Eligible NSP activities include the following:

1. The establishment of financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low-, moderate-and middle income home buyers;
2. The purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;
3. The establishment of land banks for homes that have been foreclosed upon;
4. The demolition of blighted structures; and
5. The redevelopment of demolished or vacant properties.

The City is now limited in its capacity to undertake most of these activities. One eligible activity it could perform would be the demolition and clearance of residential properties it now owns, which might include the former Scout House at East 4th & East L Street and a house at 550 East G Street, to prepare these properties for future development. It does not, however, administer housing finance and redevelopment services that are contemplated in other NSP-eligible activities.

Most of the City's allocation would be best used through a funding agreement with another agency responsible for these kinds of housing programs. To that end we have had preliminary discussions with the Benicia Housing Authority regarding the Authority's use of the City's grant for NSP-eligible activities. The Authority's ability to use these funds may be limited to Section 8 clients who are seeking to purchase foreclosed homes. Staff will continue to work the Authority to determine if other activities are eligible.

In summary, Benicia may be eligible to receive approximately \$198,552 in federal funding through the State to mitigate foreclosed and abandoned homes. To receive these funds, the City will need to become party to a Joint Agreement with three other cities and Solano County. Staff is making every effort to identify feasible alternatives for using these funds, focusing now on

programs administered by the Benicia Housing Authority. If the Authority is able to use the City's allocation for eligible activities, staff will recommend an agreement between the City and the Authority for that purpose and present it for consideration at the time Council considers the JPA and formal application.

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 23, 2009
TO : City Council
FROM : City Attorney
SUBJECT : **SECOND READING OF CAMPAIGN DISCLOSURE ORDINANCE**

RECOMMENDATION:

Adopt the ordinance amending Chapter 1.40 (Disclosure in Candidate Elections) to include disclosure of contributions and expenditures in candidate and ballot measure elections.

EXECUTIVE SUMMARY:

At the January 6, 2009 City Council meeting, the Council directed that an improved campaign disclosure ordinance be drafted and presented to the Council so that it could take effect prior to the November elections. This ordinance has been drafted with the assistance of Steve Churchwell and incorporates some of the comments from the public as well.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

None.

BUDGET INFORMATION:

None.

BACKGROUND:

This ordinance was brought back to Council at the March 17, 2009 meeting. The current ordinance includes changes requested at the March 17th meeting. These are deleting the forfeiture of office penalty and making the campaign literature provision apply only to independent expenditure committees.

Attachments:

- Proposed Ordinance

PROPOSED ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 1.40 (CAMPAIGN FINANCING OF CANDIDATE ELECTIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Chapter 1.40 (Campaign Financing of Candidate Elections) of Title 1 (General Provisions) of the Benicia Municipal Code is amended to read as follows:

Chapter 1.40

**DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES
IN CANDIDATE AND BALLOT MEASURE ELECTIONS**

1.40.010 **Purpose.** This chapter is intended to supplement the Political Reform Act of 1974.

1.40.020 **Definitions.** The definitions set forth in the Political Reform Act of 1974 as amended (Government Code Sections 82000 through 82055) shall govern the interpretation of this chapter, unless otherwise specified herein.

1.40.030 **Additional campaign statements.**

A. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 8100, as amended, candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file an additional pre-election statement by 4:30 p.m. on the Wednesday immediately preceding the election. This statement shall have a closing date of the prior Sunday and shall cover activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including that Sunday.

B. In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 8100, as amended, candidates for mayor and city council, their controlled committees and committees primarily formed to support or oppose these candidates shall file a post-election statement by 4:30 p.m. on the Friday immediately following the election. This statement shall include all activity and payments occurring from the closing date of the last report filed by the candidate or committee through and including Election Day.

1.40.040 Supplemental independent expenditure reports in candidate elections. Any person or committee making independent expenditures totaling \$1,000 or more in a calendar year, supporting or opposing a candidate for mayor or city council, regardless of where or when it files its campaign reports under the Political Reform Act, the Federal Election Campaign Act, or any similar law, shall file a California Supplemental Independent Expenditure Report (Form 465) with the city clerk at the same time as the mayoral and city council candidates, covering the same period and disclosing the information required by that statement.

1.40.041 Independent expenditures in 45 days preceding election.

A. Disclosure of Expenditures. Any person, including any committee, that makes or incurs independent expenditures of \$1,000 or more in support of or in opposition to any city measure or candidate for mayor or city council, in the 45 days before an election in which the measure or candidate appears on the ballot, shall notify the city clerk within 24 hours by personal delivery, fax or email each time one or more expenditures, which meet this threshold, are made.

B. Contents of Notice.

1. The notice shall specify:
 - a. Each candidate or measure supported or opposed by the expenditure;
 - b. The amount spent to support or oppose each candidate or measure;
 - c. Whether the candidate or measure was supported or opposed;
 - d. The date and amount of each expenditure;
 - e. A description of the type of communication for which the expenditure was made;
 - f. The name and address of the person making the expenditure; and
 - g. The name and address of the payee.
2. The notice shall include a statement that the expenditure was not made at the behest of any candidate or ballot measure proponent who benefited from the expenditure.
3. The notice shall be signed under penalty of perjury by both a responsible officer and the treasurer of the committee making the expenditure.

C. Notification to Candidates of Expenditures. The city clerk will notify all candidates by fax or e-mail in the affected race within one business day after receiving the notice of independent expenditures of \$1,000 or more. The notification will indicate the candidate who was supported or opposed by the expenditure and include a copy of the communication provided by the person or group making the expenditure.

D. Exemption for Regularly Published Newsletters. For purposes of the notification required by subsection A, payments by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication, shall not be required to be reported.

1.40.042 Disclaimer requirements for campaign communications funded by independent expenditures.

A. Campaign communications funded by an independent expenditure supporting or opposing city candidates or city measures shall include the phrase "Not authorized by a candidate," and shall also include the name of any contributor of \$2,500 or more made in the past six months to a committee funding the independent expenditure, in the phrase "Major Funding Provided By [Name of Contributor(s)]." Expenditures of \$2,500 or more that are earmarked for any other candidate or ballot measure outside of the City of Benicia need not be disclosed.

B. The disclosures required by this section shall be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice, as specified below:

1. For printed campaign communications that measure no more than 24 inches by 36 inches, all disclosure statements required by this section shall be printed using a typeface that is easily legible to an average reader or viewer, but is not less than 10-point type in contrasting color to the background on which it appears. For printed campaign communications larger than this size in area, all disclosure statements shall constitute at least five percent of the height of the material and shall be printed in contrasting color.

2. For video broadcasts including television, satellite and cable campaign communications, the information shall be both written and spoken either at the beginning or at the end of the communication, except that if the disclosure statement is written for at least five seconds of a broadcast of thirty seconds or less or ten seconds of a sixty second broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be of sufficient size to be readily legible to an average viewer and air for not less than four seconds.

3. For audio, telephone call or radio advertisement campaign communications, the disclosures shall be spoken in a clearly audible manner at the same speed and volume as the rest of the telephone call or radio advertisement at the beginning or end of the communication and shall last at least three seconds.

C. For purposes of this section, "campaign communication" means any of the following items:

1. More than 200 substantially similar pieces of campaign literature distributed within a calendar month, including but not limited to mailers, flyers, faxes, pamphlets, door hangers, e-mails, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger;

2. Posters, yard or street signs, billboards, supergraphic signs and similar items;

3. Television, cable, satellite and radio broadcasts;

4. Newspaper, magazine, internet website banners and similar advertisements;

5. 200 or more substantially similar live or recorded telephone calls made within a calendar month.

D. For purposes of this section, "campaign communication" does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, skywriting or

other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members other than a communication from a political party to its members.

E. The disclaimer on campaign communications must be updated when a new person qualifies as a disclosable contributor or when the committee's name changes. Broadcast advertisement disclosures must be amended within five calendar days after a new person qualifies as a disclosable contributor or a committee's name changes.

A committee shall be deemed to have complied with this section if the amended advertisement is mailed, containing a request that the advertisement immediately be replaced, to all affected broadcast stations by overnight mail no later than the fifth day. For printed campaign communications and other material, disclosure information must be amended to reflect accurate disclosure information every time an order to reproduce the communication is placed.

1.40.050 Access to records. All campaign reports required to be filed by any candidate or committee with the city clerk shall be scanned and stored in .pdf format. The reports shall be posted on the city's website no later than two working days after filing.

1.40.060 Ballot measure finance disclosure. Unless otherwise indicated, if a recall, referendum or initiative petition impacting city elected officials or city law is filed, the proponent shall be subject to the same provisions of this chapter as are applicable to candidates for elective city office, and any committee supporting or opposing the measure shall be subject to the same disclosure provisions as are applicable to committees making contributions or expenditures in connection with city candidate elections.

1.40.070 Contributor occupation and employer. No contribution shall be deposited into a campaign checking account of a candidate for mayor or city council unless the name, address, occupation and employer of the contributor are on file in the records of the recipient of the contribution.

1.40.080 Campaign literature – filing with city clerk. An independent expenditure committee, that makes an expenditure for 200 or more recorded telephone calls or any other forms of electronic or facsimile transmission of substantially similar content, or that makes an expenditure of \$1,000 or more for a radio or television advertisement, or that mails or otherwise distributes more than 200 substantially similar pieces of campaign literature in support of or opposition to any candidate for mayor or city council, shall give a copy of the literature or script used for each communication to the city clerk within 24 hours of the first time the mailings, calls, transmissions, or advertisements are made or aired.

1.40.090 Recordkeeping. Candidates for mayor and city council, and committee treasurers, shall maintain such detailed accounts, records, invoices and receipts as are necessary to prepare campaign statements and to comply with the Political Reform Act, the regulations of the Fair Political Practices Commission and this chapter.

1.40.100 Disclaimers on campaign communications. Any candidate or committee who mails or otherwise distributes more than 200 substantially similar pieces of campaign literature shall print, display or incorporate the following words anywhere within the communication: "Paid for by" immediately followed by the name, address and city of that candidate or committee. If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall also be included. If an acronym is used to specify a committee name, the full name of any sponsoring organization of the committee shall be included in the campaign communication disclaimer required by this section.

1.40.110 Duties of city clerk and city attorney. The city clerk shall administer the provisions of this section. In addition to other duties required under this chapter, the clerk shall:

A. Report apparent violations of this section and applicable state law to the city attorney.

B. Conduct audits of reports and statements filed by candidates and committees supporting or opposing candidates for mayor and city council, as well as proponents and committees supporting or opposing city ballot measures. The city clerk may employ or contract with auditors when necessary to audit reports filed under this chapter.

C. The city attorney and city clerk may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items necessary to the audit and investigation of candidates and committees.

1.40.120 Enforcement.

A. Criminal Enforcement. Any person who knowingly or willfully violates any provisions of this section is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this section, or who aids and abets any other person in the violation of any provision of this section, shall be liable under the provisions of this section. Prosecution for violation of any provision of this chapter must be commenced within two years after the date on which the violation occurred.

B. Civil Enforcement.

1. Any person who intentionally or negligently violates any provision of this section shall be liable in a civil action brought by the city attorney. Where no specific civil penalty is provided, a person may be liable for an amount up to two thousand dollars (\$2,000) for each violation.

2. Any person who intentionally or negligently makes or receives a contribution, or makes an expenditure, in violation of any provision of this section shall

be liable in a civil action brought by the city attorney for an amount up to three times the amount of the unlawful contribution or expenditure.

3. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

4. In determining the amount of liability under this subsection, the court may take into account any mitigating factors and any aggravating factors.

5. No civil action alleging a violation of this chapter shall commence more than two years after the date of the election for which the funds at issue were contributed or expended.

1.40.140 Verification. All notices, reports and statements filed under this chapter shall be signed and verified by the filer under penalty of perjury. The person signing shall read, know and understand the contents of all such documents.

1.40.150 Injunction. The city attorney on behalf of the people of the City of Benicia may sue for injunctive relief to enjoin violations or threatened violations or to compel compliance with the provisions of this chapter.

Section 2.

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

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

On motion of Council Member _____, seconded by Council Member _____ the foregoing ordinance was introduced at a regular meeting of the City Council on the 17th day of March, 2009, and adopted at a regular meeting of the Council held on the 7th day of April, 2009 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 30, 2009

TO : City Manager

FROM : Director of Public Works 

SUBJECT : **AUTHORIZATION TO FILE AN APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING AND STATING ASSURANCE TO COMPLETE THE PROJECT KNOWN AS THE EAST SECOND STREET OVERLAY PROJECT**

RECOMMENDATION:

Adopt a resolution of local support authorizing the Director of Public Works to file an application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) funding for the East Second Street Overlay Project and stating the assurance that the project will be completed.

EXECUTIVE SUMMARY:

The guidelines of the ARRA require that in order to receive regional ARRA funding for the East Second Street Overlay project, the City must first submit an application with the appropriate Metropolitan Planning Organization (MPO) for review and inclusion in the MPO's Transportation Improvement program (TIP). The Metropolitan Transportation Commission (MTC) is recommending that the City Council authorize the filing of an application and state the City's assurance to complete the project in order to secure the \$400,000 in federal funds allotted for the project.

BUDGET INFORMATION:

The proposed East Second Street Overlay project will be constructed utilizing ARRA funding as shown below:

Revenues

Federal-Aid Funds:

ARRA Grant (This Request).....	\$400,000
Gas Tax.....	\$20,000
<hr/>	
Total Revenues.....	\$420,000

Estimated Expenditures

Engineering Design.....	\$20,00
Construction.....	\$400,000
<hr/>	
Total Estimated Expenditures.....	\$420,000

ENVIRONMENTAL DOCUMENTATION:

The project is categorically exempt under CEQA Guidelines, Section 15301 and satisfies the categorical exclusion provisions of the National Environmental Policy Act (NEPA) per review and approval by Caltrans.

BACKGROUND:

East 2nd Street Overlay Economic Stimulus Project

The East Second Street Overlay project involves the application of 2 inches of asphalt concrete on East Second Street from Park Road north to Lake Herman Road. Work items will include traffic control, deep lift repair, crack sealing and edge grinding. The project will also include the installation of paving fabric and raising utilities to grade and striping of the new pavement.

Resolution of Local Support

The Metropolitan Transportation Commission, which administers federal grants in the Bay Area, is requiring the City of Benicia to adopt a resolution of local support for the East Second Street Overlay Project prior to programming the ARRA monies in the regional Transportation Improvement Program (TIP).

It is recommended to adopt a resolution of local support authorizing the Director of Public Works to file the grant applications for Federal American Recovery and Reinvestment Act of 2009 funding, and providing the assurance that the City will complete the project in accordance with the applicable policies and procedures.

Attachments:

- Proposed Resolution
- Location Map

Proposed Resolution

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, the City of Benicia (herein referred as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for approximately \$400,000 in funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) for the East Second Street Overlay Project (herein referred as PROJECT) for the MTC Regional ARRA Program (MTC Resolution No. 3885) (herein referred as PROGRAM); and

WHEREAS, pursuant to ARRA, and any regulations and/or guidance promulgated thereunder, eligible project sponsors wishing to receive Regional ARRA funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised applicable to federal ARRA fund delivery and has adopted (or is scheduled to adopt) in MTC Resolution No. 3885 such additional requirements as are necessary or appropriate to meet the obligations/award deadlines in the ARRA; and

WHEREAS, APPLICANT is an eligible project sponsor for ARRA funds; and

WHEREAS, as part of the application for ARRA funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) that the sponsor understands that the ARRA funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional ARRA or other MTC-programmed funds; and
- 2) that PROJECT will comply with the procedures specified in MTC's Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and with all project-specific requirements as set forth in MTC's Regional ARRA Program (MTC Resolution No. 3885); and PROJECT as described in the application, and if approved, as included in MTC's TIP; and
- 3) that PROJECT will comply with all the project-specific requirements as set forth in the federal ARRA and appropriate applicable regulations or guidance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia authorizes the Director of Public Works to execute and file an application for funding under the American Recovery and Reinvestment Act of 2009 for East Second Street Overlay Project.

BE IT FURTHER RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT understands that the ARRA funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional ARRA or MTC-programmed funds; and
2. APPLICANT understands the funding deadlines associated with these funds and will comply with the applicable provisions and requirements of the Regional ARRA Program (MTC Resolution No. 3885) and Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
3. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
4. PROJECT will comply with all the project-specific requirements as set forth in the ARRA and appropriate applicable regulations or guidance.

BE IT FURTHER RESOLVED that there is no legal impediment to APPLICANT making applications for the funds.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT.

BE IT FURTHER RESOLVED that APPLICANT authorizes the Director of Public Works or designee to execute and file an application with MTC for ARRA funding for the PROJECT as referenced in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application.

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's TIP.

On motion of _____, seconded by _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of April, 2009, and adopted by the following vote:

Ayes:

Noes:

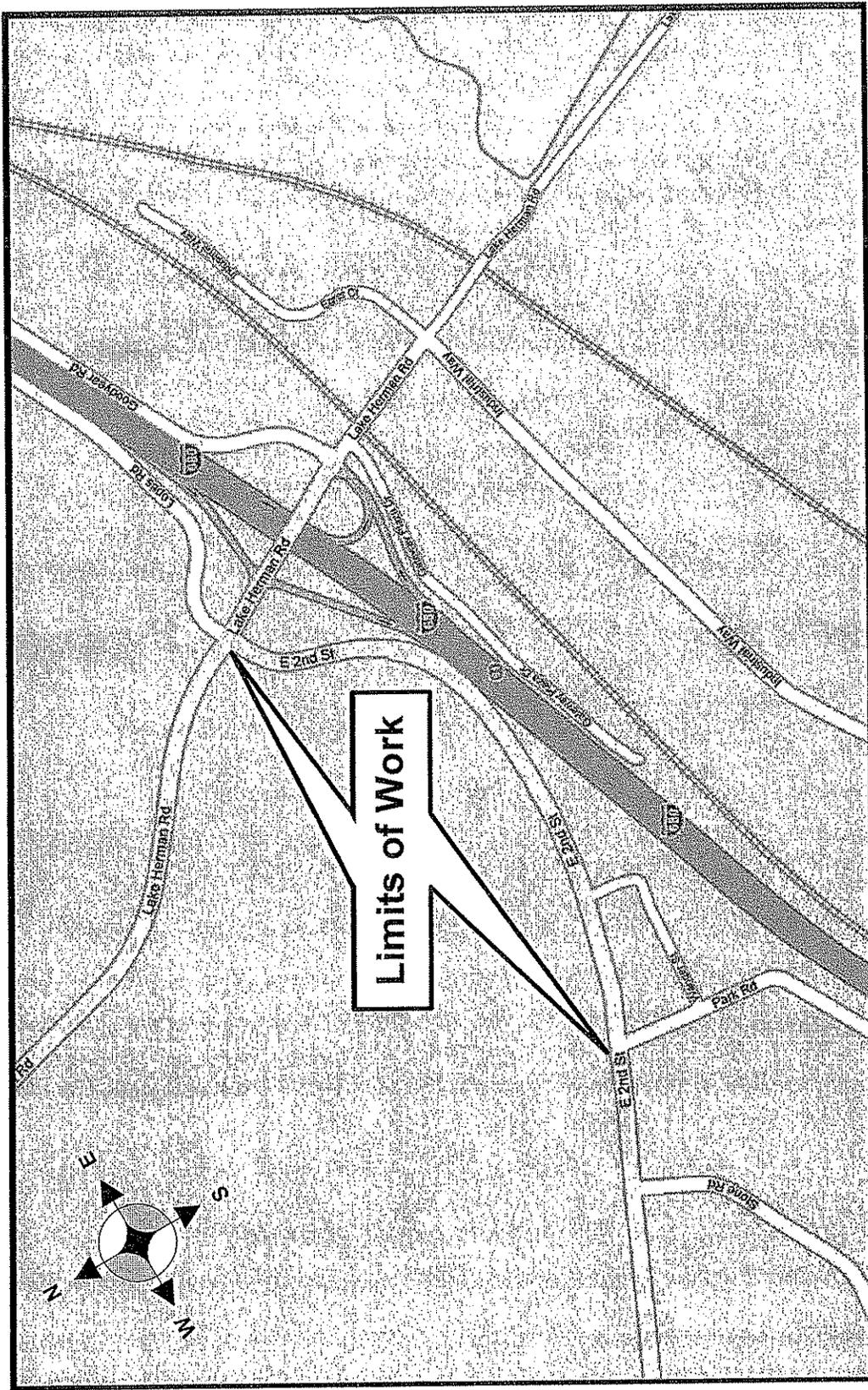
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Location Map



PUBLIC WORKS
DEPARTMENT

CITY OF BENICIA

East 2nd Street Overlay Economic Stimulus Project

PROJECT DATE
March 2009

SHEET



REVISIONS

DESCRIPTION	BY	DATE

VII-G-8

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 25, 2009
TO : City Council
FROM : Community Development Director
SUBJECT : **ACCEPTANCE AND DISBURSEMENT OF GRANT FUNDING
FOR BAY FILL REMOVAL**

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to amend contracts: (1) accepting grant funding from the San Francisco Bay Conservation and Development Commission (BCDC), and (2) disbursing those funds for work necessary to remove bay fill from City property in Southampton Bay in the West C Street right-of-way.

EXECUTIVE SUMMARY:

BCDC previously approved an application by the City and a grant for \$172,500 for removal of mired barges within City water property between West C and D Streets. BCDC has recommended the City amend the contracts to remove additional bay fill off of the West C Street right-of-way. With Council approval, the City can receive up to \$242,425 to cover the costs associated with additional work.

BUDGET INFORMATION:

The proposed action has no budget impacts.

ENVIRONMENTAL REVIEW:

The proposed action is Categorically Exempt per California Environmental Quality Act Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment).

SUMMARY:

In accordance with BCDC requirements to remove unauthorized bay fill, the City has submitted an application to BCDC for approval to remove a crane, barge, and boats in Southampton Bay. Funds will be disbursed by the City upon achievement of project milestones specified in an amended contract between the City and BCDC and executed with an operator selected through a competitive bidding process.

Attachment:

- Proposed Resolution

Proposed Resolution

RESOLUTION NO. 09-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING THE CITY MANAGER TO AMEND CONTRACTS ACCEPTING AND
DISBURSING GRANT FUNDING FOR BAY FILL REMOVAL ON CITY OWNED
WATER PROPERTY**

WHEREAS, the City of Benicia has applied for an amendment to the San Francisco Bay Conservation and Development Commission (BCDC) Permit #M08-6 for an additional \$242,425 to remove additional bay fill within City property in Southampton Bay in the West C Street right-of-way; and

WHEREAS, the City will disburse those funds upon achievement of project milestones specified in an amended contract to be approved by BCDC and executed with an operator selected through a competitive bidding process.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia authorizes the City Manager to amend contracts accepting \$242,425 in grant funding from BCDC, and disbursing those funds for work necessary to remove bay fill from City property.

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to sign the contracts on behalf of the City, subject to approval by the City Attorney.

On motion of _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of April, 2009, and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

VII-H-4

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 23, 2009
TO : City Council
FROM : City Attorney 
SUBJECT : **ADOPTION OF PROPOSED RESOLUTION ESTABLISHING A
POLICY PERMITTING RENTAL OF BELOW MARKET FOR-
SALE UNITS ON THE BASIS OF HARDSHIP**

RECOMMENDATION:

Adopt the resolution establishing a Policy Permitting the Rental of Below Market Rate For-Sale Units on the Basis of Hardship.

EXECUTIVE SUMMARY:

The economic climate has put owner-occupied affordable housing at risk. Homeowners who want or need to sell affordable housing developed with City or State loans may be unable to do so. Allowing these property owners to rent their homes to very-low or low renters will help preserve the affordable units.

