

**April 18, 2006
BENICIA CITY COUNCIL
CITY COUNCIL CHAMBERS
SPECIAL MEETING AGENDA**

April 18, 2006

6:00 P.M.

- **CALL TO ORDER:**
- **CONVENE OPEN SESSION:**
 - **ROLL CALL**
 - **PLEDGE OF ALLEGIANCE**
 - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **OPPORTUNITY FOR PUBLIC COMMENT:**
 - **WRITTEN**
 - **PUBLIC COMMENT**
- **CLOSED SESSION:**
 - **CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))
Agency negotiators: City Manager, Human Resources Director, Bill Avery of
Avery & Associates**
 - **Employee organizations: Benicia Dispatchers Association, Benicia
Police Officers Association, Benicia Public Service Employees
Association Unrepresented employees: Police Managers,
Professional/Confidential, Middle Management, Supervisory and Senior
Management**
 - **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision (a) of
Government Code Section 54956.9)
Name of case:**
 - **City of Benicia v. Benicia Harbor Corporation**
 - **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Significant
exposure to litigation pursuant to subdivision (b) of Section 54956.9)
Number of potential cases: 1**
- **ADJOURNMENT:**

**BENICIA CITY COUNCIL
CITY COUNCIL CHAMBERS
REGULAR MEETING AGENDA**

April 18, 2006

7:00 P.M.

- **CALL TO ORDER:**
- **CLOSED SESSION:**
 - **HELD PRIOR TO REGULAR MEETING AT 6:00 PM**
- **CONVENE OPEN SESSION:**
 - **ROLL CALL**
 - **PLEDGE OF ALLEGIANCE**

- REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC
- ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:
 - ANNOUNCEMENTS:
 - Announcement of action taken at Closed Session, if any.
 - Openings on Boards and Commissions:
 - Human Services Fund Board:
 - One unexpired term to June 30, 2008
 - One unexpired term to June 30, 2009
 - Three full terms to June 30, 2010
 - Benicia Housing Authority Board of Commissioners:
 - Two full terms to June 30, 2010
 - Economic Development Board:
 - Three full terms to June 30, 2010
 - Library Board of Trustees:
 - One full term to June 30, 2009
 - Parks, Recreation and Cemetery Commission:
 - One full term to July 30, 2010
 - Notification of change in dates for limiting water use
 - APPOINTMENTS:
 - Appointment to People Using Resources Efficiently (PURE) - Valero staff member
 - Guy Young
 - Appointment to Water Transit Authority Community Advisory Committee -Mayor Steve Messina
 - PRESENTATIONS:
 - Benicia Historical Museum
 - Ann Hansen, Benicia Historical Museum Board of Directors
 - Valero Property Tax Appeal Update
 - Marc Tonneson, Acting Assessor/Recorder, Solano County
 - PROCLAMATIONS:
 - Recognizing April 2006 as National Poetry Month
 - Recognizing April 2006 as Sexual Assault Awareness Month

Recognizing National Volunteer Week - Volunteer Police Program

- ADOPTION OF AGENDA:
- OPPORTUNITY FOR PUBLIC COMMENT:
 - WRITTEN
 - PUBLIC COMMENT
- CONSENT CALENDAR:
 - Approval of Minutes of April 4, 2006. (City Clerk)
 - Denial of the claims against the City by American Housing and Diane Baranik and referral to insurance carrier. (City Attorney)

American Housing owns an apartment building at 503 to 517 West J Street and

has submitted a claim for damage to their property as a result of flooding. The flooding was caused by a heavy amount of rain on New Year's Eve. The amount of the claim is \$5,101.

Ms. Baranik alleges she fell due to the condition of the sidewalk and fractured her ankle. The Public Works Department staff confirmed that there are no records of any sidewalk service requests for the offset, and the City did not apply the cement patch ramp. The amount of the claim is \$200,000.

Recommendation: Deny the claims against the City by American Housing and Diane Baranik.

- Denial of the claims against the City by Babot, Bond, Brandt, Cornwell, Dally, Hull, Johnson, Kenyon-Collins, Linderman, Marracino, Maxwell, Pruitt, Riedinger, Sharon, and Stevens and referral to insurance carrier. (City Attorney)

The above homeowners are all located in the Rancho Benicia Mobile Home Park located at 300 East H Street and have submitted individual claims for damage to their property as the result of flooding. The flooding was caused by a heavy amount of rain on New Year's Eve. The total amount of the claims for the Rancho Benicia Mobile Home Park is approximately \$48,512.

