

May 5, 2009 Regular Meeting  
BENICIA CITY COUNCIL  
REGULAR MEETING AGENDA  
City Council Chambers  
May 5, 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

Open Government Commission:

One unexpired term to November 30, 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:**

**C. PRESENTATIONS:**

1. Report from the Bay Area Air Quality Management District regarding the April 6, 2009

Valero sulfur release

2. [Report from the Open Government Commission](#)

**D. PROCLAMATIONS:**

1. [Peace Officers' Memorial Days & National Police Week](#)

2. [Water Awareness Month – May 2009](#)

3. [National Preservation Month – May 2009](#)

**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 April 21, 2009. \(City Clerk\)](#)

B. [City of Benicia Landscaping and Lighting District Fiscal Year 2009-10. \(Finance Director & Director of Parks & Community Services\)](#)

The City of Benicia Landscaping and Lighting District consists of five separate zones, with the largest being the residential zone. The other four zones are smaller commercial/industrial areas. Private properties within each zone are assessed annually to pay the cost to maintain landscaping along street rights of way, maintenance of open space areas and maintenance and energy costs of streetlights on a zone-by-zone basis. The total budget costs for fiscal year 2009-10 for all five zones is \$563,909.66. After the Reserve Fund credits are applied to the budgets, the balance to levy totals \$442,351.18.

Recommendation: City Council adopt the attached resolutions pertaining to the subject district:

1. Initiate Proceedings for the Annual Levy and Collection of Assessments for the City of Benicia Landscape and Lighting District, fiscal year 2009-10.
2. Preliminary approval of the Engineer's Report for the City of Benicia Landscaping and Lighting District, fiscal year 2009-10.
3. Intention to Order the Levy and Collection of Assessments Pursuant to the Landscaping and Lighting Act of 1972 and Therefore Setting a Public Hearing on June 02, 2009 for the City of Benicia Landscaping and Lighting District, fiscal year 2009-10.

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

VIII. PUBLIC HEARINGS:

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.

IX. ACTION ITEMS (7:55 P.M.):

A. [Recommendation of the sustainability working group to establish a commission. \(Community Development Director\)](#)

At the November 18, 2008 City Council meeting, the Council directed staff to assemble a working group to develop a recommendation regarding forming a community sustainability commission. The working group was to recommend the type of body (i.e., City commission, independent non-profit, or incorporate into an existing commission), the composition and

funding options. The working group has met three times over the last several months and is recommending a City commission with nine members. Representatives of the group will present the recommendation to Council.

Recommendation: Receive the presentation and recommendation of the sustainability working group.

**B. Review of reuse study for Commanding Officer's Quarters and direction regarding short-term use. (Parks & Community Services Director)**

Shortly after construction began to rehabilitate the Commanding Officer's Quarters, in June of 2008, the City Council directed staff to initiate a reuse study for the building and allocated \$25,000 to perform such work. On October 21, 2008, the City Council awarded the reuse study to Carey & Co., Inc. Beginning in January, staff and Carey & Co., Inc held series of public meetings and workshops to note and develop community input. Stemming from that public process, Carey & Co. Inc. in collaboration with Strategic Economics of Berkeley, California, developed comparative use studies and a feasibility analysis for tenancy at the Commanding Officer's Quarters. The result of that analysis is documented in the attached reuse study. The reuse study does not coalesce on a particular tenant, but rather narrows the scope on types of uses and would-be tenants. Staff is recommending a short-term use consisting of local non-profit / governmental meetings.

Recommendation: Review the Reuse Study, authored by Carey & Co., Inc., for the Commanding Officer's Quarters and provide guidance to staff regarding interim use of the building and a concerted search for a tenant(s).

**C. Extension of the medical marijuana dispensary and hookah lounge moratorium ordinance. (City Attorney)**

On March 30, the City Council adopted a moratorium on the establishment of medical marijuana dispensaries and hookah lounges. This was in response to an inquiry regarding opening a medical marijuana dispensary. The Benicia Municipal Code does not specifically regulate such dispensaries. Drafting a medical marijuana dispensary ordinance as well as an ordinance to regulate hookah lounges is on the City Attorney's work plan for the summer. The moratorium will allow the necessary research to be completed.

Recommendation: If desired, by a 4/5ths vote, extend the moratorium for an additional 22 months and 15 days to prevent the issuance of any permits or licenses for medical marijuana dispensaries and hookah lounges to allow research to be done.

**X. INFORMATIONAL ITEMS (9:55 P.M.):**

A. City Manager Reports

**XI. COUNCIL MEMBER REPORTS:**

**XII. ADJOURNMENT (10:00 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](http://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-C-2 Open Govt Presentation.pdf](#)

 [IV-D-1 Peace Officer Proclamation.pdf](#)

 [IV-D-2 Water Awareness Proclamation.pdf](#)

 [IV-D-3 Preservation Month Proclamation.pdf](#)

 [VII-A Minutes.pdf](#)

 [VII-B L&L District.pdf](#)

 [IX-A Sustainability Working Group.pdf](#)

 [IX-B Commandant's Reuse Study.pdf](#)

 [IX-C Medical Marijuana Ordinance.pdf](#)

**PRESENTATION FROM OPEN GOVERNMENT  
COMMISSION**

**REPORT FROM THE OPEN  
GOVERNMENT COMMISSION**

Introduction by Lois Requist, Chair of  
Open Government Commission

Presented by Open Government  
Commissioners

Claire McFadden and John Woods

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**FOCUS on Community  
Engagement Seminar**

- Presented by Common Sense, California  
and ABAG

- Presenters:

- Pete Peterson, Executive Director, Common  
Sense, California

- Ed Everett, Former City Manager Redwood  
City, California

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**Citizens v. Customers**

- Refer to residents as “citizens” rather than  
“customers”
- “Customer” suggests a “What are you going to do  
for me?” mentality
- “Citizen” is an interactive relationship where  
citizens also take an active participatory role in  
local government and implies they take some  
responsibility for city business

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### Civic Engagement

- Community Engagement can be a less expensive process than going to a ballot measure and having it fail.
- Distrust and Fear are major components within the political climate today.
- Staff and Council have to “let go”. It is not a process they can control.
- Council meetings are NOT about civic engagement. It is a business meeting for the city.

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### Civic Engagement SHOULD:

- Build a positive relationship with the public to generate trust
- Allow others to participate and take responsibility

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### Civic Engagement IS NOT:

- About selling a policy, program or idea
- About enlisting public support of a decision already made
- About gathering to complain!
- About just getting more people together
- About getting a more diverse group together to discuss the same topic

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## Community Engagement Logistics

- Staff greets each participant as they enter
- Use only round tables; No head table
- Always offer Food
- Purposely “mix people up” seating; try to avoid friends or family sitting together to encourage attendees meeting new people with the community
- Provide tent cards with a “Table Question;” an icebreaker that can be used to generate an initial discussion. Not necessarily a serious topic; just something to talk about and find common ground

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## Logistics cont'd.

- Interactive programming : focus upon doing instead of just presenting
- Regardless of how large a gathering you have, make the small group 4-8 people around a table to allow significant dialogue, allowing all the opportunity to speak and not allowing one person to dominate the discussion.

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## Helpful Ideas for Community Meetings or Workshops

- Staff (department heads) and Council should sit at the back of the room
- Public should be seated in small groups at round tables (4 to 8 maximum)
- Colored cards at each table for each department. When a group has a question relating to that specific department, they raise the appropriately colored card and that department head would go to that table to answer a questions relating to their department

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### Three Strategic Community Engagement Process Models

- **Public Education** suggests the issue is already framed, decisions made, and community “Workshops” are just to educate the public, not solicit their input. Public tends to mistrust this process, as it appears to be a foregone conclusion. At best, you will have public compliance; at worst, you may have an angry, or apathetic public who mistrusts the process altogether.

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- **Public Deliberation** suggests the issue has been framed, but no decision reached. The public engages in “choice work” by deliberating pros and cons of issue which has already been summarized by the city. At best, public knows they have been heard. However, if a decision is made contrary to their input, the public will again mistrust the process.

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- **Public Dialogue** suggests before the issue is framed, public and elected officials, etc. work together to frame the issue, deliberate and decide what the issues are. Ability to share power and information with your citizens and act on the information generated from the meetings, thus creating credibility for both. Decision making in this form at best is the trust and respect.

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**Benefits of Effective Public Involvement**

- More support for public decision that are made with such input
- More informed residents
- Enhanced faith and trust in government

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**Effective Flow in the Public Involvement Process**

1. Is this the Right Issue?
2. Do You have Time and Resources
3. Is Local Political Leadership on Board
4. Is there "History" That Needs Attention First?
5. How Will Talk Be linked to Action?

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**Effective Flow cont'd.**

6. Will Your Meeting Style Lead Your Process?
7. How Will Participants be Selected?
8. How Can You Achieve Greater Diversity in Participation?

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**Effective Flow cont'd.**

- 9. Are You Tackling the Real Disagreements?
- 10. Is There A Communication Plan?
- 11. Will You "Close the Circle" with Participants and the Community?
- 12. How Will You Learn from the Experience?

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**CLOSING REMARKS  
QUESTIONS**

Lois Requist, Open Government  
Commission Chair

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# PROCLAMATION

## IN RECOGNITION OF PEACE OFFICERS' MEMORIAL DAYS & NATIONAL POLICE WEEK

**WHEREAS**, Congress and the President of the United States have designated May 15, 2009 as Peace Officers' Memorial Day, and the week in which May 15th falls as National Police week and May 8, 2009 is California Peace Officers' Memorial Day; and

**WHEREAS**, Since 1892 in Solano County, 17 police officers gave the ultimate sacrifice while serving the citizens and community they were sworn to protect; and

**WHEREAS**, in commemoration of Police Memorial Week and Police Memorial Day, we pause to remember and pay solemn tribute to those officers who made the ultimate sacrifice in the performance of their duties and show appreciation to police officers across the United States who protect our communities; and

**WHEREAS**, members of the Benicia Police Department recognize their duty to serve the community by safeguarding life and property, by protecting the community against violence and disorder, and by ensuring the civil rights of all people, as they serve with pride and dignity.

**NOW, THEREFORE, BE IT RESOLVED THAT I**, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby proclaim May 8, 2009 as California Peace Officers' Memorial Day, May 15, 2009 as National Peace Officers' Memorial Day, and May 12 – May 16, 2009 as Police Week, and call upon all citizens to pay tribute to those heroic efforts of our fallen Peace Officers who have given the ultimate sacrifice while protecting their communities.

Elizabeth Patterson, Mayor  
May 5, 2009



**AGENDA ITEM  
CITY COUNCIL MEETING: MAY 5, 2009  
PROCLAMATION**

**DATE** : April 22, 2009  
**TO** : City Manager  
**FROM** : Director of Public Works   
**SUBJECT** : **WATER AWARENESS MONTH PROCLAMATION**

Schedule the attached proclamation recognizing and supporting May 2009 as Water Awareness Month.

**SUMMARY:**

This May marks the twenty-first anniversary of Water Awareness Month in California. The Water Awareness Campaign is a year-long effort by organizations throughout the State to heighten public awareness of water and the role water agencies and allied entities play in water conservation, management, supply, quality, and distribution. Like last year, this year's theme is "NICE SAVE, USE WATER WISELY!"

**BACKGROUND:**

We continue our efforts in public awareness and education through representation on the Urban Water Conservation Committee of the Solano County Water Agency and the implementation of the Benicia Water Education Program.

The water education program efforts include in-class educational presentations for Benicia fifth graders and field trips to Lake Herman and/or the Water Treatment Plant, maintaining a water conservation garden and interactive display at Discovery Kingdom Marine World, and the distribution of water conservation information and devices. For Water Awareness Month, exhibits displaying and providing water conservation information will be presented in the Benicia Library and the large bulletin board near the Commission Room. Also, the Public Works Department is offering a three-session class on water wise landscaping to be held on April 29, May 6, and May 13th.

The Water Awareness Campaign is a nonprofit venture administered through joint sponsorship by the Association of California Water Agencies, the California Farm Water Coalition, the California Water Association, and others. Campaign funding is obtained through voluntary contributions from water agencies, companies, cities, and counties interested in getting the water message to the public. These organizations unite under the campaign's umbrella to conduct individual activities and programs. The campaign focuses on the month of May each year with the observance of Water Awareness Month.



# PROCLAMATION

## WATER AWARENESS MONTH

MAY 2009

**WHEREAS**, the health of California's growing population and the welfare of our communities depend on a reliable, high quality water supply; and

**WHEREAS**, the State of California is now in its third consecutive year of drought; and

**WHEREAS**, in each year of the current drought, annual rainfall and the water content in the Sierra snowpack have been significantly below the amounts needed to fill California's reservoir system; and

**WHEREAS**, the Governor of California has declared a State Of Emergency due to the current drought and has requested urban water users to reduce individual water use; and

**WHEREAS**, local governments, water agencies, agriculture, industry, environmentalists and concerned citizens are working together to conserve and protect our valuable water resources;

**NOW, THEREFORE, BE IT RESOLVED THAT I**, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, hereby proclaim May 2009 as California Water Awareness Month and urge all citizens to join in supporting local water agencies and organizations in their effort to help Californians use water wisely.

Elizabeth Patterson, Mayor  
May 5, 2009



**IV-D-2-2**



# PROCLAMATION

## In Recognition of May as National Preservation Month

**WHEREAS**, historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

**WHEREAS**, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

**WHEREAS**, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

**WHEREAS**, Goal 3.1 of the Benicia General Plan is to "Maintain and enhance Benicia's historic character"; and

**WHEREAS**, Benicia is committed to preserving and enhancing its unique geographic and cultural inheritance; and

**WHEREAS**, "This Place Matters" is the theme for National Preservation Month 2009, cosponsored by the Benicia Historical Society and the National Trust for Historic Preservation.

**NOW, THEREFORE, BE IT RESOLVED THAT I**, Elizabeth Patterson, Mayor of the City of Benicia, do proclaim May 2009 as National Preservation Month, and call upon the people of Benicia to join their fellow citizens across the United States in recognizing and participating in this special observance.



Elizabeth Patterson, Mayor  
April 29, 2009

**IV-D-3-1**

MINUTES OF THE  
SPECIAL MEETING – CITY COUNCIL  
APRIL 21, 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, April 21, 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).

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN COMMENT:

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (Government Code Section §54956.9(c))/CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)  
Strip of West 10<sup>th</sup> Street right-of-way adjacent to 994 West K Street  
Negotiating parties: City Manager, City Attorney, Public Works Director
  
- B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)  
Excess Portion of Military West tight-of-way for the Military West Subdivision  
Negotiating parties: City Manager, City Attorney, Public Works Director

ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:31 p.m.

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
APRIL 21, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:10 p.m. on Tuesday, April 21, 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:

Anne Cardwell 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:

Announcement of actions taken in Closed Session:

Ms. McLaughlin announced the following actions taken during Closed Session:

- A. Council decided to say no to the proposal, as it did not meet their expectations or the spirit (strip of West 10<sup>th</sup> Street right of way adjacent to 994 West K Street).
- B. Council gave Staff direction to execute the sale of property (excess portion of Military West right of way for the Military West Subdivision).

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
- Open Government Commission:
  - One unexpired term to November 30, 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:

Acceptance of the report on current status of IT Panoche Facility:

Ms. Kitty Hammer, Mr. Bruce Clark, and Mr. Ray Leclerc, reviewed the staff report and a slide show presentation (copy on file).

Council discussed various issues and requested an annual report be presented to Council.

Final report of the Ad Hoc Subcommittee on Tourism

Mr. Duane Oliveira and Ms. Christina Strawbridge reviewed the final report of the Ad Hoc Subcommittee on Tourism.

Public Comment:

1. Alan Shore – Mr. Shore discussed suggested recommendations regarding tourism as stated in his memo to Council (copy on file).

Mayor Patterson asked Mr. Erickson to review the suggestions and make them part of a future discussion when the budget is discussed.

PROCLAMATIONS:

- Recognition of National Volunteer Week – April 19–25, 2009
- Recognition of Earth Day – April 22, 2009

ADOPTION OF AGENDA:

Mr. Erickson suggested Council move item IX-C up in the agenda and have it immediately follow item IX-A, as the two items are dependant upon each other.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the Agenda was adopted as amended, 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:

1. Sonia McNally – Ms. McNally discussed the nonprofit exchange student program that she represents from U. C. Berkeley. The group is in need of families to participate in the program. Interested parties should contact her at [soniamcnally@berkeley.edu](mailto:soniamcnally@berkeley.edu)
2. Bob Mutch – Mr. Mutch discussed the Citizens Corp Council.
3. Dan Clark – Mr. Clark encouraged citizens to attend the current production being put on by the Benicia Old Town Theatre Group.

4. Alan Shore – Mr. Shore discussed the ‘Adopt a Store’ program.
5. Nancy Martinez – Ms. Martinez invited everyone to attend Benicia Main Street’s Annual Farmer’s Market on 4/30/09. Benicia Main Street has become certified in the WIC Program at the Farmer’s Market. All farmers will participate in the WIC program.
6. Marilyn Bardet – Ms. Bardet discussed the air-monitoring workshop being put on by the Citizens Advisory Panel on 5/6/09.
7. Laurie Key – Ms. Key discussed a recent art show for the BMS Art Program. There was a silent auction and a walking art tour. It was very successful. There was participation from people outside Benicia. It increased tourism. It blended art, education, and business. They raised \$700 for the program.
8. Eric Martinez – Mr. Martinez discussed tourism in Benicia, and an upcoming article that he would be working on called ‘Spaces, Faces, and Places.’
9. Gene Daugherty – Mr. Daugherty discussed the need for volunteers on Earth Day to work in the Benicia Community Garden.
10. Susan Street – Ms. Street discussed the upcoming garden tour being hosted by the League of Women Voters.
11. Christina Strawbridge – Ms. Strawbridge praised Benicia Main Street for its efforts.
12. Vice Mayor Campbell – Vice Mayor Campbell praised various City employees (Mario Giuliani, Chris Tomasik, Rob Sousa, and Jim Erickson) for going out of their way in helping residents.

CONSENT CALENDAR:

Council pulled items VII-B, VII-C, VII-E, VII-F, and VII-H.

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

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

Noes: None

The Minutes of March 30, 2009 and April 7, 2009 were approved.

RESOLUTION 09-33 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A BILL OF SALE FOR THE SALE OF RETIRED POLICE SERVICES CANINE JET

RESOLUTION 09-34 - A RESOLUTION ACCEPTING THE UNTREATED WATER TRANSMISSION LINE REPAIR PROJECT AS COMPLETE, INCLUDING ONE CONTRACT CHANGE ORDER, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

ORDINANCE 09-09 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 6.36 (FERAL, WILD AND UNDOMESTICATED

ANIMALS) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Review of the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018 - continued from the April 7, 2009 City Council Meeting:

Council and Staff discussed having a section in the plan that promotes transit, and changes to the ridership since the changes to Route 78 (ridership was flat).

On motion of Council Member Ioakimedes, seconded by Council Member Schwartzman, Council approved the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018, on roll call by the following vote:

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

Noes: None

Consideration of awarding a contract for auditing services to Mayer Hoffman McCann P.C:

Vice Mayor Campbell recognized the savings that the Finance, Audit, and Budget Committee achieved for the City (\$50,000-\$60,000).

RESOLUTION 09-35 - A RESOLUTION AWARDDING A CONTRACT FOR AUDITING SERVICES TO MAYER HOFFMAN McCANN P.C.

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

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

Noes: None

Approval of temporary rental of classroom space by St. Dominic's School at Benicia Community Center:

Council and Staff discussed the final figures for the cost of labor and materials (\$7,500 - which will be split with St. Dominic's), safety assessment of the site (children will not be near the construction zone), and Staff's collaboration and partnership with the St. Dominic's.

RESOLUTION 09-36 - A RESOLUTION APPROVING THE RENTAL OF CLASSROOM SPACE AT BENICIA COMMUNITY CENTER TO ST. DOMINIC'S SCHOOL FOR USE AS A TEMPORARY KINDERGARTEN CLASSROOM FOR THE REMAINDER OF THE ACADEMIC YEAR, AND AUTHORIZING THE

DIRECTOR OF PARKS AND COMMUNITY SERVICES TO SIGN THE RENTAL AGREEMENT ON BEHALF OF THE CITY

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

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

Noes: None

Approval of change orders for construction drawings, LEED implementation, and award of LEED consultant contract and direction on interim/immediate use for Benicia

Community Center project:

Council and Staff discussed the cost of doing design and drawings, using some of the VIP funds to try and reduce the costs, Lighting and Landscaping Districts, using some of the VIP funds to help and get the Scouts into the new Community Center, making the Community Center as green as possible, having a cost analysis on the cost effectiveness of LEED, whether or not it delays the City's occupying the building, possibly attracting more money by 'greening up' the building, how the Good Neighbor Steering Committee intended the money to be used, various pots of money available for alternative energy, previous votes by Council to reduce greenhouse gasses, and finding a balance between the right thing to do environmentally and the right thing to do financially.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed a recent interview on YouTube regarding LEED certified hotels.