BUDGET INFORMATION:

There is no new fiscal impact from these changes. Staff anticipates that a small number of rental requests will be submitted.

BACKGROUND:

The city's Inclusionary Housing Ordinance requires purchasers of below market rate (BMR) for-sale units to execute a Resale Control Agreement which is recorded against the BMR unit. The Resale Control Agreement requires the BMR unit to remain affordable to very-low and low income households for a period of 30 years, requires the owner to live in the unit as his or her primary residence, and prohibits the owner from renting the BMR unit without the consent of the city. If an owner wants to sell a unit, the owner must provide notice to the city. If a qualified buyer cannot be found, the city has the chance to purchase the property. If a qualified buyer can't be found and if the city doesn't purchase the property, the income restrictions imposed by the city disappear.

For affordable ownership units such as Hearthstone, it has been a struggle to find qualified buyers. Because of the state of the economy, it is even harder to find qualified buyers to

purchase the units. In addition, buyers who are qualified may want to purchase a non-restricted unit for the same or less money. A local realtor noted that decent units are available for purchase for less money than the Hearthstone units.

Allowing property owners to rent their property may help protect these Hearthstone units (which were not developed under the Inclusionary Housing Ordinance but are restricted) and other units. Under the proposal the units could only be rented at affordable rates so the affordable housing opportunity is preserved. Other cities such as Dublin have allowed rental of ownership properties for hardships. The proposed resolution is broader than Dublin's in that it allows for rental in the case of economic circumstances. This will allow more flexibility, which will help protect the affordable units.

It should be noted that units are often built using a variety of funds. Removing the city's restriction may not remove all restrictions on renting.

Attachment:

- Proposed Resolution

PROPOSED RESOLUTION

RESOLUTION NO. 09-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
ESTABLISHING A POLICY FOR THE RENTAL OF BELOW MARKET RATE FOR-
SALE UNITS**

WHEREAS, the City of Benicia's ("City") Inclusionary Housing Ordinance requires purchaser of Below Market Rate For-Sale units ("BMR For-Sale Units") to execute and record a Resale Restriction Agreement with Option to Purchase ("Resale Restriction Agreement"); and

WHEREAS, the Resale Restriction Agreement prohibits the rental of the BMR For-Sale Units without the consent of the City; and

WHEREAS, the City does not currently have a policy regarding the rental of BMR For-Sale Units; and

WHEREAS, this Resolution is intended to establish a policy for the rental of BMR For-Sale Units.

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

1. *Policy.* The owner of a BMR For-Sale Unit may rent his or her unit for a period not to exceed twelve (12) months upon demonstration of hardship, as determined by the City Manager, and demonstrated by written approval from the City Manager. The time period may be extended at the end of the first twelve (12) month period if the hardship continues beyond twelve (12) months.

2. *Definition.* "Hardship" means circumstances in which a BMR owner is required to be absent from the unit for an extended period of time due to either a change in the location of his or her employment, or health problems of the BMR owner or an immediate family member of the BMR owner, or due to economic circumstances of the BMR owner which could be mitigated if the unit could be rented for a period of time.

3. *Tenant Selection.* Once the BMR owner obtains written approval from the City to rent his or her BMR unit, the BMR unit owner shall select a tenant to rent the BMR unit that satisfies the income, household size, and other qualifying household requirements set forth in the City's Inclusionary Housing Ordinance.

4. *Rent.* The monthly rental payment for the BMR unit shall not exceed the maximum monthly rent calculated in accordance with the City's Inclusionary Housing Ordinance.

5. *Rental Agreement.* The BMR owner shall not execute a rental agreement for the BMR unit without first obtaining the City's approval of such agreement. The rental agreement shall clearly state (1) the term of the rental (not to exceed the twelve month period rental is permitted pursuant to this policy), (2) the monthly rental payment, and (3) that the rental is for a limited period of time.

6. *Effect of Violation.* Any rental agreement in violation of this policy is prohibited and any owner who violates this policy shall be deemed to be in default under his or her Resale Control Agreement.

7. *Severability Clause.* The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of this Resolution or their applicability to other persons or circumstances.

8. *Effective Date.* This Resolution shall take effect immediately.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of April, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
PUBLIC HEARING**

DATE: March 30, 2009
TO: City Council
FROM: City Attorney
SUBJECT: REVIEW OF THE ANIMAL KEEPER'S PERMIT FOR 45 BUENA VISTA

RECOMMENDATION:

Adopt the resolution denying the request for an animal keeper's permit for up to 95 rabbits. Forty rabbits permitted under the existing animal keepers permit would still be allowed.

EXECUTIVE SUMMARY:

On June 17, 2008, a hearing officer heard testimony and issued a decision allowing Christina Topf to keep 40 adult rabbits at 45 Buena Vista. At the March 3, 2009 City Council meeting, the City Council asked that Ms. Topf's animal keeper's permit be agendized after notice to the neighbors to allow the Council to consider allowing Ms. Topf to keep up to 95 adult rabbits. Staff recommends that the number of permitted rabbits for the property at 45 Buena Vista remain at 40.

GENERAL PLAN:

Relevant General Plan provisions include:

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

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety

BUDGET INFORMATION:

There are no fiscal impacts.

ENVIRONMENTAL ANALYSIS:

The proposed action is Categorically Exempt under California Environmental Quality Act Guidelines Section 15308 (Actions by Regulatory Agencies for the Protection of the Environment) because the findings and conditions for the animal keeper's permit protect the environment.

SUMMARY:

The City's animal control ordinance provides for an animal keeper's permit. The animal keeper's permit lets a person with a permit to maintain more than the allowed number of animals on their property. The purpose of the permit is to allow the temporary placement of animals in foster homes and to allow small hobby businesses. Considerations such as the health and safety of the animals as well as the nearby community are considered when an animal keeper's permit is issued. Benicia Municipal Code Section 6.44.030 (A) provides:

- “...A permit shall be issued to the applicant if the director or designee finds that:
1. The keeping of animals, or the conduct of operation of the business for which the permit is requested, at the place set forth in the application will not violate any law or ordinance of the city, or any law of the state;
 2. The keeping of animals, or the conduct or operation of the business for which the permit is requested, will not endanger the health, peace or safety of the community;
 3. The proposed site is adequate in size and shape to accommodate the number and type of animals for which the permit is requested without harm to the animals or material detriment to the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site.
 4. The premises and establishment where animals are to be kept satisfy the conditions set forth at BMC 6.40.070, and animals will not be subject to suffering, cruelty or abuse; and
 5. The applicant has not had a similar permit revoked within one year prior to the application.”

For a single-family home in a residential district, Benicia Municipal Code section 6.32.040 allows up to 20 rabbits. (Attached is a chart showing the numbers of permitted rabbits in surrounding cities. Cities that were surveyed all had a maximum number of animals allowed in a residential area. This research was done in 2009.) It is the issue of the number of rabbits that has generated a dispute about the animal keeper's permit.

In 2008 Christina Topf applied for an animal keepers permit to keep approximately 100 rabbits on her property on Buena Vista. After a lengthy hearing, the hearing officer (one of the Deputy County Counsel) ruled that Ms. Topf could keep 40 rabbits (not including rabbits less than 4 months old). A copy of the decision is attached. Ms. Topf did not appeal the decision to the court as provided by the ordinance.

As noted in the hearing officer's decision, the number of 40 was based in part upon the fact that Ms. Topf's lot is not significantly larger than other lots in the neighborhood. This consideration goes to findings number 2 and 3 in Benicia Municipal Code Section 6.44.030 (A). It should be noted that neither the hearing officer nor the City has disputed the qualifications of Ms. Topf to care for a large number of rabbits. Rather, that ability is just one of the factors to consider. In this case the discussion should focus on whether the number of rabbits requested is compatible with the neighborhood. The findings required in BMC Section 6.44.030 (A) are set forth below in italics with the application to this case in regular type.

1. *The keeping of animals, or the conduct of operation of the business for which the permit is requested, at the place set forth in the application will not violate any law or ordinance of the city, or any law of the state.* If a permit is obtained for additional rabbits, the keeping of 95 rabbits will not violate city law.
2. *The keeping of animals, or the conduct or operation of the business for which the permit is requested, will not endanger the health, peace or safety of the community.* The keeping of 95 rabbits is inconsistent with the single-family residential zone where the keeping of animals is accessory to the main use of the property as a home. As noted on therabbithill.com web site the size of a rabbit's cage should be a "24" x 24" preferably 24" x 30+" (the bigger the better!)." Even stacked three cages as shown on the website, a length of 60 feet would be needed to hold 90 rabbits.
3. *The proposed site is adequate in size and shape to accommodate the number and type of animals for which the permit is requested without harm to the animals or material detriment to the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site.* This site is not significantly larger than other single-family lots in the area. The number of permitted rabbits is twice the allowed-by-right number. Increasing the number of rabbits to 95 changes the residential character of the neighborhood. As noted above, the cages take up significant space. Caring for the rabbits requires additional help besides the property owner. Cleaning the cages is essential since rabbit urine has a strong odor if left unattended.
4. *The premises and establishment where animals are to be kept satisfy the conditions set forth at BMC 6.40.070¹, and animals will not be subject to*

¹ BMC 6.40.070 (A) provides: " Every person who owns, conducts, manages or operates any animal establishment for which a permit is required shall comply with each of the following conditions:

1. *Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals. In the case of animals kept outdoors, sufficient shade shall be provided to prevent overheating or discomfort from sun exposure. Animals kept outdoors shall also be provided with access to shelter to allow them to remain dry during inclement weather.*

2. *All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition with sufficient light provided to permit routine observation of animals and proper cleaning of the facilities.*

suffering, cruelty or abuse. Except for the initial code enforcement complaint, there is no indication that the animals are being abused. To date, the indications are the animals are well cared for in accordance with the standards for rabbit breeders.

5. *The applicant has not had a similar permit revoked within one year prior to the application.* The applicant has not had a City animal keeper's permit revoked.

Further, it should be noted that the small hobby business run by Ms. Topf does not appear to be consistent with the home occupation permit requirements in that:

1. The care of these animals requires two employees to assist her in caring for the animals;
2. She has weekly trips from 4th and 6th grade classes creating an increase in foot and vehicular traffic in the neighborhood; and
3. She conducts sales and adoptions crating additional foot and vehicular impact on the neighborhood.

Staff has not pursued this aspect of the hobby business at Ms. Topf's home.

After reviewing the case for the number of rabbits and meeting with Ms. Topf and her supporters, staff does not believe that the number of rabbits should be increased to 95.

Attachments:

- Chart of the Number of Permitted Rabbits in Surrounding Cities
- Decision of the Hearing Officer
- BMC Section 17.70.070C

3. *All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.*

4. *Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals.*

5. *All reasonable precautions shall be taken to protect the public from the animals and animals from the public.*

6. *Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required according to the physical needs of the animals.*

7. *All animal rooms, cages and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein.*

8. *All dog runs shall be of concrete or other impervious material and provided with adequate drainage into an approved sewage disposal installation.*

9. *All animals shall be taken to a licensed veterinarian for examination and treatment if so ordered by the director.*

10. *Adequate and effective vector control shall be established and maintained at all times.*

11. *Every violation of applicable regulations shall be corrected within a reasonable time to be specified by the director.*

12. *Facilities shall be subject to unannounced inspections during regular business hours to ensure compliance with the above regulations and any permit conditions.*

CHART

NUMBER OF RABBITS PERMITTED ON RESIDENTIAL PROPERTY

Cities	Animal Keeper Permit	# Rabbits	Notes	Special Permit	Ordinance Reviewed
Albany	N	6	Strict Ordinance	Bee Keeper	Y
Antioch	N	10	-	Fancier's Permit (dogs only)	Y
Atherton	N	40	Limit allowed based on a 80,000 sq ft lot / parcel	Special License (required pursuant to the provisions of the section)	Y
Brentwood	N	24	Mandatory 20,000 sq.ft.lot for each 24 allowed	None	Y
Brisbane	Y	4	-	Special Permit needed for allowed limit	Y
Davis	N	6	Permit needed for limit	None	Y
Hayward	N	4	-	Fancier's Permit (required for more than 4 dogs)	Y
Hillsborough	N	?	-	Permit for horses only	Y
Martinez	N	20	Small animals only per 1 acre lot	Fancier's Permit (dogs only)	N
Menlo Park	Y	50	No more than 50 allowed per quarter acre or within 100 ft of dwelling without permit.	Permit provided by City Council for allowed w/strict zoning and ordinance conditions.	Y
Millbrae	Y	4	-	Special Permit for more than allowed #, subject to rules and regulations	Y
Napa	N	6	Strict limit - 6 of same animal or mix	None	Y
Newark	N	2	Depends on sq.footage of lot	Exotic Animal Permit Fancier Permit (obtained for limit)	Y
Novato	N	12	-	User's Permit (cats only, up to 12)	Y
Petaluma	N	20	Mixed Animals	None	N
Pinole	N	15	Cannot Exceed	Variance Permit (\$700-permit approve by Planning Commission)	Y
Pleasant Hill	N	5	No response	None	N
Redwood City	N	3	Mixed animals cannot exceed 3	None	Y
Rohnert Park	N	12	Not Contacted	None	N
San Carlos	Y	4	-	Permit for dogs/cats only, w/strict conditions. No permits issued for additional fowl or rabbits.	Y
San Rafael	N	0	Left message - No response	None	Y
Santa Rosa	N	10	No Exceptions	None	N
Sonoma	N	8	Left message - No response	None	N
St. Helena	N	12	-	None	N
Suisun	N	5	-	None	N
Sunnyvale	N	0	-	None	Y

DECISION OF THE HEARING OFFICER

OFFICE OF
COUNTY COUNSEL

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675 TEXAS STREET, SUITE 6600
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KIMBERLY ALEXANDER YARBOR
DEPUTY COUNTY COUNSELS

July 16, 2008

Ms. Christina Topf
45 Buena Vista
Benicia, CA 94510

Captain Mike Daley
Benicia Police Department
City of Benicia
200 East L Street
Benicia, CA 94510

DECISION ON HEARING REGARDING CHRISTINA TOPF'S ANIMAL KEEPER PERMIT

This hearing, pursuant to Benicia Municipal Code ("BMC") Chapter 6.48, was presented before me as Hearing Officer, on Tuesday, June 17, 2008, at 10:00 a.m. with the City of Benicia represented by Captain Mike Daley, and Ms. Christina Topf, Applicant/Appellant in pro per.

After hearing testimony from both sides and after consideration of the information submitted; **IT IS ORDERED** that Ms. Christina Topf's application for an Animal Keeper Permit is granted according to the following conditions:

1. No more than 40 mature rabbits may be kept at 45 Buena Vista Drive This number does not include any offspring until they are four months old as permitted by BMC section 6.32.070.
2. If Ms. Topf requests renewal of the permit pursuant to BMC section 6.44.080, notice shall be given to all neighbors within a minimum 100 ft. radius of 45 Buena Vista informing the neighbors of the application for renewal of an Animal Keeper Permit and the opportunity for the adjoining property owners/residents of the opportunity to provide testimony as to why the Animal Keeper Permit should or should not be renewed.

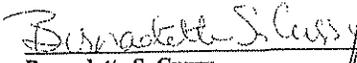
This decision is based upon the testimony and evidence presented at the hearing of June 17, 2008, and particularly based upon the information provided with regard to the Applicant/Appellant's history and reputation for caring for her rabbits. The testimony provided clearly demonstrated Ms. Topf's ability to properly care for more rabbits than are permitted as a matter of right under the Benicia Municipal Code for this specific location. However, no testimony was provided that demonstrated good cause for keeping the arbitrary number of 100 rabbits at this residence. This decision is also based on the fact that Ms. Topf's parcel is not significantly larger than the adjoining neighboring parcels such that her parcel warrants a substantially higher number of rabbits.

Decision re. Animal Keeper Permit/
45 Buena Vista (Topf)
July 16, 2008
Page 2 of 2

The City is directed to facilitate the issuance of the Animal Keeper Permit as conditioned above immediately.

The time in which either party may seek judicial review of this decision is governed by California Code of Civil Procedure section 1094.6.

SO ORDERED:


Bernadette S. Curry
Deputy County Counsel
Hearing Officer

VIII-A-8

BMC SECTION 17.70.070C

17.70.070 Home occupations in R districts.

C. Required Conditions. Home occupations shall comply with the following regulations:

1. There shall be no stock-in-trade other than products fabricated on the premises.
 2. A home occupation shall be conducted entirely within a building and shall occupy no more than 500 square feet of floor area. No outdoor storage shall be permitted.
 3. The existence of a home occupation shall not be apparent beyond the boundaries of the site.
 4. No one other than a resident of the dwelling shall be employed on-site or report to work at the site in the conduct of a home occupation.
 5. No kilns shall be permitted, and a home occupation shall comply with the performance standards prescribed by BMC 17.70.240; provided, that no noise shall be perceptible at or beyond the property line.
 6. Not more than one truck, with a maximum capacity of one ton, incidental to a home occupation shall be kept on the site. The number of parking spaces available to a dwelling unit housing a home occupation shall not be reduced to less than two.
 7. A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the district.
 8. No motor vehicle repair, beauty shop nor barber shop shall be permitted, and a home occupation shall not include an office nor sales room open to visitors without prior appointments, and there shall be no advertising of the address of the home occupation that results in attracting persons to the premises.
-

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
ACTION ITEMS**

DATE: March 30, 2009

TO: City Council

FROM: City Attorney

SUBJECT: INTRODUCTION OF AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE RELATED TO CATS INCLUDING FERAL CATS AND TO ANIMAL KEEPERS PERMIT PROVISIONS

RECOMMENDATION:

For the reasons noted in the staff report, no changes to the animal control ordinance are recommended related to cats or feral cats. If the Council wants to regulate cats, an ordinance to do so has been prepared.

(1) If desired, introduce the ordinance amending the animal control ordinance to require cats to be kept on their owner's property or restrained and remove the feral cat colony provisions; and

(2) Introduce the ordinance amending the animal control ordinance to require notice regarding animal keeper permits and to have appeals of animal keeper permit decisions heard by Council.

EXECUTIVE SUMMARY:

On March 3, 2009, the City Council reviewed the animal control ordinance and directed staff to prepare amendments to the ordinance for consideration. The changes would require cats to be restrained similar to the regulations for dogs. This will be a difficult and costly regulation to enforce. If this change is adopted, the Council may wish to consider removing the feral cat colony provisions since they are inconsistent with the restraint idea. In addition, the Council requested changes to the animal keeper permit provisions to require notice to neighbors and to have any appeals related to animal keepers permits heard by the Council instead of a hearing officer.

GENERAL PLAN:

Relevant General Plan provisions include:

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

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety

BUDGET INFORMATION:

Additional enforcement costs are associated with complaints about cats on neighbors' properties. To enforce the ordinance regarding cats would require additional animal control staff and trapping equipment. The estimated cost is \$30,000 for part-time staff and \$3,500 for cat traps/cages. Fiscal impacts of the animal keepers permit cannot be determined at this time. Additional enforcement costs may be associated with complaints about cats on neighbors' properties.

ENVIRONMENTAL ANALYSIS:

Staff has determined that the ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) since it can be seen with certainty that this project will not have a significant effect on the environment.

SUMMARY:

The City Council adopted very comprehensive changes to the animal control ordinance in December of 2007. The Council requested that staff review and monitor the ordinance and report back in 6-12 months. At the review, the City Council requested that changes be made to the ordinance. These two ordinances make the requested changes.

CATS:

The Council requested that an ordinance requiring cats to be restrained similar to dogs be drafted. The proposed ordinance would require cat owners to:

1. Pick up their cat's feces;
2. Keep their cat off public and private property not belonging to them unless they have the property owner's permission;
3. Keep their cats out of parks and public playgrounds; and
4. Prohibit their unsprayed female cat from running at large on any property if the cat is in breeding season.

Except for unsprayed female cats as noted in #4 above, cats would be allowed to roam on private property if the property owner gives permission.

In order to provide consistency in the cat regulations, it is recommended that the Council also consider licensing cats and prohibiting the feeding of feral cats. Cat licensing was provided for before the comprehensive revisions to the animal control ordinance. It was removed because the city did not enforce that provision of the code. These former provisions are listed in Section 2 of the cat ordinance as options for the Council to

consider. The fee to license cats was previously listed in the code as two dollars. Staff recommends that the fee be established by resolution and set at the rate that dog licenses are. The rates for a dog license are \$20 per year (\$10 for seniors) if the dog is spayed or neutered and \$40 per year (\$20 for seniors) if the dog is unaltered. There are additional discounts for 2 and 3 year licenses if the rabies certificate is valid for that time period.

Since owned cats are proposed to be regulated, the Council may want to rethink the feral cat provisions. Currently, the code prohibits feeding feral, wild and undomesticated animals but provides an exemption for feeding registered feral cat colonies. Section 3 of the proposed ordinance provides Council the option to delete this exemption. Section 4 of the proposed ordinance is a related optional change that does away with the feral cat registration program. Section 5 of the proposed ordinance does away with the related feral cat caretaker's responsibilities. It is recommended that these options be adopted if the Council decides to adopt the regulations to restrain cats.

Given the city's budget and staffing situation, the cat provisions will be enforced on a complaint basis only and prioritized according to health and safety concerns. Council should also note staff has concerns about the enforcement of the ordinance. It appears that the ability for cat owners to manage their cats in the same way as dogs will take an extensive educational effort and may not be practical. As noted above, to deal with complaints about "stray" cats on a neighbor's property will require additional staff and equipment. More importantly, neither the city nor local animal control shelters have the facilities to store large numbers of stray cats.

Currently the Solano County Animal Shelter has the capacity to hold 90 stray domestic cats and 60 feral cats. The population varies from day to day but is usually near capacity, especially now because shelter space is taken up with pets that are victims of the foreclosure mess. The Vallejo Humane Society can house a significantly smaller number, 12 stray domestic cats and 18 feral cats. Stray cats are held for 6 business days then placed up for adoption. Depending on the number of cats, those not adopted or over the capacity of the shelter are euthanized. During the "kitten season" of March and April, the shelter receives over 60 kittens per day, which are immediately euthanized due to the inability to house them. The Police Department currently has no capacity to temporarily hold trapped cats. Cats are immediately transferred to the Animal Shelter for this reason.

ANIMAL KEEPER'S PERMIT:

Council requested that the animal keeper provisions be revised to provide notice to neighbors and to have appeals go to the Council instead of a hearing officer. There are a couple of options for the Council to consider regarding the noticing. First, is the question of whether the city or the applicant should be responsible for the noticing. Optional language is provided in Section 1 of the proposed ordinance. Next, the Council should consider how far notice should be given. The typical zoning notice is given to property owners within 300 feet of the project. If the Council wanted to increase the distance, the 500 feet used for conflict of interest determinations could be used. Staff recommends the distance be set at 300 feet to provide some uniformity in city noticing.

Finally, the Council decided appeals regarding animal keepers permit decisions should be heard by the Council. Using the standard city appeal process would require the decision of the Police Chief to be appealed to the City Manager and then to the City Council. Appeals would follow the standard process set forth in BMC Chapter 1.44. Although staff does not recommend using the Council in place of the hearing officer because of the potential for lengthy hearings, it may be that there will be very few appeals.