Recommendation: Deny the claims against the City by Mercedes Babot, Louise Bond, Jeri Brandt, Susan Cornwell, Stephen Dally, Nellie Grace Hull, Douglas and Susan Johnson, Sandra Kenyon-Collins, Margaret Linderman, William Marracino, Rosie Lee Maxwell, James Pruitt, Daniel and Laverne Riedinger, Norma Sharon, and Garry and Judy Stevens.

- Denial of claims against the City by Pollock, Ramos, Slaviero and Wapner and referral to insurance carrier. (City Attorney)

The above homeowners are all located on East E Street in the Marina condominiums and have submitted individual claims for damage to their property as the result of flooding. The flooding was caused by a heavy amount of rain on New Year's Eve. The total amount of the claims for the Marina condominiums is approximately \$23,500.

Recommendation: Deny the claims against the City by Johnnie Pollock, Jacqueline Ramos, Mariano Slaviero and Donna Wapner.

- Award of contracts for construction and construction management/engineering support services for the Water Distribution System Improvement Project. (Public Works Director)

The last major improvements to the water system occurred in 1989. Improvements are needed to satisfy new and anticipated drinking water

regulations; upgrade or replace outdated and aging equipment and facilities; and restore reliability and redundancy to the City's system. The required Water Treatment Plant improvements are currently underway. This project continues with the required improvements to the water distribution system. This includes the construction of a 3 million gallon treated water storage tank, appurtenant pump station, pipelines to connect the new reservoir and pump station to the distribution system, and upgrades to an existing pump station. Sufficient funds are available in the Water Fund reserves to cover the proposed costs as per the adopted 2005-07 City Budget.

Recommendation: Adopt two resolutions:

- **Accepting the bids for the Water Distribution System Project and awarding the construction contract to North Bay Construction of Petaluma, California, in the amount of \$5,984,800, and authorizing the City Manager to sign the contract on behalf of the City.**
- **Awarding a consultant agreement for construction management/engineering support services for the Water Distribution System Improvement Project with Camp Dresser & McKee, Inc. for a not-to-exceed cost of \$897,501, and authorizing the City Manager to sign the contract on behalf of the City.**
- **Approval of additional appraisal expenses for the Valero Refinery Assessment Appeal. (Finance Director)**

On October 11, 2002, the City of Benicia entered into an agreement with the County of Solano to equally share appraisal expenses for the Valero Refinery assessment appeal. The appraisal costs were originally estimated at \$400,000 and the City and County agreed to pay up to \$200,000 each. On September 6, 2005, the County increased the estimate to \$525,000 and the City agreed to pay an additional \$62,500. The County now anticipates spending a total of \$625,000 in appraisal costs and is requesting the City fund 50% or \$50,000. Staff recommends approving the contribution, as the City would face a financial hardship if the assessed value of the Valero Refinery is decreased.

Recommendation: Adopt the resolution authorizing the City Manager to amend the contract with the County of Solano and approving a General Fund budget adjustment of \$50,000 for FY 2005-06.

- **Support of state ballot measure to prevent diversions of Proposition 42 revenues. (Public Works Director)**

The City Council is being asked to adopt a resolution supporting the November 2006 state ballot measure for a constitutional amendment to prevent the Governor and Legislature from transferring future Proposition 42 gas tax revenues for non-transportation expenses. Benicia's share of Proposition 42 funding is \$136,000 per year.

Recommendation: Adopt the resolution supporting the state ballot measure for a constitutional amendment to prevent future state budget diversions of Proposition 42 revenues.

- Approve the new job description for the classification of Division Chief and establishing the salary range. (Fire Chief)

The current position of Assistant Fire Marshall has been vacated and a recruitment process will need to be developed and conducted. A new position of Division Chief has been developed to incorporate the increased responsibilities of this vacant position and will enhance the City's ability to attract quality applicants as well as reflecting the changing aspects of the position and needs of the Department. It is anticipated that savings realized by the current vacancy over a period of several months will cover the increased salary of the proposed position for the remaining budget cycle. An adjustment will be required and requested as part of the Department's 2007-09 Budget.

Recommendation: Adopt the resolution approving a new job description for a Division Chief and establishing the salary range.

- Approve the January 1, 2006 to June 30, 2006 amendments to the base salary in the Labor Agreements with the Senior Management Group, Middle Management Group, Benicia Dispatchers' Association and Benicia Public Services Employees' Association. (Human Resources Director)

Last year, in an effort to negotiate single year labor contracts/agreements with the City's nine (9) bargaining groups the City negotiated both implied and written agreements with the groups that if any of the groups were to receive a better economic package in salary then the remaining groups would be treated likewise. With the recent conclusion of negotiations with the Benicia Firefighters' Association the City Council directed all positions be brought to the average of the 2005 Salary Survey. The City met with the four groups mentioned above, and received agreement to move forward with these increases. The other two groups who are in the process of forming a union have requested the City wait until that process is concluded.