RESOLUTION 09-37 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, CONTRACT CHANGE ORDERS WITH NOLL & TAM ARCHITECTS AND PLANNERS FOR THE BENICIA COMMUNITY CENTER PROJECT, TRANSFERRING \$107,318 FROM THE PARK DEDICATION ACCOUNT TO THE BENICIA COMMUNITY CENTER TENANT IMPROVEMENT ACCOUNT FOR THE PURPOSE OF CONSTRUCTION DRAWINGS AND MAINTENANCE IMPROVEMENTS AND AUTHORIZING THE EXPENDITURE OF \$121,535 FROM THE VIP SETTLEMENT AGREEMENT FOR LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) REVIEW AND IMPLEMENTATION

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

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

Noes: Vice Mayor Campbell

RESOLUTION 09-38 - A RESOLUTION ACCEPTING THE PROPOSAL FOR LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) SERVICES FOR THE BENICIA COMMUNITY CENTER PROJECT, AWARDED THE LEED CONSULTANT CONTRACT TO GREENBANK ASSOCIATES OF PIEDMONT

CALIFORNIA IN THE AMOUNT OF \$37,050, AUTHORIZING THE APPROPRIATION OF \$37,050 FROM THE VIP SETTLEMENT AGREEMENT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSULTANT CONTRACT ON BEHALF OF THE CITY

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

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

Noes: Vice Mayor Campbell

Second reading of an amendment to the animal control ordinance related to animal keepers permit provisions:

Council and Staff discussed concerns regarding the appeals process and having the onus on the applicant to bring some recognized standards of animal husbandry so there is not a lot of debate regarding situations, bringing the issue back as a first reading of an ordinance, putting the above issue in the initial approval of the permit as opposed to the appeals section, working with recognized authorities and not having the applicant provide the standards, and the need for direction on when a hobby becomes a business.

ORDINANCE 09-10 - AN ORDINANCE AMENDING CHAPTER 6.44 (ANIMAL KEEPER PERMIT) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

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

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Recommendations of the Cultural Arts Commission Working Group:

Anne Cardwell, Administrative Services Director, reviewed the staff report.

Ms. Lee Wilder-Snyder, and Mr. Kimble Goodman, Cultural Arts Commission Working Group, reviewed the recommendations of the Cultural Arts Commission Working Group. They reviewed a PowerPoint presentation (copy on file).

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot spoke in support of the Benicia Arts and Culture Commission (BACC).

Mayor Patterson and Staff clarified that the direction would be to direct Staff to prepare an ordinance for establishing a commission and to be mindful of the timing of the ordinance as it would affect the City's budget.

Council Member Schwartzman discussed combining Arts, Cultural, and Tourism groups into one entity. There seemed to be a lot of overlap. He would like to hear a discussion with the groups on how they could all pull together into one group.

Council Member Ioakimedes disclosed expartè communications. He and Ms. Wilder Snyder discussed the makeup of the commission, whether non-resident participation would be allowed, assistance by City Staff to look into grants for the BACC, the current thriving Arts community (without having a commission), and taking the art talent to the next level.

Council Member Hughes and Ms. Wilder-Snyder discussed the desire for more specifics on the business case in the report, and what the commission could do for the community.

Mayor Patterson disclosed expartè communications. She discussed the need for a stand-alone working group, the issue of grant writing, the budget for the proposed commission, and how other cities handle their commissions.

Council Member Ioakimedes discussed past experience with commissions, and the need to be mindful of starting off in the right direction.

Council Member Schwartzman discussed the need for due diligence in discussing combining the two entities (arts/culture/tourism).

On motion of Vice Mayor Campbell, seconded by Mayor Patterson, Council directed Staff to prepare an ordinance establishing the Benicia Arts and Culture Commission, on roll call by the following vote:

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

Noes: Council Member Schwartzman

Mayor Patterson called for an 8-minute break at 9:59 p.m.

The meeting resumed at 10:10 p.m.

Approval of an untreated water delivery agreement with Valero Refining Company – California:

Jim Erickson, City Manager, discussed the new draft letter of agreement that was submitted to Council dated 4/21/09 (copy on file). Staff referenced item #3 in the letter and asked that there be rent on that money over a 12-month period.

Chris Tomasik, Assistant Director & Utilities Manager, reviewed the staff report.

Council Member Hughes and Staff discussed the interest rate.

Vice Mayor Campbell and Staff discussed the interfund transfer of funds, the \$2 million in VIP funds the City would receive from Valero, not confusing the VIP funds with the water agreement transfer, and how the payments to and from Valero would be handled,

Council Member Schwartzman discussed the current cost of paying Valero back for the property taxes.

Council Member Hughes discussed the money the City would be saving by paying off the property tax debt.

Council Member Schwartzman and Staff discussed Valero's ability to resell untreated water, and the cost of periodic testing of City equipment.

Vice Mayor Campbell, Mayor Patterson, and Staff discussed the draft letter dated 4/21/09, the fact that the new water rates would reflect the cost of water, the fact that it is no longer uninterruptable water, and Valero contributing to the City's reserves for any future water operations the City chooses to do.

Council verified the motion was to approve the resolution contingent upon the final agreement with the City and Valero, and not less than 4.5% interest, and authorizing the City Manager to execute the letter agreement without coming back to Council. Staff would then bring the loan agreements back to Council at the next meeting.

Ms. McLaughlin clarified that the resolution would be adopting the resolution in the agenda packet, authorizing the City Manager to sign something substantially similar to the draft letter dated 4/21/09, with the provision of interest at a rate of not less than 4.5%, conditioned upon a signed letter from Valero.

RESOLUTION 09-39 - A RESOLUTION APPROVING AN UNTREATED WATER DELIVERY AGREEMENT WITH VALERO REFINING COMPANY – CALIFORNIA

On motion of Council Member Hughes, seconded by Council Member Schwartzman, 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

Approval of water purchase agreement with Solano Irrigation District Agreement:  
Chris Tomasik, Assistant Director & Utilities Manager, reviewed the staff report.

Council Member Schwartzman and Staff discussed funding.

RESOLUTION 09-40 - A RESOLUTION APPROVING THE SOLANO IRRIGATION DISTRICT/CITY OF BENICIA SOLANO PROJECT WATER ALLOTMENT TRANSFER AGREEMENT

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

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

Noes: None

Plan for initial expenditure of VIP Settlement Funds:

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

Chris Howe, Valero, acknowledged the projects proposed tonight were appropriate. There is more work to be done.

Mayor Patterson disclosed expartè communications.

Dana Dean, Good Neighbor Steering Committee, discussed modifying the Good Neighbor Steering Committee's agreement, and her request to revisit this in two weeks to discuss modifying the agreement with Valero.

Vice Mayor Campbell and Ms. Dean discussed the elementary school education program (puppeteers), and where the original money being spent came from.

Council Member Hughes and Ms. Dean discussed the ability for the City to decide what programs (within the parameters) it wanted to spend the funds on.

Ms. McLaughlin discussed the approval process for use of the funds.

Council and Staff discussed how the agreements with Valero and the Good Neighbor Steering Committee worked.

Council Member Ioakimedes disclosed expartè communications, the City's current economic status, and the need for a way for more citizen participation in the process.

Ms. Dean discussed how the committee originally intended the process to flow with community involvement, the need for this item to be discussed earlier in the agenda, and the need to move forward.

Council Member Schwartzman discussed the benefits of using puppets to get messages across and what was being done with #2 in the report.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed how the \$500 per resident could be handed out. He would like to see a sliding scale put in there.
2. Kathy Kerridge – Ms. Kerridge discussed the need for more public input on this issue and the possibility of involving the sustainability in the process.

Council verified the following list of expenditures per the staff report: #3 - Community Center LEED design (\$158,000), #4 - Hearthstone Solar Panels (\$30,000), #6 - Staff Support (\$75,000), #7 - School Programs (\$10,000 for elementary; \$40,000 SAGE Program at BHS).

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the above expenditures, on roll call by the following vote:

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

Noes: None

On motion of Council Member Schwartzman, seconded by Council Member Hughes, at 11:32 p.m., Council agreed to continue the meeting to hear item XI-A, on roll call by the following vote:

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

Noes: Mayor Patterson

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: May 20, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 23, 2009 – Spring General Assembly
3. Audit & Finance Committee – (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: May 8, 2009
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 15-16, 2009
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: May 13, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: May 14, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 23, 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 and Governing Board – May 11, 2009
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: May 6, 2009
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: April 22, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum – (Mayor Patterson) - Next Meeting Date: April 27, 2009

**COUNCIL MEMBER REPORTS:**

**Request to agendize review of 410 and 412 West K Street properties designation:**  
Council and Staff discussed whether this issue could be referred back to the HPRC.

**Public Comment:**

1. Phyllis Hartzell – Ms. Hartzell discussed the uniqueness of the properties at 410 and 412 West K Street. She requested Council consider this item on a future agenda. Homeowners within the district deserve the same consideration and protection for their properties.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council agreed to agendize the review of 410 and 412 West K Street properties designation at a future Council meeting, on roll call by the following vote:

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

Noes: None

**ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 11:35 p.m.

**AGENDA ITEM  
CITY COUNCIL MEETING: MAY 05, 2009  
CONSENT CALENDAR**

**DATE:** April 23, 2009

**TO:** City Manager

**FROM:** Finance Director  
Director of Parks and Community Services

**SUBJECT:** CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT  
FISCAL YEAR 2009-10

**RECOMMENDATION:**

City Council adopt the attached Resolutions pertaining to the subject district:

1. Initiate Proceedings for the Annual Levy and Collection of Assessments for the City of Benicia Landscape and Lighting District, fiscal year 2009-10.
2. Preliminary approval of the Engineer's Report for the City of Benicia Landscaping and Lighting District, fiscal year 2009-10.
3. Intention to Order the Levy and Collection of Assessments Pursuant to the Landscaping and Lighting Act of 1972 and Therefore Setting a Public Hearing on June 02, 2009 for the City of Benicia Landscaping and Lighting District, fiscal year 2009-10.

**EXECUTIVE SUMMARY:**

The City of Benicia Landscaping and Lighting District consists of five separate zones, with the largest being the residential zone. The other four zones are smaller commercial/industrial areas. Private properties within each zone are assessed annually to pay the cost to maintain landscaping along street rights of way, maintenance of open space areas and maintenance and energy costs of streetlights on a zone-by-zone basis. The total budget costs for fiscal year 2009-10 for all five zones is \$563,909.66. After the Reserve Fund credits are applied to the budgets, the balance to levy totals \$442,351.18.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity
  - Strategy 8.20: Measure and track service (i.e. financial) performance

## **BUDGET INFORMATION:**

The total budget costs for fiscal year 2009-10 for all five zones of the District is \$563,909.66. After the Reserve Fund credits are applied to the budgets the balance to levy is \$442,351.18.

## **BACKGROUND:**

The City of Benicia Landscaping and Lighting District consists of five separate zones with the largest being the residential zone. The other four zones are smaller commercial/industrial areas. Private properties within each zone are assessed annually to pay the cost to maintain landscaping along street rights of way, maintenance of open space areas and maintenance and energy costs of streetlights on a zone-by-zone basis.

The first Resolution initiates proceedings for the levy and collection of assessments for the fiscal year 2009-2010. The second Resolution gives preliminary approval to the attached Engineer's Report as required by the State of California Streets and Highways Code. The third Resolution sets a public hearing for June 02, 2009 for consideration of a Resolution to order the levy and collection of assessments for fiscal year 2009-10. The conclusion of the public hearing and adoption of the Resolution ordering the levy and collection of assessments for fiscal year 2009-10 on June 02, 2009 will complete the process for the coming fiscal year.

All costs for street lighting and for maintaining landscaping and irrigation systems, including administration expenses and incidental expenses associated with preparation of the annual report, are paid for by assessments levied against parcels within the District. Therefore, there are no budget impacts to the General Fund.

The residential zone rate is \$136.56 per year for each parcel. The rate for the smaller commercial/industrial zones vary based upon parcel size, as has been the case for the past several years. No additional or increased assessments will be levied within the District to fund improvements installed in fiscal year 2009-10.

### **Attachments:**

- Proposed Resolutions
  - Resolution 1
  - Resolution 2
  - Resolution 3
- Preliminary Engineer's Report

## **RESOLUTIONS**

**RESOLUTION NO. 09-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-2010**

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Benicia, California, as follows:

1. Previously, the City Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15, of the Streets and Highways Code of the State of California, conduct the proceedings for and did form the City of Benicia Landscaping and Lighting District ("District").
2. The public interest, convenience and necessity require, and it is the intention of this Council to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in said District, for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for Fiscal Year 2009-2010.
3. The improvements to be constructed or installed, including the maintenance or servicing, or both, thereof, are:
  - a) The maintenance or servicing of public landscaping including, but not limited to, trees, shrubs, grass, or other vegetation in curbed median islands of public streets, in landscaped strips or areas along and adjacent to public street areas, in public open space areas retained in their natural state, or in areas developed as public parks.
  - b) The maintenance or servicing, or both, thereof public lighting facilities and improvements including, but not limited to, standards, poles and luminaries and the cost of electric current or energy.
4. The costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said District, the exterior boundaries of which District are the composite and consolidated area as more particularly shown on a map thereof on file in the office of the Director of Public Works of the City of Benicia to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in said District and of any zone thereof and shall govern for all details as to the extent of the assessment district.
5. The Engineer of Work shall be Willdan Financial Services and is hereby directed to prepare and file with the City Clerk a report, in writing, referring to the assessment district by its distinctive designation, specifying the fiscal year to which the report applies, and, with respect

to that year, presenting the following:

- a) Plans and specifications of the existing improvements and for proposed new improvements, if any, to be made within the district or within any zone thereof; and
- b) An estimate of the costs of said proposed new improvements, if any, to be made, the costs of maintenance or servicing, or both, thereof, and of any existing improvements, together with the incidental expenses in connection therewith; and
- c) A diagram showing the exterior boundaries of the district and of any zones within said district and the lines and dimensions of each lot or parcel of land within the district as such lot or parcel of land is shown on the County Assessor's map for the fiscal year to which the report applies, each of which lots or parcels of land shall be identified by a distinctive number or letter on said diagram; and
- d) A proposed assessment of the total amount of the estimated costs and expenses of the proposed new improvements, including the maintenance or servicing, or both, thereof, and of any existing improvements upon the several lots or parcels of land in said district in proportion to the estimated benefits to be received by such lots or parcels of land respectively from said improvements, including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto.

\*\*\*\*\*

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 5<sup>th</sup> day of May, 2009, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**RESOLUTION NO. 09-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA  
PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF  
BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-10**

**WHEREAS**, by previous Resolution, the City Council did adopt the Resolution describing improvements and directing preparation of Engineer's Report for Fiscal Year 2009-10 pursuant to the Landscaping and Lighting Act of 1972 for the City of Benicia Landscaping and Lighting District ("District") in said City and did refer the proposed improvements to the Engineer of Work, and did therein direct said Engineer of Work to prepare and file with the Clerk of said City a report, in writing, all as therein more particularly described, under and pursuant to the Landscaping and Lighting Act of 1972; and

**WHEREAS**, said Engineer of Work prepared and filed with the Clerk of said City a report in writing as called for in previous Resolution and under and pursuant to said Act, which report has been presented to this Council for consideration; and

**WHEREAS**, said Council has duly considered said report and each and every part thereof, and finds that each and every part of said report is sufficient, and that neither said report nor any part thereof should be modified in any respect.

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED AND ORDERED**, as follows:

1. That the Engineer's estimate of the itemized and total costs and expenses of maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and each of them are hereby preliminarily approved.
2. That the diagram showing the exterior boundaries of the District referred to and described in previous Resolution and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which the report applies, each of which lot or parcel of land has been given a separate number upon said diagram as contained in said report, be, and it is hereby, preliminarily approved.
3. That the proposed assessment of the total amount of the estimated costs and expenses of the proposed improvements upon the several lots or parcels of land in District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto, as contained in said report, be, and they are hereby, preliminarily approved.
4. That said report shall stand as the Engineer's Report for the purpose of all subsequent proceedings to be had pursuant to the previous Resolution.

\*\*\*\*\*

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 5<sup>th</sup> day of May, 2009 and adopted by the following vote:

Ayes:

Noes:

Absent:

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Elizabeth Patterson, Mayor

ATTEST:

---

Lisa Wolfe, City Clerk

RESOLUTION NO. 09-\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THEREFORE SETTING A PUBLIC HEARING ON JUNE 2, 2009 FISCAL YEAR 2009-10 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT**

WHEREAS, pursuant to the previous Resolution, describing improvements and directing preparation of Engineer's Report for Fiscal Year 2009-10 for City of Benicia Landscaping and Lighting District ("District"), adopted on May 5, 2009, by the City Council of said City pursuant to the Landscaping and Lighting Act of 1972, the City Engineer of said City has prepared and filed with the Clerk of this City the written report called for under said Act and by previous Resolution, which said report has been submitted and preliminarily approved by this Council in accordance with said Act.

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED AND ORDERED**, as follows:

1. In its opinion the public interest and convenience require, and it is the intention of the City Council to order, the levy and collection of assessments for fiscal year 2009-10 pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15, of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are:
  - a) The maintenance or servicing of public landscaping including, but not limited to, trees, shrubs, grass, or other vegetation in curbed median islands of public streets, in landscaped strips or areas along and adjacent to public street areas, in public open space areas retained in their natural state, or in areas developed as public parks.
  - b) The maintenance or servicing, or both, thereof public lighting facilities and improvements including, but not limited to, standards, poles and luminaries and the cost of electric current or energy.
2. The cost and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the District, the exterior boundaries of which District are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Director of Public Works of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the district and of any zone thereof and the general location of said District.
3. Said Engineer's Report prepared by the City Engineer of said City, preliminarily approved by the City Council by previous Resolution and on file with the Clerk of this City, is hereby referred to for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and

parcels of land within District.

4. Notice is hereby given that Tuesday, the 2nd day of June 2009, at 7:00 p.m. in the regular meeting place of the City Council, City Hall, 250 East "L" Street, Benicia, California, be and the same is hereby appointed and fixed as the time and place for a hearing by the City Council on the question of the levy and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written comments made or filed by any interested person at or before the conclusion of said hearing against any proposed assessment upon an assessable lot or parcel of land within the District, and when and where it will consider and finally act upon the Engineer's Report.

5. Prior to the conclusion of the hearing, any interested person may file a written protest with the Clerk, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection. A protest by a property owner shall contain a description sufficient to identify the property owned by such owner.

6. The Clerk of said City is hereby directed to give notice of said hearing by causing a copy of this Resolution to be published once in the Benicia Herald, a newspaper published and circulated in said City, and by conspicuously posting a copy thereof upon the official bulletin board customarily used by the City for the posting of notices, said posting and publication to be had and completed at least ten (10) days prior to the date of hearing specified herein.

7. The Public Works Department is hereby designated as the office to answer inquiries regarding any proceedings to be had herein, and may be contacted during regular office hours at City Hall, 250 East "L" Street, Benicia, California 94510, or by calling (707) 746-4240.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above Resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 5<sup>th</sup> day of May, 2009 and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**VII-B-9**

# **PRELIMINARY ENGINEERS REPORT**

**CITY OF BENICIA  
LANDSCAPING AND LIGHTING DISTRICT**

**ENGINEER'S REPORT  
FISCAL YEAR 2009/2010**



**INTENT MEETING: May 5, 2009  
PUBLIC HEARING: June 2, 2009**



<b>Corporate Office:</b>	<b>Office Locations:</b>	
27368 Via Industria Suite 110 Temecula, CA 92590 Tel: (951) 587-3500 Tel: (800) 755-6864 Fax: (951) 587-3510	Lancaster, CA Oakland, CA Sacramento, CA	Phoenix, AZ Orlando, FL Memphis, TN
<a href="http://www.willdan.com">www.willdan.com</a>		

**ENGINEER'S REPORT AFFIDAVIT**

**Establishment of Annual Rates and Charges for the:**

**City of Benicia**

**Landscaping and Lighting District**

City of Benicia

Solano County, State of California

This Report describes the District and all relevant zones therein, including the improvements, budget, parcels and assessments to be levied for Fiscal Year 2009/10 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Solano County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 23<sup>rd</sup> day of March, 2009

Willdan Financial Services  
Assessment Engineer  
On Behalf of the City of Benicia

By: Jim Malberg  
Jim Malberg, Project Manager  
District Administration Services

By: Richard Kopecky  
Richard Kopecky  
R. C. E. # 16742



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## I. OVERVIEW

### A. Introduction

The City of Benicia ("City") annually levies and collects special assessments in order to maintain the improvements within the City of Benicia Landscaping and Lighting District ("District"). The District was formed in the late 1970's and annual assessments are levied pursuant to the *Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code* ("1972 Act").

This Engineer's Report ("Report") describes the District, any annexations, or changes to the District including substantial changes to the District improvements, and the proposed assessments for fiscal year 2009/2010. The proposed assessments are based on the estimated cost to maintain the improvements that provide special benefits to properties within the District. The costs of improvements and the annual levy include all expenditures, deficits, surpluses, revenues, and reserves. Each parcel is assessed proportionately for only those improvements provided and for which the parcel receives special benefit based on an established method of apportionment.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessment Number by the County of Solano ("County") Assessor's Office. The County Auditor/Controller uses Assessment Numbers and specific Fund Numbers to identify on the tax roll, properties assessed for special district benefit assessments. The District also has a unique Assessment Number ("District Assessment No") used to identify each District parcel on the District Diagram.

Following consideration of public comments and written protests at a noticed public hearing, and review of the Report, the City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report, and confirmation of the assessments, the Council may order the levy and collection of assessments for fiscal year 2009/2010 pursuant to the 1972 Act. In such case, the assessment information will be submitted to the County Auditor/Controller, and included on the property tax roll for each benefiting parcel for fiscal year 2009/2010.