Attachments:

- Cat Ordinance
- Animal Keepers Permit Ordinance
- Information on Cat Fencing
- Comment from Gretchen Burgess
- Comment from Sherry L. Barrow
- Comment from Sue Johnson
- Comment from Anthony Shannon

DRAFT CAT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 6.12 (LICENSING OF DOGS), CHAPTER 6.16 (REGULATION OF DOGS) AND CHAPTER 6.36 (FERAL, WILD AND UNDOMESTICATED ANIMALS) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Chapter 6.16 (Regulation of Dogs) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read as follows:

Chapter 6.16

REGULATION OF DOGS AND CATS

Sections:

- 6.16.010 Carrying instrument for removal of dog or cat feces and actual removal of such feces required.
- 6.16.020 Restraint of dogs or cats.
- 6.16.030 Dogs and cats in public playgrounds and parks prohibited – Exceptions.
- 6.16.040 Permissive running at large.
- 6.16.050 Unspayed female dogs or cats prohibited from running at large.

6.16.010 Carrying instrument for removal of dog or cat feces and actual removal of such feces required.

A. Any person having custody of a dog or cat while on public property, including any easements and public parks, and private property not owned by such person shall at all times carry an instrument suitable for removing and disposing of any feces which may be deposited by said dog or cat and shall remove any such feces which may be deposited by such dog or cat while on such property.

B. The provisions of this section shall not apply to dogs being used by the blind as guide dogs, or service dogs that are assisting disabled persons who are unable to remove such feces.

6.16.020 Restraint of dogs or cats. Except in an area specifically set aside and designated by the city council by resolution as a dog park or dog off-

leash area, no person owning or having charge, care, custody, or control of any dog or cat shall cause or allow such dog or cat, either willfully or through failure to exercise due care or control, to be or run at large in or upon any public place or premises, or in or upon any private place or premises other than those of said owner or keeper except with the consent of the person in charge of said place or premises, unless such dog or cat is securely restrained by a substantial leash, no longer than six feet, and is in charge and control. For the purposes of this section, any dog or cat in or upon any motor vehicle shall be deemed to be on the premises of the operator thereof.

6.16.030 Dogs and cats in public playgrounds and parks prohibited – exceptions.

A. Except for seeing-eye dogs and for areas designated by city council resolution and subject to rules established by city council resolution, it is unlawful for a person who owns, has an interest in, harbors or has charge care, control, custody or possession of a dog or cat, to permit the dog or cat to be in or upon a public park. Any employee of the city, including a peace officer, shall pick up a dog or cat if found in a public park and deliver the dog or cat to the humane society agency.

B. This section shall not be applicable to dogs while they are enrolled and participating in obedience classes sponsored by the parks and community services department of the city, or to dogs being used by disabled individuals as service animals or at city-approved special events. No dangerous dogs are allowed in no-leash areas.

6.16.040 Permissive running at large. The provisions of this chapter do not prohibit dogs or cats from running at large on the premises of the owner or person having charge of such dog or cat, nor do they prohibit dogs or cats, other than unsprayed female dogs or cats during the breeding period, from running at large on any private property with permission of the owner of such property.

6.16.050 Unsprayed female dogs or cats prohibited from running at large. It shall be unlawful for any owner to permit an unsprayed female dog or cat to run at large on any property during the breeding period.

6.16.050 Unsprayed female dogs and cats prohibited from running at large. It shall be unlawful for any owner to permit an unsprayed dog or cat to run at large on any property during breeding period.

Section 2. (Optional)

Chapter 6.12 (Licensing of Dogs) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read (Licensing of Dogs and Cats) and is further amended by adding the following sections to read as follows:

6.12.110 Cat licenses - generally. Every person owning or having control, custody, or possession of any cat within the county may procure a license for such cat. The licensing procedure and times thereof shall be the same as for licensing dogs, and the fees shall be set by resolution.

6.12.120 Cat license - rabies vaccination required. No license shall be issued for any cat until satisfactory proof of rabies vaccination has been given the issuing officer.

Section 3. (Optional)

Section 6.36.020 (Prohibited feed of certain wildlife) of Chapter 6.36 (Feral, Wild and Undomesticated Animals) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read as follows:

6.36.020 Prohibited feeding of certain wildlife.

A. It shall be unlawful for any person to feed or in any manner provide food for non-domesticated mammalian predators such as coyotes (*Canis latrans*). This section shall also include a ban on feeding or providing food to feral cats, raccoons, foxes, skunks, opossums, and squirrels.

B. Exceptions.

1. An owner in legal possession of a wild or nondomesticated animal that is kept under a valid permit issued by the city pursuant to this chapter; and

2. When a person provides food and water to a trapped, injured or unweaned wild or nondomesticated animal during the time the department is notified and the animal has been picked up.

~~3. When a feral cat colony caretaker provides food and water to a feral cat colony registered with the department in accordance with BMC.~~

Section 4. (Optional)

Section 6.36.050 (Feral cats colonies) of Chapter 6.36 (Feral, Wild and Undomesticated Animals) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read as follows:

6.36.050 Feral cats colonies.

~~A. The director, in order to encourage the reduction of the feral cat population in the city and to protect wildlife, shall establish a feral cat colony program for feral cats in the industrial or commercial zones of the city. In no event shall a feral cat colony be permitted for an area next to an environmentally sensitive area or endangered species habitat since the feral cats may feed on other animals living in the area. The fee to register a feral cat colony shall not exceed \$100.00.~~

The director, in order to encourage the reduction of the feral cat population in the city, may:

- A. Trap any feral cat in a humane manner;
- B. Have the cat surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and
- C. Release the cat to animal shelter or local humane society for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of feral cats.
- D. Impound feral cats in violation of this chapter and dispose of the cats in accordance with this title. ~~Any feral cat impounded by the department that bears an appropriate ear tipping indicating it belongs to a managed colony may, at the discretion of the director, be returned to its managed colony unless illness or injury present an imminent danger to public health or safety.~~

Section 5. (Optional)

Section 6.36.060 (Colony caretaker responsibilities) of Chapter 6.36 (Feral, Wild and Undomesticated Animals) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is deleted in its entirety:

~~6.36.060 — Colony caretaker responsibilities.~~

~~A. — Colony caretakers shall abide by standard guidelines developed by the department regarding the provision of food, water, shelter and veterinary care for cats within the managed colony and shall obtain the property owner's permission to register the colony.~~

~~B. — Colony caretakers shall have a licensed veterinarian evaluate the health of all trapped free-roaming cats. Seriously ill or injured cats with no reasonable prognosis for humane rehabilitation for survival outdoors will be humanely euthanized by the colony caretakers.~~

~~C. — A violation of this section shall be cited as an infraction. The fine imposed for the first such violation shall not be less than \$25.00. Subsequent or continued violations will result in caretaker's removal from management of the managed colony, or the designee's removal from the program.~~

Section 6.

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

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

On motion of Council Member _____, seconded by Council Member _____ the foregoing ordinance was introduced at a regular meeting of the City Council on the 7th day of April 2009, and adopted at a regular meeting of the Council held on the _____ day of _____, 2009 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**DRAFT ANIMAL KEEPERS PERMIT
ORDINANCE**

CITY OF BENICIA

ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA
AMENDING CHAPTER 6.44 (ANIMAL KEEPER PERMIT) OF TITLE 6
(ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Section 6.44.030 (Investigation) of Chapter 6.44 (Animal Keeper Permit) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read as follows:

6.44.030 Investigation.

A. Prior to the issuance of an animal keeper permit, the director, or his or her designee, shall conduct an inspection of the applicant's premises where the permitted animals are intended to be kept and prepare a report for inclusion with the application for an original permit or a renewal. In addition and to allow neighbors to voice their support or concerns, [OPTION: the director or the applicant currently for planning applications the applicant provides the mailing labels and we send them out] shall send notices to properties within [OPTION: 300 feet (standard zoning notice) or 500 feet (general conflict of interest distance)] of the proposed premises.

B. A permit shall be issued to the applicant if the director or designee finds that:

1. The keeping of animals, or the conduct of operation of the business for which the permit is requested, at the place set forth in the application will not violate any law or ordinance of the city, or any law of the state;
2. The keeping of animals, or the conduct or operation of the business for which the permit is requested, will not endanger the health, peace or safety of the community;
3. The proposed site is adequate in size and shape to accommodate the number and type of animals for which the permit is requested without harm to the animals or material detriment to the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site;
4. The premises and establishment where animals are to be kept satisfy the conditions set forth at BMC 6.40.070, and animals will not be subject to suffering, cruelty or abuse; and
5. The applicant has not had a similar permit revoked within one year prior to the application.

BC. The director may impose such conditions in granting a permit as he or she may deem necessary to protect the public and may limit the term of such permit.

Section 2.

Section 6.44.100 (Revocation of permit) of Chapter 6.44 (Animal Keeper Permit) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is amended to read as follows:

6.44.100 Revocation of permit. Amend subsection F of 6.44.100: A hearing on the notice of action recommendation shall thereafter be noticed and conducted in accordance with the procedures set forth at Chapter ~~1.44~~ 6.48 BMC.

Section 3.

Section 6.44.110 (Appeals to the city council) of Chapter 6.44 (Animal Keeper Permit) of Title 6 (Animal Control Regulation) of the Benicia Municipal Code is added to read as follows:

6.44.110 Appeals to the city council. Any interested person may appeal a decision made by the director regarding an animal keepers permit to the city council by filing a written notice of appeal, stating the grounds thereof, in accordance with Chapter 1.44 BMC.

Section 4.

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

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

On motion of Council Member _____, seconded by Council Member _____ the foregoing ordinance was introduced at a regular meeting of the City Council on the 7th day of April, 2009, and adopted at a regular meeting of the Council held on the _____ day of _____, 2009 by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

CAT FENCING

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Pictures

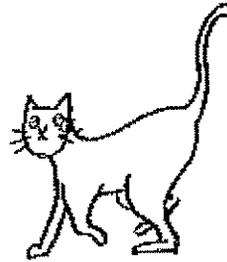
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Affordable Cat Fence



What are cat fences ...and why do you need one?

Most domestic cats have a strong desire to be outside, enjoying fresh air, sunshine and the natural environment. However, they can readily escape from any yard with a conventional fence. This subjects them to the dangers of the street: They can be lost; hit by cars; attacked by other animals; or picked up by animal control.

There *IS* A Solution!

The AFFORDABLE CAT FENCE provides effective and humane cat containment by turning your yard into a secure enclosure. Rather than causing pain to your pets through electric fences or collars, our cat fence is a barrier of netting supported by heavy-gauge steel stanchions (unlike the wire brackets of the Cat Fence-In product) which attach to your existing fence. The barrier angles into your yard providing an overhang which cats will not climb. There is also a vertical component inhibiting the entry of feral cats and other animals from outside your yard.

A portion of the profits from this enterprise will be donated to an animal advocacy organization.

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March 5, 2009

CAT FENCE-IN™

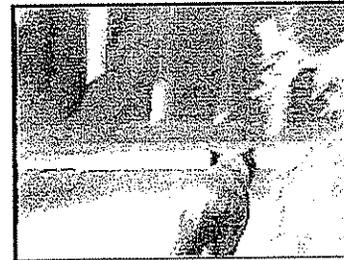
**Patented Cat
Containment System
Keeps Your Cat Safe in Your Yard and Stray
Cats Out!**

Yes! CAT FENCE-IN™ Really Works!

Since 1990 throughout the United States and Canada, CAT FENCE-IN™ is still keeping thousands of cats safe in their yards.

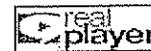
CAT FENCE-IN™ stops cats from climbing over fences and up trees. It fits on any height wood, vinyl, masonry, wire or chain link fence. Kits attach together to meet the length of any size fence.

- Safe, Narrow
- Strong, Flexible
- Non-Electric
- Almost Invisible
- Cats will try to climb anything which "looks" sturdy. Our system is made of strong materials but does not "look" sturdy to a cat.
- If a cat sees any gap in a containment system he will go through it. When installed according to our instructions, Cat Fence-In has no gaps.
- If a cat can sit or stand and claw at or chew on the netting, he may put a hole in it. Our system is mounted on top of the fence and keeps the netting away from the cat.
- An attachment banding woven through one edge of the netting keeps it tight against the fence and prevents cats from going under it to get out.
- In snow areas we provide, upon request, "snow clips" at no charge. These prevent damage to netting and brackets during heavy wet snows.
- We process orders within 24 hours and ship by UPS within the continental US.



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Designed to last for years

- Sturdy custom steel brackets and rods are rust proofed for durability against sun and weather.
- Netting is light, flexible, and strong polypropylene which has a break load of over 50 lbs. per sq. inch. Ultra

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violet ray inhibitors prevent deterioration.

- EASY TO INSTALL - Do-it-yourself or recruit any friend, neighbor, or relative that is handy with tools. An electric drill and a 1/4 inch and 5/16 inch hex-head bit and a pair of scissors will do most of the work.

No one beats our ONE YEAR MONEY BACK GUARANTEE!

"If you are dissatisfied with Cat Fence-In for any reason at any time within ONE YEAR from the date of purchase, return it for a full refund (less shipping and handling)."

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Sold throughout the US, its possessions, and Canada.

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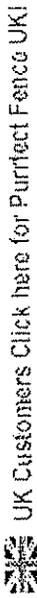
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Or write to us at:

CAT FENCE-IN
P.O. Box 795 Dept. E
Sparks, NV 89432

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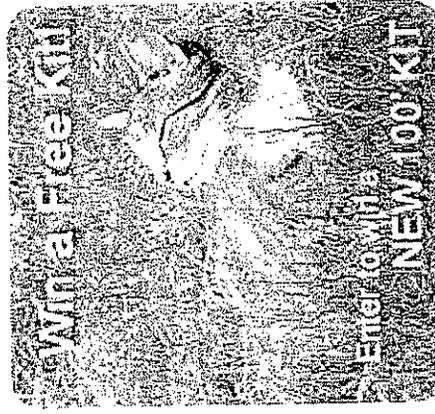
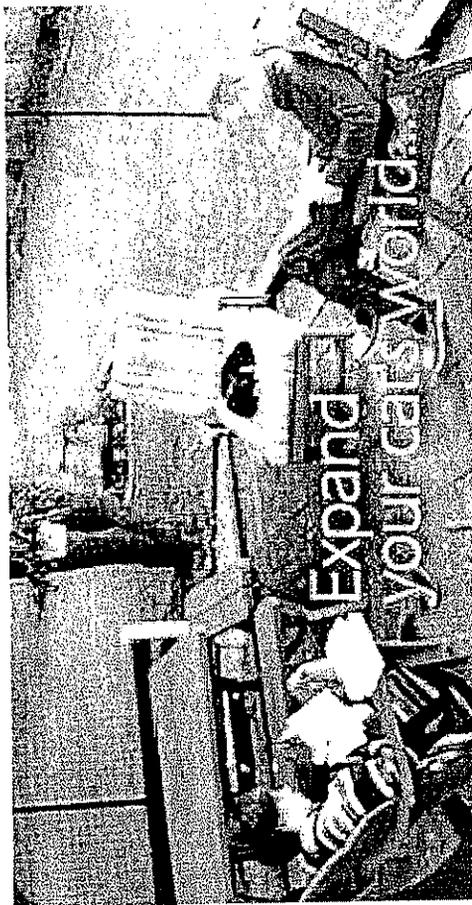
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Your Cats Happy & Safe.. Outdo

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Purr...fect Cat Fence is the only cat fence enclosure system that can be installed free-standing or added to an existing fence to make it cat-proof.

Give your cats the freedom to enjoy the great outdoors without worrying about their safety.

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- Peace of mind for you & happier cats
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- Increased room to roam reduces behavioral issues
- Blends well with surroundings
- Easy to install

Cat Fence Kits

Purr...fect Cat Fence kits are easy to install, virtually invisible, and include everything you need to turn your backyard into a safe and secure paradise for your cats. Order Purr...fect Cat Fence today and find out why thousands of cat care professionals are endorsing our unique product.

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Why it works...



Our cat fence material is flexible so most cats don't like to climb it. For acrobatic Houdini cats that can climb upside down, the Cat-Proof™ extenders will buckle under the cat's weight safely returning the cat to the ground.

Proofer™ extenders will buckle under the cat's weight safely returning the cat to the ground.



Testimonials

Lynne Riley, DVM
Salem County, NJ

"Thank you so much for developing such a wonderful product! When we moved to our new home, four of our cats started to spray in the house. They now enjoy their own 'kitty cottage' and wonderful fenced in area outside. We love the fence as it blends into the landscape. We are happy and our cats are happy! Life is good!"

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Video



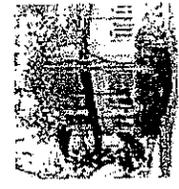
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700' of our product was recently donated to the Hemingway House in Key West, Florida. This is now keeping the famous six toed cats from wandering the neighborhood.

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Or write us at: info@purrfectfence.com
Have press related inquiries? press@purrfectfence.com or 866-430-3111



ZOOLOGICAL ANIMAL HEALTH ASSOCIATION

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COMMENTS

Diane Henry - Updating the current Animal Ord.

From: Gretchen Burgess <gretchen@coldwetnoses.com>
To: Jim Erickson <jerickson@ci.benicia.ca.us>, Charlie Knox <Charlie.Knox@ci.benicia.ca.us>, Heather Mc Laughlin <hmclaughlin@ci.benicia.ca.us>, Sandra Spagnoli <Sandra.Spagnoli@ci.benicia.ca.us>, Alan Schwartzman <aschwartzman@ci.benicia.ca.us>, Mike Ioakimedes <mioakimedes@ci.benicia.ca.us>, Mark Hughes <mhughes@ci.benicia.ca.us>, Tom Campbell <tcampbell@ci.benicia.ca.us>, <epatterson@ci.benicia.ca.us>, <citycouncil@ci.benicia.ca.us>
Date: 3/5/2009 11:09 AM
Subject: Updating the current Animal Ord.

Respected city officials:

Due to time restraints at Tuesday's City Council meeting there where a few items that I was not able to get to in my presentation.

To begin with, Christina Topf has been advised to bring suit against the city by her lawyer and by city staff since she is unhappy about the way her keeper permit has been handled. I asked her not to do so, a few times, and she has complied so far. I believe she would have a strong case and it would be a drain on city coffers and I also believe it would shine an unfavorable light on Benicia if she were to pursue such a suit.

I must say I was very happy with Mike Ioakimedes input about questioning the need to legislate common sense and I would even add morals. It is very unfortunate that anyone would ever feel the need to write legislation telling people that they have to clean up their dog's poop, that they can't leave a house and lock a animal in it with a bowl of water and a bag of food for someone else to find perhaps a week later. There is no question that these things are morally and socially irresponsible and yet neighbors and animal control is having to deal with both of these issues on a weekly and sometimes daily basis.

I can understand how our city officials might become, what I believe as, overly concerned about setting precedent and protecting neighborhoods. But, when it is abundantly clear that there is no problem, the city needs to be able to step back and allow neighbors to manage their own communities.

One of the many reasons I love Benicia so much is that we have many very active and strong neighborhood communities. That is one of the reasons I remain in an older and economically diverse community such as West Manor. Our strength is in our families and our friends who live here and who we would never have had the opportunity to get to know if they didn't happen to live across the street or down the road from us.

Beyond that, there were 3 major changes that were discussed at the final meeting and that were agreed on.

In regards to the keeping of bees:

Given the current issues around the global environment and the symptom of the death of the bees that pollinate our food. I advised that we allow the keeping of bees with a keeper permit. This would greatly change section 6.32.060 A, B & C would remain as is. No one at the meeting had any problem with this and there was no discussion other than to make sure that neighbors would be well advised of the bees and the keeper permit would attend to that issue.

In regards to responsible cat ownership:

A new section needs to be added. I believe that Anthony Shannon from the Animal Ordinance Committee has already sent in an email outlining this section. Only one feral cat advocate opposed cat fencing at any of the meetings and she has stopped coming to our meetings and didn't come to the most recent City Council meeting.

In regards to the keeper permit:

The keeper permit should be given to anyone who:

- 1) Completes the keeper permit form.
- 2) Provides a petition signed by all neighbors within 300 feet (the same as a variance for construction).
- 3) Submits to an inspection by the animal control officer to make sure that all animals are being kept in compliance to Federal Dept. of Agriculture, American Kennel Club, American Cat Fanciers Association or the association that regulates the needs of the animals being kept.

If the applicant fails any of these 3 the permit should be denied.

IX-A-23

I personally like the idea that any appeals then go to City Council. In almost 2 years only one person has asked for a permit. So the council shouldn't have to worry about numerous appeals.

Thank you for giving me this opportunity to help refine what I consider a very important and necessary city document. Of course the next step is to education the public so that we can better protect both our 2-legged and 4-legged community members.

Please let me know when the next Animal Ordinance Committee meeting will be so that I can make sure to clear my schedule to be there.

I would respectfully request, as I know that all these people are very busy, that the following people/departments be at the next meeting so that everyone is on board with both changes and how they are worded:

Benicia Police
Jim Ericson and
Heather McLaughlin
Charlie Knox

Again, thank you all for all the work that you do for our city. I know that some of these issues will not be easy ones to deal with, but it has been said that nothing worthwhile is ever easy and I know that this is very worthy.

Sincerely
Gretchen Burgess

IX-A-24

March 3, 2009

Dear Council Member,

I understand that the City Council will be reviewing the Animal Control Ordinance this week. I have attended several of the committee's meetings. It was my understanding at the last meeting that we would be recommending that cats be licensed and restricted to their owner's property either indoors or with "cat fencing". I understood that enforcement of this would be complaint based as is the case with dogs.

On our street we have a large number of cats and for me they have become quite a problem. The committee discussed this with the current and former animal control officers and apparently my situation is not unusual. The following are some of the problems that were discussed at that meeting.

Cats commonly carry parasites in their feces one of which causes birth defects. Cats, being fairly intelligent, when allowed to roam prefer to do their business in another yard. This requires someone other than their owner to clean up after them. It also poses a potential health risk if their neighbor enjoys gardening. Dogs, not being as discriminating, will eat cat feces. This requires that the dog's owner spend time and money should their dogs become sick. If you read Gary Bogue's column in the Contra Costa Times, you will soon learn that most cat owners allow their cats outside to eliminate their use of a cat box.

Cats are a hazard to wildlife especially in Benicia where we have so much open space. Cats are among the very few animals that will hunt for sport not out of hunger and that includes well fed pet cats. A member of the Audubon Society attended several Animal Control Ordinance meetings and presented information about the numbers of small wild animals and birds that are killed each year by cats. Not only does this affect the balance of nature it contributes to the elimination of endangered species. A large number of free roaming cats also attract coyotes and in our neighborhood coyotes have been seen not only in the open space but also on our streets.

Although still not the majority, more and more cities are placing the same restrictions on cats that have been placed on dogs for many years. In that time people have become socially responsible about their dogs and it is time they became socially responsible for their cats as well.

Sherry L. Barrow
478 Casey Court
Benicia, CA 94510
707-747-0917

IX-A-25

Jayne York - Fwd: Animal Control Ordinance

From: Anne Cardwell
 To: Jayne York
 Date: 3/2/2009 4:47 PM
 Subject: Fwd: Animal Control Ordinance

>>> "Sue Johnson" <bluhrnsu1@webtv.net> 3/2/2009 4:28 PM >>>
 Mayor Patterson, Council Members, and City Attorney,

I'm contacting you as a member of the Napa-Solano Audubon Society and this is our concern with the current animal control ordinance which you'll be acting on this Tuesday, March, 3:

This ordinance allows feral cat colonies in the industrial park. These colonies are required to have a permit. However, during the recent "trial period" for this new ordinance, there has been no attempt at permitting or regulating these colonies. Feral cats are fed and neutered and allowed to roam.

WHY SHOULD WE CARE?

Free-roaming cats kill hundreds of millions of birds and small mammals every year in the U.S. The National Audubon Society, and a wide range of national nature-related organizations, promote keeping our pet cats indoors. It's healthier for the cats and supports wildlife populations already struggling to survive habitat loss, pollution, pesticides, and other human impacts.

We protest your allowing feral cat colonies.

If you allow colonies, then regulate them and keep the cats confined.

