

**May 15, 2007
BENICIA CITY COUNCIL
CITY COUNCIL CHAMBERS
SPECIAL MEETING AGENDA**

May 15, 2007

6:30 P.M.

- **CALL TO ORDER:**
- **CONVENE OPEN SESSION:**
 - **ROLL CALL**
 - **PLEDGE OF ALLEGIANCE**
 - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **OPPORTUNITY FOR PUBLIC COMMENT:**
 - **WRITTEN**
 - **PUBLIC COMMENT**
- **CLOSED SESSION:**
 - **CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))
Agency negotiators: City Manager, Human Resources Director, and Senior HR Analyst**
 - **Employee organization: Police Management Group**
- **ADJOURNMENT:**

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

May 15, 2007

7:00 P.M.

- **CALL TO ORDER:**
- **CLOSED SESSION:**
 - **TO BE HELD PRIOR TO THE REGULAR MEETING AT 6:30 P.M.**
- **CONVENE OPEN SESSION:**
 - **ROLL CALL**
 - **PLEDGE OF ALLEGIANCE**
 - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **ANNOUNCEMENTS/APPOINTMENTS
PRESENTATIONS/PROCLAMATIONS:**
 - **ANNOUNCEMENTS:**
 - **Announcement of action taken at Closed Session, if any.**
 - **Openings on Boards and Commissions:**
 - Economic Development Board**
 - Two full terms to June 30, 2011**
 - Board of Library Trustees**
 - One unexpired term to June 30, 2009**
 - **APPOINTMENTS:**

- PRESENTATIONS:
 - Presentation by Sutter Solano Charitable Foundation
-Terry Glubka and Janice Hoss
- PROCLAMATIONS:
 - 2007 Public Works Week - May 20-26, 2007
 - Founders' Day Fiesta - May 19, 2007
 - Safe Boating Week - May 19-25, 2007
- ADOPTION OF AGENDA:
- OPPORTUNITY FOR PUBLIC COMMENT:
 - WRITTEN
 - PUBLIC COMMENT
- CONSENT CALENDAR:
 - Approval of Minutes of April 17, 2007 and May 1, 2007. (City Clerk)
 - Approval of a lease with the Presbytery of the Redwoods for a Community Garden. (City Attorney)
 - Approval of a lease with the Presbytery of the Redwoods for a Community Garden. (City Attorney)

Recommendation: Adopt a resolution extending the lease with the Presbytery of the Redwoods for a community garden for up to five additional years.

- Approval of a spending plan for Supplemental Law Enforcement Special Fund (SLESF) funds for the 2006/2007 Fiscal Year. (Police Chief)

The Citizen's Option for Public Safety (COPS) Program is a state grant designed to augment public safety expenditures. The COPS program mandates the creation of a Supplemental Law Enforcement Special Fund (SLESF) for the COPS funds, which can be used for front line police services and must supplement, not supplant, existing funding. The Police Department received \$100,000 in COPS funding for Fiscal Year 2006/2007. As of March 31, 2007, \$77,527.17 has been expended towards the costs associated with 1 full-time police officer. However, because of the current vacancies in the Police Department, the Chief of Police is requesting that the remaining unencumbered balance of \$23,187.32 be reallocated for the purchase of a replacement vehicle for the investigations division of the department.

Recommendation: Adopt a resolution approving expenditures of SLESF funds for the 2006/2007 Fiscal Year.

- Approval of use of the remaining Supplemental Law Enforcement Special Fund (SLESF) funds from Fiscal Year 2005/2006. (Police Chief)

The Citizen's Option for Public Safety (COPS) Program is a state grant designed to augment public safety expenditures. The COPS program mandates the creation of a Supplemental Law Enforcement Special Fund (SLESF) for the COPS funds, which can be used for front line police services and must supplement,

not supplant, existing funding. The Police Department received \$100,000 in COPS funding for Fiscal Year 2005/2006, which were used to offset costs associated with 1.5 full-time officers. The fund currently has a balance of \$14,971 that was not expended in the 2005/2006 Fiscal Year. It is requested that this balance be applied towards the purchase of an investigations vehicle. If the remaining funds are not expended or encumbered before June 30, 2007 the moneys are required to be returned to the state.