### B. Applicable Legislation

The District has been formed and is annually levied pursuant to the 1972 Act, beginning with Section 22500. The assessments and methods of apportionment described in this Report utilize commonly accepted assessment engineering practices and have been calculated and proportionately spread to each parcel based on the special benefits received.

#### *Compliance with the California Constitution*

All assessments described in this Report and approved by the City Council are prepared in accordance with the 1972 Act and are in compliance with the provisions of the California Constitution Article XIII D ("Article XIII D"), which was enacted with the passage of Proposition 218 in November 1996.

Pursuant to the Article XIID Section 5, certain existing assessments are exempt from the substantive and procedural requirements of Article XIID Section 4 and property owner balloting for the assessments is not required until such time that the assessments are increased. Specifically, Article XIID Section 5 (b) exempts:

*"Any assessment imposed pursuant to a petition signed by the person owning all of the parcels subject to the assessment at the time the assessment is initially imposed."*

The City has determined that all improvements and the annual assessments originally established for the District were part of the conditions of property development and approved by the original property owner (developer at the time of the District formation late 1970's). As such, pursuant to Article XIID Section 5(b), all the property owners approved the existing District assessments at the time the assessments were created (originally imposed pursuant to a 100% landowner petition). Therefore, the pre-existing assessment amount (the maximum assessment rate identified in this Report) is exempt from the procedural requirements of Article XIID Section 4.

#### ***Provisions of the 1972 Act (Improvements and Services)***

As generally defined, the improvements and the associated assessments for any district formed pursuant to the 1972 Act may include one or any combination of the following:

- 1) The installation or planting of landscaping.
- 2) The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- 3) The installation or construction of public lighting facilities, including, but not limited to streetlights and traffic signals.
- 4) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof; including but not limited to, grading, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- 5) The installation of park or recreational improvements including, but not limited to the following:
  - a) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.
  - b) Lights, playground equipment, play courts and public restrooms.
- 6) The maintenance or servicing, or both, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including, but not limited to:
  - a) Repair, removal, or replacement of all or any part of any improvements;
  - b) Grading, clearing, removal of debris, the installation, repair or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;

- c) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
  - d) The removal of trimmings, rubbish, debris, and other solid waste;
  - e) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.
  - f) Electric current or energy, gas, or other agent for the lighting or operation of any other improvements.
  - g) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- 7) The acquisition of land for park, recreational or open-space purposes, or the acquisition of any existing improvement otherwise authorized by the 1972 Act.
- 8) Incidental expenses associated with the improvements including, but not limited to:
- a) The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
  - b) The costs of printing, advertising, and the publishing, posting and mailing of notices;
  - c) Compensation payable to the County for collection of assessments;
  - d) Compensation of any engineer or attorney employed to render services;
  - e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements; and,
  - f) Costs associated with any elections held for the approval of a new or increased assessment.

## II. PLANS AND SPECIFICATIONS

The District provides for the continued installation, maintenance and servicing of landscaping within public parks and street landscaping and lighting improvements within the public right-of-ways which provide special benefit to parcels and properties within the District.

All improvements within the District are maintained and serviced on a regular basis. City staff will determine the frequency and specific maintenance operations required. The District assessments may fund all necessary utilities, operations, services, administration and maintenance costs associated with the improvements. The annual cost of providing the improvements within the District is spread among all benefiting parcels in proportion to the benefits received. The expenditures and assessments set forth in this report are based upon the City's estimate of the costs associated with the improvements including all labor, personnel, equipment, materials and administrative expenses. The park sites within the District are clearly a special benefit to the properties and property owners within the District. Because of the Park's size and location it provides no benefit to parcels outside the District or to the public at large and therefore, the entire cost of maintaining this park could be assessed to parcels within the District.

### A. Description of the District Zones and Improvements

The District is comprised of five benefit zones each receiving different degrees of benefit from the District improvements: Zone 1 - Residential; Zone 2 - Fleetside Industrial Park; Zone 3 - Goodyear Road; Zone 4 - East 2nd Street; and Zone 5 - Columbus Parkway.

The location, boundaries and general description of the improvements provided within the District are described below. The detail specifications and location of the improvements are on plans and maps on file with the Public Works department and by reference are made part of this Report.

#### **Zone 1 -Residential**

Zone 1 -Residential ("Zone 1") is comprised of 2,196 single-family residential parcels. Within this zone is a large portion of the Southampton area plus the areas known by their subdivision name including Hamann Hills, Benicia Terrace, Olive Branch Estates, Harbor View Knolls and Clos Duvall. It also includes the Southampton D-6 and D-7 subdivisions. Also within the boundaries of Zone 1 are parcels identified as publicly owned open space and parks and privately owned open space and sliver parcels that are deemed to be not assessable.

The Zone 1 improvements shall consist of: 1) maintenance and servicing of open space areas including discing, mowing and trash removal; 2)

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within public park sites with established landscaping, maintenance and servicing improvements including trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement, and other necessary maintenance programs; and 3) the servicing of electrical power for 304 streetlights for this zone.

### **Zone 2 -Fleetside Industrial Park**

Zone 2 -Fleetside Industrial Park ("Zone 2") is comprised of two industrial park subdivisions east of Interstate 680 in the eastern portion of the City. The two subdivisions are Fleetside Industrial Park and Drake Industrial Park. Also within the boundaries of Zone 2 are parcels identified as publicly owned wetland parcels that are deemed to be not assessable.

The Zone 2 improvements shall consist of: 1) the maintenance and servicing of landscaped strip areas along and adjacent to the public street areas including trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement, and other necessary maintenance programs; and 2) the servicing of electrical power for 33 streetlights for this zone.

### **Zone 3 -Goodyear Road**

Zone 3-Goodyear Road ("Zone 3") is comprised of four parcels totaling 37.01 acres in area located between Goodyear Road and Interstate 680 in the northeasterly corner of the City. The most southerly of the four parcels is 10.94 acres in area and is zoned "General Commercial". The three northerly parcels totaling 26.07 acres in area are zoned "Industrial Park."

The Zone 3 improvements shall consist of: 1) the maintenance and servicing of landscaped strip areas along and adjacent to the public street areas including trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement and other necessary maintenance programs; and 2) the servicing of electrical power for 10 streetlights for this zone.

### **Zone 4 -East 2<sup>nd</sup> Street**

Zone 4-East 2nd Street ("Zone 4") is comprised of five assessed parcels totaling 276.36 acres. The two southernmost parcels adjacent to East 2nd Street total 200.04 acres in area and are zoned "General Industrial." The two northernmost parcels totaling 76.32 acres are zoned "Industrial Park". Within the boundaries of this Zone are also three small City-owned parcels used for water system distribution and storage purposes. Also within the boundaries of Zone 4 are parcels identified as publicly owned reservoir/pump station parcels that are deemed to be not assessable.

The Zone 4 improvements shall consist of: 1) the maintenance and servicing of landscaped median areas in Rose Drive from East 2nd Street to 1,800 feet (0.34 miles), more or less, northwesterly of East 2nd Street, and in East 2nd Street from 4,800 feet (0.91 miles), more or less, southerly of Rose Drive to 1,950 feet (0.37 miles), more or less, northeasterly of Rose Drive, include trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement and other necessary maintenance programs; and 2) the servicing of electrical power for 78 streetlights for this zone.

#### **Zone 5 -Columbus Parkway**

Zone 5-Columbus Parkway ("Zone 5") is comprised of both commercial parcels, residential parcels and privately owned open space parcels. There are five assessed commercial parcels totaling 9.28 acres; there are 188 residential condominiums at the Cambridge Apartments and there are 50 new units on Assessment Parcel #1327. Also within the boundaries of Zone 5 are parcels identified as privately owned open space parcels that are deemed to be not assessable.

Zone 5 improvements shall consist of: 1) the maintenance and servicing of landscaped median areas along the public street areas and for a landscaped, Caltrans-owned parcel lying between Columbus Parkway and Interstate 780 southerly of Rose Drive, including trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement and other necessary maintenance programs; and 2) the servicing of electrical power for 15 streetlights for this zone.

#### **B. Changes or Modifications to the District**

Modifications to the District structure could include but are not limited to:

- Substantial changes or expansion of the improvements provided;
- Substantial changes in the service provided;
- Modifications or restructuring of the District or Zones including annexation or detachment of Zones or specific parcels;
- Revisions in the method of apportionment;
- Proposed new or increased assessments.

Some changes or modifications to the District would require the approval of the property owners within the District. No other changes or modifications to the District are proposed for fiscal year 2009/2010.

### III. METHOD OF APPORTIONMENT

#### A. General

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

*"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."*

The formula used for calculating assessments in the District therefore reflects the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on estimated benefit to each parcel.

In addition, pursuant to Article XIIIID Section 4:

*"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable and an agency shall separate the general benefits from the special benefits conferred on a parcel."*

#### B. Benefit Analysis

Each of the improvements and the associated costs has been carefully reviewed by the City and the corresponding assessments have been proportionately spread to each parcel based on special benefits received from the improvements. The installation of the improvements and approval of an annual assessment were part of the conditions of property development and approved by the original property owner (developer). As such, pursuant to Article XIIIID Section 5(b), all the property owners approved the maximum assessment amount identified in this Report at the time the assessment was created (originally imposed pursuant to a 100% landowner petition). Therefore the existing maximum assessment amount per Zone is not subject to the procedural requirements of Article XIIIID Section 4 (property owner ballot proceedings). Although the current assessment does not require additional property owner approval (unless increased), the improvements within the District clearly provide a special benefit to the parcels assessed and therefore, the existing assessments are in compliance with the substantive requirements of Article XIIIID Section 4.

**Special Benefits** — The method of apportionment (assessment methodology) is based on the premise that each of the assessed parcels within the District receives benefit from the improvements maintained and financed by annual assessments. Specifically, the assessments are for the maintenance of local street lighting and landscaped improvements installed as part of the original improvement. The desirability and security of properties within the District are enhanced by the presence of street lighting and well-maintained landscaping in close proximity to those properties.

The special benefits associated with the local landscaping improvements are specifically:

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties within the Zones providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, and dust and debris control.
- Increased sense of pride in ownership of property within the District resulting from well-maintained improvements associated with the properties.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the District through well-maintained surroundings and amenities including abatement of graffiti.
- Enhanced environmental quality of the parcels within the Zones by moderating temperatures, providing oxygenation and attenuating noise.

The special benefits of street lighting are the convenience, safety, and security of property, improvements, and goods. Specifically:

- Enhanced deterrence of crime and the aid to police protection.
- Increased nighttime safety on roads and highways.
- Improved ability of pedestrians and motorists to see.
- Improved ingress and egress to property.
- Reduced vandalism and other criminal acts and damage to improvements or property.
- Improved traffic circulation and reduced nighttime accidents and personal property loss.
- Increased promotion of business during nighttime hours in the case of commercial properties.

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All of the preceding special benefits contribute to a specific enhancement and desirability of each of the assessed parcels within the District.

**General Benefits** — The improvements associated with each Zone are a direct result of property development within the Zone and would otherwise not be required or necessary. Developers typically install landscape improvements to enhance the marketability and value of properties within the development and/or as conditions of development. In either case, the improvements are clearly installed for the benefit of the properties being developed and not for the benefit of surrounding properties.

Although many landscape improvements (by virtue of their location), may be visible to surrounding properties or to the public at large, any benefit to surrounding properties is incidental and cannot be considered a direct and special benefit to those properties. Therefore, it has been determined that the improvements within these Zones and the ongoing operation and maintenance of those improvements are clearly a direct and special benefit to properties within each respective District. Unless otherwise noted, these improvements provide no measurable general benefit to properties outside the Zone or to the public at large.

**Non-Assessable Properties** — Within the boundaries of Zones 1, 2, 4 and 5, there are several types of properties that are considered to receive no special benefit from the District improvements and are therefore not assessed. These parcels include: 1) Publicly owned parcels that are reserved as Public Open Space or are developed as City Parks for active recreation and are maintained and serviced by the District; 2) Publicly owned wetland parcels; 3) Certain Public Utility parcels; 4) Privately owned open space parcels; 5) Privately owned "sliver" parcels that have resulted from a lot line adjustment with an adjacent larger parcel. The adjacent larger parcel, of which these "sliver" parcels are a part, are assessed at the Residential Zone rate.

### **C. Assessment Methodology**

The special benefits received by each parcel within the Zone and each parcel's proportional annual assessment are calculated on the basis of a formula known as Equivalent Benefit Units. The Equivalent Benefit Unit (EBU) method of apportionment establishes a proportional benefit relationship between the various parcels within the District and the improvements provided by the District. The EBU assigned to each parcel utilizes a set formula and proportional weighting factors based on the land use and size of each parcel within the District as compared to other parcels within the District. The number of EBU's assigned to each parcel is calculated by multiplying an assigned benefit unit factor (based on land use) by the dwelling units for residential parcels and acreage for commercial parcels.

The benefit unit factors (proportional special benefit) to be applied to the various land use classifications are listed below.

<b>Single Family Residence</b>	<b>One (1.0) Benefit Unit Per Unit</b>
<b>Commercial Use</b>	<b>One (1.0) Benefit Unit Per Acre</b>

The annual cost of the Zone improvements to be levied (Balance to Levy) is divided by the total number of EBU's calculated for each Zone to establish the annual assessment rate (Levy per EBU) for the fiscal year. This formula is represented as follows:

$$\text{Balance to Levy} / \text{Total Number of EBU} = \text{Levy Per EBU}$$

The levy amount for each parcel is then calculated by multiplying the Levy per EBU (assessment rate) by the parcel's individual EBU calculated. The formula is represented as follows:

$$\text{Levy Per EBU} \times \text{Parcel EBU} = \text{Parcel Levy Amount}$$

#### **Zone 1 -Residential**

District Assessment No. 214 is owned by PacBell and is used for telephone switching facilities. This parcel is considered to receive no special benefit and is not assessed.

#### **Zone 2 -Fleetside Industrial Park**

District Assessment Nos. 1153 through 1159, were purchased by Caltrans to be converted to wetlands as mitigation for the Benicia-Martinez Bridge project. These parcels are not assessed per the County Secured Roll however; Caltrans has entered into an agreement with the City stating their intent to pay annual assessments on these parcels as a separate payment to the City.

#### **Zone 5 -Columbus Parkway**

Since the residential units also pay annual costs for maintenance of privately owned open space and for on-site lighting, costs were allocated at 47.6% for residential parcels and 52.4% for commercial parcels.

District Assessment Nos. 1329A, 1329B and 1329C totaling 3.67 acres are governed by Conditions, Covenants and Restrictions (CC&R's). Individual assessments were apportioned by allocating a portion of the total assessment for the total area of the three parcels by building square footage in accordance with provisions of said CC&R's.

#### IV. DISTRICT BUDGET

City of Benicia Landscape and Lighting District ZONE 1--RESIDENTIAL	
2009/2010	
Levy Components	Budget
<b>DIRECT COSTS</b>	
Maintenance and Servicing	\$260,545.00
Utilities (Electric Power for Street Lighting; Water for Irrigation)	88,200.00
Engineering and Incidental Expenses	15,500.00
Capital Outlay	0.00
<b>TOTAL DIRECT</b>	<b>\$364,245.00</b>
<b>ADMINISTRATION COSTS</b>	
Direct Administration	\$8,246.86
<b>TOTAL ADMIN</b>	<b>\$8,246.86</b>
<b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>	
<b>TOTAL DIRECT AND ADMIN COSTS</b>	<b>\$372,491.86</b>
Estimated Interest Earnings	(2,000.00)
Reserve Collection/(Transfer)	(70,606.10)
<b>TOTAL ADJUSTMENTS</b>	<b>(72,606.10)</b>
<b>Balance to Levy (Budgeted)</b>	<b>\$299,885.76</b>
<b>DISTRICT STATISTICS</b>	
Total Parcels	2,269
Total Parcels Levied	2,196
Total Residential Units	2,196.00
Proposed Levy per Benefit Unit	\$136.56
<b>FUND BALANCE INFORMATION</b>	
Projected Reserve Fund Balance as of July 1, 2009	\$146,760.00
Estimated Reserve Fund Adjustments	(70,606.10)
Estimated Interest Income 2009-10	2,000.00
Projected Reserve Fund Balance as of June 30, 2010	\$78,153.90

<b>City of Benicia</b> <b>Landscape and Lighting District</b> <b>ZONE 2--FLEETSIDE INDUSTRIAL PARK</b>	
2009/2010	
Levy Components	Budget
<b>DIRECT COSTS</b>	
Maintenance and Servicing	\$65,740.00
Utilities (Electric Power for Street Lighting; Water for Irrigation)	21,000.00
Engineering and Incidental Expenses	4,000.00
Capital Outlay	6,500.00
<b>TOTAL DIRECT</b>	<b>\$97,240.00</b>
<b>ADMINISTRATION COSTS</b>	
Direct Administration	\$2,603.28
<b>TOTAL ADMIN</b>	<b>\$2,603.28</b>
<b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>	
<b>TOTAL DIRECT AND ADMIN COSTS</b>	<b>\$99,843.28</b>
Estimated Income	(2,000.00)
Reserve Collection/(Transfer)	(3,178.64)
<b>TOTAL ADJUSTMENTS</b>	<b>(5,178.64)</b>
<b>Balance to Levy (Budgeted)</b>	<b>\$94,664.64</b>
<b>DISTRICT STATISTICS</b>	
Total Parcels	44
Total Parcels Levied	35
Total Acreage (includes 7 Caltrans parcels)	146.82
Proposed Levy per Acre	<b>\$644.767</b>
<b>FUND BALANCE INFORMATION</b>	
	\$142,455.0
Projected Reserve Fund Balance as of July 1, 2009	0
Estimated Reserve Fund Adjustments	(3,178.64)
Estimated Interest Income 2009-10	2,000.00
	<b>\$141,276.3</b>
Projected Reserve Fund Balance as of June 30, 2010	<b>6</b>

<b>City of Benicia            Landscape and Lighting District            ZONE 3--GOODYEAR ROAD</b>	
<b>2009/2010</b>	
<b>Levy Components</b>	<b>Budget</b>
<b>DIRECT COSTS</b>	
Maintenance and Servicing	\$3,120.00
Utilities (Electric Power for Street Lighting; Water for Irrigation)	2,980.00
Engineering and Incidental Expenses	830.00
Capital Outlay	4,500.00
<b>TOTAL DIRECT</b>	<b>\$11,430.00</b>
	<b>0</b>
<b>ADMINISTRATION COSTS</b>	
Direct Administration	\$110.00
<b>TOTAL ADMIN</b>	<b>\$110.00</b>
<b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>	
	<b>\$11,540.00</b>
<b>TOTAL DIRECT AND ADMIN COSTS</b>	<b>0</b>
Estimated Income	(500.00)
Reserve Collection/(Transfer)	(7,039.94)
<b>TOTAL ADJUSTMENTS</b>	<b>(7,539.94)</b>
<b>Balance to Levy (Budgeted)</b>	<b>\$4,000.06</b>
<b>DISTRICT STATISTICS</b>	
Total Parcels	4
Total Parcels Levied	4
Total Acreage	37.01
Proposed Levy per Acre	<b>\$108.08</b>
<b>FUND BALANCE INFORMATION</b>	
	<b>\$31,775.00</b>
Projected Reserve Fund Balance as of July 1, 2009	0
Estimated Reserve Fund Adjustments	(7,039.94)
Estimated Interest Income 2009-10	500.00
	<b>\$25,235.00</b>
Projected Reserve Fund Balance as of June 30, 2010	<b>6</b>

<b>City of Benicia Landscape and Lighting District ZONE 4--EAST 2ND STREET</b>	
<b>2009/2010</b>	
<b>Levy Components</b>	<b>Budget</b>
<b>DIRECT COSTS</b>	
	<b>\$19,675.0</b>
Maintenance and Servicing	0
Utilities (Electric Power for Street Lighting; Water for Irrigation)	13,100.00
Engineering and Incidental Expenses	1,660.00
Capital Outlay	0.00
	<b>\$34,435.0</b>
<b>TOTAL DIRECT</b>	<b>0</b>
<b>ADMINISTRATION COSTS</b>	
Direct Administration	\$770.02
<b>TOTAL ADMIN</b>	<b>\$770.02</b>
<b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>	
	<b>\$35,205.0</b>
<b>TOTAL DIRECT AND ADMIN COSTS</b>	<b>2</b>
Estimated Income	475.00
Reserve Collection/(Transfer)	(7,679.20)
<b>TOTAL ADJUSTMENTS</b>	<b>(7,204.20)</b>
	<b>\$28,000.8</b>
<b>Balance to Levy (Budgeted)</b>	<b>2</b>
<b>DISTRICT STATISTICS</b>	
Total Parcels	7
Total Parcels Levied	5
Total Acreage	276.36
Proposed Levy per Acre	<b>\$101.32</b>
<b>FUND BALANCE INFORMATION</b>	
	<b>\$23,380.0</b>
Projected Reserve Fund Balance as of July 1, 2009	0
Estimated Reserve Fund Adjustments	(7,679.20)
Estimated Interest Income 2009-10	475.00
	<b>\$16,175.8</b>
Projected Reserve Fund Balance as of June 30, 2010	<b>0</b>