We support safer birds and cats by promoting keeping cats indoors. This ordinance ignores the overwhelming scientific evidence of the destructiveness of free-roaming cats. Please do not allow feral cat colonies.

Sue Johnson
 153 Incline Pl.
 Benicia
 745-9349

From: Heather McLaughlin
 Sent: Thursday, February 26, 2009 9:34 AM
 To: Mary Roulette, spayarella1@aol.com, David Sidie, plwilson@bvhumane.org, gretchen@coldwetnoses.com, busy-body@comcast.net, friendofanimals@comcast.net, swede707@comcast.net, Bonnie Weidel, caninesandco@gmail.com, tony@miyoji.com, benicialisa@netscape.net, jb_davis@pacbell.net, cheryleharris@sbcglobal.net, Pat Volz Page **IX A 26**

christina@therabbithill.com, bluhrnsul@webtv.net, Karen Burns, nancyakiyama@yahoo.com
Cc: Diane Henry, Jim Erickson, Mike Alvarez, Sandra Spagnoli
Subject: Animal Control Update

At last! Sorry for the delays. Attached is the report that is going to the council next **Tuesday**. It recommends no changes to the feral cat or animal keeper provisions. Thanks, Heather

IX-A-27

Anne Cardwell - Re: Animal Control Update

From: Anthony Shannon <tony@miyoji.com>
To: Heather McLaughlin <Heather.McLaughlin@ci.benicia.ca.us>
Date: 3/2/2009 10:06 PM
Subject: Re: Animal Control Update
CC: Elizabeth Patterson <Elizabeth.Patterson@ci.benicia.ca.us>

Heather and Elizabeth,

Here is the language concerning dogs and fowl and rabbits:

6.16.020

Restraint of dogs. Except in an area specifically set aside and designated by the city council by resolution as a "dog park", or "off-leash" area, no person owning or having charge, care, custody, or control of any dog shall cause or allow, either willfully or through failure to exercise due care or control, to be or run at large in or upon any public place or premises, or in or upon any private place or premises other than those of said owner or keeper except with the consent of the person in charge of said place or premises, unless such dog is securely restrained by a substantial leash, no longer than 6 feet, and is in charge and control. For the purposes of this section, any dog in or upon any motor vehicle shall be deemed to be on the premises of the operator thereof.

6.32.040

Keeping fowl and rabbits.

A.

It is unlawful to keep fowl and rabbits in the city, except that such animals may be kept in a residential district not to exceed a total combination of 6 per legal lot and providing all of them are kept at least 20 feet from any house built or used for human habitation. Roosters or other fowl which constitute a nuisance by their loud cries, are not allowed in any zone.

B.

No person owning, having an interest in, harboring or having charge, control, or custody of any rabbit, bird, and/or fowl, shall permit, allow, or suffer any animal to run or fly at large to go upon the premises of any person in the city.

If we just take what is said about dogs and change "dog" to "cat", it works.

No person owning or having charge, care, custody, or control of any cat shall cause or allow, either willfully or through failure to exercise due care or control, to be or run at large in or upon any public place or premises, or in or upon any private place or premises other than those of said owner or keeper except with the consent of the person in charge of said place or premises

Thanks,

Tony

On Feb 26, 2009, at 9:34 AM, Heather McLaughlin wrote:

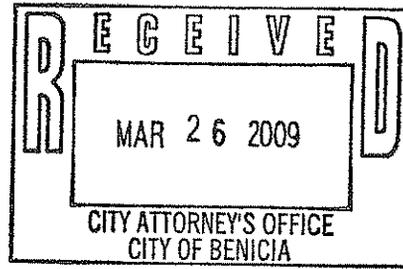
At last! Sorry for the delays. Attached is the report that is going to the council next **Tuesday**. It recommends no changes to the feral cat or animal keeper provisions.
 Thanks, Heather

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E-mail message

3/26/2009

To: beniciaherald@gmail.com
From: Sue Johnson
Subject: cats pooping
Date: Thursday, March 26, 2009 9:19 AM



Editor:

Ms Reid is "bemused" by the council's concern about cats pooping in people's gardens. I, however, am grateful for the council's concern. The following list is why we should all be grateful that our council is studying the issues associated with pet cats that are allowed to roam outdoors:

1. free-roaming cats can carry feline leukemia virus to neighboring yards and wildlife
2. free-roaming cats are carriers of toxoplasma gondii which can infect other wildlife and humans through contact with cat poop in soil, vegetation or water.
3. free-roaming cats are carriers for transmission of rabies to humans
4. poop from free-roaming cats degrades water quality. Runoff contaminated by cat poop also threatens sea mammals.
5. free-roaming cats kill millions of birds every year.
6. indoor only cats are healthier and live longer.

What is good for cats? Keep them indoors!

Sue Johnson
745-9349

*3/26/09 for all Benicia Council members,
Mayor Patterson and city attorney
McLaughlin:*

*attached, please find Audubon Society's
latest scientific study of the negative
effects of free-roaming and feral cats.*

*Sue Johnson
153 Incline Pl
IX-A-29*

Critical Assessment of Claims Regarding Management of Feral Cats by Trap–Neuter–Return

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Abstract: *Many jurisdictions have adopted programs to manage feral cats by trap–neuter–return (TNR), in which cats are trapped and sterilized, then returned to the environment to be fed and cared for by volunteer caretakers. Most conservation biologists probably do not realize the extent and growth of this practice and that the goal of some leading TNR advocates is that cats ultimately be recognized and treated as “protected wildlife.” We compared the arguments put forth in support of TNR by many feral cat advocates with the scientific literature. Advocates promoting TNR often claim that feral cats harm wildlife only on islands and not on continents; fill a natural or realized niche; do not contribute to the decline of native species; and are insignificant vectors or reservoirs of disease. Advocates also frequently make claims about the effectiveness of TNR, including claims that colonies of feral cats are eventually eliminated by TNR and that managed colonies resist invasion by other cats. The scientific literature contradicts each of these claims. TNR of feral cats is primarily viewed and regulated as an animal welfare issue, but it should be seen as an environmental issue, and decisions to implement it should receive formal environmental assessment. Conservation scientists have a role to play by conducting additional research on the effects of feral cats on wildlife and by communicating sound scientific information about this problem to policy makers.*

Keywords: exotic species, *felis catus*, no kill, predation, TNR, trap–neuter–release, urban ecology

Evaluación Crítica de las Demandas Relacionadas con el Manejo de Gatos Ferales en Programas de Captura–Esterilización–Liberación

Resumen: *Muchas jurisdicciones han adoptado programas para el manejo de gatos ferales mediante la captura–esterilización–liberación (CEL), en los que los gatos son atrapados y esterilizados y devueltos al ambiente para ser alimentados y cuidados por voluntarios. La mayoría de los biólogos de la conservación probablemente no comprenden la extensión y crecimiento de esta práctica y que la meta de los defensores de CEL es que los gatos sean reconocidos y tratados como “vida silvestre protegida.” Comparamos los argumentos en apoyo a CEL por muchos defensores de gatos ferales con la literatura científica. Los defensores que promueven el CEL sostienen que los gatos ferales solo dañan a la vida silvestre en islas y no en los continentes; ocupan un nicho natural o realizado; no contribuyen a la declinación de especies nativas y son vectores o reservorios de enfermedad insignificantes. Los defensores frecuentemente también sostienen que la efectividad de CEL, incluyendo argumentos que las colonias de gatos ferales eventualmente son eliminadas por CEL y que las colonias manejadas resisten la invasión de otros gatos. La literatura científica contradice cada uno de esos argumentos. CEL de gatos ferales es vista y regulada principalmente como un asunto de bienestar animal, pero debería verse como un tema ambiental, y las decisiones para su implementación deberían recibir una evaluación ambiental formal. Los científicos de la conservación tienen un papel importante al realizar investigaciones adicionales sobre los efectos de los gatos ferales sobre la vida silvestre y en la comunicación de información científica sólida a los tomadores de decisiones.*

§Address correspondence to Travis Longcore, email longcore@urbanwildlands.org
 Paper submitted April 22, 2008; revised manuscript accepted November 12, 2008.

Palabras Clave: captura-esterilización-liberación, CEL, depredación, ecología urbana, especies exóticas, no muerte

Introduction

Exotic and subsidized predators pose a grave threat to native species (Wilcove et al. 1998; Crooks & Soulé 1999), and feral domestic cats (*Felis catus*) are particularly harmful (Nogales et al. 2004). Domestic cats are on the list of the 100 worst invasive species globally (Lowe et al. 2000). In North America, however, advocates for feral cats have gained political strength and have influenced legislation, the funding agendas of foundations, and the policies of major animal-oriented nonprofit organizations. For example, in 2008 a coalition of organizations successfully blocked federal legislation that would have funded removal of exotic species from national wildlife refuges because feral cats might be targeted. Feral cat advocates usually promote trap-neuter-return (TNR) as a management approach (Berkeley 2004). Almost universally these advocates claim that TNR is the only proven, humane method to manage feral cats (Berkeley 2004; No Kill Advocacy Center 2006a,b; Winograd 2007).

Trap-neuter-return (or any number of similarly named variants) is an approach to feral cat management in which cats are surgically sterilized and returned to the environment, usually where they were captured (Barrows 2004; Berkeley 2004; Levy & Crawford 2004). The course of action after neutering varies, although advocates promote ongoing care of the cats in managed colonies (Slater 2002; Levy & Crawford 2004). Cats may be tested and vaccinated for some diseases and an ear tip may be removed before release to identify treated cats. Managers generally feed cats daily and seek to capture and sterilize any new cats (Slater 2004).

Animal advocates have increasingly called for shelters to avoid euthanasia of any healthy animals, an approach described as "no kill" (Levy & Crawford 2004; Winograd 2007). Although the effort to reduce euthanasia is long established and has widespread appeal, the generic no kill approach has been formalized by the No Kill Advocacy Center, a leading proponent of TNR, as the so-called no kill equation, the first element of which is a TNR program for feral cats (No Kill Advocacy Center 2006b; Winograd 2007). The stated goal of this program is for feral cats to be recognized as "protected healthy wildlife [that] should not enter shelters in the first place." This group believes "it is inevitable that the No Kill paradigm will eventually lead to laws that make it illegal for people to trap and kill healthy feral cats" (No Kill Advocacy Center 2006a). TNR approaches have been adopted in at least 10 large metropolitan areas in the United States (Berkeley 2004; The Humane Society of the United States 2008).

Unfortunately, TNR does not eliminate feral cat colonies under prevailing conditions (Jessup 2004; Winter 2004, 2006) and many false claims used to support the approach go unchallenged. Published research has been distorted by TNR proponents with little response from the scientific community, perhaps in part because TNR has been approached largely as an animal welfare issue instead of being recognized as a broad environmental issue with a range of impacts on species conservation, the physical environment, and human health. Conservation scientists and advocates must properly identify the environmental implications of feral cat management and actively engage this issue to bring scientific information to the attention of policy makers.

Environmental Effects of Feral and Free-Roaming Cats

Trap-neuter-return advocates use a series of arguments to justify the return of cats to places where they have adverse environmental consequences. Conservation scientists should be aware of these arguments because they are often presented to jurisdictions considering actions pertaining to feral cats.

Claim: Feral Cats Harm Wildlife Only on Islands and Not on Continents

Trap-neuter-return advocates argue that studies showing adverse effects of feral cats on islands do not apply to continents (Gorman & Levy 2004; Alley Cat Allies 2005). Cats are implicated in species declines and extinctions on islands (Nogales et al. 2004). The Stephens Island Wren (*Traversia lyalli*) was infamously driven to extinction by predation from feral cats, although not by a single cat as often reported (Galbreath & Brown 2004). Feral and free-roaming cats also affect wildlife on continents (Soulé et al. 1988; Hawkins 1998; Crooks & Soulé 1999; Jessup 2004). In urban and suburban areas, natural habitats resemble islands, where fragments are surrounded by an inhospitable matrix, but unlike on islands, the inhospitable areas serve as an ongoing source of subsidized predators (Walter 2004). In California, for example, increased predation is likely to occur in fragments <1.4 km², where probability of cat presence is higher. Larger areas are likely to have fewer cats because of the presence of larger predators (Soulé et al. 1988; Crooks 2002). Urban and suburban habitats, including yards, serve as valuable habitat for migratory and resident birds

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(Pennington et al. 2008; Seewagen & Slayton 2008) and support local and regional biodiversity (Angold et al. 2006; Tratalos et al. 2007), so concerns about predation by feral cats should extend to these environments.

Claim: Feral Cats Fill a Natural or Realized Niche

Feral cats are exotic and do not fill an existing niche, but TNR advocates often argue that their long presence in ecosystems diminishes their impact (Gorman & Levy 2004). The sheer abundance of feral cats subsidized by humans, however, makes them an unnatural element of any ecosystem. Feral cats are generally found at densities 10–100 times higher than similarly sized native predators (Nowell & Jackson 1996; Liberg et al. 2000).

Cats managed in TNR colonies can continue to prey on species whose populations have declined to such levels that they would not support native predators (Soulé et al. 1988). This is a form of hyperpredation, similar to what occurs on oceanic islands where an exotic prey species (e.g., rats) supports an exotic predator (e.g., cats) that then devastates native prey (Courchamp et al. 2000; Woods et al. 2003). Owned cats also threaten native prey populations when they are allowed to roam outdoors, although this effect decreases (as it does for feral cats) with the presence of larger predators and harsh weather (Crooks & Soulé 1999; Kays & DeWan 2004). Feeding by humans reduces the average range size of free-roaming cats, but increases densities, concentrating predation on wildlife where feeding occurs (Schmidt et al. 2007).

Contrary to claims that well-fed cats pose little threat to wildlife, hunting and hunger are not linked in domestic cats (Adamec 1976). Even well-fed cats hunt and kill lizards, small mammals, birds, and insects (Liberg 1984; Castillo & Clarke 2003; Hutchings 2003). A classic study documented continuous kills by the same 3 well-fed house cats over 4 years (George 1974).

Claim: Feral Cats Do Not Contribute to the Declines of Native Species

Trap–neuter–return advocates frequently imply that because cats are not singled out in reviews of the causes of bird declines, cats must have no influence on bird populations (Alley Cat Allies 2005). Habitat loss and resulting fragmentation are indeed leading causes of species decline, but this does not mean that sources of direct mortality are not important to species dynamics. Furthermore, one of the adverse effects of fragmentation is increased predation by cats supported by humans (Wilcove 1985; Askins 1995) and evidence indicates that cats can play an important role in fluctuations of bird populations (Lepczyk et al. 2003; Woods et al. 2003).

Trap–neuter–return advocates cite the work of John Terborgh as vindicating cats as a cause of decline of North American birds because he did not specifically mention them in his paper on the decline of American songbirds

(Terborgh 1992; Alley Cat Allies 2005). When informed of this by telephone, Terborgh said that this argument is “a preposterous extrapolation and grotesque distortion of something I didn’t say” (personal communication). Nevertheless, variations on the claim that the decline of bird species is due to other factors and, by implication, not by cats, has been proffered by cat advocacy groups and has appeared in peer-reviewed veterinary journals (Slater 2004).

Comparative field studies and population measurements illustrate the adverse effects of feral and free-roaming cats on birds and other wildlife. In canyons in San Diego native bird diversity declined significantly with density of domestic cats (Crooks & Soulé 1999). In a comparative study in Alameda County, California, a site with a colony of feral cats had significantly fewer resident birds, fewer migrant birds, and fewer breeding birds than a control site without cats (Hawkins 1998). Ground-foraging species, notably California Quail (*Callipepla californica*) and California Thrashers (*Toxostoma redivivum*), were present at the control site but never observed at the site with cats. Native rodent density was drastically reduced at the site with cats, whereas exotic house mice (*Mus musculus*) were more common (Hawkins 1998). In Bristol, United Kingdom Baker et al. (2005) calculated that the predation rates by cats on 3 bird species in an urban area is high relative to annual productivity, which led the authors to suggest that the area under study may be a habitat sink. The fear of cats exhibited by birds can result in population declines even if predation is low or absent (Beckerman et al. 2007).

Most discussion of the effects of feral cats on wildlife concentrates on birds. Cat advocates correctly argue that birds are secondary prey items for cats under most (but not all) circumstances (Gillies & Clout 2003; Hutchings 2003). But even as a secondary prey item, the number of birds killed is vast, and evaluation of the importance of such mortality requires species-by-species consideration (Baker et al. 2005). Cat predation on mammals (Hawkins 1998; Baker et al. 2003; Meckstroth et al. 2007), reptiles (Iverson 1978), and even invertebrates (Gillies & Clout 2003) is also cause for concern because of direct impacts to native species and competition with native predators (George 1974). Rare and endangered species of birds, mammals, and reptiles are documented victims of feral cats (Winter 2004, 2006).

Feral and free-roaming cats are efficient predators, and their abundance results in substantial annual mortality of wildlife. Churcher and Lawton (1987) concluded that cats were responsible for 30% of the mortality of House Sparrows (*Passer domesticus*) in an English village. May (1988) extrapolated their results to an estimated 100 million birds and small mammals killed per year in England. Although this extrapolation is often criticized for the limited geographic scope and number of cats studied, Woods et al. (2003) confirmed and refined the result with a

larger sample size and geographic area that included England, Scotland, and Wales. From a survey of cat owners that documented prey returned by 696 cats, Woods et al. (2003) estimated that the 9 million cats in Britain kill at least 52–63 million mammals, 25–29 million birds, and 4–6 million reptiles each summer. In North America Coleman and Temple (1996) developed estimates of cat densities in Wisconsin and associated mortality of 8–217 million birds per year.

The focus in discussions of predation by feral cats on birds is usually whether the predation is significant at the population level (Lepczyk et al. 2003; Woods et al. 2003; Baker et al. 2005). We argue that it is philosophically inappropriate for population-level impacts to be the only criteria by which the effects of cats are judged. People who notice and care about birds are just as attuned to the loss of an individual bird in a backyard, or the decline of local populations of birds, as are feral cat advocates to the loss of individual feral cats. We see no justification for valuing birds and other wildlife only as populations while valuing cats as individuals.

Claim: Feral Cats Are Not Vectors or Reservoirs of Disease

Cats in TNR programs have infection rates of 5–12% for either feline leukemia virus (FeLV) or feline immunodeficiency virus (FIV) or both (Gibson et al. 2002; Lee et al. 2002; Wallace & Levy 2006). Only 2 of 7 TNR programs surveyed in the United States test for FeLV or FIV before releasing cats, and these tests are optional (Wallace & Levy 2006). Some programs vaccinate for these diseases without testing (Wallace & Levy 2006), but the vaccine is ineffective on infected animals. These diseases can be transmitted to owned domestic cats and to wildlife (Jesup et al. 1993; Roelke et al. 1993).

High densities of feral cats increase the prevalence of ectoparasites in the environment. For example, at a site in Florida, 93% of feral cats had fleas and 37% had ear mites (Akuczewich et al. 2002). Fleas transmit disease-causing bacteria such as *Bartonella*, *Rickettsia*, and *Coxiella* between animals and humans (Chomel et al. 1996; Shaw et al. 2001), and arthropod vectors cause a high rate of disease transfer between feral cats (Chomel et al. 1996). A study of feral cats in Florida shows that 75% were infected with hookworms (Anderson et al. 2003). Cats infected with hookworms or roundworms shed the eggs of the parasite, which then accumulate in the soil where they can be transmitted to humans and wildlife (Uga et al. 1996). In backyards with feral cats in Prague, prevalence of roundworm eggs in soil reached 45% of all samples (Dubná et al. 2007). Anderson et al. (2003) conclude that feral cats may be reservoirs of hookworm infection for wild canids and felids in Florida.

Felids, including free-roaming and feral cats, are vectors of the protozoan *Toxoplasma gondii* (Dubey 1973), which can infect other wildlife and humans through con-

tact with oocysts in soil, vegetation, or water (Afonso et al. 2006). Feral cats are vectors for transmission of rabies to humans (Patronek 1998). Over 80% of the prophylactic treatments administered to humans in the United States for possible exposure to rabies resulted from contact with stray or feral cats (Moore et al. 2000). Laboratory studies show that cats exposed to avian flu (H5N1) contract the disease and shed the virus extensively, raising concerns about cats as vectors for a pandemic (Rimmelzwaan et al. 2006).

Some TNR advocates argue that feral cats are infected with a variety of pathogens at the same rate as free-roaming owned cats (Levy & Crawford 2004; Luria et al. 2004). The correct comparison should be with indoor-only cats, which are healthier and live longer (Barrows 2004). Even so, other studies show elevated infection rates of disease-causing pathogens in stray and feral cats compared with owned cats as a whole, including those that roam (Dubey 1973; Nutter et al. 2004; Norris et al. 2007).

Fecal matter from feral and free-roaming cats degrades water quality (Dabritz et al. 2006). In an urban watershed in Michigan, Ram et al. (2007) showed that cats and dogs contribute more to fecal coliform bacteria contamination than other sources and that cats are 2 times more likely than dogs to be the source of bacteria. Runoff contaminated by cat feces also threatens sea mammals. Felids, including feral and free-roaming cats, shed *Toxoplasma* oocysts that infect southern sea otters (*Enhydra lutris nereis*) (Miller et al. 2002; Conrad et al. 2005), Pacific harbor seals (*Phoca vitulina richardsi*), and California sea lions (*Zalophus californianus*) (Conrad et al. 2005). The large quantity of waste from feral and free-roaming cats containing *Toxoplasma* oocysts (Dabritz et al. 2006, 2007) and the correlation between freshwater runoff and toxoplasmosis in marine mammals (Miller et al. 2002) has led researchers to suspect domestic cats as the source of the infections, although further research is needed to determine the relative importance of native versus exotic felids as sources of this parasite (Miller et al. 2008).

In terrestrial ecosystems *Toxoplasma* oocysts accumulate in the soil (Dabritz et al. 2007), where they can infect other species. For example, feral cats are implicated in *T. gondii* infection in the endangered island fox (*Urocyon littoralis*) on the California Channel Islands (Clifford et al. 2006).

Efficacy of TNR

Feral cat advocates regularly assert that TNR “works” and is proven effective. They support this claim with anecdotes of success and reference to selected peer-reviewed studies (Zaunbrecher & Smith 1993; Centonze & Levy 2002; Hughes & Slater 2002; Levy et al. 2003).

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Nevertheless, the definition of a successful TNR program for feral cat advocates is almost always different from what a conservation biologist or policy maker might view as a successful feral cat management program. Reduced adverse effects on wildlife and rapid colony elimination are almost never included in the definition of success used by advocates (e.g., No Kill Advocacy Center 2006a). For many TNR advocates, success is not defined by elimination of feral cats in an area, but rather by the welfare of the cats. For example, one study concluded, "The effectiveness of the program was demonstrated by the low turnover and improved health of the colony over the 3-year period," but the colony size only decreased from 40 to 36 (Zaubrecher & Smith 1993). Another seminal study used to support the notion that TNR works was based on the assumption that feral cats were desired at a location, in which case TNR would produce a "stable, healthy, and manageable colony" (Neville 1983). Similarly, a Florida county implemented TNR "to decrease the number of healthy cats euthanized, decrease the costs to the county, and decrease complaints" (Hughes et al. 2002). In contrast, conservation scientists and wildlife veterinarians measure success of a feral cat management program by the decline and elimination of free-roaming cats (e.g., Jessup 2004; Nogales et al. 2004).