Recommendation: Adopt the resolution that approves the equity increases to positions in Senior Management, Middle Management, Benicia Dispatchers' Association and Benicia Public Services Employees' Association, which are below the 2005 salary survey average, retroactively to January 1, 2006.

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

- **PUBLIC HEARINGS:**

- **ACTION ITEMS:**

- Presentation of the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ending June 30, 2005 and recognition of previous year's Certificate of Achievement for Excellence in Financial Reporting. (Finance Director and

Audit & Finance Chairperson)

The City of Benicia receives an annual independent audit of its financial records and, upon completion, produces a CAFR. This year's audit was conducted under the direction of Maria Giannell, General Partner at Maze and Associates, and presented to the Audit and Finance Committee (AFC) for consideration on March 24, 2006. The previous year's CAFR received an Award of Excellence from the Government Finance Officer's Association of the United States and Canada.

Recommendation: Approve the CAFR for the Fiscal Year Ending June 30, 2005 and authorize staff to distribute the document to recipient agencies. The Audit and Finance Committee has reviewed the CAFR and recommends approval.

- Adoption of a general liability risk management program. (City Attorney)

The City is a member of the Association of Bay Area Government's general liability insurance pool. As part of the City's adoption of best practices for general liability risk management, it is recommended that the program goals be adopted formally by the City Council. By adopting this program and the sidewalk ordinance, the City will be entitled to a credit of \$5,000 to use towards risk management programs.

Recommendation: Adopt the resolution formalizing the City's general liability risk management program.

- Consideration of a new ordinance, pursuant to State law and a court decision, for maintenance and repair of sidewalks by amending the Municipal Code to incorporate State procedures and to require property owners to keep their sidewalks in good repair. (City Attorney)

This ordinance incorporates Streets and Highways Code procedures for requiring property owners to repair sidewalks. It also incorporates provisions recently approved by the Appellate Court to transfer liability for injuries to the public regarding sidewalk related accidents. This is in conformance with the City's existing procedures for claims for sidewalk injuries and the City's joint sidewalk program.

Recommendation: Introduce the proposed ordinance amending Title 12 (Streets, Sidewalks and Public Places) of the Benicia Municipal Code by adding a new Chapter 12.48 (Maintenance and Repair of Sidewalks).

- **INFORMATIONAL ITEMS:**

- Reports from City Manager.
- Council Member Committee Reports.
(Council Members serve on various internal and external committees on behalf of the City. Current agendas, minutes and meeting schedules, as available,

from these various committees are included in the agenda packet. Oral reports by Council Members are made only by exception.)

- **Mayors' Committee Meeting (Mayor Messina)**
Next Meeting Date: April 19, 2006
 - **Association of Bay Area Governments (ABAG) (Mayor Messina)**
Next Meeting Date: April 20, 2006
 - **Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes)**
Next Meeting Date: May 5, 2006
 - **League of California Cities (Mayor Messina)**
Next Meeting Date: May 17-18, 2006
 - **School District Liaison (Council Members Whitney and Hughes)**
Next Meeting Date: May 11, 2006
 - **Sky Valley Area Open Space (Council Members Patterson and Whitney)**
Next Meeting Date: May 3, 2006
 - **Solano EDC Board of Directors (Mayor Messina)**
Next Meeting Date: May 25, 2006
 - **Solano Transportation Authority (STA) (Mayor Messina)**
Next Meeting Date: May 10, 2006
 - **Solano Water Authority/Solano County Water Agency (Mayor Messina)**
Next Meeting Date: May 11, 2006
 - **Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes)**
Next Meeting Date: April 20, 2006
 - **Tri-City and County Regional Parks and Open Space (Council Member Whitney)**
Next Meeting Date: June 19, 2006
 - **Valero Community Advisory Panel (CAP) (Council Member Hughes)**
Next Meeting Date: June 22, 2006
 - **Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney)**
Next Meeting Date: April 26, 2006
 - **ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson)**
Next Meeting Date: To be determined.
- **COMMENTS FROM COUNCIL MEMBERS:**
 - **Request for consideration of negotiating leases with Boy Scouts & Girl Scouts for use of City-owned property. (Mayor Messina)**

Mayor Messina has requested that the City Council consider initiating negotiations for lease agreements with the Boy Scouts and Girl Scouts for the City-owned property situated at East 4th and L Streets.

Recommendation: Discuss and provide direction to staff, as needed.

- **ADJOURNMENT:**

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on agendized and nonagendized matters under public comment. Comments are limited to no more than 5 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 Diane O'Connell, 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.