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<b>City of Benicia</b> <b>Landscape and Lighting District</b> <b>ZONE 5--COLUMBUS PARKWAY</b>	
2009/2010	
Levy Components	Budget
<b>DIRECT COSTS</b>	
Maintenance and Servicing	\$14,865.00
Utilities (Electric Power for Street Lighting; Water for Irrigation)	2,870.00
Engineering and Incidental Expenses	1,660.00
Capital Outlay	25,000.00
<b>TOTAL DIRECT</b>	<b>\$44,395.00</b>
<b>ADMINISTRATION COSTS</b>	
Direct Administration	\$434.50
<b>TOTAL ADMIN</b>	<b>\$434.50</b>
<b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>	
<b>TOTAL DIRECT AND ADMIN COSTS</b>	<b>\$44,829.50</b>
Estimated Income	(1,000.00)
Reserve Collection/(Transfer)	(28,029.60)
<b>TOTAL ADJUSTMENTS</b>	<b>(29,029.60)</b>
<b>Balance to Levy (Budgeted)</b>	<b>\$15,799.90</b>
<b>DISTRICT STATISTICS</b>	
Total Parcels	209
Total Parcels Levied	196
<b>Commercial: (52.4%)</b>	
Total Acreage	12.85
Proposed Levy per Acre	\$645.00
<b>Residential: (47.6%)</b>	
Total Equivalent Benefit Units	188.00
Proposed Levy per Benefit Unit	\$40.00
<b>FUND BALANCE INFORMATION</b>	
Projected Reserve Fund Balance as of July 1, 2009	\$75,885.00
Estimated Reserve Fund Adjustments	(28,029.60)
Estimated Interest Income 2009-10	1,000.00
<b>Projected Reserve Fund Balance as of June 30, 2010</b>	<b>\$48,855.40</b>

**CITY OF BENICIA**  
**LANDSCAPING AND LIGHTING DISTRICT**

Fiscal Year 2009-10

Summary of Costs

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	TOTAL
	Residential	Fleetside Ind. Park	Goodyear Road	E. Second Street	Columbus Parkway	
<b>DIRECT COSTS</b>						
Cost of Maint. and Services	\$260,545.00	\$65,740.00	\$3,120.00	\$19,675.00	\$14,865.00	\$363,945.00
Cost of Utilities	\$88,200.00	\$21,000.00	\$2,980.00	\$13,100.00	\$2,870.00	\$128,150.00
Engr/Incidental Expenses	\$15,500.00	\$4,000.00	\$830.00	\$1,660.00	\$1,660.00	\$23,650.00
Capital Outlay	\$0.00	\$6,500.00	\$4,500.00	\$0.00	\$25,000.00	\$36,000.00
Administrative Exp. (Calculated at 2.75% of annual assessment)	\$8,246.86	\$2,603.28	\$110.00	\$770.02	\$434.50	\$12,164.66
<b>TOTAL DIRECT COSTS</b>	<b>372,491.86</b>	<b>\$99,943.28</b>	<b>\$11,540.00</b>	<b>\$35,205.02</b>	<b>\$44,829.50</b>	<b>\$553,909.66</b>

**FUND BALANCE INFORMATION**

Projected Reserve Fund						
Balance as of July 1, 2009	\$146,760.00	\$142,455.00	\$31,775.00	\$23,380.00	\$75,885.00	\$420,255.00
Estimated Reserve Fund						
Adjustments	(\$70,606.10)	(\$3,178.64)	(\$7,039.94)	(\$7,679.20)	(\$28,029.60)	(\$116,533.48)
Estimated Income 2009-10	\$2,000.00	\$2,000.00	\$500.00	\$475.00	\$1,000.00	\$5,975.00
Projected Reserve Fund						
Balance 6/30/2010	\$78,153.90	\$141,276.36	\$25,235.06	\$16,175.80	\$48,855.40	\$309,696.52
<b>BALANCE TO LEVY</b>	<b>\$299,885.76</b>	<b>\$94,664.64</b>	<b>\$4,000.06</b>	<b>\$28,000.82</b>	<b>\$15,799.90</b>	<b>\$442,351.18</b>

**VII-B-29**

## Appendix A - DISTRICT ASSESSMENT DIAGRAM

An Assessment District Diagram has been prepared for the District in the format required by the 1972 Act, and is on file with the City Clerk, and by reference is made part of this Report. The Assessment Diagram is available for inspection at the Office of the City Clerk, during normal business hours.

## Appendix B - 2009/2010 ASSESSMENT ROLL

Parcel identification, for each lot or parcel within the District, shall be the parcel as shown on the County Assessor's Map for the year in which this Report is prepared.

Non-assessable lots or parcels include land principally encumbered by public or utility rights-of-way and common areas. These parcels will not be assessed.

A listing of parcels assessed within the District, along with the proposed assessment amounts, is included on the following pages and has been identified as "Fiscal Year 2009/2010 Levy Roll".

**AGENDA ITEM  
CITY COUNCIL MEETING: MAY 5, 2009  
ACTION ITEMS**

**DATE** : April 21, 2009  
**TO** : City Manager  
**FROM** : Community Development Director  
**SUBJECT** : **RECOMMENDATION OF THE SUSTAINABILITY WORKING GROUP TO ESTABLISH A COMMISSION**

**RECOMMENDATION:**

Receive the presentation and recommendation of the sustainability working group.

**EXECUTIVE SUMMARY:**

At the November 18, 2008 City Council meeting, the Council directed staff to assemble a working group to develop a recommendation regarding forming a community sustainability commission. The working group was to recommend the type of body (i.e., City commission, independent non-profit, or incorporate into an existing commission), the composition and funding options. The working group has met three times over the last several months and is recommending a City commission with nine members. Representatives of the group will present the recommendation to Council.

**GENERAL PLAN:**

The General Plan's overarching goal is sustainability; specific Goals and Policies, include but is not limited to:

- Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety and quality of life
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses
  - Policy 2.36.3: Implement measures to reduce water consumption
  - Policy 2.36.4: Encourage public and private uses to minimize water use and to recycle processed water whenever and wherever feasible
- Goal 2.42: Enhance the recycling of solid waste
  - Policy 2.42.1: Strive to accomplish the mandated objectives of the California Integrated Waste Management Act

## **STRATEGIC PLAN:**

### Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect community and environmental health and safety
  - Strategy 1.10: Maintain air quality
- Goal 2.00: Strengthen the economy
  - Strategy 2.30: Facilitate and encourage sustainable development (providing substantial economic benefits while preserving Benicia's environment)
- Goal 5.00: Enhance community appearance
  - Strategy 5.10: Promote quality design in new construction and remodeling
- Goal 7.00: Build community collaboration

## **BUDGET INFORMATION:**

The estimated annual expenses of \$75,000 to staff the commission will be fully funded via the 2008 Valero Improvement Project (VIP) Settlement Agreement funds for the first year of the commission operations. Projects that the Commission undertakes could be eligible for additional VIP Settlement Agreement funds, Federal stimulus dollars and solicited grants. Little-to-no impact to the General Fund is anticipated.

Although funding for Year #1 has been approved by the City Council in the adoption of the "initial" VIP Settlement 2008 projects, subsequent year funding has yet to be considered.

The attached Summary of Expected Costs provides additional information.

## **BACKGROUND:**

On January 29, 2008 the City Council conducted a special meeting regarding FY 2007-09 Priorities, Board & Commissions. At this time, the Council gave direction to the City Manager to meet with the Mayor regarding a potential sustainability task force.

On April 1, 2008 discussions continued about the potential formation of a Sustainability Task Force.

On November 18, 2008, Kathy Kerridge and Gene Doherty made a presentation to the City Council regarding the possibility of forming a Sustainability Commission, consistent with the FY 07-09 City Strategic Plan. The presentation highlighted what is commonly referred to as the three Spheres of Sustainability – Economic, Environmental and Social Equity, and related them to City operations and functions. Sustainability in this context is defined as the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs.

The presentation outlined the three primary functions of such commission:

- **Function 1:** Facilitate public outreach and education with regards to community sustainability

- **Function 2:** Implementation and oversight of the Climate Action Plan
- **Function 3:** Allocation and distribution of the Valero Improvement Plan (VIP) Settlement Agreement water conservation funds

After receiving the presentation, the City Council directed staff to work with Ms. Kerridge and Mr. Doherty to form a working group to outline options for achieving these three functions, including but not limited to a new City commission. Other possible options included the formation of an independent non-profit entity and/or incorporating the primary functions into an existing Commission.

On December 18, 2008, the City Manager, Community Development Director, and Public Works Director met with Ms. Kerridge and Mr. Doherty to develop a course of action for following Council's direction on the formation of a working group. The consensus was to establish a group of community members to meet over the course of several months with the end result being a recommendation to the City Council in concert with the FY 09-11 Budget and Strategic Plan process.

On January 30, 2009, the City Manager sent a memorandum to community stakeholders inviting their participation in the working group. Ms. Kerridge and Mr. Doherty then organized a series of three public meetings (see attached agendas), with average attendance of 15 community members, including members of the Good Neighbor Steering Committee, who negotiated the VIP Settlement Agreement.

#### **SUMMARY:**

The Council charged the working group with recommending a type of Commission, the most appropriate composition, mission and scope. Following are the recommendations of the working group:

##### Type of Commission

After considering other options, such as utilizing the Planning Commission or forming a non-profit/independent entity, a new City commission with staff support was deemed by the working group to be the most appropriate vehicle for Climate Action Plan implementation and allocation and distribution of the water conservation funds associated with the VIP Settlement Agreement.

The working group determined that achieving success in the three primary areas would require a specific set of expertise among Commissioners, which could not be achieved if the functions were rolled into an existing Commission. The workload associated with its tasks was also projected to be too large for an existing commission to absorb.

At its March 24, 2009 meeting, the working group hosted Marie Chan from Sustainable Novato to discuss the nuances of establishing a non-profit environmental advocacy entity. The working group concluded that a nonprofit entity's effectiveness would be limited to achieving only Public Outreach because the dollar amounts associated with CAP implementation and VIP allocation involve too high of a monetary value (\$10 million +) to delegate to a newly formed nonprofit.

The working group determined that the most fiscally responsible course of action would be achieved via a City commission.

In the same discussion, the group recognized the importance of establishing a nonprofit entity at a future date to supplement the future Commission's public outreach, education and advocacy to the community.

#### Name of Commission

After discussing many options for names, the group agreed upon the City of Benicia Community Sustainability Commission.

#### Structure of Entity

The working group recommends that a 9-member commission be established with members appointed by the Mayor and confirmed by the Council, consistent with other City boards and commissions. The working group requests that total number of commissioners be reviewed and possibly expanded if circumstances warrant. Staff suggests that members serve four-year terms with no term limits with an initial staggering of terms. In addition, the working group recommends that the commission be made up of individuals who have expertise or demonstrated interest in the following areas:

- Water conservation
- Air quality
- Local and regional ecology
- Energy
- Transportation
- Land use/stewardship
- Waste management
- Merchant/community economics/finance
- Social justice
- Public relations

The working group also recommends that the Commission have nonvoting ex officio members from the Benicia Unified School District, Valero Refinery, and the Good Neighbor Steering Committee.

#### Mission

The City of Benicia Community Sustainability Commission exists to educate, advocate, provide oversight and implement integrated solutions that balance and reconcile economic, ecological, and social concerns that intend to result in the enhanced well being of all, both now and in the future.

#### Scope

The City of Benicia Community Sustainability Commission will:

- Serve as a clearinghouse to support Benicia's transition toward becoming a more sustained community
- Oversee implementation of the Benicia Climate Action Plan

- ❑ Oversee the distribution of funds for water conservation efforts, including allocated funds from the 2008 Valero Improvement Plan Settlement Agreement and from future funding sources allocated to support the efforts of making Benicia a more sustained community
- ❑ Establish metrics in the form of sustainability criteria to enable periodic and regular performance assessment
- ❑ Encourage and facilitate collaborative efforts guided by existing and forthcoming innovative programs, such as LEED-ND (Leadership in Energy and Environmental Design - Neighborhood Development)

### Funding

The working group acknowledges that during challenging fiscal times, it is difficult to consider adding a commission that will have associated costs and require additional staff time. However, in light of the Valero Improvement Plan (VIP) Settlement Agreement funding source, the working group anticipates little-to-no impact to the General Fund.

Projects that the Commission undertakes through implementing the Climate Action Plan and initiating water conservation projects will require additional funding, most of which will come from the VIP Settlement Agreement. Additional funds may become available through the American Recovery and Reinvestment Act (Federal stimulus package) for energy efficiency projects, or grants submitted on behalf of the City.

A summary of proposed costs is attached; new expenses would amount to approximately \$75,000 per fiscal year. The working group expects the full amount will be needed for start-up of the commission, but anticipates that the commission will explore opportunities for grants and donations that would eventually serve as a reliable funding source.

### Next Steps

Should Council approve the concepts presented in the working group's recommendations, staff will draft an appropriate enabling ordinance.

### Attachments:

- ❑ Recommendation from the Sustainability Commission/Committee Working Group
- ❑ Summary of expected costs for a Community Sustainability Commission
- ❑ January 30, 2009 Memorandum from City Manager to community stakeholders regarding the formation of a Sustainability Commission/Committee Proposal
- ❑ Working Group meeting agendas (February 24, 2009; March 10, 2009; March 24, 2009)
- ❑ Article: *Framework for Community Sustainability* (Rocky Mountain Institute, 2003)

**RECOMMENDATION OF THE  
SUSTAINABILITY COMMISSION/COMMITTEE  
WORKING GROUP**

RESOLUTION CREATING A COMMUNITY SUSTAINABILITY COMMISSION  
COMPOSED OF NINE (9) APPOINTEES  
REPRESENTING VARIOUS FIELDS OF EXPERTISE TO OVERSEE,  
GUIDE AND PROMOTE BENEFICIAL CITY-WIDE EFFORTS TOWARDS GREATER  
COMMUNITY SUSTAINABILITY

WHEREAS, the 1999 Benicia General Plan states that “community development and sustainability are at the heart of the goals developed in [the] General Plan”, AND the city has joined Local Governments for Sustainability (ICLEI), AND has declared climate change a concern of top priority, AND has joined the US Council of COOL Mayors, AND is finalizing a climate action plan; and

WHEREAS, implementing programs to fulfill the goals of the draft Climate Action Plan will require continuing and coordinated guidance, dedicated oversight and collaborative work involving city departments and the community; and; and

WHEREAS, the State of California has passed legislation (AB 32 Nunez – The Global Warming Solutions Act) which states that global warming, this “poses a serious threat to the economic well-being, public health, natural resources, and the environment of California”; and

WHEREAS, to support implementation of AB 32, the State of California has passed legislation (SB 375 Steinberg – Addressing Greenhouse Gas Emissions from the Transportation Sector via Regional Transportation Plans) to adopt regional greenhouse gas (GHG) reduction targets by 2010 for automobiles and light trucks, thereby challenging residents and commuters to re-evaluate their transportation choices and charging cities to fulfill GHG reduction targets; and

WHEREAS, the legislation (SB 375 Steinberg) also directs that by 2010-11, a sustainable community strategy (SCS) will be adopted that will change the approach to land use planning and direct incentive funding towards SCS-supportive efforts; and

WHEREAS, the State of California has passed legislation (AB 811 Levine) which provides municipalities with low interest loans to retrofit residential and commercial properties with energy efficient installations; and

WHEREAS, the Governor of California has proclaimed a State of Emergency Water Shortage because California is now in its third year of drought, AND it is anticipated that there will be a potentially chronic, continuing water shortage owing to climate change that is predicted to result in reduced snowpack in the Sierra Nevada, thus furthering the need for actions to increase water conservation efforts; and

WHEREAS, the San Francisco Bay Conservation and Development Commission (BCDC) in 2006 began to develop a strategic plan to evaluate and address consequences of a potential 3 foot sea level rise within 100 years, and yet the BCDC is now adapting their strategic plan for a potential 5 foot sea level rise based on the latest data indicating that the melting of glaciers and the Greenland and Antarctic ice sheets is occurring faster than expected, and

WHEREAS, the U.S. holds only 2% of world oil reserves yet consumes 25% of world oil production thus demonstrating an undue reliance on a shrinking resource; AND in 2004 the burning of fossil fuels in the U.S. resulted in the release of 5656.6 million metric tons of Carbon Dioxide and is considered one of the chief contributors of global warming; and

WHEREAS, Benicia's air quality is affected by local and regionally produced pollution, including emissions from businesses and industry, vehicle and ship traffic, and is found to be out of compliance with State and Federal standards for ozone containment; and

WHEREAS, effective solutions to ecological and environmental problems require the use of, and the acceptance of, engaging and empowering educational activities that favor working together to find integrated solutions; and

WHEREAS, sustainable funding is a credible and often an overlooked element of developing a healthy and responsible community empowerment infrastructure, for which new avenues of public, private and nonprofit funding are becoming more readily available for community solutions that demonstrate inclusive neighborhood empowerment; and

WHEREAS, Benicia intends to be an avid and engaged regional partner in the search for integrated sustainable solutions that reach across geographic boundaries; AND Benicia has a history of strong participation in the manufacturing, construction, operating and maintenance industries, and boasts an educated labor force that can fill and perform the jobs that will make up a green-tech and clean-tech economy; and

WHEREAS, becoming an ecologically sustainable city promotes local public health, community well-being, environmental protection and quality of life and contributes to similar regional benefits and social good; now therefore be it

RESOLVED: The City Council of the City of Benicia shall create a Community Sustainability Commission, whose mission shall be to educate, advocate, provide oversight and implement integrated solutions that balance and reconcile economic, ecological, and social concerns that intend to result in the enhanced well being of all, both now and in the future; and be it

FURTHER RESOLVED: The Commission will be comprised of nine (9) commissioners with expertise and/or demonstrated interest(s) in water conservation, air quality, local and regional ecology, energy, transportation, land use/stewardship, waste management, merchant/community economics/finance, social justice, or public relations; and the total number of commissioners may be reviewed and possibly expanded at the request of the Commission if later circumstances warrant it; and be it

FURTHER RESOLVED: The Commission will also have nonvoting ex officio members from the Benicia Unified School District, Valero, and the Good Neighbor Steering Committee; and be it

FURTHER RESOLVED: The Commission will oversee the implementation of the Benicia Climate Action Plan which includes the focus areas of Buildings and Energy Efficiency, Industrial and Commercial, Water and Wastewater, Solid Waste, Parks and Open Space, Transportation and Land Use, Energy Production and Distribution, Education and Public Outreach; and be it

FURTHER RESOLVED: The Commission will oversee the distribution of funds for water conservation efforts, including allocated funds from the 2008 Valero Improvement Plan Settlement Agreement and from future funding sources allocated to support the efforts of making Benicia a more sustained community; and be it

FURTHER RESOLVED: The Commission will establish metrics in the form of sustainability criteria, which will reflect the General Plan, scientific and industry best practices, and adhere to all State and Federal laws, to enable periodic and regular performance assessment and modification of programs initiated and to address future planning and development in the city under CEQA (the California Environmental Quality Act); and be it

FURTHER RESOLVED: The Commission will encourage and facilitate collaborative efforts guided by existing and forthcoming innovative programs, such as LEED-ND (Leadership in Energy and Environmental Design - Neighborhood Development), to guide Benicia's transition towards being a sustainable, economically vibrant, and green community; and be it

FURTHER RESOLVED: The Commission will therefore serve as principal local guide and clearing house to support Benicia's transition toward becoming a more sustained community, whereby, sustainability as measured by performance criteria and continuing community commitment will mean ensuring efficient and wise land use in perpetuity, manifesting adherence to ecological principles and enacting long-term interdependent economic and environmental goals—all of which reflect the fundamental premise that a community that thinks and acts responsibly with respect to environmental, social, and economic issues at the local level affects ever widening levels of awareness or "integration", for the benefit of the local community, neighboring regions, the country and the world.

## **SUMMARY OF EXPECTED COSTS**

**Community Sustainability Commission  
Summary of Expected Costs**

<b>Staff &amp; Other Expenses</b>	<b>FY 09-10 Cost</b>
<b>New Expenses:</b>	
Contract staff to assume current development workload	\$ 45,000
Senior Administrative Clerk (approximately 8 hours per week)	\$ 12,000
Intern	\$ 8,000
Administrative Budget (Printing, office supplies, etc.)	<u>\$ 10,000</u>
<b>Total:</b>	<b>\$75,000</b>

**Budget Assumptions:**

**Staffing:** It is expected that a Community Development Department staff person would assume the responsibilities associated with development and operations of the Community Sustainability Commission and implementation of the Climate Action Plan. This can be achieved with no impact to customer service by retaining a contract staff person to process development applications and by hiring a part-time intern to assist with implementation of Commission directives.

The Commission would require additional support services of 8 hours per week of a part-time Senior Administrative Clerk. It is anticipated that these hours would be added to the workload of an existing part-time staff person.

The Commission may require additional staff resources in the future, depending on actual workload.

**Administrative Budget:** This amount is estimated at \$10,000 to cover costs such as printing, outreach, materials and supplies likely necessary for administrative commission operations.

**JANUARY 30, 2009**  
**CITY MANAGER MEMORANDUM**  
**TO COMMUNITY STAKEHOLDERS**



City Manager's Office  
**MEMORANDUM**

**Date:** January 30, 2009  
**To:** Gene Doherty  
Kathy Kerridge  
Dana Dean  
Marilyn Bardet  
BUSD Representative  
Benicia Chamber of Commerce Representative  
Benicia Business Park Representative  
Benicia Business Park Association Representative  
Planning Commission Representative  
**From:** Jim Erickson  
**Re:** **Sustainability Commission/Committee Proposal**

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You are invited to take part with a small number of other Benicia residents and stakeholders in discussions directed by the Benicia City Council regarding possible formation of a committee or commission on Sustainability. The meeting will occur at 6:00 PM on February 24, 2009 in the Commission Room at the Benicia City Hall. Your input is needed to assure the City Council receives informed and representative views from the community. Please let us know if you will be able to attend this meeting by contacting Teri Davena in the City Managers Office at 707-746-4210 or [tdavena@ci.benicia.ca.us](mailto:tdavena@ci.benicia.ca.us).