Claim: Trap-Neuter-Return Eliminates Colonies under Prevailing Conditions

Supporters of TNR assert that managed colonies slowly shrink through attrition. Mathematical models of feral cat populations indicate that 71–94% of a population must be neutered for the population to decline, assuming there is no immigration (Andersen et al. 2004; Foley et al. 2005). This level of neutering and exclusion of additional cats has not been consistently documented in practice. A study of TNR implemented countywide in San Diego showed that feral cat populations had not decreased after 10 years, and a similar result was found after 7 years in Alachua County, Florida, where feral cat populations increased (Foley et al. 2005). Four years of TNR at a colony in London saw the population fluctuate between 19 and 17 with no indication of further decline (Neville 1989). Ten years of TNR in Rome showed a 16–32% decrease in population size across 103 colonies but concluded that TNR was "a waste of time, energy, and money" if abandonment of owned cats could not be stopped (Natoli et al. 2006). Two colonies subject to TNR in Florida were tracked for over a year and population size of both colonies increased owing to the influx of new cats dumped at the highly visible sites (Castillo & Clarke 2003).

Peer-reviewed reports of TNR decreasing the size of feral colonies (e.g., Levy et al. 2003) derive in part from intensive efforts to remove cats for adoption as part of the TNR program. In a TNR program on a Florida uni-

versity campus, 73 of 155 cats (47%) were removed for adoption during the study period (Levy et al. 2003). In another program, during 2–3 years of TNR, 270 of 814 cats (33%) were captured and adopted, without which the number of cats at the 64 sites would have increased as a result of 87 cats joining the colonies while 50 died (Stull 2007). If adoption is sufficiently high, it may offset immigration to colonies and even reach the 50% removal threshold necessary for population decline (Andersen et al. 2004). Documented examples of dramatic population declines at TNR sites are from programs in limited geographic areas that were implemented with participation of the researchers themselves (e.g., Hughes & Slater 2002; Levy et al. 2003). Programs implemented by researchers are likely to be much more thorough than programs implemented exclusively by volunteers (see also examples in Jessup 2004).

Assertions of colony declines often are supported only by reference to Web sites, even in peer-reviewed articles (Gibson et al. 2002). Few published scientific studies document the actual disappearance of a colony through TNR and then only after many years of constant effort (e.g., Levy et al. 2003; Stoskopf & Nutter 2004).

Claim: Trap-Neuter-Return Colonies Resist Invasion

Feral cat advocates usually argue that managed colonies are stable and resist invasion by cats from surrounding areas (Berkeley 2004), but this assertion is not consistent with scientific literature or reports from TNR colonies (Stull 2007). For example, Levy et al. (2003) documented cats moving between identified colonies and to and from the surrounding woods. Cats do not defend territories when a constant food source is available (Levy & Crawford 2004) and can therefore reach high densities (Liberg et al. 2000; Schmidt et al. 2007). Populations can be limited by lack of shelter from the environment (Calhoun & Haspel 1989). Advocates also refer to a so-called vacuum effect in which new cats are said to immigrate to a location after removal programs (Patronek 1998; Gibson et al. 2002), but fail to provide evidence that such a phenomenon does not also occur when TNR colonies decrease in size.

Conclusions

Management of feral cats is usually governed by laws about pets and domestic animals, which vary by the patchwork of jurisdictions that control land uses. Although some entities in the U.S. federal government have banned TNR, most notably the U.S. Navy (Jessup 2004), it is largely local jurisdictions that are adopting TNR policies (The Humane Society of the United States 2008). These local policies typically do not receive the formal environmental review that projects **IX-A-34** adverse

environmental effects normally require (Glasson et al. 1999). This probably results from the perception of TNR as an animal welfare, rather than environmental, measure.

The lack of formal environmental review of TNR makes it difficult for scientists, trustee agencies, and conservationists to give input. We urge greater engagement from conservation scientists at local to national levels to communicate that management of feral cats is not just an animal welfare issue. Scientists and conservationists have an important role to play by conducting research on feral cats and providing credible scientific information to resource managers, funding agencies, foundations, and policy makers about the adverse ecological consequences of condoning the indefinite maintenance of feral cat colonies through adoption of TNR as a preferred management scheme.

Acknowledgments

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AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
ACTION ITEMS

DATE : March 6, 2009
TO : City Manager
FROM : Finance Director
SUBJECT : **REVIEW OF THE BENICIA TRANSIT SHORT RANGE TRANSIT PLAN FOR FISCAL YEARS 2008-2018**

RECOMMENDATION:

It is recommended that the City Council review and adopt the Short Range Transit Plan (SRTP) for Benicia Transit for Fiscal Years 2008-2018.

EXECUTIVE SUMMARY:

The Short Range Transit Plan (SRTP) is a broad overview of how the transit system has been operating, as well as a look at how the system is currently operating and any potential changes in the future. The Benicia Breeze is required to update its SRTP every two years. This year's report was delayed due to the restructuring of the transit system following the turnover of Route 75 to Vallejo Transit as Route 78. This transition occurred on October 6, 2008 and incorporated the following changes to complement the Route 78: Diablo Valley College/Sun Valley Mall area, two intra-city flex-routes, and Dial-a-Ride service to meet the needs of the community. Benicia Breeze continues to experience considerable financial pressure from a decline in Transportation Development Act Funding during the last two years and State Budget cuts. Service levels have been adjusted accordingly and the Enterprise Fund should be able to begin repaying the General Fund loan of \$250,000 during this fiscal year.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
Strategy: Provide a balanced street system to serve automobiles, pedestrians, bicycles, and transit

BUDGET INFORMATION:

There is no budget impact at this time.

BACKGROUND:

Short Range Transit Plan. The City of Benicia received a grant for \$30,000 from the Metropolitan Transportation Commission to update its SRTP. Michael Setty, Principal of Publictransit.us, prepared the SRTP under contract to the City.

This SRTP incorporates comments received from community stakeholders, transit riders and interested parties during an information gathering period, which was done jointly with public outreach efforts to consolidate intercity routes with Vallejo Transit. Staff utilized various methods of reaching out to the community including bus ride-alongs, public notices in the local newspapers, community workshops and comment cards on buses and at major points of interest.

Key reasons for developing and revising an SRTP for the City are:

1. MTC requires the City prepare an SRTP once every two years.
2. The SRTP will help guide the City in spending its limited transportation funds in the best possible manner.
3. In order to be eligible for direct Federal and State grants for the replacement of fixed route and paratransit vehicles, totaling over \$3 million dollars during the next 10 years, the development of an SRTP is required.

To prepare the SRTP, the consultant analyzed the Benicia Breeze fixed routes and ADA services to make recommendations for improving the two services. The consultant also used information that was gathered for the HDR report that was compiled to assist the Solano Transportation Authority in making decisions for the transition of Route 75 to Vallejo Transit Route 78. The consultant also studied the impacts of modifications to transit services, fare structures, potential rate increases, and management and oversight of the transit program. The results in the SRTP include extensive information on each of the routes operated before the transition on October 6, 2008.

Several important recommendations in the 2008-2018 Benicia Transit Short Range Transit Plan are:

1. Implementation of the Vallejo Transit Intercity Route 78 operating between Vallejo, Benicia and central Contra Costa County, with 30-minute intervals on weekdays between 5 a.m. and 8:30 p.m.
2. Two hybrid curb-to-curb "flexible" fixed routes that will serve all areas of the City, including the Industrial Park. These routes will provide an enhanced level of demand-responsive service while operating along a flexible fixed-route during commute hours.
3. Continued ADA Paratransit service for persons who are unable to board or access fixed route transit due to a disability. While service is not continuous throughout the day, there are two buses dedicated to ADA Paratransit between 10 a.m. and 3 p.m.

4. The implementation of a special commuter shuttle five trips per weekday to Diablo Valley Community College and Sun Valley Mall.
5. Proposed locations for an intermodal transportation facility and a park and ride lot facility.
6. Capital and Fleet Replacement Plan.

Current Financial Condition. The Benicia Breeze currently depends on its operating funds to come from the Transportation Development Act or TDA. Due to a weakened economy, the shortfall in TDA has effected the overall budget to the Benicia Breeze. The shortfall in TDA funding is currently at approximately 6%. At this time, the projected cost to operate the transit system is \$1,172,500. Our total revenue sources combined expect to be \$1,104,409. The model represented in the SRTP was based on estimated figures before the actual transition took place on October 6, 2008. Attached you will find the Benicia Breeze Combined Budget that reflects the most accurate budget for the transit system to date. Staff will continue to monitor the budget and system for further evaluation.

Attachment:

- Draft Short Range Transit Plan Executive Summary
- Benicia Breeze Combined Budget

DRAFT
SHORT RANGE TRANSIT PLAN
EXECUTIVE SUMMARY

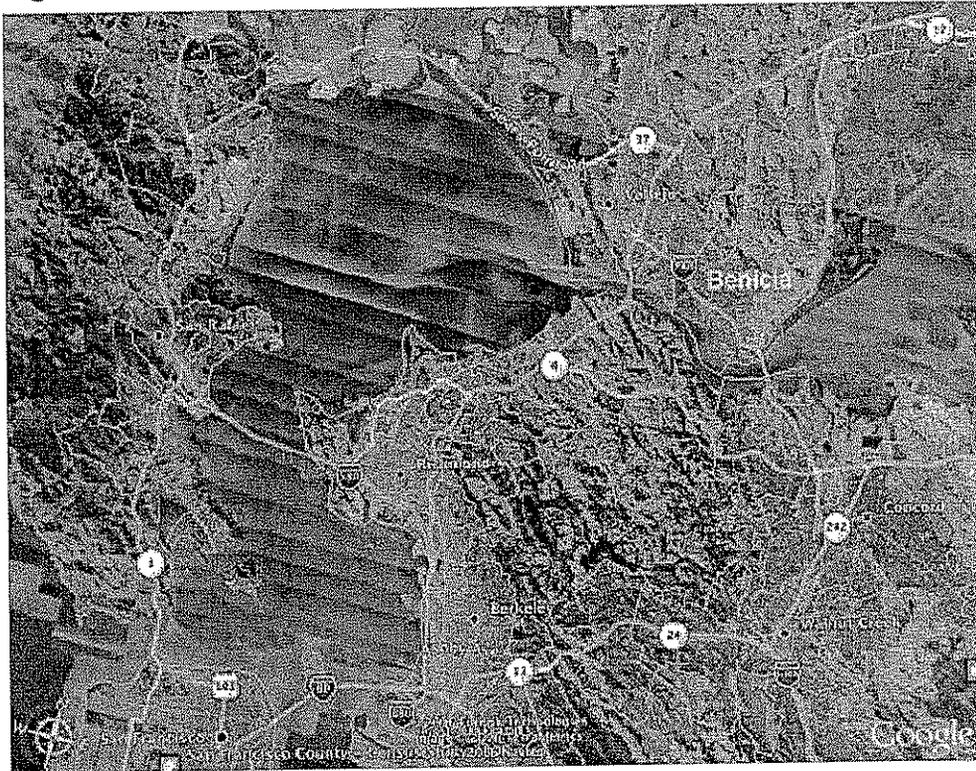
Executive Summary

Benicia transit service began in 1980 with the Benicia Dial-A-Ride system providing demand responsive service within city limits. In 1986, the *Benicia Bay Connection* began fixed route service between Benicia and the Pleasant Hill BART station. The City also subsidized the *Benicia-Vallejo Stage*, a private carrier operating between Benicia and Vallejo. In 1989, *Benicia Transit* began operation, consolidating the *Benicia Bay Connection* with a separate private sector-operated transit service connecting Vallejo and Benicia. *Vallejo-Benicia Runabout* paratransit service began in 1995, designed to meet the mandates of the Americans With Disabilities Act (ADA). In 2000 Benicia chose to operate ADA service separately through the *Benicia Dial-A-Ride* system in an attempt to save operating dollars.

Effective on July 1, 2006, *Benicia Transit* completed the transition to its new marketing identity, *Benicia Breeze*. At this time the system was also restructured, implementing recommendations of the September 2005 *Benicia Transit Short Range Transit Plan FY 2005-2006 to 2014-2015*. In January 2007, additional service adjustments were implemented to improve performance. Effective October 6, 2008, Benicia Breeze service was revised to provide integrated local connections to new regional Route 78 between Vallejo, Benicia, the Pleasant Hill BART station, and the Walnut Creek BART station, operated by Vallejo Transit. Most *Benicia Breeze* service is provided within City limits, with the exception of a fixed route connection between Benicia and Central Concord serving Sun Valley Mall and Diablo Valley College.

The City of Benicia's Transit Services Division is part of the City's Finance Department. The transit program is overseen by the Transit Services Manager who reports to the Finance Director, who in turn is directly responsible to the Benicia City Council through the City Manager. The City of Benicia provides transit services through purchase of service contracts with private operators. With implementation of the new *Benicia Breeze* schedule on July 1, 2006, Benicia's transit program operates three distinct programs. These are: (1) integrated *Benicia Breeze* Fixed, Flex Route and Dial-A-Ride Service, (2) *Benicia Breeze* Taxi Scrip Program; and (3) the *Benicia Breeze Medical Shuttle*.

Figure ES-1. Benicia Location Map



The Service Area

The City of Benicia is located on the Carquinez Strait in southern Solano County, approximately 35 miles northeast of San Francisco at the intersection of Interstate 680 and Interstate 780. Benicia is approximately 8 miles east of Vallejo, 15 miles south of Fairfield/Suisun City, 60 miles southwest of Sacramento and 10 miles north of Concord in Central Contra Costa County.

Benicia is the 5th largest incorporated city in Solano County. The community is home to many San Francisco Bay Area-oriented commuters and is also a major employment center in Solano County. Benicia is home to the Valero oil refinery, a significant supplier of diesel fuel, gasoline, propane, butane and other refined petroleum products to the California market. The Benicia Industrial Park is the largest business park in Solano County. At the 2000 Census, Benicia had a population of 26,865 residents. This increased to an estimated 27,916 residents as of January 1, 2007. The City has a land area of 14 square miles. The City's population density is approximately 2,000 persons per square mile based on the estimated 2006 population. If the industrial park is excluded, the City's estimated population density is about 3,000 persons per square mile.

Existing Operations

Benicia Breeze operates three fixed routes, three flexible routes and integrated dial-a-ride service, summarized in Table ES-1.

Benicia Breeze provides curb-to-curb paratransit service within the city limits in accordance with the mandates of the Americans With Disabilities Act (ADA), for persons with disabilities unable to use fixed or flex route service. *Benicia* also provides a Taxi Scrip Program to supplement fixed route and paratransit service. This program is provided to residents who are 65 and older, and persons with disabilities. Service is provided 24 hours per day, seven days per week, to and from any location within the cities of Benicia and Vallejo or between the two cities. The Taxi Scrip Program cannot be used for trips outside the two cities, however. Passengers have a choice of two taxi companies who participate in the program: Yellow Cab of Vallejo and Benicia and Vallejo/Benicia City Taxicab.

Benicia Breeze Medical Shuttle is a door-to-door service which will serve an resident, but is primarily designed to carry seniors age 65 or older, others eligible for Medicare, and persons with disabilities to medical appointments at hospitals, clinics, doctors offices, and other medical facilities located in Vallejo.

Table ES-1 Summary of Transit Serving the City of Benicia

Rte	Area Served	Frequency			Span of Service		
		Weekdays	Saturdays	Sundays	Weekdays	Saturdays	Sundays
Operated by <i>Vallejo Transit</i>							
78	Vallejo-Benicia-Walnut Creek BART Station (Vallejo Transit)	Peak 30 Midday 60	120	No Service	5:00 am - 8:38 pm	6:30 am - 8:08 pm	No Service
Operated by <i>Benicia Breeze</i>							
76	Benicia-Concord, Sun Valley Mall and Diablo Valley College	2 a.m. trips 1 midday trip 2 p.m. trips	No Service	No Service	6:00 am - 6:10 pm	No Service	No Service
15	Rose Drive / Solano Drive - Benicia High and Middle Schools	1 am trip 1 pm trip	No Service	No Service	7:11 am - 7:40 am 3:00 pm - 3:44 pm	No Service	No Service
17	Hastings Drive - Benicia High and Middle Schools	1 am trip 1 pm trip	No Service	No Service	7:07 am - 7:50 am 3:00 pm - 3:44 pm	No Service	No Service
Flexible Routes (e.g., deviates up to 3/4 mile from route with at least 60 minutes prior notice or request to driver.)							
21	Northwest Benicia City Ride - Downtown, Military West, western Southhampton	Peak 60 Midday DAR	DAR only	No Service	5:50 am - 9:50 am 2:50 pm - 6:50 pm	7:00 am - 7:00 pm DAR service	No Service
22	Northeast Benicia City Ride - Downtown, Military East, Hastings Drive, Rose Drive, Benicia Industrial Park#	Peak 60 Midday DAR	DAR only	No Service	5:50 am - 9:50 am 2:50 pm - 6:50 pm	7:00 am - 7:00 pm DAR service	No Service

Benicia Breeze operates two standard 35-40-foot fixed route buses, seven paratransit/flexible route "cutaway" vans, and three support vehicles. *Benicia Breeze* is currently dispatched, operated, and maintained out of a privately owned facility located at 225 Bennett Street in South Vallejo, leased by the *Benicia Breeze* service contractor, MV Public Transportation, Inc. *Benicia Breeze* vehicles are fueled at the City of Benicia Corporation Yard on East 2nd Street in the Benicia Industrial Park.

Other facilities supporting *Benicia Breeze* operations include bus stops within Benicia, and 10 shelters at various selected stop locations around the City. *Benicia Breeze* uses joint bus stops in along Military located at Military West and West 14th, West 7th, 1st Street, and East 5th Street and the I-780 on-ramps. *Benicia Breeze* buses also stop at The County Connection bus stops adjacent to Sun Valley Mall and Diablo Valley College in Concord.

Goals, Objectives and Standards

A series of goals, objectives and standards for Benicia's transit program originally adopted as part of the previous *Benicia Transit Short Range Transit Plan* full update completed in September 2005. These goals, objectives and standards have been evaluated in this document in relation to actual transit system performance since the previous SRTP, and changes in service that have occurred since that time. Realistic goals and practical objectives and service standards are key elements of an SRTP, serving as a foundation for development of service strategies and delivery of transit service.

According to the 2000 U.S. Census, approximately 97% of Benicia households have access to a motor vehicle, and the vast majority drive to work. Less than five percent of commuters used transit. Attracting choice transit users is a dispersed, suburban low-density environment such as Benicia is a difficult task. As a result, Benicia's primary transit market is to serve "transit dependent" persons, that is, those who don't own motor vehicles or live in a household with a vehicle, but lack reliable regular access. *Benicia Breeze* service as currently operated has the following key roles:

- Connecting local workers and commuters to the Benicia Industrial Park.
- Connecting to regional transit services including BART and the Vallejo Baylink ferry.
- Connecting local seniors, persons with disabilities and youth to and from shopping, medical, social and other activities available both locally and in Central Contra Cost County and Vallejo.
- Providing transportation for students to and from Benicia Middle School and Benicia High School, relieving many parents from acting as "chauffeurs" for their children.

Proposed goals, objectives and standards are outlined in Chapter 2 of this SRTP.

Service Evaluation

This section summarizes the findings of Chapter 3, and provides input into the discussion of *Benicia Breeze* system strengths and weaknesses at the beginning of Chapter 4, and is the basis for identified opportunities and challenges.

Overall Fixed Route Trends

In the three-year period ending June 30, 2006, *Benicia Breeze* fixed route service patronage declined slightly, and then increased significantly in FY 2006-07 in response to the introduction of local flexroute service. The slight decline in patronage from FY 2004-05 through FY 2005-06 appears to be a result of a fare increase in FY 2000-01; average fare per passenger increased from \$1.08 in FY 2003-04 to \$1.26 and \$1.27 in FY 2004-05 and FY 2005-06, respectively. During FY 2006-07, the average fare declined slightly to \$1.26.

In FY 2006-07, fixed route patronage totaled 132,672 passengers, averaging 488 boardings on weekdays and 159 boardings on Saturdays. Average weekday patronage during FY 2006-07 increased by 11% and 2% on Saturdays. No service was operated on Sundays as in previous years.

Total fixed route revenue vehicle hours (RVH) increased 9.4% from 10,953 RVH in FY 2003-04 to 11,985 RVH in FY 2005-06, and a total of 28.8% to 14,118 RVH during FY 2006-07 compared to FY 2003-04. Revenue vehicle miles (RVM) increased 19.4% during the same four-year period. As a result, overall fixed route productivity declined 16.8%, from 11.3 boardings per RVH during FY 2003-04 to 9.4 boardings per RVH in FY 2006-07. Similarly, boardings per RVM declined from 0.54 boardings per RVM in FY 2003-04 to 0.48 boardings per RVM in FY 2005-06, down 11.1% over the four fiscal years. Both of these values are below the productivity standard of 13.5 passengers/RVH adopted in the 2005 SRTP. These declines in productivity, particularly during FY 2006-07, reflect the introduction of Routes 19, 21, and 22 on July 1, 2006, which were "flexroutes" and operate in the lowest density areas of Benicia. Effective October 6, 2008, *Benicia Breeze* service was revised to operate primarily within City limits, plus a fixed route between Benicia and Central Concord, serving Sun Valley Mall and Diablo Valley College.

Benicia Breeze Paratransit Trends

In the four-year period ending June 30, 2007, *Benicia Breeze Paratransit* service patronage increased from 14,077 passengers in FY 2003-04 to 16,252 in FY 2005-06, and then declined significantly to only 6,906 passengers in FY 2006-07 as a result of eliminating paratransit service to the general public and converting the system into ADA complementary paratransit effective July 1, 2006. Based on this, total patronage declined 57.5% during FY 2006-07.

Total fares and other operating revenues declined from \$23,532 in FY 2005-06 to \$15,720, while average per passenger revenues increased from \$1.60 to \$3.76 in FY 2006-07, reflecting increases in ADA paratransit pricing. In FY 2003-04, dial-a-ride/paratransit patronage averaged 50 boardings on weekdays, 22 boardings on Saturdays, and 6 boardings on Sundays. In FY 2005-06, paratransit averaged 59 weekday boardings, 22 average daily boardings on Saturdays, and 6 boardings on Sundays. During FY 2006-07, weekday patronage declined to an average of 25 daily boardings and only 8 daily boardings on Saturdays.

Total dial-a-ride/paratransit revenue vehicle hours (RVH) increased 10.9% from 7,345 RVH in FY 2003-04 to 8,413 RVH in FY 2005-06, and then declined to an estimated

4,136 RVH during FY 2006-07. Revenue vehicle miles (RVM) increased from a reported 84,429 RVM in FY 2003-04, up to 146,747 RVM during FY 2004-05, declining to 109,338 RVM during FY 2005-06, and declining further to 46,363 estimated RVM in FY 2006-07. Overall dial-a-ride/paratransit productivity stayed about the same over the four-year period, e.g., 1.92 boardings per RVH during FY 2003-04, 1.93 boardings per RVH in FY 2005-06, declining slightly to 1.67 passengers/RVH during FY 2006-07. The values reported for RVM are highly variable, and appear to be based on questionable mileage totals, particularly for FY 2004-05.

Peer Comparison - Fixed Route Service

Chapter Three also evaluated *Benicia Breeze* fixed route performance in comparison with other Bay Area transit operators that also operate in low density, dispersed suburban areas. During FY 2005-06, the Benicia Transit farebox recovery ratio was 17.5%, in the midrange for the seven peer systems evaluated. The lowest farebox recovery was 13.1%; the highest was 28.9%. *Benicia Breeze* (formerly Benicia Transit) is "on par" for farebox cost recovery compared to the rest of the group despite relatively low fares. *Benicia Breeze* had the lowest productivity of the group, with only 10.1 passengers per RVH, compared to the peer group high of 17.7 passengers/RVH. This is a function of Benicia's relatively small population and longer trip lengths due to its service along the I-780 / I-680 corridor.