Recommendation: Adopt a resolution approving expenditures of the remaining SLESF funds from the 2005/2006 Fiscal Year.

- Approval of First 5 Solano Grant Contract for Fiscal Years 2007 - 2010. (Police Chief)

The Benicia Family Resource Center (FRC) entered into a joint agency proposal with other social service agencies to obtain funding to sustain the multi-disciplinary approach to services available through the Integrated Family Support Initiative (IFSI), which is funded, by the First 5 Solano Children and Families Commission. The First 5 Solano Commission has awarded funding to the joint agency proposal members in the amount of \$2,814,337. The Benicia FRC's portion of this funding will come to \$122,588 over the next three years. The First 5 Solano Commission has required agencies in this joint agency proposal to sign individual contracts.

Recommendation: Authorize, by motion, the City Manager to sign the First 5 Solano grant contract for an amount up to \$122,588 for the next three years to the Benicia Police Department to maintain funding for the Family Resource Center.

- Acceptance of Lincoln Street Water Line Replacement Project including change orders. (Public Works Director)

The Lincoln Street Water Line Replacement Project replaced approximately 500 feet of water line and associated valves, fittings, and a fire hydrant in the Arsenal area. Formal acceptance of the work by the City Council is now required to allow the final payment to be made to the contractor. The final construction cost is \$115,668.66, which includes \$30,797.66 for five Contract Change Orders. The change orders represent an unusually large portion of the contract due to many unforeseen underground utility conditions in the lower Arsenal area. However, the final project cost remains under the engineer's estimate and within budget, which was communicated to the City Manager in the memorandum dated April 26, 2007. This project was funded and budgeted from the Water Enterprise Fund.

Recommendation: Adopt a resolution accepting the Lincoln Street Water Line Replacement Project as complete, including Change Order Nos. 1 through 5,

authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file same with the Solano County Recorder.

- **City of Benicia Landscaping and Lighting District Fiscal Year 2007-08. (Finance Director)**

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 2007-08 for all five zones is \$560,485. After the Reserve Fund credit is applied to the budget the balance to levy is \$442,713.

Recommendation: Adopt the attached resolutions pertaining to the subject district:

- **Initiate Proceedings for the Annual Levy and Collection of Assessments for the City of Benicia Landscape and Lighting District, fiscal year 2007-08;**
- **Preliminary approval of the Engineer's Report for the City of Benicia Landscaping and Lighting District, fiscal year 2007-08; and**
- **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 19, 2007 for the City of Benicia Landscaping and Lighting District, fiscal year 2007-08.**
- **Establishment of an exemption to the Utility Users Tax for Valero Refining Company - California in recognition of the Utility Users Tax Agreement between Valero and the City. (Finance Director)**

The Utility Users Tax (UUT) Agreement with Valero requires the City to adopt a resolution establishing Valero as a class of persons exempt from the Electric Users and Gas Users Taxes set forth in Chapter 3.25 of the Benicia Municipal Code so long as the written Agreement with the City is in effect. This is the final requirement in preparing the UUT Agreement for signatures. Staff preparation also included an audit of Valero's historical records used to determine the annual tax, which yielded no material errors. The City will receive an additional \$1.672 million this Fiscal Year per the terms of the agreement.

Recommendation: Adopt the resolution establishing an exemption pertaining to the Utility Users Tax for Valero Refining Company - California.

- **Acceptance of the Park Road and Industrial Way Bus Stop Project. (Finance Director)**

The Park Road and Industrial Way Bus Stop Project installed sidewalk, bicycle bollard, bus stop signs and poles, accessible ramps at the corner of Park Road and Industrial Way for use by Fairfield/Suisun Transit System and Benicia

Breeze bus routes. The project was completed at a total construction cost of \$158,930. The total cost of the project exceeded the budgeted contract cost, resulting in a negative project balance of \$3,519, which will be covered by funds in the Traffic Mitigation Fund/Park/Industrial Intersection Improvements. Formal acceptance of the work by the City Council is now required to allow the final payment to be made to the contractor.