**Background Information:**

On November 18, 2008 the Benicia City Council gave direction to City Staff to facilitate the establishment of a task force to explore and provide recommendations regarding establishing a City Committee or Commission on sustainability. Moving Benicia towards being a more Sustainable Community is a goal of the 1999 General Plan.

This direction followed a presentation by Benicia residents Kathy Kerridge and Gene Doherty which included concerns that significant environmental disruptions are occurring which will likely change global, national and state policies and regulations. Some of these policies and regulations will likely require a broader understanding of the causes and issues involved so that our community can make the best decisions possible to sustain our quality of life. The presentation included a request that Benicia create a new advisory group made up of experts and residents, to raise public awareness of the issues and decisions confronting us and to facilitate public discussion and action.

The November 18 presentation included background information, three recommendations for the responsibilities of the advisory group, and recommendations for appointment and implementation requirements. The three responsibilities are broadly referred to as: Education (for all residents and businesses), Climate Action Plan (CAP) implementation, and overseeing some aspects of the Valero Improvement Project (VIP) settlement. The background information included an approach to community development using the three Spheres of Sustainability (Environmental, Social and Economic) for framing the issues and developing sustainable solutions.

At the meeting to be held February 24th, the following subjects will be discussed:

1. City Council Direction
2. The concept of a sustainability committee or commission (purpose and responsibilities)
3. Overview of VIP Settlement Agreement and Climate Action Plan
4. Establishment of a task force for considering the proposal and drafting recommendations to City Council
5. Time table for completion of the assignment
6. Support and budget (if any) needed
7. Next steps

Thank you for considering working with us on this important issue. If you have any questions, please contact me at 746-4210 or [jerickson@ci.benicia.ca.us](mailto:jerickson@ci.benicia.ca.us) or Teri Davena per above.

## **WORKING GROUP MEETING AGENDAS**

Agenda – **February 24, 2009**  
 6:00pm to 8:00pm  
 Commission Room, Benicia City Hall

- Welcome
- City Council Direction
- Concept of a sustainability committee or commission (purpose and responsibilities)
- Overview of VIP Settlement Agreement and Climate Action Plan
- Establishment of a task force for considering the proposal and drafting recommendations to the City Council
- Time table for completion of the assignment
- Support and budget (if any) needed
- Next steps

<b>Meetings and Activities</b>		
Feb 24 6:00pm	<b>Sustainable Community Working Group, First Meeting</b> Benicia City Hall, Commission Room	
Mar 10 6:00pm	<b>Sustainable Community Working Group, Mission and Goals</b> Benicia City Hall, Commission Room	
Mar 12 7:00pm	<b>Benicia Climate Action Plan Overview</b> Benicia City Hall, City Council Chambers	Optional
Mar 13 11:00pm	<b>CA Energy Commission, webinar on Recovery Act</b> <a href="http://www.energy.ca.gov/recovery/meetings/">http://www.energy.ca.gov/recovery/meetings/</a>	Optional
Mar 24 6:00pm	<b>Sustainable Community Working Group, Guest Speakers</b> Benicia City Hall, Commission Room	
Mar 30 7:00pm	<b>Benicia Strategic Planning Workshop</b> Benicia Library, Dona Benicia Room	Encourage Attendance
Apr 21 7:00pm	<b>Benicia City Council, Resolution creating Commission</b> Benicia City Hall, City Council Chambers	Encourage Attendance
May/June	<b>Sustainable Community Commission, First Meeting</b>	

Agenda - **March 10, 2009**  
 6:00pm to 8:00pm  
 Commission Room, Benicia City Hall

- Welcome
- Discuss results of research
- Develop Sustainable Community Commission, Mission Statement, Composition and Implementation Plan
- Discuss Next Steps
- Next Meeting, March 24, 6:00pm to 8:00pm in Commission Room with guest speakers

<b>Meetings and Activities</b>		
Feb 24 6:00pm	<b>Sustainable Community Working Group, First Meeting</b> Benicia City Hall, Commission Room	
Mar 10 6:00pm	<b>Sustainable Community Working Group, Mission and Goals</b> Benicia City Hall, Commission Room	
Mar 12 7:00pm	<b>Benicia Climate Action Plan Overview</b> Benicia City Hall, City Council Chambers	Optional
Mar 13 11:00pm	<b>CA Energy Commission, webinar on Recovery Act</b> <a href="http://www.energy.ca.gov/recovery/meetings/">http://www.energy.ca.gov/recovery/meetings/</a>	Optional
Mar 24 6:00pm	<b>Sustainable Community Working Group, Guest Speakers</b> Benicia City Hall, Commission Room	
Mar 30 7:00pm	<b>Benicia Strategic Planning Workshop</b> Benicia Library, Dona Benicia Room	Encourage Attendance
Apr 21 7:00pm	<b>Benicia City Council, Resolution creating Commission</b> Benicia City Hall, City Council Chambers	Encourage Attendance
May/June	<b>Sustainable Community Commission, First Meeting</b>	

Agenda - **March 24, 2009**  
 6:00pm to 8:00pm  
 Commission Room, Benicia City Hall

- Welcome
- Guest speaker, Marie Chan from Sustainable Novato
- Finalize Mission Statement and composition of the Community Sustainability Commission
- Discuss and Plan Next Steps
- Announcements

<b>Meetings and Activities</b>		
Feb 24 6:00pm	<b>Sustainable Community Working Group, First Meeting</b> Benicia City Hall, Commission Room	
Mar 10 6:00pm	<b>Sustainable Community Working Group, Mission and Goals</b> Benicia City Hall, Commission Room	
Mar 12 7:00pm	<b>Benicia Climate Action Plan Overview</b> Benicia City Hall, City Council Chambers	
Mar 24 6:00pm	<b>Sustainable Community Working Group, Guest Speaker</b> Benicia City Hall, Commission Room	
Mar 30 7:00pm	<b>Benicia Strategic Planning Workshop</b> Benicia Library, Dona Benicia Room	Encourage Attendance
Apr 21 7:00pm	<b>Benicia City Council, Resolution creating Commission</b> Benicia City Hall, City Council Chambers	Encourage Attendance
Apr 22	Earth Day Event in the Evening?	Possible
May/June	<b>Sustainable Community Commission, First Meeting</b>	

**ARTICLE:**  
***FRAMEWORK FOR COMMUNITY  
SUSTAINABILITY***

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# Framework for Community Sustainability

## Ten Ingredients for Long-Term Success

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As part of an emerging and creative worldwide trend, decision-makers in a variety of communities are linking their local economy, their community, and the environment. Instead of deciding which will prevail—economy, community, or environment—they understand that each is a leg supporting the stool of community success. They're seeking ways to strengthen all three. Sometimes these efforts toward sustainable communities start with elected leaders, sometimes with businesses, and sometimes with grassroots citizen advocacy. The strongest are built on support from all three sectors—public, private, and nonprofit.

A review of many of these efforts reveals ten ingredients of smart and sustainable governance, summarized below:

1. **Genuine collaboration** among leaders of all community sectors and people from all walks of life ensures better solutions informed by more perspectives, plus broad support for results. Proceeding through every stage of policy- and decision-making, collaboration is most effective when it evolves into a diverse coalition committed to the community's vision and plan.
2. Develop and publicize a community goals or **vision** statement that sets forth economic, environmental, and community goals. This statement provides guidance to leaders who are often pulled in conflicting directions by a wide range of opinions on many local issues. Eventually, businesses and nonprofit groups can mold their respective mission statements to make them compatible with the community's vision and plan.
3. Develop and publish **indicators of progress** toward each of the goals in the vision statement. Economic, environmental, and community indicators may include such wide-ranging issues as industry trends, water quality, newborn birth weight, and housing affordability. Indicators can become the method by which the community determines its progress toward sustainability. They can be the factual basis for important community decisions.
4. Develop and adopt **decision-making tools and methods** that ensure consideration of all elements of the vision statement, including the community, the economy and the environment—whether the decision is being made by public, private, or nonprofit sectors. These tools and methods benefit both decision-makers and the public. They make complex

issues easier to understand and they disclose the basis upon which decisions are made. They include intensive workshops, matrices, criteria and indicators.

5. **Take Action:** In order to achieve the goals set forth in the vision statement, choose projects and programs that actively strengthen the local economy, nurture the community, and restore the environment. Collaboratively use the community's decision-making tools to select the projects. For a list of sustainable development projects and have worked in other communities, consult one of Rocky Mountain Institute's companion texts: "Building Community Prosperity" or "Grappling with Growth."

6. Foster **community entrepreneurship**: To implement many community projects, employ the business skills and tools of such organizations as co-operatives, community development corporations, land trusts, community stock corporations, development authorities, special purpose districts, and micro-credit lending institutions.

7. Organize a **business network** to share information, ideas, and techniques for more sustainable and successful business, to educate the public, and to influence local government to eliminate barriers to sustainable business practices.

8. Establish a community **sustainability plan** or better, integrate sustainability into your existing plans. A community, often supported by its local governments, can build on its vision by adopting specific objectives, action items, policies, guidelines, and regulations, all of which can take the form of a formal plan.

9. Employ **continuous learning**: Revisit major decisions and actions at predetermined dates following implementation. Central to the establishment of a learning community, this practice determines if actions achieve their intended objectives, and considers new actions based on this feedback. It minimizes unintended consequences. A community that has already identified indicators of sustainability has a sound basis for determining the effects of decisions, and for continuous internal feedback and improvement.

10. Foster **leadership and civic capacity**: Through training, events, and organizations, commit local resources to helping existing leaders understand new ideas and creative ways of making decisions. Also, nurture and train the next generation of leaders. And for creative advice and support, hire planners and managers who have experience with new ideas and rapid change.

Your community should not hesitate to take concrete action (#5) before all these pieces are in place. However, *long-term* success requires building community capacity. Therefore, develop the other listed ingredients in order to integrate sustainability into the fabric of community decision-making, and to achieve your community's full potential.

**AGENDA ITEM  
CITY COUNCIL MEETING: MAY 5, 2009  
ACTION ITEM**

**DATE** : April 24, 2009  
**TO** : City Manager  
**FROM** : Director of Parks and Community Services  
**SUBJECT** : **REVIEW OF REUSE STUDY FOR COMMANDING OFFICER'S  
QUARTERS AND DIRECTION REGARDING SHORT-TERM USE**

**RECOMMENDATION:**

Review the Reuse Study, authored by Carey & Co., Inc., for the Commanding Officer's Quarters and provide guidance to staff regarding interim use of the building and a concerted search for a tenant(s).

**EXECUTIVE SUMMARY:**

Shortly after construction began to rehabilitate the Commanding Officer's Quarters, in June of 2008, the City Council directed staff to initiate a reuse study for the building and allocated \$25,000 to perform such work. On October 21, 2008, the City Council awarded the reuse study to Carey & Co., Inc.

Beginning in January, staff and Carey & Co., Inc held series of public meetings and workshops to note and develop community input. Stemming from that public process, Carey & Co. Inc. in collaboration with Strategic Economics of Berkeley, California, developed comparative use studies and a feasibility analysis for tenancy at the Commanding Officer's Quarters. The result of that analysis is documented in the attached reuse study. The reuse study does not coalesce on a particular tenant, but rather narrows the scope on types of uses and would-be tenants. Staff is recommending a short-term use consisting of local non-profit / governmental meetings.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserve and Enhance City Assets and Infrastructure
  - Strategy 4.30: Maintain and enhance Benicia's historic character
- Goal 5.00: Enhance Community Appearance
  - Strategy 5.10: Promote quality design in new construction and remodeling
- Goal 9.00: Promote Arts, Culture, Continuous Learning and Historic Preservation
  - Strategy 9.20: Maintain and enhance Benicia's historic character

## **BUDGET INFORMATION:**

\$25,000 was allocated to the Commandant's Residence Improvements Account, number 047-9020-9255. The fee for the reuse study was \$24,935.

Looking forward to the upcoming budget development, an annual allocation of approximately \$50,000 to pay for ongoing maintenance and operations will be needed. In addition, a one time allocation of \$6,000 is required to purchase tables and chairs to facilitate public meetings at the Commanding Officer's Quarters.

## **BACKGROUND:**

On January 12, 2009 City staff, Charlie Duncan from Carey & Co., Inc., and representatives from Strategic Economics, facilitated a public workshop in the Council Chambers to solicit public input for reuse ideas for the Commanding Officer's Quarters. That initial workshop kicked off a series of public meetings. From January to mid February City staff made presentations to the Parks, Recreation and Cemetery Commission, Planning Commission, Historic Preservation and Review Commission, and Economic Development Board. In addition, staff also made presentations to the Benicia Rotary Club, Benicia Historical Society and most recently, to the Benicia Soroptimist Club. Capping the public process was a second public workshop held, on March 4<sup>th</sup>, to review the initial findings of the reuse study.

Throughout the public process there were some specific tenant suggestions but most comments were geared at general use concepts, such as a restaurant and/or bed and breakfast. However, the most prominent response was the desire that the Commanding Officer's Quarters become a destination location for both the Arsenal and City as a whole. In addition, the public was very clear in their desire that this residence be preserved, well maintained and that the landlord be conscience of any use that is predisposed to overstress the building's structure.

Armed with this community insight and under the context that a future tenant will have to supply the capital investment to make the building operational, and pay a rent at least sufficient to cover ongoing expenses, Carey & Co., Inc., moved forward to apply historic standards and feasibility constraints on the various types of uses. Some use options were deemed incompatible, such as off-site college classes and designer showcases, others uses were deemed more unlikely due to the current economic conditions and demographic changes, such as a bed and breakfast and restaurant, while still other uses were more suitable for a short-term or intermediate occupancy, such as office space. These uses and constraints are discussed in great detail in the reuse study and, as noted above, the study does not identify any specific use or tenant but rather a more narrowed tenancy focus and the employment of a short-term / mid-term / long-term matrix. In order to highlight the most salient points of the reuse study, Charlie Duncan from Carey & Co., Inc. will make a PowerPoint presentation to the City Council.

In evaluating the results of the reuse study and taking into consideration that additional funds are needed to make the building suitable for occupancy, such as tenant improvements and landscaping, staff is recommending a short-term approach to bridge the economic recession to an economic recovery. This approach "buys" us time and affords the City the opportunity to open

the building for limited use. To that end, staff is recommending a use consisting of local non-profit and governmental meetings, and small gatherings, administered by the Parks & Community Services Department. In the mean time, the Economic Development Division of the City Manager's Office, in collaboration with the Parks and Community Services Department, can begin facilitating the recruitment of a short term and, ultimately, long term tenant(s).

There are a handful of benefits of this recommended short-term use. First, it allows use and exposure to the building, which not only promotes the building but also provides public access. Next, the cost to employ such a use is relatively minimal, (approximately \$6,000 for tables and chairs). Furthermore, this use will not run afoul with efforts to find a tenant.

Conversely, the prospect of making the Commanding Officer's Quarters available for private use is more cumbersome. First and foremost the building is not equipped, literally, to host anything. There is no kitchen equipment, only two bathrooms and no furniture. These constraints limit the scope and size of any use. Furthermore, if the City were to invest resources to mitigate these constraints there is a likelihood that such an investment would be inconsistent with the final use. To avoid this predicament, staff is only recommending the use of local non-profits and governmental use. Presently, it is staff's estimation that this short-term use would be in practice for nine to eighteen months.

Upon Council direction and future allocation for furniture (tables and chairs), staff is prepared to move forward with administering the local non-profit / governmental use of the Commanding Officer's Quarters.

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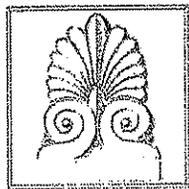
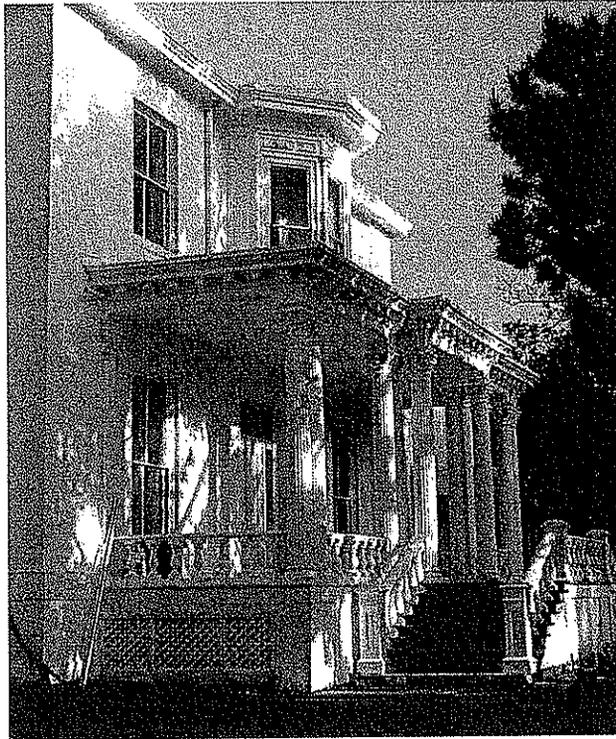
- Reuse Study – Carey & Co. Inc.

## Reuse Study – Carey & Co. Inc.

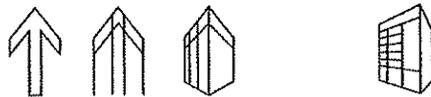
# Commanding Officer's Quarters Reuse Study

Benicia Arsenal  
City of Benicia

Final Report April 27, 2009



CAREY & CO. INC.  
ARCHITECTURE



STRATEGICECONOMICS

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## I. INTRODUCTION

This report evaluates the feasibility of potential uses for the Commanding Officer's Quarters based on input from the community process, Carey & Co. (the architect managing the historic rehabilitation of the building), and Strategic Economics' assessment of current and long range market feasibility.

- Section I discusses the Commanding Officer's Quarters historic uses, historical status, building description and the current rehabilitation project. It also addresses community goals for the site and lists the potential uses derived from the community workshop process.
- Section II summarizes current market conditions as applicable to the marketability of the Commanding Officer's Quarters.
- Section III discusses the process that City Staff and the Consultant team have used to evaluate the feasibility of each of the identified uses.
- Section IV describes strategies that the City and Community should pursue to help make the Arsenal a larger tourism district.
- Section V offers recommendations for a phasing strategy that the community could pursue for tenanting the Commanding Officer's Quarters.
- Section VI, is a concluding section, summarizing the main findings from this study.

We recommend that the City of Benicia should remain flexible in what are currently challenging economic conditions, and take into consideration short, mid, and long-term term strategies that can eventually position the Commanding Officer's Quarters to be home to a high-revenue tenant that fulfills the community's and the City's goals for the building. Therefore, in addition to evaluating the variety of uses identified by the City and community, this report describes other strategies that the City and community can pursue to achieve its long range goals for the Commanding Officer's Quarters and the Arsenal.

## HISTORIC USE

The Benicia Arsenal Commanding Officer's Quarters was built in 1860 by Julian McAllister, the commander of the installation between 1860 and 1885. The house is situated on a rise, to the west of the original ordinance storage building (Clock Tower Building). By contemporary accounts, McAllister was active in the social life of Benicia. Based on the social norms of the day, and given that McAllister was a leading citizen, it is likely that his residence served as a community focal point. Commanding Officers' Quarters were historically at the top of the residential hierarchy on any military post. They were the largest and most elaborately designed. They not only indicated rank, but were intended as places for hospitality. It is easy to imagine that the house accommodated military dress balls, afternoon teas, elaborate dinners, meetings of community leaders, holiday parties, or gatherings of staff officers. In the later years of McAllister's command, the house was altered on both the inside and exterior without change to its primary use as a residence.

By the turn of the twentieth century, from 1905 to 1911, Colonel James Walker Benet commanded the Arsenal. He lived in the residence with his family, including his young son Steven Vincent Benet, who was later famous for his writings.

Over the ensuing years, the residence served a succession of commanding officers and their families, while (to varying degrees) maintaining its status as a social center. In 1964, the Benicia Arsenal was closed by the U.S. Army, and ownership was conveyed to the City of Benicia.

In the 1970's the City leased the Commanding Officer's Quarters to a restaurant operator. The house served as a popular eating establishment and bar for a number of years, until 1981 when it was closed. During its period as a restaurant, the ground floor of the north wing suffered a kitchen fire. The house has been closed and unused for over twenty years. It is currently being rehabilitated for a new use, and construction is scheduled for completion in May of 2009.