Benicia Breeze had the third lowest cost per RVH at \$73.06 per RVH. The highest cost systems cost \$99.49/RVH and \$95.55/RVH. In contrast, *Benicia Breeze* had the highest cost per passenger at \$7.25, reflecting provision of express service with relatively long trip lengths compared to other operators that mainly provide local service. *Benicia Breeze* also had the highest subsidy per passenger, at \$5.97. Vallejo Transit had the lowest subsidy per passenger, reflecting that system's relatively high local patronage in a higher density community than Benicia and most of the other transit systems that were compared.

Benicia Breeze was in the mid-range of estimated subsidy per passenger mile at \$0.75, compared to a low of \$0.62 and a high of \$1.73 subsidy per passenger mile. Line haul rail systems such as BART and Caltrain, and express bus systems such as that operated by Golden Gate Transit, have much lower net subsidies per passenger mile, generally due to high utilization rates. Bus systems such as *Benicia Breeze* tend to have lower utilization rates due to their low density operating environments.

Fixed Route Passenger Survey Results

Two onboard surveys of *Benicia Breeze* fixed route passengers were conducted in October 2006 and February 2007 and were sponsored by the Solano Transportation Authority (STA) and the Metropolitan Transportation Commission (MTC), respectively. The STA-sponsored survey included all Solano County transit operators while the MTC survey included the 22 largest Bay Area fixed route transit systems. The STA effort obtained a total of 253 completed surveys. The MTC survey completed a total of 150 in-person interviews.

Both the STA and MTC surveys revealed that most people originated at home. Trip destinations indicated by *Benicia Breeze* riders are distributed similarly to other transit systems in the Bay Area. A plurality of *Benicia Breeze* riders originated their trip in Benicia, followed by Vallejo and Central Contra Costa County cities. About 30% of *Benicia Breeze* riders were making their trip to Benicia, followed closely by Vallejo and Central Contra Costa County cities (27.5% for Pleasant Hill, Concord and Walnut Creek).

The major Central Bay Area employment centers of San Francisco, Oakland and Berkeley were relatively unimportant, only 8% of all destinations.

About half of *Benicia Breeze* riders live in Benicia, and 36% live in Vallejo. Most of the remaining users live in Contra Costa County, with a scattering in the Fairfield-Suisun City area. According to the STA survey, 67.0% of Route 75 riders were making round trips, 29.0% were not, and 4.0% weren't sure. This percentage was similar for the other *Benicia Breeze* routes. The MTC-sponsored survey didn't include a question regarding round trips.

The STA-sponsored survey identified walking as the single largest access mode for *Benicia Breeze* Route 75, followed closely by other forms of transit, particularly buses and BART. *Benicia Breeze* riders use transit about as often as most other Bay Area transit riders. More than 60% use or make the trip at least 3-4 days per week, around 20% ride 1 to 3 days per week, and the remainder once a month or less. About 3%-6% are first time users.

About half of *Benicia Breeze* riders made trips between 20 and 40 minutes long, with about 17% less than 20 minutes. A large percentage of *Benicia Breeze* patrons traveled more than one hour (27%), what would be expected for a system that partially serves long regional transit trips. Average transit trip times appear to be around 30-40 minutes, about twice as long as average automobile trips typically 15-20 minutes in length.

Benicia Breeze caters primarily to transit-dependent persons. According to the STA survey, only 12% of passengers said they would drive alone if bus service didn't exist, 43% would get a ride or carpool, and 31% would not make the trip. The results from the MTC-sponsored survey are considerably more ambiguous. According to that survey, 41% answered "yes" to riding transit because a vehicle was not available; 53% answered "no." About 70% of all *Benicia Breeze* fares were cash, 11% by transfers, and 20% by multi-ride tickets and monthly passes.

Both the STA survey and MTC survey found that about half of *Benicia Breeze* riders were male and half were female. The largest age group was 18 to 24 according to both surveys. Both surveys were reasonably consistent for ages 35 to 64, though each used a different range of age categories. The STA-sponsored survey revealed a somewhat higher percentage of age 65 and older than the MTC survey.

A plurality of *Benicia Breeze* riders were White/Caucasian (41%/42%), followed by Black/African American (25%-27%), Spanish, Hispanic, or Latino (14%), Asian (12%-16%) and other ethnicities and "Other" (6%-7%). Overall, *Benicia Breeze* passengers reside in households slightly higher than the Bay Area norm, e.g., with a slightly smaller proportion of two-person households. All other size categories are comparable between *Benicia Breeze* and Bay Area transit users. The median household income for *Benicia Breeze* riders was well under \$50,000 per year.

As expected, the most popular potential service improvements are increased service on weekends, particularly Sundays, and more frequent service in general. The most popular ways of obtaining transit information was information posted at bus stops and on vehicles, followed by mail, transit website, newsletters/brochures, and email.

From the STA-sponsored survey summary and discussion:

Survey respondents were asked to rate a variety of service elements on their bus line as excellent, good, fair, or poor. In addition to the overall breakdown of responses for each category, mean ratings were calculated by assigning a value of 4 to excellent, 3 to good, 2 to fair, and 1 to poor and then averaging the results.

Overall Line 75 riders gave good ratings to most service elements, with an overall service rating of 3.17, where 3.0 represents a "good" rating. Most service elements received ratings of 3.0 or higher, with driver courtesy receiving a rating of 3.43. Only frequency of service (2.73) and fares (2.54) received average ratings significantly below 3.0.

Given that most *Benicia Breeze* service operates at 60-minute headways, a relatively low rating for frequency of service is not surprising. Neither is a relatively low rating for *Benicia Breeze* fares, which are generally above that typical for more strictly local transit services. Passenger ratings for *Benicia Breeze* increased somewhat from the 2005-06 *SRTTP Update* analysis in most categories, and increased from an estimated rating of 3.08 in 2004 to 3.17 in the 2006 survey. Most rider comments were consistent with the survey findings.

On and Off Load Checks

During a two-week period in late May and early June 2007, a boarding and alighting analysis was conducted on *Benicia Breeze*. Route 23 between Benicia and the Martinez Amtrak station was excluded due to extremely low ridership. Local supplemental routes 15 and 17 were also excluded. The analysis covered each scheduled trip on each route surveyed, and counted the number of passengers boarding each route and alighting from buses on each bus trip, identified by individual bus stops. A total of 519 boardings and 509 alightings were counted on weekdays, resulting in an average of 7.2 riders per trip and 7.3 passengers per revenue vehicle hour (RVH). Route 75 carried the highest number of passengers, 197 westbound and 220 eastbound, averaging 9.9 and 11.9 passengers per trip, respectively.

Average productivity for westbound Route 75 was 9.9 passengers/RVH, the same as passengers per trip (each trip is exactly one hour). Eastbound productivity on Route 75 was slightly higher than riders per trip, at 12.2 passengers/RVH since some eastbound trips did not operate the full length of Route 75, e.g., from Military West and 14th Street only to BART, rather than from Vallejo.

Routes 19, 21, and 22 carried 1.9, 2.2 and 2.8 riders per trip, and 3.8, 2.2, and 2.8 passengers/RVH, respectively. These routes began operation in July 2006 and had minor service revisions effective January 2007. A total of 146 boardings and 145 alightings were recorded over three Saturdays. On Saturdays, *Benicia Breeze* routes 75, 21 and 22 carried an overall average of 4.9 riders per trip, and 4.9 passengers/RVH. Route 75 carried 124 total trips, 6.2 riders per trip and 6.2 passengers/RVH. The performance of Routes 21 and 22 was much lower, averaging 2.0 riders per trip and 2.0 passengers/RVH.

Transit Program Administration and Oversight

Until FY 2004-05, the City of Benicia did not have any staff specifically assigned to administer and oversee the Transit Services Division. This position, a full-time Transit Services Manager reporting to the Finance Director, is responsible for management and operation of the City's transit service. The Transit Services Division administers the *Benicia Breeze* operations contract, plans future and existing services, files reports and claims for transit funding, promotes and advertises transit service, coordinates transit service with other Solano and Contra Costa County transit operators, monitors and administers the City's taxi scrip program, and regulates taxicab service.

The Transit Services Manager represents the City of Benicia in venues such as the Solano County *Solano Express* Intercity Transit Consortium administered by the Solano

Transportation Authority (STA), various meetings of the Metropolitan Transportation Commission (MTC), and other venues of relevance to transit service in Benicia. The City is also a member of the Solano County Paratransit Coordinating Council, and a member of various regional coordination groups administered by MTC including the Bay Area Partnership, a group bringing together representatives of municipal and county government, regional business interests, public interest groups, and other stakeholders in Bay Area transportation. The City is a member of the Partnership Technical Advisory Committee, the Partnership Paratransit Committee, various regional transit coordinating committees, the Transit Finance Committee and the TransLink Consortium administered by MTC.

The City of Benicia's Transit Services Division developed several goals and priorities for its biannual budget during FY 2005-06 and FY 2006-07. New services were implemented as recommended in the *FY 2005-06 to FY 2015-16 Short Range Transit Plan*, including introduction of the new *Benicia Breeze* identity for the transit system, a new timetable and schedule effective July 1, 2006 and minor adjustments in January 2007. These objectives also included marketing and promoting new services, a success that increased patronage by 19% during FY 2006-07. During FY 2006-07, the City also updated its transit fleet replacement plan and conducted an RFP process for transit operations, selecting MV Transportation, Inc. to continue *Benicia Breeze* service for up to an additional five years. For the full list of management goals, refer to Chapter 4.

Triennial Performance Audit

In June 2007, the triennial performance audit of *Benicia Breeze* covering FY 2004-05, FY 2005-06, and FY 2006-07 was completed. *Benicia Breeze* was found to be in compliance with applicable statutory and regulatory requirements. Recommendations for improvements were also included in the audit document and are summarized in Chapter 3. The goals, objectives, policies and standards discussed in Chapter 2 were reviewed in response to these recommendations, and are included in recommendations for revisions in that Chapter. No other recommendations were made in other areas.

FTA Triennial Review

Chapter 53 of Title 49, United States Code, requires the Federal Transit Administration (FTA) to review and evaluate how FTA grant recipients have used Urbanized Area Formula Grants (FTA Section 5307 funds) and complied with relevant statutory and administrative requirements at least every three years. The Triennial Review analyses and evaluates grantee performance and compliance in 23 distinct areas, which are not listed here for brevity.

The latest review of the City of Benicia's transit program included the following findings and corrective actions, which mainly consist of updating documentation and complying with recent changes in emphasis in administrative requirements by FTA, particularly in the procurement area. City transit staff is undertaking action to comply with the following findings:

1. Correct how unliquidated financial obligations are reported to FTA within 30 days, dated from August 18, 2007.
2. Submit within 60 days an updated vehicle maintenance plan to include maintenance goals and objectives, a listing of buses to be maintained, a preventative maintenance program, maintenance checklist consistent with type of buses, and information regarding how ADA-related equipment on certain buses is maintained.

3. Develop and submit a detailed, comprehensive set of procurement procedures within 90 days (note: updating and "tightening up" procurement procedures by transit agencies has been a major FTA emphasis during the past two years). This includes updating of DBE, Buy America, Suspension and Debarment, and other related aspects of the procurement process consistent with FTA requirements.
4. Less than one percent of FTA formula funds were spent on security because local funds were used for this purpose.
5. *Benicia Breeze* was found "not deficient" in 19 of 23 areas reviewed by the Triennial Audit, with the four "deficient" areas currently being resolved by City transit staff.

Solano County Transit Consolidation Study

The Solano Transportation Authority (STA) has hired a consultant to evaluate consolidation options which are expected to be presented to Solano County elected officials in late 2007 or early 2008, with a final report due at the end of the fiscal year. Options include consolidating Vallejo and Benicia transit operations and merging all transit systems countywide, among others. STA also completed a county-wide transit load check and passenger survey in Fall 2006 and stakeholder interviews in Summer 2007, in order to provide input into the study process and to provide useful planning data to all Solano County transit operators.

The preferred consolidation option will be based on a consensus of elected Solano County decision-makers, including representatives from the City of Benicia. Given this decision process, this section briefly evaluates and summarizes the anticipated impacts the suggested consolidations on *Benicia Breeze* operations and administration. For further analysis of projected impacts of each potential consolidation option on *Benicia Breeze* operations, please refer to Chapter 4 discussion.

Recommended Operations Plan & Budget

Chapter 4 presents the recommended 10-year transit operations plan for *Benicia Breeze*. The service changes and improvements described in this Chapter were implemented on October 6, 2008 after an extensive public input process, the findings and conclusions described in Chapter 3, taking into account the various constraints on Benicia's transit system. This chapter also is the basis for the transit Capital Plan outlined in Chapter 5, which is designed to support the service changes implemented in October 2008.

The implemented Operations Plan is built around startup of new regional Route 78 as planned by the Solano Transportation Authority (STA) and operated by Vallejo Transit. Route 78 is patterned after other successful intercity routes in Solano County funded by a combination of Regional Measure (RM-2) Bridge Toll funding and from the Solano County Intercity Express Bus Service Agreement. Route 78 is operated by the City of Vallejo using large charter-type buses. Route 78 replaces previous *Benicia Breeze* Route 75, while the remainder of *Benicia Breeze* service has been modified to provide mainly local service within the Benicia City limits and provide a local connection between Benicia, Sun Valley Mall, and Diablo Valley College in Central Concord.

The Operations Plan outlined in Chapter 4 incorporates recommendations from a recent report sponsored by the Solano Transportation Authority (STA), *Analysis of The Benicia Breeze Transit System Service Strategy Report*, dated May 30, 2008, along with modifications in response to public concerns and a few changes recommended by the SRTTP consultant. The STA Report recommends emphasis on operation of two peak

period rather than three all-day local *Benicia Breeze* flexroutes within Benicia, limited weekday fixed route service to Sun Valley Mall and Diablo Valley College (DVC) in Concord, maintaining the two local routes that primarily serve students, and providing general public and ADA paratransit to supplement peak period flexroute service.

In the Operations Plan, estimated operating expenses, fare revenues, service levels, and projected patronage are presented, along with the details of the recommended Operating Plan, and the projected 10-year operating budget. The supporting Capital Budget presented in Chapter 5 is also based on the recommendations in Chapter 4.

Summary of Proposed Operations Plan

A recent report sponsored by the Solano Transportation Authority (STA), *Analysis of The Benicia Breeze Transit System Service Strategy Report*, dated May 30, 2008, recommends emphasis on operation of two rather than three local *Benicia Breeze* flexroutes within Benicia, very limited weekday only service to Sun Valley Mall and Diablo Valley College (DVC) in Concord, maintaining two local routes that primarily serve students, and ADA paratransit. These service changes were implemented on October 6, 2008, including revisions to *Benicia Breeze* service described below and summarized in Table 4.1.

- **Existing Route 75 would be discontinued**, with service to BART replaced by new Route 78 operated by Vallejo Transit. Existing local Restructured *Benicia Breeze* local service would operate within Benicia and between Benicia and Concord.
- **Routes 15 and 17** continue to operate unchanged in order to prevent overloads on revised Routes 21 and 22 during school commute times.
- **Route 19 Central Benicia/Industrial Park City Ride.** Revised Routes 21 and 22 replaced Route 19. Existing flex-route service to the Benicia Industrial Park during peak periods would continue, but would operate on a demand-responsive basis only.
- **Routes 21 & 22 City Ride.** Revised Routes 21 and 22 are illustrated in Figures 4.3 and 4.4. Route 21 operates hourly during peak commute hours, serving Central and West Benicia along Southampton Drive, Rose Drive, and Panorama Drive. Route 21 also provides timed transfer connections with new Route 78 at the downtown Benicia transfer point located at Military and First Street (e.g., City Park and Solano Square). A new westbound bus stop has been constructed on the north side of Military at Solano Square to serve Route 21, 22 and westbound Route 78. During peak commute periods, Route 21 will deviate up to $\frac{3}{4}$ mile from its designated route to pick up and drop off passengers.
- Revised Route 22 now serves East Benicia and the Benicia Industrial Park, as a flexroute south of I-780 and as a dial-a-ride, respectively. Route 22 also operates every 60 minutes.
- Service to the Route 21 and Route 22 service areas during the midday and early evening are provided by Benicia Breeze Dial-A-Ride, which has now been reopened to the general public as well as seniors and persons with disabilities. Dial-A-Ride now provides all Benicia Breeze service on Saturdays as well.
- **New "Route 76"** now operates as a separate route serving Sun Valley Mall, and direct *Benicia Breeze* service to Diablo Valley College. Two round trips are provided in each weekday peak period, plus one midday round trip, for a total of

five weekday round trips. Route 76 buses are through-routed with local routes 15 and 17. Prior to this change, DVC students from Vallejo and Benicia must walk $\frac{1}{4}$ to $\frac{1}{2}$ mile from Contra Costa Boulevard. Direct service to DVC has remedied this situation.

- **Route 78 – Vallejo-Benicia-Pleasant Hill BART-Walnut Creek BART.** This service, operated by Vallejo Transit, replaces previous *Benicia Breeze* Route 75. Route 78 runs every 30 minutes during weekday peak periods, hourly during the midday, and every two hours on Saturdays. In order to speed up service, the number of stops in Benicia has been reduced to four in each direction to reduce travel time. A new westbound bus stop was recently placed into service on the north side of Military at Solano Square for westbound Routes 21, 22 and 78.

Expected Benefits of New Express Bus Service

The most obvious advantage of new Route 78 service is that riders now enjoy a more comfortable bus with individually controlled heating and air conditioning and high-back seating. One of the goals of adding the bigger, more attractive and comfortable bus is to attract “choice riders” and reduce the number of cars crossing the Benicia-Martinez Bridge.

Another advantage is reduced travel time for riders, as the number of stops is greatly reduced. The implemented Route 78 operating plan identifies three stops in Vallejo and four stops in Benicia both eastbound and westbound. This type of reduced-stop intercity service has been successful in attracting new riders to other transit agencies and is accepted as the transit model of the future.

Route 78 travels to the Walnut Creek BART Station as its final destination point. Walnut Creek is a major transfer center for buses traveling throughout the I-680 corridor, including the San Ramon, Dublin, and Pleasanton Business Parks. It is expected that serving Walnut Creek will add many new riders seeking to reduce the costs and stress of traveling this congested corridor.

Using RM-2 Bridge Toll funding, *Benicia Breeze* riders now also enjoy a financial contribution that will help in meeting the increased cost of operating bus service in California. Rising fuel prices, increased maintenance due to emission-control devices, and a reduction in Federal and State grant funding lead to threatened reductions transit serving Benicia. By adding the RM-2 funding to the overall financial mix, overall service to Benicia has improve and cutbacks were avoided.

Table ES-2 Summary of Benicia Breeze Route Changes

Route	Previous Service	Revised Service
15	2 trips daily from Benicia High and Middle Schools to Rose Drive and East 2nd St.	No change in service.
17	2 trips daily from Benicia High and Middle Schools to Hastings and East 5th St.	No change in service.
19	8 trips per day from City Park through Industrial Park during peak periods.	Route incorporated into modified Routes 21 and 22. See below.
21	8 trips per weekday (every 60 minutes peak, every 120 minutes midday), and 5 trips on Saturdays every 120 minutes through Northwest Benicia via City park and downtown.	Six trips per weekday on 60-minute peak headways, via smaller loop serving all of Benicia via City Park and downtown. Midday and Saturday service covered by Dial-A-Ride.
22	7 trips per weekday (every 60 minutes peak, every 120 minutes midday), and 5 trips on Saturdays every 120 minutes through Northeast Benicia and Industrial Park via City Park and downtown.	Four trips per weekday on 60-minute peak headways, via smaller loop serving all of Benicia via City Park and downtown. Midday and Saturday service covered by Dial-A-Ride..
23	2 trips per day to Martinez Amtrak discontinued on May 1, 2008 due to low patronage.	Discontinued service.
75	16 round trips per day from Vallejo Ferry Terminal to Pleasant Hill BART operated by Benicia Breeze with 25 bus stops. 4 trips travel via downtown during commute period. 6 round trips on Saturdays.	Discontinued service. Replaced by Route 78 described below
76	n/a	Five daily round trips on weekdays (or more; see discussion) from West Benicia via Southampton Road, with direct service to DVC and Sun Valley Mall. Every 60 minutes during morning and afternoon peaks, on midday round trip.
78	n/a	20 round trips per day from Vallejo Ferry Terminal to Walnut Creek BART operated by Vallejo Transit with 10 stops. Additional 3 trips from Benicia to Ferry Terminal in a.m. 13 round trips on Saturdays.
Paratransit	1 paratransit bus serving Route 75 corridor from Ferry Terminal to Pleasant Hill BART. Paratransit "spillover" served by Benicia Breeze Routes 21 and 22.	1 paratransit bus with service confined to Benicia with transfers to other paratransit providers in Martinez and Glen Cove. Paratransit will no longer travel into Vallejo or Contra Costa County.
Medical Shuttle	Limited service.	One round trip on Monday, Tuesday and Thursday between Benicia and medical facilities in Vallejo. Anyone can use but service is aimed primarily at seniors and persons with disabilities.
Shopping Shuttle	n/a	One round trip on Wednesdays
Taxi Scrip	Up to \$100 per month per ADA subscriber. City share is \$50 (50%).	Up to \$200 per month per ADA subscriber. City share is \$100 (50%).
Intercity Contribution	\$356,822 for Benicia's share of Routes 20, 30, 40, 75, 80, 85 and 90	FY 2009 \$318,653 for Benicia's share of Routes 20, 30, 40, 78, 80, 85, and 90.

Impacts to Local *Benicia Breeze* Service

Benicia staff worked with the STA consultant to plan changes to local service due to replacement of Route 75 by Route 78.

Vallejo Transit charges \$4.50 per adult or student for travel across the Benicia-Martinez Bridge to BART, which is \$0.75 more than the *Benicia Breeze* fare of \$3.75. This is a reasonable increase, given continuing cost escalation for fuel and maintenance, as well as use of more comfortable buses. Discount fares for the elderly and persons with disabilities will be half the regular fare, e.g., \$2.25 per trip. One-way fares for adults and students for service between Benicia and Vallejo will increase from \$1.50 per trip to \$1.75. The same fare for seniors and persons with disabilities will increase from \$0.75 to \$0.85. Vallejo Transit does not offer discounts as deep for student and senior monthly passes as *Benicia Breeze*; staff reviewed possible ways of mitigating this for Benicia residents. The adopted rates raised the Student Pass Monthly Pass from \$70 to \$98.40 and the Senior Pass Monthly Pass from \$50 to \$98.40.

The streamlined design of Route 78 reduces travel times for most riders by limiting the number of bus stops served in Vallejo and Benicia. Since the new route does not use Southampton Road, the flexroutes were redesigned to pick up riders boarding and alighting along Southampton and shuttle them to City Park for timed connections to/from Routes 78 and 76. These routes operate on flexible schedules during peak periods, and are supplemented by Dial-A-Ride service during the midday and all day on Saturdays.

Prior to October 6, 2008, there were no park-and-ride lots and/or transit hubs allowing local drivers an easy access point for Route 78. To address this need, the Public Works Director identified ways of providing parking around City Park and at West 14th & Military West was implemented quickly. Staff met with the Metropolitan Transportation Commission (MTC) on July 1, 2008 to discuss use of RM-2 funds for construction of these areas; MTC staff appeared favorable to the City's proposals. A proposal to construct on-street park & ride spaces is included in the Transit Capital Plan outlined in Chapter 5.

Route 78 is designed as express service and does not stop at Diablo Valley College (DVC) or Sun Valley Mall in Contra Costa County. Benicia staff worked with the STA consultant to identify funding for operation of a limited-service route to these areas, e.g., Route 76. Any rider needing service to these locations at other times can utilize the County Connection buses to shuttle them to and from the Pleasant Hill BART station. The City of Vallejo has transfer agreements with County Connection to allow for either free or reduced fare transfers.