Recommendation: Adopt a resolution accepting the Park Road and Industrial Way Project as complete, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file said notice with the Solano County Recorder.

- **Authorization of the annual application for Transportation Development Act Funds to operate Benicia Breeze for Fiscal Year 2007-08. (Finance Director)**

Each year the City files an application with MTC for TDA funds to support the City's transit operation called Benicia Breeze. The Transit Fund is an enterprise fund that depends solely on TDA allocations, fare revenue, bus advertising revenue and other Federal Transit Administration grants. The claim of \$1,180,082 will be used for Fixed Routes, Flex Routes and Paratransit Service in FY 2007-08.

Recommendation: Adopt the resolution authorizing the Finance Director to file an application with the Metropolitan Transportation Commission (MTC) for Transportation Development Act (TDA) funds to operate Benicia Breeze for Fiscal Year 2007-2008.

- **Approval of paying and reporting the value of Employer Paid Member Contributions (EPMC) to the Public Employees' Retirement System (PERS) for supervisory employees covered by Local 1. (Human Resources Director)**
The City previously concluded negotiations with Local 1 bargaining group covering professional/confidential and supervisory employees. Part of the agreement was to implement the benefit of Employer Paid Member Contributions reported as special compensation for supervisory employees. The cost of providing the EPMC Benefit for 2 months in FY 2006-07 is \$1,840 and will be offset by employee contributions. The cost for FY 2007-08 will be approximately \$15,110.

Recommendation: Adopt the resolution approving paying and reporting the value of Employer Paid Member Contributions (EPMC) to the Public Employee's Retirement System (PERS) for Supervisory employees in Local 1 bargaining group.

- **Approval of the July 1, 2006 to June 30, 2010 amendments to the Labor Agreement with the Benicia Police Management Group. (Human Resources Director)**

The City concluded negotiations with the Benicia Police Management Group on April 26, 2007. The Police Management Group consists of 3 incumbents. The MOU will increase the salary and benefit package in FY 2006-07 by \$26,840. Of this, 2% or \$12,570 was included in the FY 2006-07 Budget. An additional \$12,785 will be added to salary on July 1, 2006, representing a deferred Market Adjustment from January 1, 2006 - similar to the Police Association. The overall total compensation increase over the four-year term of the agreement will be 3.25% per year.

Recommendation: Adopt the resolution approving the amendments to the July 1, 2006 through June 30, 2010 Labor Agreement with the Benicia Police Management Group.

- Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.
- **PUBLIC HEARINGS:**
 - Consideration of an ordinance to regulate big box businesses. (Community Development Director)

The City Council has directed the Planning Commission to offer its recommendation regarding a potential ordinance to regulate big box businesses. The Planning Commission reviewed the draft ordinance and recommends the City Council pass the ordinance, which will define and regulate big box businesses.

Recommendation: Introduce the proposed ordinance to regulate big box businesses.

- Adoption of annual increases for the Capital Improvement License Tax, the Park Land Dedication Fee and the Library Book Fee. (Finance Director)

The City of Benicia currently collects one development impact tax and two development impact fees to support government activities, park improvements and expanded library circulation. The City ordinance governing the administration of the development impact tax and fees requires that each be adjusted annually by the change in the consumer price index or construction cost index. In addition, State law requires a public hearing and Council approval 30 days before the tax and fees can be effective. The tax and fee increases will yield an additional \$3,780 per year and will be deposited into the respective funds.

Recommendation: Conduct a Public Hearing and adopt the following resolutions:

- A resolution adopting increases for the Capital Improvement License Tax;
- A resolution adopting increases for the Park Land Dedication Fee; and

- A resolution adopting an extension and increase for the Library Book Fee.
- **ACTION ITEMS:**
 - Introduction of an ordinance to regulate campaign financing of City candidate elections by adding Chapter 1.40 (Campaign Financing of Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code. (City Attorney)

The City Council has had several workshops and meetings to discuss campaign related ordinances. The City Council requested an ordinance to regulate campaign financing be presented. This ordinance applies to campaigns for city offices and proposes to limit the amount a person may contribute to a candidate's campaign, as well as imposing new disclaimer and disclosure requirements for campaign advertising.

Recommendation: Introduce the ordinance regulating campaign financing for city candidates by adding a new Chapter 1.40 (Campaign Financing of Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code.

- Introduction and first reading of an ordinance to establish a voluntary expenditure ceiling for candidate elections by adding Chapter 1.28 (Voluntary Expenditure Limits for all Municipal Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code. (City Attorney)

Following several workshops and meetings, the City Council requested an ordinance to regulate campaign expenditures be presented. This ordinance applies to campaigns for city offices. It would allow a candidate to agree not to spend more than a specified amount of money on the election.

Recommendation: After deciding the expenditure limit and designated fund for penalties, introduce an ordinance to establish a voluntary expenditure ceiling for candidate elections by adding Chapter 1.28 (Voluntary Expenditure Limits for All Municipal Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code.

- Direction regarding a ballot measure to amend the utility users tax. (City Attorney)

Changes in technology and law have made the telecommunications portion of the City's utility users tax vulnerable to legal challenge and to erosion of the tax base. Modernizing the tax would help protect this source of City funding. As proposed, the rate for the telecommunications portion of the utility users tax would be reduced a small percentage. The definitions for the tax would be improved to account for changes in technology. Because the tax base would be expanded, a vote of the people is required. Note that it is not the intent of the changes to increase the funds generated.

Recommendation: Consider whether to place a ballot measure on the November ballot (or by a mail ballot) to reduce the rate of the utility users tax for telecommunications and modernize the definitions of what is taxable for the telecommunications portion of the utility users tax. This proposal would increase the items that are taxed but reduce the tax rate so that the net change would be minimal.

- **INFORMATIONAL ITEMS:**

- Reports from City Manager.
- Council Member Committee Reports.

(Council Members serve on various internal and external committees on behalf of the City. Current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by Council Members are made only by exception.)

- **Mayors' Committee Meeting (Mayor Messina)**
Next Meeting Date: June 20, 2007
- **Association of Bay Area Governments (ABAG) (Mayor Messina)**
Next Meeting Date: October 26, 2007 - Fall General Assembly
- **Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes)**
Next Meeting Date: June 8, 2007
- **League of California Cities (Mayor Messina)**
Next Meeting Date: Legislative Action Days - May 16-17, 2007
- **School District Liaison (Council Members Whitney and Hughes)**
Next Meeting Date: May 24, 2007
- **Sky Valley Area Open Space (Council Members Patterson and Whitney)**
Next Meeting Date: June 6, 2007
- **Solano EDC Board of Directors (Mayor Messina)**
Next Meeting Date: May 24, 2007
- **Solano Transportation Authority (STA) (Mayor Messina)**
Next Meeting Date: June 13, 2007
- **Solano Water Authority/Solano County Water Agency (Mayor Messina)**
Next Meeting Date: June 14, 2007
- **Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes)**
Next Meeting Date: July 19, 2007
- **Tri-City and County Regional Parks and Open Space (Council Member Whitney)**
Next Meeting Date: June 11, 2007.
- **Valero Community Advisory Panel (CAP) (Council Member Hughes)**
Next Meeting Date: July 26, 2007
- **Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney)**
Next Meeting Date: May 23, 2007

- ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson)

Next Meeting Date: May 21, 2007

- COMMENTS FROM COUNCIL MEMBERS:
 - ADJOURNMENT:
-

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on agendized and nonagendized matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

Disabled Access

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

Meeting Procedures

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