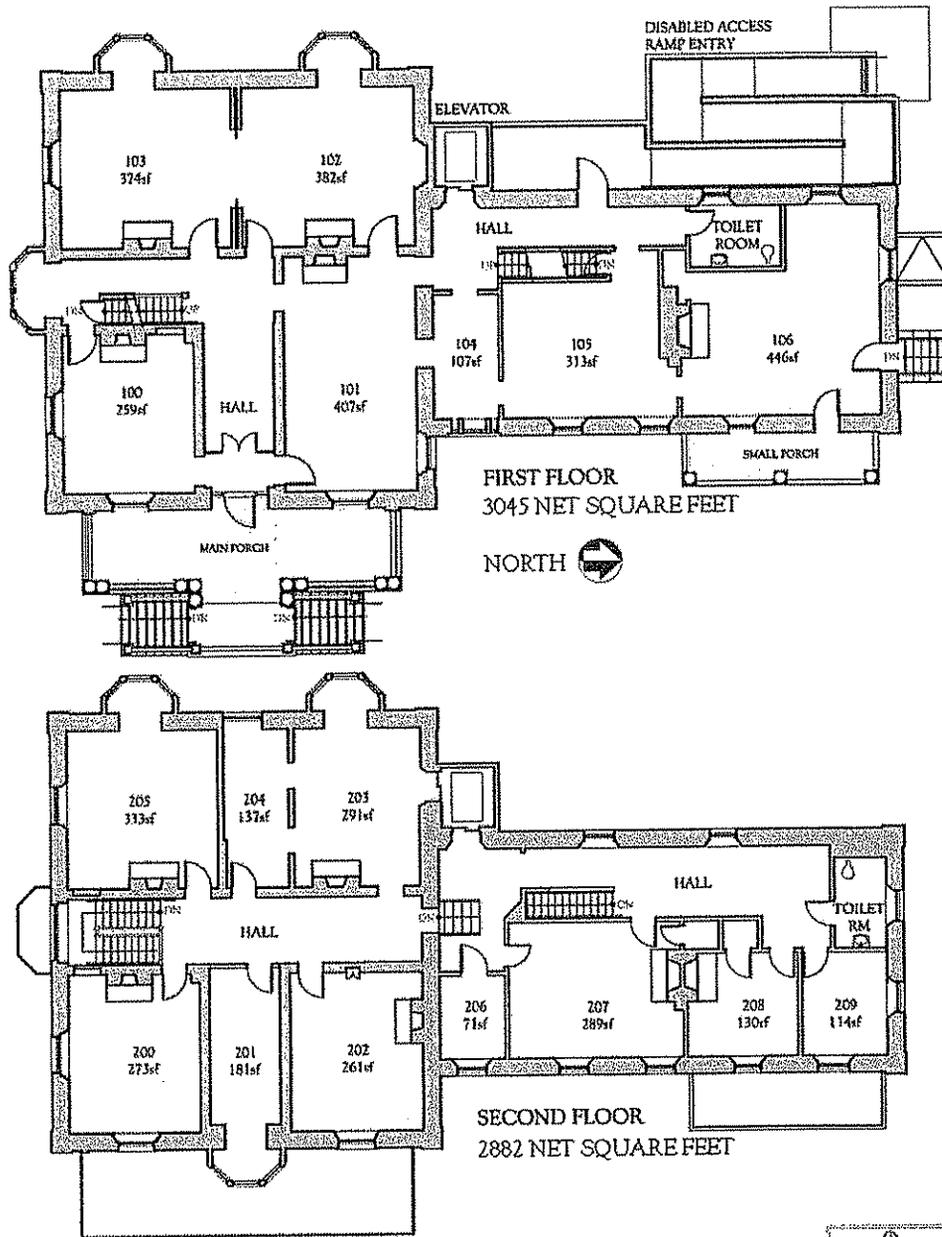
***Building Description***

The Commanding Officers Quarters is a two story brick, stucco clad structure, with a full basement. The main portion is square in plan and is made by four adjacent rooms connected by a common hall. The plan is similar on both floors, and an elaborate wooden stair gives access to the second floor. This section contains the finest finishes and details, and was likely the Commanding Officer's family side of the house. The main level is set approximately four feet above grade, and one enters the house on the west side by stairs leading to a Corinthian columned porch with an elaborate cornice. On three sides are floor to ceiling double hung windows as well as elaborately articulated wooden bays. Attached to the main square's north wall is a rectangular wing with a first floor level common with the main portion of the house. The second floor; however, is 3 feet below the main second floor, and connects to it by a stair. The plan of the wing is a linear series of rooms organized along a hallway on an outside wall. The finishes and detail in this section are simple, suggesting that this area served as staff accommodations and the kitchen. The wing also contains a small plain porch with no stair to grade. The net square foot tabulations are as follows:

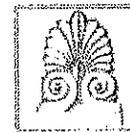
Basement.....	2,956 square feet (not occupied space)
First Floor.....	3,045 square feet
Second Floor.....	2,882 square feet
Total.....	8,883 square feet
Total First and Second Floors.....	5,927 square feet (for rent)

***Historical Status***

In November of 1976, the Benicia Arsenal was placed on the National Register of Historic Places as a district. The Commanding Officer's Quarters is a contributing structure to the district. As such, the California Environmental Quality Act requires the City of Benicia to use the Secretary's Standards for the Treatment of Historic Properties as a guide for the scope of construction projects as well as the selection of new uses and tenants. The Standards are intended to promote responsible preservation practices that help protect the historic character of our cultural resources.



COMMANDING OFFICER'S QUARTERS, BENICIA ARSENAL  
FIRST AND SECOND FLOOR PLANS



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### **Recent Construction**

All of the work for the recent repairs, was designed according to the "Rehabilitation" element of the Secretary's Standards, and was reviewed and approved by the State grant funder. The Secretary of the Interior defines rehabilitation as:

*"the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural value."*

For the past year, the Commanding Officer's Quarters has undergone rehabilitation with the intent of allowing the widest array of potential new uses within the context of the Secretary's Standards. Current upgrades included a new ramp, elevator and toilet rooms for disabled access. New building systems were installed including a new gas and electrical service, lighting, plumbing, heating and ventilation and security. The new seismic upgrades are all invisible, and included, adding shear panels to the roof, tying the roof and floors to the walls, and strengthening both interior and exterior brick walls. Weather related work included new roofing throughout, new rain-leaders, and repairs to cracked stucco. In addition, the historic building components such as the windows, floors, bays, porches and ornamental trim have been repaired by expert craftsmen. At the conclusion of the project the entire first and second floors will be disabled accessible and available for tenant use. The basement will be used only for storage because of head height restrictions, and is not considered as occupied space.

### **FISCAL SUSTAINABILITY – A KEY GOAL FOR THE CITY OF BENICIA**

While the City may have many goals for the Commanding Officer's Quarters, the most fundamental goal of the City is to tenant the building with a use that will generate enough revenue to cover the costs of operating and maintaining the building. The City has contributed \$2,725,868 to the rehabilitation of the building and received another \$900,000 in historic preservation grants. Given the fiscal constraints facing the City of Benicia's budget, the City would like to avoid a situation where the building requires ongoing subsidy from year to year. Therefore, absent any discussion of use, the City would like to attract a lease paying tenant to cover these costs. If the use of the building were not fiscally sound, there is the risk that the building could fall into disrepair and become unusable as happened in the past. A great deal of time and resources have gone into rehabilitating the Commanding Officer's Quarters for re-use. The City of Benicia wishes the building to be a permanent community asset.

### **SUMMARY OF COMMUNITY INPUT**

The Commanding Officer's Quarters has been under restoration without a pre-determined use, and the identification of a likely use(s) will help the community move forward with the final steps towards making the Commanding Officers Building a functional and occupied building once again. The City of Benicia held a total of seven workshops to solicit community input on the building and communicated the results of those workshops to the consultant team. As a part of this process, Carey & Co. and Strategic Economics attended a Stakeholder workshop on January 12<sup>th</sup>, 2009 to hear from community members what types of uses would be the most compatible with community identity and community goals for the building and the Arsenal. Carey & Co. conducted a community workshop on March 4, 2009 to communicate our preliminary findings to stakeholders and to solicit additional suggestions.

#### **Overall Community Goals**

During the public meetings, community members identified uses and events that they would find desirable for the Commanding Officer's Quarters. Additionally, an over-arching goal emerged from the

Carey & Co.  
Strategic Economics

public process: *Benicia citizens would like to leverage the Commanding Officer's Quarters, a unique architectural resource, to help make the Arsenal a regional historic destination.* Tenanting the building with a highly desirable use would give both local residents and tourists a reason to visit. Moreover, the right use could create synergy between the Commanding Officer's Quarters and other tourism generating features of the in the Arsenal. Community members identified both possible temporary and permanent uses for the building, which are listed below.

***Identified Permanent Uses for the Building***

Community members identified the following permanent uses as desirable for the Commanding Officer's Quarters:

- Restaurant/Bar—the main identified desirable permanent use
- Bed and Breakfast or other lodging
- Art Gallery
- Museum
- Office Space, Tourism Office
- University of California Extension Classes or other classroom space
- Small Conferences
- Day Spa

***Identified Temporary Uses for the Building***

In addition to the above, community members identified a number of short-term uses or events to take place in the building:

- Designer's Showcase
- Art Shows
- Theater Events
- Other Seasonal Events
- Weddings/ Parties

## II. SUMMARY OF EXISTING MARKET CONDITIONS

### DEMOGRAPHIC TRENDS

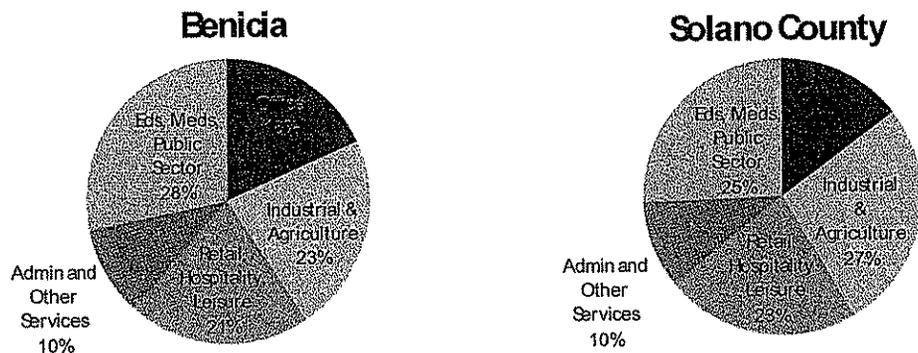
*Benicia has a small, slow growing population with higher incomes than the rest of Solano County.*

- Approximately 27,000 people live in the City of Benicia, which accounts for about 6 percent of the population of Solano County.
- Benicia is growing slower than Solano and Contra Costa Counties as a whole. The population of Benicia increased by 10 percent between 1990 and 2000, compared with 16 percent in Solano County and 18 percent in Contra Costa County. Between 2000 and 2008, the population of Benicia is estimated to have slightly increased by 134 persons (0.5 percent).<sup>1</sup> Occupied housing units increased during that period, but average household sizes decreased.
- Compared to the rest of Solano County, households in Benicia tend to be older and are less likely to be first-time homebuyers. The median age in Benicia is 40.7, compared to 35.4 in Solano County. Recent growth in the rest of the county was primarily driven by young households and first-time homebuyers seeking less expensive housing options.
- Benicia has a higher median household income than Solano and Contra Costa County. However, incomes in all three geographies have decreased since 2000. Incomes are not likely to increase over the next one to two years.

*Residents are closely tied to areas further to the south, especially the I-680 corridor in both Contra Costa and Solano Counties, for working, shopping, and entertainment.*

- The Benicia workforce is fairly similar to the workforce of the rest of the County, although Benicia residents are more likely to work in Office jobs or in Institutional jobs ( Education, Healthcare, Public Sector) than Solano County residents who are more likely to work in Industrial & Agriculture jobs as well as Retail, Hospitality & Leisure (Figure 1). These differences indicate Benicia's association with areas to the south.
- Compared to both counties, Benicia is a bedroom community to locations outside of Solano County: 44.2 percent work in their county of residence compared to 56.8 in Solano County and 57.6 in Contra Costa County (Table 1).

Figure 1: Profile of the Benicia and Solano County Workforce, 2006



Source: LEHD; Strategic Economics, 2009.

<sup>1</sup> Source: Claritas, Inc. demographic estimates.

Table 1: Demographic Trends in Benicia, Solano County, and Contra Costa County: 1990 to 2008

	City of Benicia		Solano County		Contra Costa County	
	1990	2008	1990	2008	1990	2008
<b>Population</b>						
Total Population	24,437	26,865	340,421	394,542	803,732	948,816
Households	9,208	10,328	113,429	130,403	300,288	344,129
Avg. Household Size	2.65	2.60	2.88	2.90	2.64	2.72
Median Household Income (2008 \$)	\$88,772	\$89,917	\$69,918	\$70,580	\$73,943	\$77,684
Median Age	-	38.90	-	33.90	-	36.40
<b>Housing Units</b>						
Total Housing Units	9,587	10,547	119,533	134,513	316,170	354,557
Occupied Housing Units	9,208	10,328	113,429	130,403	300,288	344,129
% Occupied Housing Units	96.0%	97.9%	94.9%	96.9%	95.0%	97.1%
% Owner-Occupied Units	70.1%	70.7%	62.7%	65.2%	67.6%	69.3%
% Renter-Occupied Units	29.9%	29.3%	37.3%	34.8%	32.4%	30.7%
<b>Employment</b>						
Share Working in County of Residence	42.8%	44.2%	61.4%	56.8%	59.8%	57.6%
Share Labor Force in Professional Occupations	-	45.7%	-	30.9%	-	41.0%

Sources: U.S. Census 1990, U.S. Census 2000, Claritas, Inc., Strategic Economics

## EXISTING MARKET CONDITIONS BY LAND USE

### Office

While Downtown Benicia is the most desirable location for many of Benicia's professional service office tenants, the Arsenal contains a significant proportion of the total office space in Benicia. Brokers report that rents in the Arsenal range from \$1.00 to \$1.40 per square foot and that the vacancy rate is very low. However, brokers also report that office space in the Arsenal absorbs at a relatively slow pace. Although access to the Arsenal is not ideal for office users, they are drawn to the unique architecture and quiet atmosphere. Furthermore, since rents on First Street can be upwards of \$2.00, the Arsenal offers office users a less expensive option. Lastly, interviews with brokers suggest that it is unlikely that office users will be willing to pay more to be located in a historic building, so the Commanding Officer's Quarters has a better opportunity to secure tenants if the rents and tenant improvement costs are in-line with other office space in the Arsenal.

### Retail

The largest concentration of retail in Benicia is First Street, where there is a concentration of restaurants, shopping and overnight lodging. Patrons include both local residents and visitors drawn to the Benicia's waterfront location and historic charm. Retail rents are around \$2.00 per square foot or less on First Street.

Retail is not a major use in the Arsenal due to the limited access, low visibility and distance from existing retail centers. Currently the Arsenal only supports one or two small lunch time cafes that serve workers in the area. A small amount of additional retail may be possible if the Arsenal experiences job growth or more visitor traffic as a result of new development or marketing. Later sections discuss the potential for a restaurant and other particular retail-oriented tenants in the Commanding Officer's Quarters specifically.

### Residential

Since housing is not a use in consideration for the Commanding Officer's Quarters, the residential market only influences the tenancing of the building in relation to the growth of the local population base that may provide local support for local retail uses in the building. As in the rest of the Bay Area, the Benicia housing market boomed from 2002 to 2007, generating increasing home values and a number of new development projects. However, the market has slowed over the last year as the foreclosure crisis and credit crunch caused home prices to drop and construction to come to a halt in Benicia and throughout the Bay Area. For example, in 2006 new single-family houses and townhomes in Benicia were selling from \$250 to 475 per square foot, whereas in 2009 new homes are selling for \$115 to \$325 per square foot<sup>2</sup>.

Despite lower sales prices during this current downturn in the economy, Benicia still has a high median home value. In 2008 the median home price in Benicia was around \$628,000 compared to \$443,000 in Solano County as a whole. These high prices reflect the desirability of living in Benicia and new home construction will likely resume as the economy recovers, albeit not at the same pace as during the housing boom. Over the long term, new residents with high incomes could help support additional local retail in Benicia. However access and visibility issues will continue to constrain retail potential in the Arsenal.

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<sup>2</sup> Source: Hanley Wood Market Intelligence

**Regional Economic Conditions**

The current national economic downturn is clearly a short-term challenge to attracting new business to the Commanding Officer's Quarters. Credit markets are very tight and companies are having a hard time accessing credit to expand businesses, much less maintain stability. The Vallejo MSA, which includes Solano County, lost 1,890 jobs from 2007 to 2008 (ABAG Bay Area Economic Forecast, 2009). Although no office space is being constructed, vacancies in Solano County were high in the fourth quarter 2008, at 27.4 percent. To attract tenants, landlords in Solano County have been offering concession packages, such as free rent, reduced rent, and abundant tenant improvement allowances (Colliers Market Research, 4Q 2008).

### III. EVALUATION OF FEASIBILITY OF IDENTIFIED USES

Existing economic and market conditions provide a sense of the overall competitiveness of the Arsenal for a range of uses, but do not provide enough information to fully gauge the feasibility of any specific use in the Commanding Officer's Quarters. Therefore, for the desired uses identified by Benicia community members throughout the outreach process, Strategic Economics and Carey & Co. used three major factors to gauge the appropriateness of each use for the building:

- A. **Administrative and Physical Constraints:** The Commanding Officer's Quarters is on the National Register of Historic Places, so the City of Benicia must follow the Secretary of the Interior's Standards for the Treatment of Historic Properties which promotes responsible preservation practices. The consultant team identified which uses may or may not conform to those standards. Furthermore, the team identified any potentially damaging effects a use could have on the building, as well as utility and restroom upgrades that may be necessary to facilitate tenancy.
- B. **Market Considerations:** The market evaluation for each use was comprised of three major factors: local and regional demand, competitive supply, and "place," or the ability of the Commanding Officer's Quarters to meet the physical and locational requirements of any given use. Strategic Economics evaluated the local performance of retail and office uses using local rent and vacancy rate information, and conducted interviews with the types of businesses or tenants that were identified to gauge their level of interest in the building as a potential future site for expansion or relocation.
- C. **Fiscal Considerations:** The identified uses were evaluated to determine if they could generate enough revenue to be fiscally neutral to the City. Specifically, Strategic Economics evaluated whether the lease revenues could possibly cover the costs of maintenance, repair, and operation of the building.

Community identified permanent uses as desirable for the Commanding Officer's Quarters:

- Restaurant/Bar—the main identified desirable permanent use
- Bed and Breakfast or other lodging
- Art Gallery
- Museum
- Office Space, Tourism Office
- Community College or University of California Extension Classes or other classroom space
- Small Conferences
- Day Spa

Community identified short-term uses or events:

- Design Showcase
- Art Shows
- Theater Events
- Other Seasonal Events
- Weddings/ Parties

## ADMINISTRATIVE AND PHYSICAL CONSTRAINTS

The community generated list was first analyzed relative to administrative and physical constraints to determine which uses would not be allowed, or could not be implemented because of the physical limits of the building. These constraints are primarily in the architectural realm and were considered apart from economics and market conditions. The consultant team identified four elements under this heading that would govern possible uses:

- The Secretary of the Interior's Standards for the Treatment of Historic Properties
- Grant requirements
- Structural limits
- Physical limits

### Secretary of the Interior's Standards

Each of the proposed uses was gauged against the tenets of the Standards. While all are affected, only the Designer's Showcase is precluded. Standards numbers one & three apply:

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*
2. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

The Designer's Showcase by definition uses a house as a container for new design ideas and the application of permanently mounted finishes (paint, wallpaper, or applied solid materials) which are later removed, requiring repair and refinishing of the surfaces. Standard number one suggests that the historic, character defining finishes, (currently being restored) should not be compromised by any potential use. Designer's Showcase events also have a profound visual impact on the spaces being treated. Standard number two implies that the Showcase designs, with tours offered to a paying public, would give a false impression of the historic character of the house. To verify this opinion, we spoke with one of the project's grant administrators, Steade Craigo of the California Department of Parks and Recreation. He concurred that the Designer's Showcase use is not appropriate based on Standard number one, as well as the inappropriateness of the false sense of historical development implied by the event. The additional concern was the wear and damage that the building would suffer.

### Grant Requirements

While projects and new uses must adhere to the Secretary's Standards as discussed above, the only other issue affecting new use, is the requirement for public access. In reviewing the list we found that no uses are precluded by this requirement. This said, the nature of public access varies. Certainly, a museum, events space, restaurant, or art gallery naturally fulfills the public access requirement. Other uses such as certain types of office space – a law office for example, could limit daily public interaction. Access in this case would have to be administered and negotiated. The Commanding Officer's Quarters could be included as a site on a historic house tour by way of obligatory schedule or appointment.

### Structural Limits

Educational space appeared to be an attractive new use, in that both the Commanding Officer's Quarters as well as the Clocktower might form a campus for Community College classes. Our research found that K through 12, and the California Community Colleges could not hold classes in either the Commanding Officer's Quarters or the Clocktower, because of the seismic requirements of the Field Act. The Field Act is California State legislation enacted in the mid 1930's requiring the highest seismic standards for new public education structures. Recent attempts to reuse historic buildings for public education have proved

very difficult, because the Field Act seismic upgrade requirements are so invasive, as to destroy the historic fabric and character of the building. Any K-12 or Community College institution cannot, by law, occupy the house for classroom purposes.

#### Physical Limits

Related to the Structural Limits discussion above, Physical Limits address any changes to the historic fabric of the house required by a new use, as well as the appropriateness of the size and arrangement of rooms to that use. Under this subject heading we found several uses that are not recommended including:

- Day Spa
- U. C. Extension classes
- Bed and Breakfast

**Day Spa** - Day Spa use requires sanitary interior finishes, and tends to be water intensive. The interior finishes including plaster, wood wainscot and trim, as well as wood floors are historic and cannot be altered to accommodate the code requirements of this type of use. In addition, each treatment space would likely have a sink and drain, the plumbing for which cannot be accommodated in the main section of the house. (See plumbing discussion below.)