With Route 75's discontinuance, the City of Benicia no longer has an obligation to offer complimentary paratransit service along the Route 75 corridor, as required by Federal regulations. Working with the STA consultant, staff identified funding allowing adequate ADA paratransit service within Benicia city limits. However, due to limited funding, paratransit only connects with other systems in Glen Cove and Martinez, where connections with Vallejo Runabout or County Connection paratransit buses are available, respectively.

Table 4.2 contrasts funding for existing Route 75 and shared funding for other Solano County express routes, versus introduction of RM-2 funding for new Route 78. Through FY 2006-07, the City of Benicia covered the entire cost of operating Route 75 (\$623,445 that year). Although Route 75 was not eligible for RM-2 funds, it did receive funds from the Solano County Intercity Transit Funding Agreement funds prior to implementation of Route 78.

Table ES-3 Comparison of Route 75 vs. Route 78 Funding

	Est. for FY 2007-08	Est. for FY 2008-09
Fares	\$212,821	\$283,412
RM-2 Bridge Tolls	\$0	\$600,527
STAF North County	\$0	\$40,000
<hr/>		
Benicia	\$221,605	\$219,865
Dixon	\$4,185	\$4,229
Fairfield	\$33,187	\$33,239
Rio Vista	\$0	\$0
Suisun City	\$8,618	\$8,699
Vacaville	\$24,894	\$25,121
Vallejo	\$185,638	\$184,503
Solano County	\$18,874	\$17,465
Subtotal, Intercity TDA	\$497,071	\$493,121
Total Route Funding	\$709,892	\$1,417,060

Benicia Breeze Budget Trends

Benicia Finance Department staff reviewed FY 2008-09 budget conditions and making minor cutbacks wherever possible. However, preliminary budget numbers available in early July 2008 indicate that *Benicia Breeze* was approximately \$169,000 over-budget in FY 2007-08, primarily due to fuel and maintenance cost overruns. Since the STA Report recommended using all available funds in FY 2008-09, this deficit could have led to local service cuts if STA was unable to secure \$180,000 in funding to support the *Benicia Breeze* restructuring plan implemented on October 6, 2008. Table ES-3 compares FY 2007-08 and FY 2008-09 budgets and includes first year's transition support of \$90,000 from STA, as proposed in the unmodified STA- sponsored plan.

Table ES-3 in the Operations Budget section of Chapter 4 summarizes "full year" estimates for individual route performance including some minor adjustments to operating and financial plan recommendations. These adjustments result in slightly more favorable financial performance, resulting in an estimated farebox return of 25.0% rather than 21.8% estimated in the original STA Report.

Table 4.4 in Chapter 4 summarizes the proposed fare structure for Route 78 including some changes to pass and ticket pricing, reflecting concerns voiced by members of the Benicia City Council when the draft STA-sponsored plan was presented by transit staff on July 15, 2008.

Table ES-4 FY 2007-08 Estimated Actual vs. FY 2008-09 Adopted

Fares	\$310,000	\$250,662	(\$59,338)
Transportation Development Act (TDA)	\$925,518	\$810,436	(\$115,082)
Other Revenues	\$158,605	\$86,773	(\$71,832)
Accounts Receivable, Vallejo	\$220,000	\$0	(\$220,000)
STA Transition Support	\$0	\$90,000	\$90,000
Total Revenues	\$1,614,123	\$1,237,871	(\$356,252)
Route 15 – Peak Period School	\$33,040	\$36,100	\$3,060
Route 17 – Peak Period School	\$31,611	\$35,042	\$3,431
Route 19 – Industrial Park	\$92,054	\$0	(\$92,054)
Route 21 – N.W. Benicia Flexroute	\$192,962	\$197,215	\$4,253
Route 22 – N.E. Benicia Flexroute	\$172,130	\$197,215	\$25,085
Route 23 – Martinez Amtrak	\$44,176	\$0	(\$44,176)
Route 75 – Intercity	\$709,893	\$0	(\$709,893)
Route 76 – DVC/Sun Valley Mall	\$0	\$89,353	\$89,353
Paratransit	\$400,000	\$240,678	(\$159,322)
Taxi Scrip Program	\$15,000	\$30,000	\$15,000
Safe Ride Home Program	\$5,000	\$5,000	\$0
Intercity Contribution - Benicia	\$87,336	\$318,653	\$231,317
Total Expenses	\$1,783,204	\$1,149,256	(\$633,948)
Income/Loss	(\$169,081)	\$88,615	\$257,696

Results of City Council & Public Input

The City Council reviewed the proposed changes. Council comments focused on reducing the impacts on existing *Benicia Breeze* riders of generally higher monthly pass and multiple ride tickets charged by Vallejo Transit.

A Public Forum with *Benicia Breeze* users was also held on Wednesday, July 23, 2008 at 6:00 p.m. in the City Hall Council Chambers, with approximately 40 persons attending. The most common public concerns focused on the need to provide convenient transfers to and from Vallejo, and schedules serving work and school starting and ending times at Diablo Vallejo College and other employment centers in Central Concord. Concerns were also raised about pricing of monthly passes and multi-ride tickets. Staff also met with many of the rider groups to obtain input, including at the Senior Center, Rancho Benicia, and Casa Vilarrasa residents. Comments included requests for shopping access to Sun Valley Mall, trips serving medical facilities in Vallejo, and other destinations.

A Public Hearing was conducted at the August 19, 2008 City Council meeting. Based on public input received and the changes made by staff and recommended by the S RTP consultant in response to public input, the City Council reviewed the results that were incorporated into the final implementation plan and included as part of Benicia's *Short Range Transit Plan*. Once approval was obtained, staff renegotiated the current transit service contract with MV Transportation, Inc., and implemented service changes in October 2008.

Detailed Description of Routes/Services

Note: All *Benicia Breeze* routes, existing and proposed, will serve the bus stops located at the intersection of Military West, Military East, and 1st Street at the Benicia City Park across the street from Solano Square shopping center. This location is indicated by "1st Street & Military East Benicia City Park" on the maps.

For detailed maps of individual *Benicia Breeze* routes, please refer to Chapter 4.

Operating Budget Projections

Intercity Funding Agreement

Beginning in FY 2006-07, the transit systems operating within Solano County developed an Intercity Transit Agreement establishing coordination and funding principles to cover operation of the large number of intercity transit routes between the cities within Solano County and to important destinations outside the County, e.g., BART stations, Davis and Sacramento. The proposed FY 2008-09 total contributions to each Solano County intercity route by the City of Benicia is summarized in Table 4.2 in Chapter 4. A route must meet the following criteria to be considered an "intercity route" under the Intercity Transit Agreement:

1. Operate between two cities (except between Fairfield and Suisun City where local service is provided by Fairfield/Suisun Transit) and have a monthly ridership of at least 2,000, AND
2. Operate at least 5 days per week, AND
3. Has been operating for at least a year and is not scheduled for deletion within the fiscal year.

Based on these criteria, *Benicia Breeze* Route 75 met the definition of an "intercity route" subject to the Intercity Transit Agreement.

The baseline cost estimates for FY 2008-09 are based on the operators' preliminary budgets for FY 2008-09, as of June 2008. Costs allocated to each route are based on a transit industry-standard three variable cost allocation model that includes fares and subsidies allocated by route. The three variables are Revenue Vehicle Miles (RVM), Revenue Vehicle Hours (RVH) and Peak Vehicles as defined by the National Transit Database (NTD). Interlined route costs are allocated by the proportion of peak vehicles operated on intercity routes compared to the overall total for each operator. Each transit operator allocates its overhead costs in varying ways, and the Intercity Transit working group was working on obtaining consistency between operators.

Budget Assumptions

Fixed route and flexroute patronage is projected to equal current patronage after the October 6, 2008 changes, and increase 2% annually after the first two years of service. Route 78's patronage is projected to grow about 5% annually during the first few years, and then by 2% annually thereafter. Fare revenues tend to follow patronage; in FY 2011-2012, a 10%-12% fixed route fare increase to cover inflation has been assumed. All other revenue sources including TDA, STA, FTA and other sources are projected to grow at the MTC-sanctioned rate of 3.5%; Regional Measure 2 bridge tolls which are projected to grow 1.5% annually. Operating expenses are also projected to grow 5.0% annually, somewhat more than the historic Consumer Price Index (CPI), but reflecting the historic

rate of transit operating cost increases. Fuel and lube expenses are projected to grow at a 10% annual rate, allowing for volatile future oil and fuel price increases.

Transit funding sources include passenger fares, on-vehicle advertising revenues, state Transportation Development Act (TDA) funds, State Transit Assistance (STA) funds, Bay Air Quality Management District (BAQAMD) special project funds, Regional Measure 2 (RM-2) bridge tolls for Route 78, Federal Transit Administration (FTA) Section 5307 formula and 5303 planning funds. Under the intercity transit funding agreement, the City of Benicia's contribution to Route 78 is \$219,865, and \$318,653 for all intercity routes. Benicia will be credited all fares associated with these routes, in order to achieve a minimum 20% farebox recovery ratio for the entire transit system. In addition, City of Benicia non-transit sources are also used, including personal property sales, rebates and refunds.

Ten Year Operating & Financial Plans

Table 4.6 in Chapter 4, duplicated below, summarizing estimated operating costs, revenues and net subsidy requirements for *Benicia Breeze* from FY 2008-09 through FY 2017-18. These two tables incorporate changes made to the recommendations of the STA-sponsored plan and other changes made as the *Benicia Breeze* operating plan was finalized. In general, the restructured *Benicia Breeze* system produces small projected revenue surpluses during the first few years of the 10-year period, with increasing deficits in the latter years.

Table 4.7, duplicated below, summarizes *Benicia Breeze* system operating and financial characteristics during the 10-year planning horizon of the SRTP, as required by the Metropolitan Transportation Commission (MTC).

Transit Capital Plan

Chapter 5 outlines the recommended *Benicia Breeze* transit capital plan, which includes vehicle replacements, construction of park and ride facilities, and other supporting capital improvements.

Table 4.6 10-Year Projection, Benicia Breeze Revenues, Expenses & Summary Performance Indicators

	FY 2008-08	Initiation	FY 2008-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Service Level, Annualized	12,132		12,132	12,132	12,132	12,132	12,132	12,132	12,132	12,132	12,132
Revenue Vehicle Hours (RVH) Annual	157,184		157,184	157,184	157,184	157,184	157,184	157,184	157,184	157,184	157,184
Revenue Vehicle Miles (RVM) Annual	6.0		6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Total Peak Buses Assigned - Annual											
Allocated Annual Expenses											
Revenue Vehicle Hours (RVH) Annual	\$302,883	5.0%	\$333,719	\$350,405	\$367,925	\$386,321	\$405,638	\$425,919	\$447,215	\$469,576	\$499,576
Revenue Vehicle Miles (RVM) Annual	\$205,980	5.0%	\$227,071	\$236,424	\$250,346	\$262,883	\$276,006	\$289,806	\$304,287	\$319,512	\$336,512
Total Peak Buses Assigned Annual	\$506,908	5.0%	\$551,071	\$569,125	\$585,561	\$609,510	\$631,895	\$651,085	\$671,889	\$699,463	\$729,463
Taxi Scrip Program	\$35,000	5.0%	\$36,588	\$40,517	\$42,543	\$44,870	\$46,903	\$49,249	\$51,711	\$54,288	\$57,088
SUBTOTAL - OPERATING	\$1,052,561	5.0%	\$1,160,449	\$1,218,471	\$1,279,394	\$1,343,354	\$1,410,522	\$1,481,059	\$1,555,112	\$1,632,968	\$1,714,968
Intercity Service Contribution - Expense	\$316,853		\$351,315	\$368,881	\$387,325	\$406,691	\$427,025	\$448,377	\$470,798	\$494,335	\$519,000
GRAND TOTAL, Benicia Breeze	\$1,371,214		\$1,511,763	\$1,587,352	\$1,666,719	\$1,750,045	\$1,837,548	\$1,929,436	\$2,025,908	\$2,127,203	\$2,233,968
RIDERSHIP & FARE PROJECTIONS											
Annual Boardings	69,224	2.0%	72,021	73,461	74,930	76,429	77,957	79,517	81,107	82,729	84,384
Total Estimated Fare Per Passenger	\$1.92		\$1.92	\$2.12	\$2.12	\$2.12	\$2.12	\$2.35	\$2.35	\$2.35	\$2.35
Total Estimated Fare Revenues	\$133,162		\$138,512	\$155,737	\$158,852	\$162,038	\$166,264	\$186,864	\$186,864	\$194,410	\$194,410
Advertising & Other Non Fare	\$20,773	5.0%	\$21,812	\$22,902	\$25,250	\$26,512	\$27,838	\$29,230	\$30,691	\$32,228	\$33,849
TOTAL OPERATING REVENUES	\$153,935		\$161,444	\$179,765	\$184,102	\$188,541	\$211,038	\$216,034	\$221,233	\$226,639	\$228,259
ESTIMATED SUBSIDY	(\$1,217,279)		(\$1,350,319)	(\$1,407,567)	(\$1,492,617)	(\$1,561,514)	(\$1,626,520)	(\$1,713,342)	(\$1,804,515)	(\$1,900,564)	(\$1,999,564)
Credit for Route 78 Fare Revenues	\$350,000	5% ²	\$383,575	\$405,169	\$425,127	\$443,938	\$462,614	\$481,167	\$499,606	\$517,936	\$536,166
TOTAL SUBSIDY REQUIREMENTS	(\$867,279)		(\$964,444)	(\$1,002,398)	(\$1,067,490)	(\$1,117,576)	(\$1,183,906)	(\$1,261,875)	(\$1,344,119)	(\$1,430,858)	(\$1,519,398)
OPERATING SUBSIDY REVENUES											
Transportation Development Act (TDA)	\$810,436	2.5%	\$838,801	\$868,545	\$898,534	\$928,534	\$958,534	\$988,534	\$1,018,534	\$1,048,534	\$1,078,534
State Transit Assistance Fund	\$10,000	2.5%	\$12,819	\$14,319	\$15,901	\$17,507	\$19,170	\$20,891	\$22,672	\$24,518	\$26,428
FTA Section 5303 Planning	\$11,000	2.5%	\$11,783	\$12,196	\$12,623	\$13,065	\$13,522	\$13,985	\$14,465	\$14,952	\$15,444
Additional Support from STA	\$80,000	Il.a.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL SUBSIDY REVENUES	\$951,436		\$922,792	\$955,089	\$988,518	\$1,023,116	\$1,058,925	\$1,095,987	\$1,134,347	\$1,174,049	\$1,213,816
Operating Surplus/(Deficit)	\$61,157		(\$41,653)	(\$47,309)	(\$68,872)	(\$104,462)	(\$124,981)	(\$165,866)	(\$209,772)	(\$258,808)	(\$311,022)
From Prior Year	\$0		\$151,105	\$109,453	\$62,144	(\$3,528)	(\$110,990)	(\$225,371)	(\$401,859)	(\$611,022)	(\$868,441)
Cumulative Surplus/(Deficit)	\$61,157		\$109,453	\$62,144	(\$6,528)	(\$110,990)	(\$235,971)	(\$401,859)	(\$611,022)	(\$868,441)	(\$1,189,463)
Farebox Cost Recovery System %	35.2%		36.2%	36.5%	36.8%	36.8%	35.8%	34.8%	33.7%	32.7%	31.7%

Table 4.7 Benicia Breeze Operating Plan Projections

	Projected 2006-2009	Projected 2009-2010	Projected 2010-2011	Projected 2011-2012	Projected 2012-2013	Projected 2013-2014	Projected 2014-2015	Projected 2015-2016	Projected 2016-2017	Projected 2017-18
FIXED & FLEX ROUTE OPERATIONS										
FLEET CHARACTERISTICS										
Active Fleet Size	6	6	6	6	6	6	6	6	6	6
Peak Hour Fleet Size	4	4	4	4	4	4	4	4	4	4
Starrs Vehicles	2	2	2	2	2	2	2	2	2	2
Starrs Ratio	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
Expected Service Expansion										
Expected Service Reduction	YES									
OPERATING CHARACTERISTICS										
Estimates Operable Expenses	\$048,053	\$065,863	\$1,045,432	\$1,007,725	\$1,152,511	\$1,210,242	\$1,270,754	\$1,334,221	\$1,401,005	\$1,471,055
Estimates Operating Revenues	\$113,033	\$115,044	\$115,043	\$132,451	\$135,832	\$135,444	\$135,873	\$160,851	\$164,045	\$165,155
Total Passengers	59,324	80,510	82,323	64,133	65,121	69,105	70,148	72,253	74,323	76,553
Revenue Vehicle Miles	97,792	97,792	97,792	97,792	97,792	97,792	97,792	97,792	97,792	97,792
Revenue Vehicle Hours	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500
PERFORMANCE CHARACTERISTICS										
Estimate Cost Per Passenger	\$15.98	\$16.75	\$16.77	\$17.10	\$17.43	\$17.77	\$18.12	\$18.47	\$18.93	\$19.18
Estimate Cost Per Passenger Hour	11.5%	11.5%	11.5%	12.1%	12.3%	12.3%	12.3%	12.1%	11.5%	11.5%
Estimate Operating Return (Return)	0.5	0.5	0.6	0.7	0.7	0.7	0.7	0.7	0.8	0.8
Passengers Per Revenue Mile	0.1	0.9	0.9	0.9	10.2	10.5	10.8	11.1	11.4	11.8
Passengers Per Revenue Hour										
PARATRANSIT/SUBSIDY OPERATIONS										
FLEET CHARACTERISTICS										
Active Fleet Size	3	3	3	3	3	3	3	3	3	3
Peak Hour Fleet Size	2	2	2	2	2	2	2	2	2	2
Starrs Vehicles	1	1	1	1	1	1	1	1	1	1
Starrs Ratio	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
Expected Service Expansion										
Expected Service Reduction										
OPERATING CHARACTERISTICS										
Estimates Operating Expenses	\$22,953	\$41,102	\$755,311	\$798,627	\$514,108	\$539,813	\$565,601	\$595,144	\$621,802	\$656,147
Estimates Operating Revenues	\$48,875	\$41,693	\$48,306	\$47,324	\$48,270	\$53,957	\$54,150	\$55,243	\$56,347	\$57,474
Total Passengers	3,900	10,127	10,503	10,816	11,143	11,477	11,821	12,176	12,541	12,917
Revenue Vehicle Miles	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Revenue Vehicle Hours	3,900	3,900	3,900	3,900	3,900	3,900	3,900	3,900	3,900	3,900
PERFORMANCE CHARACTERISTICS										
Estimate Cost Per Passenger	\$42.72	\$43.55	\$44.40	\$45.95	\$46.14	\$47.04	\$47.95	\$48.88	\$49.83	\$50.80
Estimate Operating Return	9.7%	9.4%	9.9%	10.7%	9.4%	10.8%	9.8%	10.9%	10.1%	10.3%
Passengers Per Revenue Mile	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.3
Passengers Per Revenue Hour	3.0	3.1	3.2	3.3	3.4	3.5	3.6	3.7	3.8	3.9

Note: This table excludes operating data for Vallejo Transit Division 7H

Capital Plan

Necessary capital improvements include revenue vehicle and non-revenue vehicle replacements, upgrades to existing vehicles to meet California air quality regulations, improvements to fixed facilities such as bus stops, investments in a bus maintenance facility located in the Benicia Industrial Park, a proposed ferry dock at the foot of 1st Street to serve potential midday and weekend ferry service, and an Intermodal Transportation Facility (ITS) in Northeast Benicia near Lake Herman Road, serving buses, carpoolers/vanpoolers, and Capitol Corridor passenger train riders.

Proposed capital improvements are constrained by future funding allocations projected by the Metropolitan Transportation Commission (MTC). Some projects have been partially or almost fully funded; for example, a total of \$3 million in Regional Measure 2 bridge tolls has been earmarked for the Benicia ITS. On the other hand, no funding has yet been identified for the proposed 1st Street ferry dock a proposed downtown park & ride lot, bus stop upgrades at Military West/East at 1st Street, a Southamptton area park & ride lot, nor a bus maintenance facility. From a planning perspective, a constrained capital plan that doesn't include full funding for these and similar projects will not meet all identified needs.

Benicia Breeze Fleet Plan

Table 5.2 in Chapter 5 summarizes particulars of the *Benicia Breeze* vehicle fleet over the 10-year planning horizon of this SRTP Update. The purchase data and expected retirement date of each vehicle in the fleet is noted, and years each vehicle is active is also indicated by shaded table cells. The entire *Benicia Breeze* fleet of 2 standard fixed route transit coaches and 7 cutaways will be replaced during the 10-year planning horizon, beginning in FY 2012-13, as will the three non-revenue vehicles.

Support Facilities & Other Capital Items

As shown in Table 5.1 in Chapter 5 and duplicated below, the *Benicia Breeze* capital plan earmarks varying amounts every year to improve the amenities at bus stops and upgrade stops as needed. These improvements will be funded 100% from City of Benicia TDA and STA sources.

The capital plan also includes \$2,000,000 for the planning, purchase and upgrade of an existing industrial park property at a yet unknown location in Benicia to provide a bus maintenance and storage facility for *Benicia Breeze* operations. Purchase and operation of a separate facility will eliminate the current \$40,000 in annual rent paid by the *Benicia Breeze* service contractor for a leased facility in South Vallejo and passed on to the City. A Benicia location would also eliminate a portion of current deadheading expense. The proposed facility would also facilitate improved oversight of contractor operations and vehicle maintenance.

N.E. Benicia Intermodal Transportation Station (ITS)

Given the many concerns that aborted the previous Benicia ITS concept in 2004, after clarification of Council priorities the next step in developing a revised project would be a new feasibility study. The potential location and market of the ITS is currently an open question. RM-2 funds could be used to fund the proposed study. A study would require between 9 and 12 months to complete and would cost about \$100,000 (this amount has been included in Table 5.1, Capital Plan).

First Street Ferry Dock

Though capital and ongoing subsidy funding for potential weekend and holiday ferry service between Benicia and Vallejo has yet to be identified, this section is included to update estimated capital expenses for a potential ferry dock at the foot of 1st Street at the Fishing Pier.

In 2005, City of Vallejo ferry management staff performed a brief analysis and working paper on potential docking facilities in Benicia, recommending the 1st Street Fishing Pier as the optimal location for a ferry dock accommodating weekend/holiday ferry operations. The Fishing Pier requires an investment of about \$2.0 million for pier structural improvements and adding an ADA-accessible gangway and float to dock ferryboats. The 1st Street site also has sufficient available parking within a ¼ mile walk, and would also be beneficial to downtown businesses patronized by visitors to Benicia from San Francisco. Minimal dredging is required for this location.

**BENICIA BREEZE
COMBINED BUDGET**

Benicia Breeze Combined Budget

Acct	Fund 019 Division's 3118 & 3119	Actual 2006-07	Actual 2007-08	Amended 2008-09	Actual July-Oct 6th 2008-09	Estimated Oct 7 - June 2008-09	Revised Budget 2008-09
Operating Revenues							
7411	Investment Earnings	315	0	300	0	0	0
7524	TDA Section 4 (Bus)	808,965	903,155	771,608	0	403,453	403,453
7525	TDA Section 8 (Dial-A-Ride)	322,490	102,120	170,175	0	173,117	173,117
7527	TDA Section 8 (Intercity)	0	275,465	25,000	0	219,865	219,865
7528	Short Range Transit Plan Grant	39,305	0	10,000	0	0	0
7529	TFCFA Funding	0	0	0	0	0	0
7531	STA Grant	65,755	71,575	105,000	0	135,000	135,000
7533	BAAQMD Grant	0	0	0	0	0	0
7549	Misc Grants	29,325	0	0	0	0	0
7691	Bus Fares	246,630	293,635	62,700	81,006	55,764	136,770
7692	Paratransit Dial-a-Ride Fares	12,840	8,690	10,555	2,655	9,705	12,360
7693	Special Fares	7,160	6,005	12,000	1,330	2,415	3,745
7694	Bus Advertising	11,750	16,010	15,120	4,510	6,485	10,995
7710	Refund & Rebates	12,100	8,350	10,000	2,788	6,316	9,104
7999	Interfund Transfer In - General Fund	0	0	0	0	0	0
	Revenue Total	\$ 1,556,635	1,685,005	1,192,458	92,289	1,012,120	1,104,409
Operating Expenses							
8001	Regular Full Time Staff	38,495	68,305	41,925	13,839	27,862	41,701
8003	Part Time Staff	17,885	15,910	20,925	8,873	19,067	27,939
8004	Leave Allowance	1,705	4,545	1,515	7	2,467	2,474
8008	Overtime	0	20	0	0	37	37
8025	Longevity	0	0	0	0	124	124
	Salary & Wages	\$ 58,085	88,780	64,365	22,719	49,558	72,276
8070	Health Insurance	3,355	6,555	4,175	3,700	7,401	11,101
8072	Dental Insurance	375	570	500	335	591	926
8074	Vision Insurance	95	165	125	139	278	417
8076	Life Insurance	90	1,740	95	5	211	216
8078	Deferred Compensation	2,160	2,280	2,350	775	1,570	2,345
8080	PERS Retirement	11,410	17,925	11,370	4,420	9,150	13,570
8085	PARS Retirement	0	0	0	2	0	2
8086	FICA/Medicare	845	1,285	980	371	766	1,137
	Benefits	\$ 18,330	30,520	19,595	9,747	19,967	29,714
8100	Contract Services	14,245	12,330	6,560	2,725	0	2,725
8113	Education & Training	425	0	1,100	0	0	0
8114	Travel & Meals	165	110	1,050	0	0	0
8116	Memberships & Certifications	1,345	1,765	1,130	0	0	0
8117	Publications & Subscriptions	0	0	100	0	0	0
8124	Operating Supplies	8,090	6,325	5,925	0	932	932
8134	Maintenance & Repair	0	196,255	49,925	19,237	59,541	78,778
8162	Advertising	22,585	16,915	5,000	1,033	19	1,051
8312	Benicia Transit Fuel & Maintenance	423,390	0	0	156	0	156
83??	Taxi Subsidy Program	12,470	12,465	24,000	1,376	6,576	7,952
8317	MTC Special Project	41,185	19,295	30,000	0	32,360	32,360
8425	Gen Admin Audit	1,500	6,545	2,000	0	5,333	5,333
8725	Fuel	0	248,000	105,000	74,239	53,330	91,119
	Services & Supplies	\$ 1,214,870	520,005	231,790	98,766	158,091	220,407
8995	Workers' Comp JSF	555	845	470	176	352	528
	Internal Service Charges Total	\$ 555	845	470	176	352	528

Benicia Breeze Combined Budget

Acct	Fund 019 Division's 3118 & 3119	Actual 2006-07	Actual 2007-08	Amended 2008-09	Actual July-Oct 6th 2008-09	Estimated Oct 7 - June 2008-09	Revised Budget 2008-09
	Intercity Contribution (Payable 2010-11)	0	0	0	0	125,226	125,226
	Contracted Variable Expenses	348,490	968,045	605,045	116,351	206,809	323,160
	Contracted Fixed Expenses	0	0	0	132,400	268,788	401,188
	Contracted Expenses	\$ 348,490	968,045	605,045	248,751	600,823	849,574
	Expense Total	\$ 1,640,330	1,608,195	921,265	380,159	828,791	1,172,500
	Net Contribution / (Use)	\$ (83,695)	76,810	271,193	(287,870)	183,329	(68,091)
Capital Purchases Division							
	Revenue Total	\$ 161,965	279,040	790,817	28,930	748,310	777,240
	Capital Outlay	\$ 140,795	391,625	105,270	16,430	788,510	804,940
	Net Contribution / (Use)	\$ 21,170	(112,585)	685,547	12,500	(40,200)	(27,700)
	Combined Net Contribution / (Use)	(62,525)	(35,775)	956,740	(275,370)	143,129	(95,791)

Receivables		
TDA	495,985	395,450
FTA		223,310
Intercity Funding		275,465
Others	39,610	13,390
Total receivables	535,595	907,615
Payables	270,770	187,475
Cash Balance	(245,998)	(589,215)

ADA Paratransit Division

Acct	Fund 019 Division 3118	Actual 2006-07	Actual 2007-08	Amended 2008-09	Actual July-Oct 6th 2008-09	Estimated Oct 7 - June 2008-09	Revised Budget 2008-09
Operating Revenues							
7411	Investment Earnings	0	0	100	0	0	0
7525	TDA Section 8 (Paratransit)	322,490	102,120	170,175	0	173,117	173,117
7528	Short Range Transit Plan Grant	2,755	0	0	0	0	0
7531	STA Grant	0	0	15,000	0	15,000	15,000
7692	Paratransit Dial-a-Ride Fares	12,840	8,690	10,555	2,655	9,705	12,360
7693	Taxi Script Program Fares	7,160	6,005	12,000	1,330	2,415	3,745
7694	Bus Advertising	11,750	0	3,100	0	3,100	3,100
7710	Refund & Rebates	15	0	0	0	0	0
	Revenue Total	\$ 357,010	116,815	210,930	3,985	203,337	207,322
Operating Expenses							
8001	Regular Full Time Staff	10,120	10,855	11,175	3,690	7,430	11,120
8003	Part Time Staff	0	1,365	5,210	2,218	4,767	6,985
8004	Leave Allowance	455	435	405	2	658	660
8008	Overtime	0	5	0	0	9	9
8025	Longevity	0	0	0	0	33	33
	Salary & Wages	\$ 10,575	12,660	16,790	5,910	12,897	18,807
8070	Health Insurance	895	1,285	1,115	951	1,902	2,853
8072	Dental Insurance	100	110	135	115	152	268
8074	Vision Insurance	25	30	35	35	71	106
8076	Life Insurance	25	25	25	1	56	58
8078	Deferred Compensation	570	610	625	207	419	625
8080	PERS Retirement	2,315	2,680	2,430	1,158	2,394	3,552
8085	PARS Retirement		0	0	1	0	1
8086	FICA/Medicare	155	190	260	96	199	295
	Benefits	\$ 4,085	4,930	4,625	2,564	5,193	7,757
8100	Contract Services	4,635	10,120	4,060	0	0	0
8113	Education & Training	0	0	100	0	0	0
8114	Travel & Meals	0	0	50	0	0	0
8116	Memberships & Certifications	125	800	130	0	0	0
8117	Publications & Subscriptions	0	0	25	0	0	0
8124	Operating Supplies	1,580	1,850	1,320	0	0	0
8134	Maintenance & Repair	0	51,615	7,230	2,804	28,849	31,653
8162	Advertising	4,690	0	1,000	0	0	0
8314	Paratransit Fuel & Misc	35,075	0	0	0	0	0
8316	Taxi Subsidy Program	12,470	12,465	24,000	1,376	6,576	7,952
8317	MTC Special Project	5,970	4,515	0	0	2,360	2,360
8425	Gen Admin Audit	0	500	1,000	0	1,333	1,333
8725	Fuel	0	9,215	10,000	586	35,864	36,450
	Services & Supplies	\$ 64,545	91,080	48,915	4,766	74,982	79,748
8995	Workers' Comp ISF	100	120	120	46	92	137
	Internal Service Charges Total	\$ 100	120	120	46	92	137
	Contracted Variable Expenses	348,490	312,560	166,980	13,231	90,103	103,334
	Contracted Fixed Expenses				63,700	136,894	200,594
	Contracted Expenses	\$ 348,490	312,560	166,980	76,931	226,997	303,928
	Expense Total	\$ 427,795	421,350	237,430	90,217	320,161	410,378
	Net Contribution / (Use)	\$ (70,785)	(304,535)	(26,500)	(86,232)	(116,824)	(203,056)

Fixed Route Division

Acct	Fund 019 Division 3119	Actual 2006-07	Actual 2007-08	Amended 2008-09	Actual July-Oct 6th 2008-09	Estimated Oct 7 - June 2008-09	Revised Budget 2008-09
Operating Revenues							
7411	Investment Earnings	315	0	200	0	0	0
7524	TDA Section 4 (Bus)	808,965	903,155	771,608	0	403,453	403,453
7527	TDA Section 8 (Intercity)	0	275,465	25,000	0	219,865	219,865
7528	Short Range Transit Plan Grant	36,550	0	10,000	0	0	0
7531	STA Grant	65,755	71,575	90,000	0	120,000	120,000
7549	Misc Grants	29,325	0	0	0	0	0
7691	Bus Fares	246,630	293,635	62,700	81,006	55,764	136,770
7694	Bus Advertising	0	16,010	12,020	4,510	3,385	7,895
7710	Refund & Rebates	12,085	8,350	10,000	2,788	6,316	9,104
	Revenue Total	\$ 1,199,625	1,568,190	981,528	88,303	808,783	897,087
Operating Expenses							
8001	Regular Full Time Staff	28,375	57,450	30,750	10,149	20,432	30,581
8003	Part Time Staff	17,885	14,545	15,715	6,654	14,300	20,954
8004	Leave Allowance	1,250	4,110	1,110	5	1,809	1,814
8008	Overtime	0	15	0	0	28	28
8025	Longevity	0	0	0	0	91	91
	Salary & Wages	\$ 47,510	76,120	47,575	16,808	36,661	53,469
8070	Health Insurance	2,460	5,270	3,060	2,749	5,499	8,248
8072	Dental Insurance	275	460	365	219	439	658
8074	Vision Insurance	70	135	90	104	208	311
8076	Life Insurance	65	1,715	70	3	155	158
8078	Deferred Compensation	1,590	1,670	1,725	569	1,151	1,720
8080	PERS Retirement	9,095	15,245	8,940	3,262	6,756	10,018
8085	PARS Retirement			0	2	0	2
8086	FICA/Medicare	690	1,095	720	275	568	842
	Benefits	\$ 14,245	25,590	14,970	7,183	14,774	21,957
8100	Contract Services	9,610	2,210	2,500	2,725	0	2,725
8113	Education & Training	425	0	1,000	0	0	0
8114	Travel & Meals	165	110	1,000	0	0	0
8116	Memberships & Certifications	1,220	965	1,000	0	0	0
8117	Publications & Subscriptions	0	0	75	0	0	0
8124	Operating Supplies	6,510	4,475	4,605	0	932	932
8134	Maintenance & Repair	0	144,640	42,695	16,433	30,692	47,126
8162	Advertising	17,895	16,915	4,000	1,033	19	1,051
8311	Benicia Transit Bus Program	654,395	0	0	0	0	0
8312	Benicia Transit Fuel & Maintenance	423,390	0	0	156	0	156
8317	MTC Special Project	35,215	14,780	30,000	0	30,000	30,000
8425	Gen Admin Audit	1,500	6,045	1,000	0	4,000	4,000
8725	Fuel	0	238,785	95,000	73,653	17,466	54,669
	Services & Supplies	\$ 1,150,325	428,925	182,875	94,000	83,109	140,659
8995	Workers' Comp ISF	455	725	350	130	261	391
	Internal Service Charges Total	\$ 455	725	350	130	261	391
	Intercity Contribution (Payable 2010-11)					125,226	125,226
	Contracted Variable Expenses		655,485	438,065	103,120	116,706	219,826
	Contracted Fixed Expenses				68,700	131,894	200,594
	Contracted Expenses	\$ 0	655,485	438,065	171,820	373,826	545,646
	Expense Total	\$ 1,212,535	1,186,845	683,835	289,941	508,631	762,122
	Net Contribution / (Use)	\$ (12,910)	381,345	297,693	(201,638)	300,153	134,965

Capital Purchases Division

Acct	Fund 019 Divisions 3118 & 3119	Actual 2006-07	Actual 2007-08	Amended 2008-09	Actual July-Oct 6th 2008-09	Estimated Oct 7 - June 2008-09	Revised Budget 2008-09
Non-Recurring Revenues							
7526	TDA/Capital Reimbursement (Sec. 4)	45,945	12,680	117,587	0	117,580	117,580
7531	STAF Grants	0	0	30,000	16,430	0	16,430
7522	Federal Section 5307 - Buses	62,370	223,310	133,930	0	133,930	133,930
7529	TFCAs grant - Bus particulate traps	0	10,000	0	0	0	0
7533	BAAQMD Grant - Bike bollards	9,440	0	0	0	0	0
7549	Other grants - PTMISEA - Bus	0	21,585	0	0	0	0
7560	Federal Section 5307 - Projects	0	0	457,800	0	457,800	457,800
7910	Sale of Real/Pers. Property	3,975	1,700	1,500	0	1,500	1,500
7999	Interfund Transfer In - General Fund	40,235	9,765	50,000	12,500	37,500	50,000
	Revenue Total	\$ 161,965	279,040	790,817	28,930	748,310	777,240
Non-Recurring Expenses							
9041	General Fund Advance Payment	0	0	50,000	0	50,000	50,000
9300	RM2 Intermodal Project	8,745	740	7,590	0	0	0
9302 B	Equipment & Major Repairs	69,530	377,315	0	0	572,800	572,800
9306	Small Bus Equipment	0	0	0	0	0	0
9307 B	DAR Bus Equipment	62,520	0	31,250	0	165,710	165,710
9308	HDR Study	0	13,570	16,430	16,430	0	16,430
9980 B	Fixed Asset Account	0	0	0	0	0	0
9185	Scheduling Software	0	0	0	0	0	0
	Capital Outlay	\$ 140,795	391,625	105,270	16,430	788,510	804,940
	Net Contribution / (Use)	\$ 21,170	(112,585)	685,547	12,500	(40,200)	(27,700)

**AGENDA ITEM
CITY COUNCIL MEETING: APRIL 7, 2009
INFORMATIONAL ITEMS**

DATE : March 24, 2009
TO : City Manager
FROM : Darrell Dearborn
SUBJECT : **STATUS REPORT ON STIMULUS PROGRAM PROJECTS**

RECOMMENDATION:

None. This report is for information only.

EXECUTIVE SUMMARY:

On February 17, 2009 President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The total cost of the package is \$828 billion, and consists of nearly \$396 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects, \$144 billion in state and local fiscal relief, and \$288 billion in personal and business tax credits.

Based on the information available to date, staff has submitted, or intends to submit, applications for seventeen (17) projects totaling \$62,828,068. Of this number, applications have been submitted for six projects valued at \$43,040,000. The remaining eleven (11) projects valued at \$19,788,068 will be applied for as specific funding sources are identified, and as eligibility and application guidelines are published. All departments are engaged in the frequent review of a wide variety of information resources about the ARRA to learn the sources and application procedures appropriate for their projects.

BACKGROUND:

The League of California Cities has identified at least 34 separate funding vehicles in six broad program areas through which the ARRA funds will be distributed to local governments. All funding vehicles are administered by federal agencies, some directly and others through state and regional agencies responsible for particular programs, such as transportation and water and sewer facilities. Some funding is distributed through formulas using indicators believed to reflect community conditions and needs (some roads and public safety funding, among others), while other funding is distributed through competitive application processes (most other projects and uses). Most of the

funding available to local governments is integrated into and supplements existing federal programs.

Below are listed by City department the specific projects for which applications have been submitted or will be submitted when specific funding vehicles can be identified.

Public Works

- Three projects applied for:
 - \$400,000- *Resurface 2nd St, Lake Herman Rd to W of Park* Applied through STA to MTC
 - \$40M – *Water Reuse Project* Treat 2MGD of effluent for use by Valero Refinery. Applied to Clean Water State Revolving Fund (CWSRF)
 - \$2M - *WTP Ionic Exchange Water Pretreatment* to remove 70% organic carbon from City's raw water Applied to Safe Drinking Water State Revolving Fund (SDWSRF)

- One project to be applied for:
 - \$950,000 *Park Rd-Bay Ridge Trail Walk Way* Will apply to California Energy Commission.

Police

- Three projects to be applied for:
 - \$27,893 *Formula Allocation of Byrne Justice Assistance Grant*. Benicia must approve agreement with other cities in Solano County to apply for and receive funds. Applications due May 18, 2009.
 - \$10,000,000 *Police Building* – Funding source not yet identified. Would construct 28,000 foot building to house most police functions and offices.
 - *Additional Police Officers*. CHRP funding (COPS Hiring Recovery Program) added in ARRA can provide 3 years funding of salary and benefit costs for additional police officers. Application for funds must be done in consideration of full local funding obligations beginning year 4 and beyond. Number of officers to be requested under consideration.

Fire

- One project to be applied for:
 - *Remodel Station #12* – May be eligible for funding from FEMA fire grants program, specifically SAFER program. Application workshops scheduled around CA over next few weeks. Application deadlines not yet known.

Finance

- Two Transit projects to be applied for. Both projects will be included in the application submitted by the City of Vallejo to MTC for funding from

Transportation Improvement Program monies included in ARRA. Council adopted a resolution approving these project applications on March 17th.

- \$60,000 *Fueling Station Upgrade*
- \$72,000 *Bus Shelter Replacement*

Library

- One project to be applied for:
 - \$600,000 *Bottom Floor Build Out* may qualify for funding from Broadband Technology grants administered by National Telecommunications and Information Administration. Application deadlines not known yet.

Parks and Community Services

- Two projects to be applied for: Appropriate funding sources for *Benicia Community Center* (\$4,500,000) and *Commanding Officer's Quarters* (\$1,500,000) have not yet been identified.

Community Development

- Three projects have been applied for and a fourth is in process:
 - \$130,000 *Sky Valley Watershed Protection Plan* This project would create a water management plan for the Sky Valley Watershed to aide the control of non-point sources of pollution which can threaten the City's water supply. Total project costs are estimated at \$170,000, of which \$40,000 would be funded by the City and the balance of \$130,000 from the Clean Water State Revolving Fund (CWSRF)
 - \$1,978,175 *Removal of Marine Debris from Garkse Boatyard* The Department is also working with BCDC to collaborate with the Bay Conservation and Development Commission (BCDC) to submit an application for \$1,978,175 to remove all marine debris in the Southampton Bay, between West C and West D Streets in downtown Benicia, more commonly known as the "Garkse boatyard". This project would be funded by ARRA funds through the National Oceanic and Atmospheric Administration. Applications are due not later than April 6, 2009.
 - \$360,000 *Enhanced Downtown Park-N-Ride* This project would modify current plans for these improvements, located adjacent to the City Park on Military West between First and Second streets, to include green design and construction techniques. Initial application has been submitted to ABAG, which will make formal application to CWSRF.
 - \$150,000 *Downtown Bay Trail Completion* This project would install a green Bay Trail segment at the Southampton Bay waterfront between

West C Street and East B Street, with potential to install additional amenities including landscaping, public benches, shoreline protection and permeable paving. Initial application has been submitted to ABAG, which will make formal application to CWSRF.

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Vice Mayor Campbell

Requested Council Meeting Date:

March 17, 2009 – Continued to April 7, 2009

Agenda Item Name:

Request to agendize the topic of alternate members for boards and commissions.

Vice Mayor Campbell is requesting that the City Council consider agendizing the topic of appointing alternate members for City boards and commissions in an effort to allow more people to participate in local government and increase the various commissions' flexibility when dealing with absences and recusals.

TOM CAMPBELL, D.D.S., M.S.D., M.A., M.B.A., J.D., ABO

164 EAST "H" STREET
BENICIA, CALIFORNIA 94510
TELEPHONE (707) 745-1994

2/25/09

Re: Proposed City Council Agenda Item

Councilman Ioakimedes and I have interviewed several very good applicants for various City committees and commissions. In an attempt to get some of these excellent applicants involved in City government who weren't chosen for a committee or commission I would like to propose we add an alternate member position to several of the commissions. This would allow more people to participate in local government and increase the various commissions flexibility when dealing with absences or recusals.

Sincerely yours



Tom Campbell

**AGENDA ITEM
CITY COUNCIL MEETING APRIL 7, 2009
CONSENT CALENDAR**

DATE : March 24, 2009
TO : City Manager
FROM : Darrell Dearborn
SUBJECT : **APPROVAL OF JOINT AGREEMENT FOR RECEIPT OF NSP
GRANT FUNDS**

RECOMMENDATION:

It is recommended that the City Council approve a Joint Agreement as required by the State of California for receipt of the City's grant allocation of Neighborhood Stabilization Program (NSP) funds, and authorize the City Manager to execute it on behalf of the City.

EXECUTIVE SUMMARY:

Benicia is eligible to receive approximately \$198,552 in federal funds to mitigate the impacts of abandoned and foreclosed properties. These funds would be made available from the State Housing and Community Development Department through its amended HUD Annual Plan Update of the 2005-2110 Consolidated Plan as allowed by federal legislation, referred to as Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes, or the Neighborhood Stabilization Program (NSP).

The City is required to execute a Joint Agreement with Solano County and three other cities in the County to receive this funding.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

□ **1:00 PROTECT COMMUNITY AND ENVIRONMENTAL HEALTH AND SAFETY**

1.30 Strategy: Protect neighborhoods from risks to health and safety

BACKGROUND:

The State requires that NSP grant applications be for at least \$1,000,000. Jurisdictions receiving less than \$1,000,000 are required to join with other agencies through an agreement that allows the total of their separate allocations to meet this threshold in a single application. Accordingly,

Benicia would enter into a Joint Agreement with three smaller cities in Solano County including Rio Vista, Dixon and Suisun City, plus the County for its unincorporated areas, in order to receive its allocation. Vacaville has offered to act lead agency for the recipient jurisdictions, which will involve receiving and distributing funds allocated under the Agreement and performing other administrative tasks required by the State. The total funds available for these five jurisdictions is \$1,902,442.

The City's total allocation of \$198,552 would fund administrative costs of 5% retained by the State and an additional 2% that Vacaville would retain for its services to prepare and administer the Agreement. The net amount available for direct City services would be approximately \$186,000.

ANALYSIS:

NSP funds are to be used to mitigate the impacts of foreclosed and abandoned homes in communities throughout the country. Eligible NSP activities include the following:

1. The establishment of financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low-, moderate-and middle income home buyers;
2. The purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;
3. The establishment of land banks for homes that have been foreclosed upon;
4. The demolition of blighted structures; and
5. The redevelopment of demolished or vacant properties.

The City is now limited in its capacity to undertake most of these activities. One eligible activity it could perform would be the demolition and clearance of residential properties it now owns, which might include the former Scout House at East 4th & East L Street and a house at 550 East G Street, to prepare these properties for future development. It does not, however, administer housing finance and redevelopment services that are contemplated in other NSP-eligible activities.

Most of the City's allocation would be best used through a funding agreement with another agency responsible for these kinds of housing programs. To that end we have had preliminary discussions with the Benicia Housing Authority regarding the Authority's use of the City's grant for NSP-eligible activities. The Authority's ability to use these funds may be limited to Section 8 clients who are seeking to purchase foreclosed homes. Staff will continue to work the Authority to determine if other activities are eligible.

In summary, Benicia may be eligible to receive approximately \$198,552 in federal funding through the State to mitigate foreclosed and abandoned homes. To receive these funds, the City will need to become party to a Joint Agreement with three other cities and Solano County. Staff is making every effort to identify feasible alternatives for using these funds, focusing now on

programs administered by the Benicia Housing Authority. If the Authority is able to use the City's allocation for eligible activities, staff will recommend an agreement between the City and the Authority for that purpose and present it for consideration at the time Council considers the JPA and formal application.