**U. C. Extension classes** – Similar to the Community College class use, we interviewed administrators at the U. C. Davis and U. C. Berkeley Extension systems. While the Field Act does not currently apply to higher level education institutions, in both instances they expressed that the Commanding Officers Quarters would not suit their purposes. Neither institution has either short or long range plans for expansion into the Benicia area based on market and demographics. We also asked about the desirability of holding class in an historic house. The response was that they generally need much more space than is available at the house, and they prefer to occupy recently constructed buildings that they can alter with tenant improvements to suit their programmatic needs. Relative to education use, they felt that the Commanding Officer's Quarters is better suited to lectures, training, or small conference on a per diem basis.

**Bed and Breakfast** – The second floor of the main section of the Commanding Officer's Quarters is the bedroom portion of the house and in the B & B scenario would be retained for that use. During the rehabilitation work we discovered that the toilet rooms installed between the bedrooms heavily damaged the second floor joists with the installation of plumbing lines. The site of the restaurant toilet rooms is the only possibility for having in-suite bathrooms – an essential marketing requirement for Bed and Breakfast facilities today. Because of the direction of the structural spans, it is not possible to safely install plumbing at this location implying that the B & B model would be the European "Pensione" with common bathing and toilet rooms in another location of the second floor. See figs. 2 and 3 below.



fig. 2 Damage caused by plumbing, Rm. 204

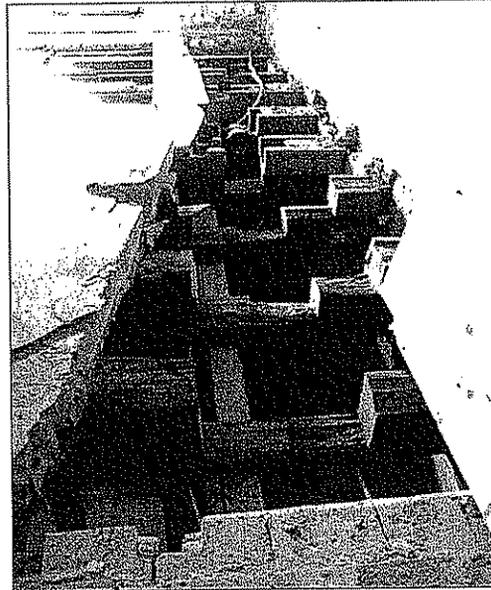


fig. 3 Damage caused by plumbing, Rm. 201

Additionally, one of the upstairs bedrooms (203) had to be claimed for the uppermost elevator stop to provide disabled access throughout the building. This eliminates its use as a bedroom leaving three rooms used historically as bedrooms. Rooms 206, 207 and 208 in the second floor wing would likely become the innkeepers quarters, with the remote bathing facility in room 209 next to the newly installed toilet room. None of the downstairs rooms are suitable as bedrooms. The "Pension" model seems possible, but with the market demand for in-suite bathrooms and only three bedrooms available, the Bed and Breakfast use does not seem sustainable. See fig. 4 below

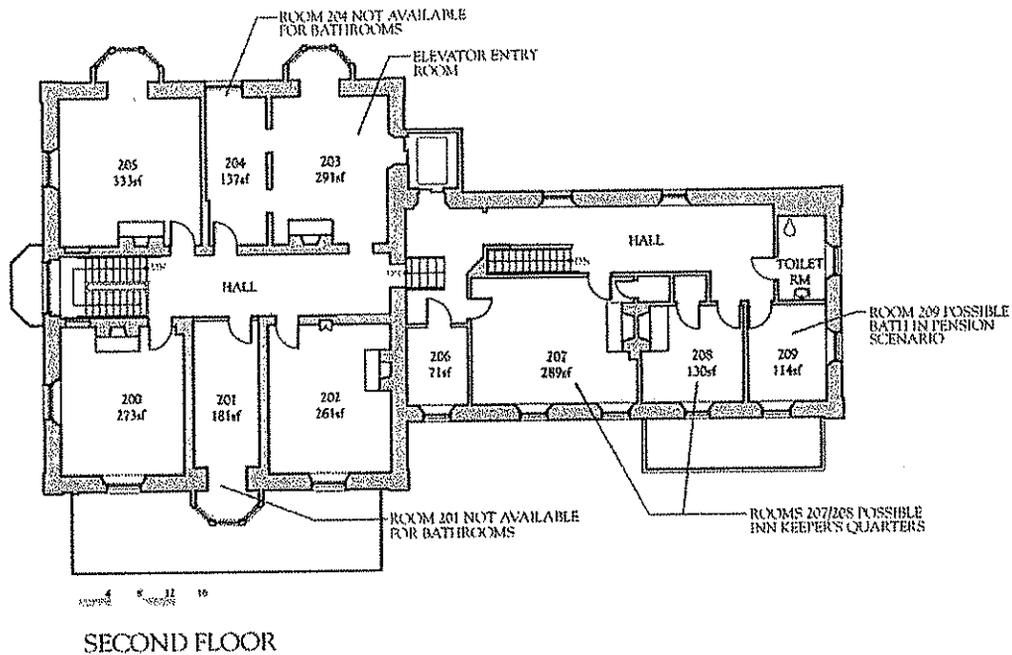


fig. 4. Key plan showing Bed and Breakfast concerns

Table 2: Summary of Infeasible Uses due to Administrative and Physical Constraints

Use	Physical Constraints
Designer Showcase	Designer Showcases are damaging to historic buildings. The CO's residence is on the National Register as a military building. Designer showcase designs would create a false sense of historic development.
Bed and Breakfast/Pension	Not physically possible to install enough restrooms in the building to serve this use
Day Spa	Plumbing for the amount of water and drainage required for a day spa is not feasible in this building
University Extension Classes, Other Classroom Use	According to UC Officials, the building is too small and the spaces are not conducive to classroom use. Plus, UC does not see a market in Benicia. K-12 and Community college use is precluded by the seismic requirements of the Field Act.

## MARKET AND FISCAL CONSIDERATIONS

### *Uses Feasible in Short- to Mid-Term*

**Given current market conditions, it will be challenging to find high revenue generating tenants in the short to mid-term.** Although the goal of fiscal neutrality for the Commanding Officer's Quarters may not be attainable in the short-term, there are still feasible uses of the building that will contribute to other goals identified by the community. When the economy recovers it will be easier for the City to move towards tenanting the building with uses that can generate enough revenue to cover the costs of maintenance and operation.

**In the near-term, using the building as office space will help get the building occupied and start generating revenue.** The building can easily support office tenants with minimal utility upgrades, such as high-speed internet, and organizations in Benicia have already expressed interest in occupying a small amount of office space in the building. Under current market conditions, rents in the Arsenal are not very high and the entire 5,000 square feet of space may be relatively slow to absorb. As a result, office tenancy use in the near-term may not cover all costs, but it is a step in the right direction towards fiscal sustainability. As the economy recovers, the occupancy and rents will likely increase.

**An art gallery or art museum is another potential use of the building in the short to mid-term.** Benicia has a strong arts community, and members of that Community have expressed interest in occupying some space in the building. This is not a high-revenue generating use, but it can contribute toward fulfilling the community goal of making the Commanding Officer's Quarters and the Arsenal a regional destination. Keeping the tenant improvement costs low for this use may be key to the feasibility of this use for the tenant and the City.

**Holding seasonal events that highlight the building will generate visibility and build market momentum, a key first step in moving towards a higher revenue tenant(s).** Organizations in the Benicia community have already expressed interest in making these events a reality.

*Uses Feasible in the Long-Term*

**In the long-term, office space is likely to be the highest revenue generating use.** However, if several factors come together to improve the market for a restaurant with a bar, also a high revenue generating use, there may be a possibility of tenaning the building with that use in the long-term. Since tenaning the Commanding Officer's Quarters with a restaurant emerged as a high priority from the community process, the feasibility of this particular use is evaluated in greater detail below. Generally, a restaurant is infeasible in the short- to mid-term. A district-wide or city-wide coordinated tourism strategy will be necessary to make the restaurant even a remote possibility in the long-term. With this use in particular in mind, Section IV highlights some of the mechanisms and strategies used by other places to create a tourism district.

Table 3: Physical, Market and Fiscal Evaluation of Uses

Potential Use	Physical Considerations	Market Considerations	Fiscal Considerations
<i>On-going</i>			
Seasonal Events		Generates outside visibility of building. Would need sponsorship and management from local organizations.	Does not cover costs
Filming Location	Filming is potentially damaging. However it can be done successfully with preservation specifications (the NPS has an excellent model) and strict oversight. In addition, the set design drawings would have to be reviewed for damage causing installations.	Not a permanent use. Would need staff to manage operations and oversight.	As sole use, may have difficulty covering costs
<i>Short to Mid-Term</i>			
Offices	High speed internet and telephone system installation needed. Power and heating/ ventilating are OK Restroom are OK	Leases for approx. \$1.40/ SF in Arsenal. Arsenal office space generally slow to absorb. Tenants are probably not willing to pay	May cover costs
Public Facilities	See: Office		Does not cover costs
Art Gallery/ Art Museum	Tenant may need security systems, lighting, temperature and humidity control	Could help support a restaurant or café in the building.  Could bring more activity to the Arsenal. May require additional fundraising, grant writing on the part of the tenant	May have difficulty covering costs  Tenant improvements costs may be high
Tourism Office	See: Office	Could bring more activity to the Arsenal.  Way-finding systems may need to be improved in Arsenal.	Does not cover costs
<i>Long-Term</i>			
Restaurant	Recommend lease with City oversight; fire and other risks need to be addressed by regular inspection requirements in the lease. Need to augment restrooms Kitchen space will support this use, utilities are sufficient	Regional competition has increased since past restaurant use in building. Access and visibility are challenging. Market feasibility would improve if the Arsenal becomes a tourist destination.	May cover costs.  Tenant improvement costs may be high.
Bar	Recommend small bar with restaurant only for safety and to reduce risks of fire, other building damage	Would need to be taken on by restaurateur or a partnership with restaurateur	May contribute towards covering costs
Café	Similar considerations as Restaurant, although risk of fire may be lower.	Would be more feasible with supportive uses such as offices, museum, gallery	May contribute towards covering costs
Small Conferences	Need to add internet connections	Not a permanent use. Would need staff to manage conference bookings and operations. Highly chambered interior may be a constraint.	As sole use, may have difficulty covering costs
Museum	Tenant may need lighting, security, temperature, humidity control	An interested organization would likely need to do additional fundraising, grant writing to pay for the lease	May have difficulty covering costs

Source: Carey & Co; Strategic Economics, 2009.

## FEASIBILITY ANALYSIS FOR A FULL SERVICE RESTAURANT

The community identified a high end restaurant as a desirable use for the Commanding Officer's Quarters. Therefore this section looks more closely at the feasibility of attracting a full service restaurateur to the building.

A popular restaurant was the last tenant of the Commanding Officer's Quarters until 1981, it was closed because of a fire and declining standards. The restaurant was a destination and a source of pride for the citizens of Benicia, who frequently brought out-of-town family and friends to the restaurant. Therefore, many community members have expressed interest in encouraging an upscale restaurant user return to the Commanding Officer's Quarters.

Since 1981, shopping and dining patterns have substantially changed in the Solano/Contra Costa sub-region. There is significantly more regional competition among restaurants than there used to be. Whereas once the Commandant's House might have drawn patrons from across the bridges, today Contra Costa County offers many upscale eateries within closer proximity to local residents. Places like Walnut Creek, Danville, and Pleasant Hill are now established regional retail destinations where they were once mainly residential and agricultural communities without many shopping or dining options. The I-680 corridor is the area's major focal point for shopping and dining among Solano and Contra Costa County residents. Furthermore, Benicia does not have major tourism traffic like Napa, Sonoma, or San Francisco. For all of these reasons, a restaurant in the Commanding Officer's Quarters would need to be supported primarily by local Benicia households.

The risky and sensitive nature of the restaurant business is another market factor that needs to be taken into consideration. The restaurant industry is one of the most risky retail businesses in the United States. Most restaurants cannot survive even in thriving retail areas—sixty percent of restaurants fail within the first three years of business.<sup>3</sup>

In addition to the above factors, Strategic Economics has evaluated the market feasibility for a full service restaurant within the City of Benicia. As described above, this analysis looks at three market characteristics to determine feasibility: demand, supply, and place.

### Demand and Supply

There is enough unmet demand for one or two more full service restaurants in the City of Benicia as a whole. If Benicia households dined at restaurants within the City limits every time they ate out, households would be able to support 74,269 square feet of retail space. However, it is unlikely that households eat in Benicia a full 100 percent of the time. If Benicia households were to dine in the City only half of the time (a reasonable estimate given the likelihood that residents also eat out when they work and travel outside of the City), then they would be able to support a full 37,135 square feet of retail space.

Table 4: Restaurant Buying Power Analysis Assumptions

	Average Annual Household Expenditure	Conservative Estimate		Optimistic Estimate	
		Assumed Local Capture Rate	Supportable Square Feet	Assumed Local Capture Rate	Supportable Square Feet
Full Service Restaurant with Bar	\$2,474	50%	37,135	60%	44,562

Source: Claritas; Strategic Economics, 2009.

<sup>3</sup> Source: Businessweek.com, 2007.

Presently, there are approximately 33,534 square feet of existing full service restaurants within the City of Benicia, largely concentrated in the First Street corridor. Therefore local households could support an additional 3,601 square feet of restaurant space, or approximately 1 to 2 additional restaurants.

Table 5: Unmet Restaurant Demand in City of Benicia

	Square Feet
Total Demand	37,135
Total Restaurants in Benicia	33,534
Net Un-Met Demand	3,601

Place: Visibility and Access

While there is demand for at least one additional restaurant in the City of Benicia, low visibility, limited access from major freeways and arterials, and its distance from existing retail centers make the Commanding Officer's Quarters an uncompetitive location for a restaurant. New restaurants that come to Benicia to meet that pent up demand will prefer to locate either near the freeway off-ramps or in the heart of town on First Street, where there is already a critical mass of other retailers, offices, and pedestrian activity.

Place: Physical Characteristics

Unlike other retailers, a full service restaurant has specialized utility and other physical requirements that can only be achieved in particular buildings. The Commanding Officer's Quarters does not presently meet these utility needs, and therefore it will be costly to improve the building to a point where it could accommodate a restaurant tenant. If a restaurateur were to consider locating in Benicia, the additional costs of tenant improvements in the Commanding Officer's Quarters would be a significant deterrent relative to other locations. We estimate these costs to be in excess of one million dollars.

A restaurant would also bring with it an additional risk of fire and other damage. These risks need to be carefully considered if the City moves forward with tenanting the building with this use. In addition to fire damage, many years of use as a restaurant caused other damage to the building that the current repair and restoration efforts have been working to fix. The consultant team recommends strict oversight and inspections by the City, agreements for these additional inspections and limitations included in the lease agreement.

Conclusion

Can the Arsenal, and the Commanding Officer's Quarters, overcome these physical and market limitations to attract a restaurant tenant? Based on standard requirements for a locationally competitive restaurant site, it would be difficult at best to attract a restaurateur to the area. The only possibility to attract the type of upscale, destination restaurant that is desired by the community is to increase the visibility of the Arsenal as a unique tourist destination in the region and to improve access of the Commanding Officer's Quarters to the rest of the City, and particularly to the freeway.

Moreover, the community will need to proactively seek out a restaurateur with a unique vision and strong understanding of the local Benicia market. Even with an interested tenant and improved visibility and access to the Arsenal, rent or tenant improvement subsidies may be necessary to help reduce risk to the business, and close the deal. In sum, tenanting the Commanding Officer's Quarters with an upscale restaurant is a long-range endeavor that will require significant efforts on the part of the community, and possibly the City, to enhance visibility and connectivity in a way that improves the marketability of the building and the Arsenal for retail use.

## IV. CREATING A TOURISM DISTRICT FOR THE ARSENAL AND THE CITY OF BENICIA: CASE STUDY ANALYSIS

Results of the community outreach process for the Commanding Officer's Quarters suggest that creating an historic tourism district for the Arsenal is an important effort that the Benicia community and City may want to undertake. As the Arsenal becomes more of a regional destination, it will become more feasible to attract tenants to the Commanding Officer's Quarters that are fiscally sustainable and fulfill the community's goal generating more local activity. Additionally, an historic tourism strategy will take advantage of the Arsenal's unique physical and cultural resources of the area – thus meeting another goal that emerged from the community process.

One strategy for positioning the Arsenal as a regional destination is to pursue the concept of heritage tourism, wherein entertainment, retail, lodging, and conference facilities occupy historic buildings and are marketed and/or managed in a unified plan. The restoration of the Commanding Officer's Quarters provides a major catalyst for creating a larger collective of restored buildings that could profitably operate through strategic partnerships and marketing.

For the Arsenal Specific Plan completed in 2006, Strategic Economics examined three case studies of historic places that have pursued similar, financially sustainable options for historic preservation and tourism: Fort Mason in San Francisco; The Northern Rockies Heritage Center in Missoula, MT; and the Sunset Station in San Antonio, TX (See Appendix A). It is worth revisiting the lessons learned from these case studies for consideration with the Commanding Officer's Quarters, given the recent emphasis that the community has placed on this particular goal. The City alone cannot be responsible for achieving this goal; the keys to an historic tourism strategy are creating sustainable capital and operating revenue sources beyond the City's limited coffers, and engaging the combined support of local community members and institutions in the area.

### Case Study Lessons Learned: Implications for a Historic Tourism District in the Arsenal

- *Carefully select uses that establish the right identity for the place in a financially successful way.* Community-oriented events or spaces can help establish the desired identity for the place and support marketing efforts, but may not generate profits to the organization. A balance of profitable and community uses can enhance an historic district's identity while enabling long-term financial sustainability.
- *Connections or proximity to other destinations can increase visitor attendance.* An historic district in the Arsenal should tap into Benicia's other regional assets, including a citywide tourism campaign, wayfinding signs from downtown and the freeway, and joint programming with nearby arts galleries.
- *Capital funding will be a challenge.* With a lack of federal and even local funds, the greatest challenge to creating a successful district in the Arsenal will be collecting initial financing for land acquisition and repair of historic buildings. Fort Mason and the Northern Rockies Heritage Center had the advantage of public ownership and free transfer of land and building assets. The City of Benicia can provide similar assistance by offering use of the Clock Tower and Commanding Officer's Quarters at no charge or with reduced rent.
- *Becoming profitable, or even just financially stable, takes time and momentum.* Even as a nonprofit venture, an historic district should be operated as a business and will require leadership beyond City staff. Selecting the right idea, creating a business plan for initial financing and profitability, and generating visibility are important steps that should be established among

private or independent partners. The leading organization should have a plan and understanding of the time and investment that will be needed to make this a successful venture.

- *Select leadership with experience in marketing and event organizing.* The manager of Sunset Station found that clearly focusing on one market, and “marketing hard” is the key to a successful event space.

## **V. RECOMMENDED PHASING STRATEGY**

Previous sections have emphasized that the current economic downturn – coupled with an poor visibility and access – will make it challenging to tenant the Commanding Officer's Quarters or other Arsenal buildings with high revenue users. However, by improving the visibility of the area through a larger tourism strategy, and improving wayfinding to the Arsenal, the community can increase the likelihood of making the Arsenal a regional destination, and subsequently attracting a higher revenue use to the Commanding Officer's Quarters.

Sections II and III evaluated the potential for various uses and considered the possibility of creating a tourism district in the Arsenal. This section summarizes how the community can leverage the Commanding Officer's Quarters to build up regional visibility and a cohesive tourism strategy in the short, medium, and long-term.

Thus far, the Commanding Officer's Quarters has been retrofitted and enhanced with flexibility in mind. To the extent possible the City, architect, and contractor have prepared the building for the widest variety of uses possible. Regardless of who tenants the building in the short term, physical changes to the building should not be if they preclude future uses from operating.<sup>4</sup> This will give the community the greatest chance to program the building with uses that best suit Benicia and best support the Arsenal as a tourism district.

### **SHORT-TERM**

#### **Possible Building Uses:**

- Office tenants. Asking rents will be approximately \$1.40 to \$1.50 per square foot, net of utilities.
- Events sponsored by the City or local organizations.
- The arts community or other non-profit users.
- The Consultant team has put together a leasing brochure to help the City market the building to potential tenants.

#### **Steps Towards a Tourism Strategy**

- Establish a local advisory group whose primary responsibility is to support Benicia as a regional and national destination, and manage the City's tourism programming. Given the City's fiscal constraints, to start this group will likely be comprised of interested volunteers
- Encourage local temporary events in the Commanding Officer's Quarters, to generate interest and visibility for the building and the Arsenal.
- Enable local residents to jointly lease the Clock Tower and Commanding Officer's Quarters for events that are non-conflicting with paying tenants.

### **MID-TERM**

#### **Possible Building Uses (in addition to above):**

- Office tenants in upstairs area, some public space/museum/art gallery/event use downstairs
- Once market recovers, more proactively seek out opportunities to cover operating, maintenance costs.

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<sup>4</sup> Generally speaking, historic preservation grant requirements place strict limits on the types of physical changes that can occur. These limitations will likely ensure that the building maintains its current general condition including all internal walls, etc.

**Steps Towards a Tourism Strategy**

- Consider revenue streams to pay a part- or full-time tourism coordinator in the City (e.g. – grants, assessment district, business improvement district, etc.)
- Establish a plan to package the Arsenal as a single cohesive arts/historic tourism district. Involve property owners and consider physical as well as programmatic improvements.
- Consider opportunities to bring in events or uses in other buildings in order to generate interest in Arsenal (for example, hosting an event at the Clock Tower)
- Begin to outline factors to attract a restaurant to the Commanding Officer's Quarters. (What kind of tenant improvements would be needed and how much would they cost? What would the lease agreement entail? How can a potential restaurant tenant be expedited through the permitting process?)
- Work with a local broker or tenaning expert to start pro-actively seeking out tenants for Commanding Officer's Quarters, and possibly other Arsenal buildings.

**LONG-TERM**

**Possible Building Uses (in addition to above):**

- Work with a local broker or tenaning expert to pro-actively seek out restaurant, retail, office tenants for Commanding Officer's Quarters, and possibly other Arsenal buildings.

**Steps Towards a Tourism Strategy**

- If restaurant or other particular use would catalyze tenaning in the overall district, it may be time to consider subsidy options: small business grants, cover TI, etc.
- A district or city-wide tourism strategy should be in full operation, with a paid staff member to oversee implementation and business attraction.

## **VI. CONCLUSION**

The current economic climate is challenging for attracting a financially sustainable tenant to the Commanding Officer's Quarters. Very few businesses are looking to expand to right now. This difficult and unforeseen timing means that the City should remain flexible and start to build market momentum in the right direction. There are key strategies that the City and community can work on together in the short-, mid-, and long-term. The first focus should be on generating visibility, activity, and interest in and around this unique resource.

The good news is that a number of local community institutions have expressed a strong interest in occupying space in the building, and/or in supporting the overall goal of attracting visitors to the Arsenal. Working together with each other and a panel of community members, these groups can provide not only a solid foundation for increasing the visibility of the building, but also a foundation for an advisory group that is responsible for generating increased visitorship to both the Arsenal and to Benicia as a whole. This level of community and social capital is a unique strength, and the Commanding Officer's Quarters is clearly a focal point around which momentum can be built.

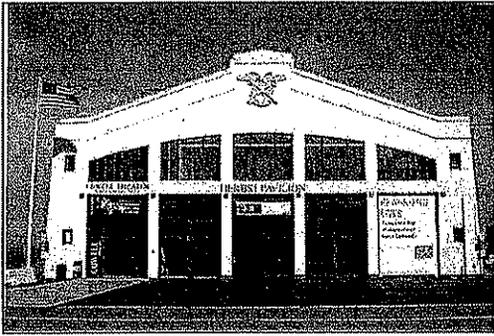
## APPENDIX A: HERITAGE TOURISM CASE STUDIES FROM THE ARSENAL SPECIFIC PLAN PROCESS

### *Heritage Tourism Case Studies*

Following are three case studies of historic places that have pursued similar, financially sustainable options for historic preservation.

#### *Case Study: Fort Mason, San Francisco, CA*

Fort Mason is a 13-acre parcel located in the Golden Gate Recreation Area in San Francisco, CA that is jointly managed by the Fort Mason Foundation and the National Park Service. In 1972 Congress created the Golden Gate Recreation Area, which included Fort Mason. By 1974, the National Park service had received over 400 proposals offering plans for uses of the lower portion of Fort Mason. The National Park Service decided in 1977 to establish and partner with a nonprofit known as the Fort Mason Foundation, to jointly manage the site. The Foundation and NPS selected the most popular and feasible use ideas from the many proposals, and created a center with a mix of nonprofit, educational, and event programming. The facilities currently include nine historic mission revival buildings that total 300,000 square feet which house over 30 non-profit organizations, classrooms, galleries, a conference center, 2 large pavilion spaces and a theatre.



Herbst Pavilion at Fort Mason Center  
Excerpted from [www.fortmason.org](http://www.fortmason.org)

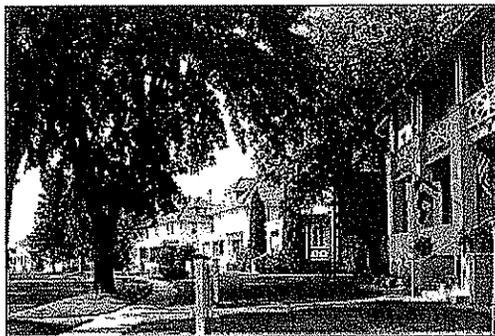
Tenants at Fort Mason include theatre groups, arts educators, museums, and a variety of non-profits. In 2005, the Fort Mason conference center held over 15,000 events and attracted more than 1.6 million visitors from around the country. The Fort Mason Center has been financially self sufficient since 1980 and continues to increase its working capital annually. In 2005 the Fort Mason Center had a working capital of \$1.97 million generated by tenants, facility rentals, grants, membership fees and donations; of those sources tenants generate the majority of the foundations revenue. In addition to current revenue streams, the Fort Mason Center hopes to further generate funds for facility improvements through on-site parking fees.

The Fort Mason Center benefits from its location within the Golden Gate Recreation Area, and its proximity to downtown San Francisco. Access to Fort Mason will be greatly improved with the extension of the streetcar lines E and F that will connect Fort Mason to the San Francisco Maritime National Historic Park. Fort Mason's 13 waterfront acres and panoramic views of the Golden Gate Bridge increase the site's regional and national appeal tremendously while high-quality programming helps to attract a local crowd.

#### *Case Study: Northern Rockies Heritage Center, Missoula, MT*

In 1993 the federal government transferred a portion of Fort Missoula to the newly established Northern Rockies Heritage Center Foundation for the purpose of historic preservation. The 17-acre parcel with 13 historic buildings is just outside of Missoula, MT. Although the Northern Rockies Heritage Center foundation did not receive federal dollars for establishment of the center, the United States army – which maintains army reserve facilities on the remaining Fort Missoula acreage – offered the Heritage Center assistance in maintaining the facilities and allowed the foundation to collect and retain rent from the 13

historic buildings as its startup revenue. The buildings were already leased by a variety of tenants, offering the foundation an immediate, if small, stream of revenue.



Officer's Row at Heritage Center  
Excerpted from [www.nhrc.org](http://www.nhrc.org)

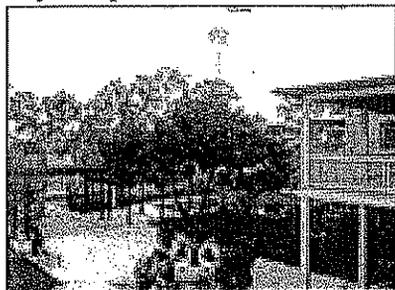
The initial intent of the Northern Rockies Heritage Center Foundation was to use all of the buildings as a cluster of museums, and maintain the character of the grounds for the benefit of the local community. Instead, the facility houses artists and local non-profit organizations, as well as event spaces that are often rented for weddings. The major amenities of the Northern Rockies Heritage Center are its event spaces and park-like surroundings. Fort Missoula was fashioned after a Spanish mission, and thus the architecture is distinct from most local architecture. The Northern Rockies Heritage Center benefits from its proximity to other existing museums at Fort Missoula and the exposure that this proximity provides.

The foundation obtained a \$350,000 grant in 2002 that has helped to restore many of the buildings for occupancy. Funds from the grant are still being used for maintenance purposes but the federal sources offering the grant are no longer available. Initially the Northern Rockies Heritage Center complied with historic preservation requirements, but with the lack of available federal funding, it is uncertain whether the foundation will be able to continue to meet these requirements in future renovation and maintenance work.

Currently, the Heritage Center is financially stable through fees they collect from both the non-profit and artist tenants and the event space rentals. The largest money generator at the Heritage Center is the event space rentals. The Northern Rockies Heritage Center is a local destination that is taking steps to increase its appeal as a regional destination.

#### *Case Study: Sunset Station, San Antonio, TX*

Sunset Station is located in San Antonio's historic St. Paul Square, an area dating back to the 18<sup>th</sup> Century as the site of the original Mission San Antonio de Valero. The Sunset Station Depot was built in 1902 as a major stop on the Sunset Limited, a railroad connecting San Francisco to San Antonio and New Orleans.



Saint Paul Square-  
Excerpted from [www.sunset-station.com](http://www.sunset-station.com)

Today Sunset Station, St. Paul Square and 14 surrounding buildings have been completely renovated and make up over 100,000 square feet of space that is leased as event space, supporting kitchen and office space, and private office space not associated with the public event space. Recently, construction has begun on conversion of one of the existing buildings into a hotel, adding an additional amenity to the district.

Sunset Station's transformation from a historic structure to a heritage tourism destination was a slow process that began when the city of San Antonio publicly considered demolition of the building. Zachary Construction, a local developer interested in preserving the structure, bought Sunset Station from the city and partnered with Gram Bros, a nightclub and entertainment developer, to create a nightclub district.

Sunset Station's transformation into a nightclub district was largely unsuccessful and its nightclub past, coupled with proximity to a major highway, left a tarnished image of the area. In 2003, Zachary Construction appointed a new executive director for Sunset Station named Terri Tonnie, whose past experience in organizing and marketing music events at the House of Blues helped her reinvent the image of the area. Since her appointment, Sunset Station has seen increasing popularity as a national corporate conference and local entertainment destination.

Since Sunset Station's conversion from nightclub to event venue, the profitability and popularity of this historic venue has increased dramatically. The facility went through a long transformation from a nightclub location, to a concert and convention location to a corporate conference and local-social venue and drew on its visibility due to its proximity to the Alamo Bowl. Today, Sunset Station's event spaces are leased four to five days a week and attract corporate conferences from all over the country. The best amenity available is the on-site catering that has received local acclaim.

Sunset Station is now a profitable heritage tourism location whose largest profits are made on the rental of event spaces. It has achieved a sustainable business model that draws on the ambiance of the area and provides high-quality amenities to its patrons.

**AGENDA ITEM  
CITY COUNCIL MEETING: MAY 5, 2009  
ACTION ITEM**

**DATE** : April 28, 2009  
**TO** : City Council  
**FROM** : City Attorney  
**SUBJECT** : **EXTENSION OF THE MEDICAL MARIJUANA DISPENSARY  
AND HOOKAH LOUNGE MORATORIUM ORDINANCE**

**RECOMMENDATION:**

If desired, by a 4/5ths vote, extend the moratorium for an additional 22 months and 15 days to prevent the issuance of any permits or licenses for medical marijuana dispensaries and hookah lounges to allow research to be done.

**EXECUTIVE SUMMARY:**

On March 30, the City Council adopted a moratorium on the establishment of medical marijuana dispensaries and hookah lounges. This was in response to an inquiry regarding opening a medical marijuana dispensary. The Benicia Municipal Code does not specifically regulate such dispensaries. Drafting a medical marijuana dispensary ordinance as well as an ordinance to regulate hookah lounges is on the City Attorney's work plan for the summer. The moratorium will allow the necessary research to be completed.

**ENVIRONMENTAL REVIEW:**

A moratorium ordinance would be categorically exempt from environmental review by California Environmental Quality Act Guidelines Section 15308, which excludes actions by regulatory agencies to protect the environment.

**GENERAL PLAN:**

Relevant General Plan Goals and Policies include:

- Goal 2.1: Preserve Benicia as a small-sized city
  - 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, (and to the extent possible, contributes to the applicable quality of life factors noted above.)
  - POLICY 2.1.2: Make efficient use of land in new development areas consistent with the surrounding neighborhood.

- Goal 2.3: Ensure orderly and sensitive site planning and design for large undeveloped areas of the City, consistent with the land use designations and other policies in this General Plan
- Goal 2.5: Facilitate and encourage new uses and development which provides substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

None.

**BUDGET INFORMATION:**

None.

**BACKGROUND:**

Government Code Section 65858 allows the City to adopt a zoning ordinance without following the usual procedures if it is necessary to protect the public safety, health, and welfare. An urgency ordinance is allowed to bypass the usual notice and planning commission procedures to prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or intends to study. Government Code Section 65858 allows the moratorium to be extended for either (1) 22 months and 15 days or (2) 10 months and 15 days with a subsequent additional one year extension. The proposed extension is drafted to provide for the 22 month and 15 day extension. The proposed ordinance requires a 4/5 vote to enact.

Since the adoption of the moratorium on March 30<sup>th</sup>, a patient advocate has volunteered to assist with the drafting of the ordinance. Staff has also attended a seminar on medical marijuana dispensaries. It is my intent to work with the law clerk and any volunteers and with staff to draft appropriate regulations. While the initial research can be done early in the summer, final work will not be completed until the California Supreme Court rules on the Anaheim medical marijuana dispensary ban. They are scheduled to have oral arguments the week of June 15<sup>th</sup>. It would be premature to consider a permanent ban until that case is decided.

Medical marijuana dispensaries are not uses defined in the Benicia Municipal Code. The passage of Proposition 215, "The Compassionate Use Act of 1996" and the adoption of SB 420 in 2003 has increased the interest in opening medical marijuana dispensaries. Proposition 215 allows a person to use marijuana for medicinal purposes as long as a doctor so recommends. SB 420 established regulations related to medical marijuana. The regulations include a voluntary program for identification cards for qualified patients and primary care givers, limits on the amount of marijuana per qualified patient, and confidentiality and privacy restrictions.

Under federal law the cultivation, possession and/or use of marijuana is illegal. It is still unlawful to possess, transfer, or use marijuana under California law, unless one can prove that he or she is a qualified patient or caregiver, under California's Compassionate Use Act of 1996. The Compassionate Use Act conflicts with Federal law which clearly states that possession, use and sale of marijuana is illegal.

Since a medical marijuana dispensary is not specifically defined in the Benicia Municipal Code, people may claim the use is similar to a pharmacy, medical office, or miscellaneous retail use. This would allow operation of a medical marijuana dispensary in a variety of zoning locations including near schools or day care facilities. In addition to the undesirability of having marijuana near schools and day care facilities, other bay area cities that have medical marijuana dispensaries have reported increases in illegal drug activity and sales, robberies of patrons of the dispensaries, loitering, and other criminal activity. Because of these activities, it is expected that a medical marijuana dispensary will increase the calls for police services as well as public works services for clean up of the streets and sidewalks.

Staff had planned on researching and drafting a medical marijuana ordinance this summer with the help of summer law clerks. Because of the inquiry received by the planning division, it is appropriate to adopt a moratorium to allow staff to do the research necessary to draft appropriate regulations. Research will include reviewing best practices from other cities to address questions such as:

1. Should medical marijuana dispensaries be restricted to certain zones;
2. Should a medical marijuana dispensary be a permitted use, prohibited use, conditional use and if conditional who should approve the use (Zoning Administrator, Planning Commission);
3. Should medical marijuana dispensaries have minimum distances separating them from other medical marijuana dispensaries or sensitive uses;
4. What sort of operational regulations should be required (i.e. hours, security etc.);
5. Should the city adopt its own identification program or use another agency's program;
6. Should licensing and criminal background check for operators and employees be required; and
7. If licensing is required, should it be an annual license.

A hookah is a water pipe used for smoking tobacco and other products. According to newspaper reports, the hookah comes from the Middle East, where it is often used at social gatherings. Hookah lounges have grown in popularity in America and several cities have adopted moratoriums to study the use. At a minimum, a hookah lounge may not be compatible with the City and state's anti-smoking regulations. In addition, while a hookah can be used for smoking tobacco, a legal drug, it is also associated with marijuana and illegal drugs according to brief internet research. Thus, it deserves study and possible regulation.

Attachment:

- Proposed Ordinance

# **ORDINANCE**

**CITY OF BENICIA ORDINANCE NO. 09-  
URGENCY INTERIM ORDINANCE**

**AN ORDINANCE TO EXTEND ORDINANCE 09-07, AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES AND HOOKAH LOUNGES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN**

**WHEREAS**, on March 30, 2009, the City Council considered as one of its items of business, not noticed in accordance with Government Code Section 65090, an interim zoning ordinance to be adopted as an urgency ordinance in accordance with Government Code Section 65858, to regulate the establishment of medical marijuana dispensaries and hookah lounges in the City of Benicia; and

**WHEREAS**, sufficient time is required to study and develop appropriate regulations and provide for public input on proposed regulations; and

**WHEREAS**, on May 5, 2009, the City Council met to consider extending the urgency ordinance for an additional 22 months and 15 days, in order to allow the City and its Planning Commission the opportunity to study the regulations for the establishment of medical marijuana dispensaries and hookah lounges in the City of Benicia; and

**WHEREAS**, the City Council finds that this ordinance will serve the public necessity, convenience and welfare for the reasons set forth below; and

**WHEREAS**, Goal 2.1 of the General Plan states "Preserve Benicia as a small-sized city;" and

**WHEREAS**, Goal 2.3 of the General Plan states "Ensure orderly and sensitive site planning and design for large undeveloped areas of the City, consistent with the land use designations and other policies in this General Plan;" and

**WHEREAS**, Goal 2.5 of the General Plan states "Facilitate and encourage new uses and development which provides substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life;" and

**WHEREAS**, the General Plan also includes the following policies:

"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, (and to the extent possible, contributes to the applicable quality of life factors noted above.)”

“POLICY 2.1.2: Make efficient use of land in new development areas consistent with the surrounding neighborhood;” and

**WHEREAS**, the City Council finds that establishment of medical marijuana dispensaries or hookah lounges under the City’s current zoning ordinance will conflict with these Goals and Policies of the General Plan; and

**WHEREAS**, the City Council finds and determines that the City has no regulations for medical marijuana dispensaries or hookah lounges; and

**WHEREAS**, this temporary zoning moratorium on medical marijuana dispensaries and hookah lounges will allow the status quo to be maintained while the regulations and permanent controls are debated and adopted; and

**WHEREAS**, medical marijuana dispensaries have been established in locations throughout California and the Bay Area and cities have reported increased illegal activities and calls for police services; and

**WHEREAS**, the potential for increased crime and violence presents a clear and immediate danger to the public health, safety and welfare of residents and businesses; and

**WHEREAS**, hookahs may be used to smoke legal tobacco as well as marijuana and other illegal drugs; and

**WHEREAS**, the lack of regulations for medical marijuana dispensaries and hookah lounges may create conflicts with the General Plan, Zoning Ordinance and other city regulations; and

**WHEREAS**, the Community Development Department has reviewed this ordinance pursuant to the California Environmental Quality Act (“CEQA”), the CEQA Guidelines, and found it categorically exempt from environmental review by California Environmental Quality Act Guidelines Section 15308, which excludes actions by regulatory agencies to protect the environment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOLLOWS:**

**Section 1.**

**Findings and Intent.** The City Council incorporates the findings set forth above and further finds that issuing permits, business licenses and other applicable entitlements for the establishment of medical marijuana dispensaries or hookah lounges prior to the completion of the City’s study of the potential impacts of such facilities, poses a current

and immediate threat to the public health, safety and welfare and that a temporary moratorium is necessary on the issuance of such permits, business licenses and other applicable entitlements is necessary. Adopting a moratorium will allow the City staff to study medical marijuana dispensaries and hookah lounges; to consider and adopt appropriate recommendations and policies; and to maintain the status quo by suspending the issuance of permits, approvals, or other entitlements for use which would have as their result the establishment, development or construction of medical marijuana dispensaries and hookah lounges.

## **Section 2.**

To the extent that any other ordinance or city regulation is inconsistent with this ordinance, this ordinance shall govern.

## **Section 3.**

### **Interim Suspension of Permits, Approvals, or Other Entitlements for Use.**

A. Notwithstanding any other ordinance, regulation, policy or rule of the City of Benicia, no use permit, building permit, site and design approval, or any other permit, license, including a business license, or applicable entitlement for use which has as its result the approval or allowance of medical marijuana dispensaries or hookah lounges or the establishment, development, or construction of such medical marijuana dispensaries or hookah lounges within the City shall be processed, issued, granted or approved by any employee, department or commission of the City.

B. This prohibition shall continue for a period of forty-five (45) days, commencing on the date of adoption of this Interim Ordinance, or until such time as this Interim Ordinance may otherwise expire pursuant to any extension that the City Council may adopt and approve pursuant to Government Code Section 65858.

## **Section 4.**

The City, on a case-by-case basis, shall have the authority upon a showing of good cause by an applicant to waive the moratorium imposed by this ordinance. Good cause shall mean a factual and evidentiary showing by the applicant that the moratorium, if not waived will deprive the applicant of substantially all reasonable use of his or her property. Such applications for waiver shall be filed with the City's Community Development Director. The decision of the Community Development Director may be appealed to the City Council.

Within ten (10) calendar days of a decision by the Community Development Director, an appeal from said decision may be filed by the applicant, the permit holder, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next day such offices are open for business shall be the last date for appeal. Such appeal shall be filed with the Community Development Department and shall state specifically wherein it is claimed there was an error or

abuse of discretion by the Community Development Director or wherein the decision is not supported by the evidence in the record. Upon receipt of the appeal, the matter shall be set for hearing before the City Council. Notice shall be given in writing to the applicant, the applicant in those cases where the applicant is not the appellant, adverse party or parties, the attorney, spokespersons and other interested groups and neighborhood associations who have requested notification. The City Council shall vote on the appeal within 30 days after its hearing of the appeal.

#### **Section 5.**

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.

#### **Section 6.**

Effective Date. This ordinance is an urgency ordinance for the immediate preservation of the public health and safety; therefore it shall be passed immediately upon its introduction and shall become effective immediately upon its introduction pursuant to Government Code Section 36937.

#### **Section 7.**

Expiration. This Interim Ordinance shall be of no further force or effect upon the expiration of forty-five (45) days from the date of adoption, unless extended in accordance with Government Code Section 65858.

#### **Section 8.**

Certification. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

\*\*\*\*\*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing Ordinance was introduced and adopted at a meeting of the Council held on the 5<sup>th</sup> day of May, 2009, by the following vote:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk