

May 19, 2009 Regular Meeting
BENICIA CITY COUNCIL
REGULAR MEETING AGENDA
City Council Chambers
May 19, 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. Announcement of the Earth Day "Help Keep the Air Clean" Coloring Contest Winners

2. Presentation from Youth Action Coalition

D. PROCLAMATIONS:

1. [Recognition of Museum Month](#)

2. [Recognition of National Safe Boating Week](#)

3. [National Public Works Week](#)

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda.

Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT

B. PUBLIC COMMENT

VII. CONSENT CALENDAR (8:00 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 28, 2009, April 29, 2009 and May 5, 2009.](#) (City Clerk)

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

Claimant alleges that she called a plumber because of the smell and taste of her water. The plumber advised her that the cause was a pressure-reducing valve, which he replaced. After she found this did not cure the problem she called the water treatment plant and was informed of the cause. The claim is for the plumber's bill for the replacement of the valve.

Recommendation: Deny the claim against the City.

C. [Approval of an agreement with Hanson Bridgett for legal services related to the lawsuit filed by Vernon and Mona Lemings.](#)(City Attorney)

Vernon and Mona Lemings have filed a lawsuit against the City related to the denial of their application for a new card room permit for the Pastime. This action is not covered by the Association of Bay Area Governments and so outside counsel must be hired to litigate the case.

Recommendation: Authorize the City Attorney to execute the agreement with Hanson Bridgett for legal services related to the Lemings' lawsuit.

D. [Adopt the resolution finding a severe fiscal hardship will exist if additional city property tax funds are seized and additional unfunded mandates are adopted by the State of California.](#) (City Manager)

The League of California Cities asks that cities consider adopting a resolution expressing opposition to the State's borrowing local property taxes as a means of balancing the State's budget deficit, and asking the State to cease further mandates until the economic climate has improved. The League's request is in response to the State Department of Finance's May 5, 2009 proposal to the Governor, which indicates the State Constitution allows the State to borrow the equivalent of 8 % of local property tax proceeds, to balance the State budget deficit.

Recommendation: Adopt the resolution finding a severe fiscal hardship will exist if additional local property tax funds are seized and additional unfunded mandates are adopted by the State of California.

E. [Award of a contract extension to A&L Construction, Inc. to provide services for weed abatement and fire breaks.](#) (Fire Chief)

The Fire Department manages the weed abatement and fuel modification program of city-owned properties and open space areas. The initial contract for services was awarded to A & L Services, Inc. in May of 2005. This contract includes an option to extend the agreement up to an additional three (3) years. With the approval of the Resolution, this contract will continue through May of 2010.

Recommendation: City Council adopt a resolution awarding a contract extension to provide services for weed abatement and fire breaks of city-owned properties and open space and authorizing the City Manager to sign the contract on behalf of the City.

F. 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 (8:10 P.M.):

A. [Consideration of mid-cycle budget adjustments for Fiscal Years 2007-2009.](#) (Finance Director)

During the previous budget review on March 17, 2009, staff indicated that several budget adjustments could be required due to the continued slide in residential home prices and corresponding property tax receipts. As predicted, the national and regional economic downturn has led to an additional operating revenue losses of \$916,580 million in property taxes and other development-related revenues this fiscal year. Fortunately, the City has received offsetting revenue gains of \$721,305, primarily in Sales Tax and PG&E Franchise Fees, that narrowed the budget shortfall to \$195,275. In order to mitigate the losses and balance the General Fund Budget, the City Manager recommends recognizing expenditures that are expected to finish the year below their authorized budget levels. This will result in net operational savings of \$189,440 and non-recurring savings of \$70,340, thus maintaining the mandatory 20% Undesignated Fund Balance Reserve of \$6,513,785. The financial reductions will have minimal impact on public services and project planning. The current budget situation has been used to develop revenue and expenditure estimates for the next two-year budget cycle, with budget workshops to begin June 1, 2009.

Recommendation: Adopt the resolution approving budget adjustments for FY 2007-2009.

X. INFORMATIONAL ITEMS (9:00 P.M.):

A. City Manager Reports

B. [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.)

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: October 22, 2009
3. Finance, Audit & Budget Committee. (Vice Mayor Campbell & Council Member Schwartzman) Next Meeting Date: May 29, 2009

4. League of California Cities. (Mayor Patterson & Council Member Schwartzman) Next Meeting Date: July 30, 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: August 5, 2009
7. Solano EDC Board of Directors. (Mayor Patterson & Council Member Ioakimedes) Next Meeting Date: July 23, 2009
8. Solano Transportation Authority (STA). (Mayor Patterson & Council Member Schwartzman) Next Meeting Date: June 10, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee. (Mayor Patterson & Vice Mayor Campbell) Next Meeting Date: June 11, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell & Council Member Hughes) Next Meeting Date: July 16, 2009
11. Tri-City and County Regional Parks and Open Space. (Vice Mayor Campbell & Council Member Hughes) Next Meeting Dates: Citizen's Advisory Committee – May 20, 2009
12. Valero Community Advisory Panel (CAP). (Council Member Hughes) Next Meeting Date: To be determined.
13. Youth Action Task Force. (Council Members Ioakimedes & Schwartzman) Next Meeting Date: May 27, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum. (Mayor Patterson) Next Meeting Date: May 25, 2009

XI. COUNCIL MEMBER REPORTS (9:10 P.M.):

A. [Request to agendaize consideration of support for SB 435.](#)(Mayor Patterson)

Mayor Patterson has requested that the Council consider agendaizing consideration of support for SB 435, which would require biennial smog checks for motorcycles.

Recommendation: Consider request to agendaize for a future Council meeting.

B. [Request to agendaize consideration of campaign spending limit.](#)(Vice Mayor Campbell and Council Member Ioakimedes)

Vice Mayor Campbell and Council Member Ioakimedes have discussed some numbers they think will work for Benicia contribution and spending campaign limits. They would like to agendaize discussion and action on amending the Benicia campaign and election ordinance.

Recommendation: Consider request to agendaize for a future Council meeting.

IX. ADJOURNMENT (9:30 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-agendaized matters under public comment, and on agendaized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

Disabled Access

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

Meeting Procedures

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

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

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

Public Records

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

 [IV-D-1 Museum Month Proclamation.pdf](#)

 [IV-D-2 Safe Boating Proclamation.pdf](#)

 [IV-D-3 PW Week Proclamation.pdf](#)

 [VII-A Minutes.pdf](#)

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

 [VII-C Legal Services Agreement.pdf](#)

 [VII-D Property Tax Seizure.pdf](#)

 [VII-E Weed Abatement Contract.pdf](#)

 [IX-A Mid-Cycle Budget.pdf](#)

 [X-B Council Committee Reports.pdf](#)

 [XI-A Request to Agendize.pdf](#)

 [XI-B Request to Agendize.pdf](#)



PROCLAMATION

IN RECOGNITION OF BENICIA MUSEUM MONTH MAY 2009

WHEREAS, Benicia is home to three museums that are located within the city, namely the Benicia Historical Museum, the Fire Museum, and the State Capitol serving the citizens of Benicia, as well as Solano County and all of California; and

WHEREAS, Benicia museums encourage curiosity and provide a source of enjoyment and education for every generation and the communities of the state; and

WHEREAS, Benicia museums nourish minds and spirits by fostering exploration, critical thinking, and dialogue to advance knowledge, understanding, and appreciation of the history of this city and state; and

WHEREAS, Benicia museums present exhibitions and programs created through research and scholarship for residents and visitors to explore new ideas, exchange stories, and discover collections and objects from our culture and national heritage; and

WHEREAS, Benicia museums forge relationships with community partners, such as schools, the library, media, neighborhood and social service organization; and

WHEREAS, Benicia museums contribute to the livability and economic vitality of the city, attract tourists, local visitors and businesses, all of which create a demand for services; and

WHEREAS, Benicia museums preserve the history of the community and its landmarks and further the appreciation of the community for its great heritage.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, do hereby proclaim, with the members of the City Council concurring, that the City government recognizes the important role that museums have and proclaim May 2009 as Benicia Museum Month.

Elizabeth Patterson, Mayor
May 19, 2009

IV-D-1-1





PROCLAMATION

IN RECOGNITION OF NATIONAL SAFE BOATING WEEK MAY 16 - 22, 2009

WHEREAS, recreational boating is fun and enjoyable, and we are fortunate that we have sufficient resources to accommodate the wide variety of pleasure boating demands. However, our waterways are crowded at times and can be a place of chaos and confusion; and

WHEREAS, on average, 700 people die each year in boating related accidents in the U.S., and nearly 70% of these are fatalities caused by drowning; and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgment, rather than the boat, equipment or environmental factors; and

WHEREAS, not knowing or obeying the Navigation Rules or the nautical "Rules of the Road," such as drinking alcohol or taking drugs while operating a boat, or choosing not to wear your life jacket are all examples of human error or lack of proper judgment; and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they simply worn their life jackets; and

WHEREAS, modern life jackets are more comfortable, more attractive and more wearable than styles of years past and deserve a fresh look by today's boating public; and

WHEREAS, we must continue to spread the message of boating safety, not only during National Safe Boating Week, but also throughout the entire year.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, do hereby support the goals of the North American Safe Boating Campaign and proclaim May 16-22, 2009 as National Safe Boating Week and the start of the year-round effort to promote safe boating.



Elizabeth Patterson, Mayor
May 19, 2009

IV-D-2-1



PROCLAMATION

NATIONAL PUBLIC WORKS WEEK
MAY 17 - 23, 2009

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, storm drains, streets and alleys, and public buildings; and

WHEREAS, the health, safety, and comfort of this community greatly depend on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent on the efforts and skills of the public works team; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff our public works department is materially influenced by our attitude toward and understanding of the importance of the work they perform.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, hereby proclaim May 17 - 23, 2009 as "NATIONAL PUBLIC WORKS WEEK," and urge all citizens and civic organizations to acquaint themselves with the effort and complexity involved in providing and maintaining the City's public works and to recognize the contributions which the professional public works staff make every day to uphold our health, safety, and comfort.

Elizabeth Patterson, Mayor
May 19, 2009



IV-D-3-1

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
APRIL 28, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:00 p.m. on Tuesday, April 28, 2009, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Patterson led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

ANNOUNCEMENTS:

Mayor Patterson read an announcement regarding the Swine Flu update.

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file).

ADOPTION OF THE AGENDA:

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

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

Noes: None

PUBLIC COMMENT:

1. Gene Daugherty – Mr. Daugherty discussed Ms. Street's concerns regarding the City's Strategic Plan with regards to the Waterfront Park.
2. Marilyn Bardet – Ms. Bardet discussed the upcoming air monitoring workshop that will be held on 5/6/09.

INFORMATIONAL ITEM:

Review of draft 2009-2011 Strategic Plan:

Jim Erickson, City Manager, introduced the agenda item. Staff would like to bring this item back on 5/19/09 for action as opposed to 5/5/09.

Anne Cardwell, Administrative Services Director, reviewed the staff report and a PowerPoint presentation (copy on file).

Mr. Erickson discussed the issue of performance measurements.

Council and Staff discussed why the word 'health' was taken out of the document, air quality monitoring, improving air quality, bringing back school busses, the approach being adopted by the Bay Area Air Quality Monitoring District, what some of the stimulus plan monies could be used for, encouraging economic revival, regional and mass transit issues, the Intermodal Train Station, and the Pavement Management Index (PMI).

Public Comment:

1. Anne Hansen – Ms. Hansen discussed that there was absolutely no mention of the Benicia Historical Museum in strategic issue #5. She would like the museum to be recognized.
2. Marilyn Bardet – Ms. Bardet reviewed her concerns regarding the strategic plan, as documented in her email to Council and Staff dated 4/27/09 (copy on file).
3. Rick Ernst – Mr. Ernst discussed concerns regarding the air quality warning system, the need for a sustainability commission, having LEED in all City-owned property, setting up a goal to have A+ streets, and water conservation.

Mayor Patterson discussed having a list of all funds the City has applied for with regards to the Federal stimulus funds.

4. Dana Dean – Ms. Dean discussed the need to work on more specific actions (specifically regarding strategic issue #2), solar power, the fact that the Lower Arsenal Specific Plan was missing from strategy #3, the lack of reference to the pedestrian pass, what happened to the lesser included items in the larger packet, and the lack of reference to dealing with issue of feeding the poor.
5. Kathy Kerridge – Ms. Kerridge discussed adding 'protecting community health and safety' to strategic issue #1, the need to reference sustainability, the need for more specific performance measurements, moving towards a more green economy, the need for more affordable housing, the need to take care of the people in the community that need our help.
6. Gene Doherty – Mr. Doherty discussed sustainability, school busses, green clean bus transit systems, reducing the City's energy usage, having various City buildings be LEED certified, efforts towards reducing vehicle miles traveled.
7. Mary Frances Kelly-Poh – Ms. Kelly-Poh discussed strategic issue #5, the need to promote a healthy, inclusive, and welcoming community, and the fact that there was a lot missing from strategic issue #5.
8. Jim Stevenson – Mr. Stevenson discussed the need to address water conservation, desalinization, and the need to ensure adequate water supply.
9. Susan Street – Ms. Street discussed that strategic issues 2-5 could have something to do with the Waterfront Park. She would like to see the Waterfront Park added to the list.

10. Dan Smith – Mr. Smith discussed the need to include some health issues added to the list, including the Arsenal Specific Plan to #3 instead of #5.
11. Jon Van Landschoot – Mr. Van Landschoot discussed the issue of solar panels and how the City of Berkeley was addressing the issue of solar panels.

Mr. Erickson stated that Staff would try to work the comments received tonight into the document.

Council Member Schwartzman discussed the need to add 'health' back into strategic issue #1, looking at other health related issues, the need for more specific metrics in the performance measures (such as crime rates), health and safety issues relating to foreclosures (swimming pools, etc.), protecting and enhancing the environment, including solar and wind installations in the matrix, adding 'economically viable' to strategic issue #4, adding the Benicia Historical Museum to #5, how and when the warning system would be used, and the need to address the garbage franchise issue.

Mayor Patterson discussed the need to remind the reader of the document that there were ongoing issues and activities that were being addressed.

Vice Mayor Campbell discussed the timeline for addressing projects

Council Member Hughes discussed the need for more specific performance measurements in the matrix, the need to compare the City to other cities, the need for more specific actions, adding 'health' to #1, the need for more specific actions regarding disaster response and preparedness, the need to spell out energy conservation under 'protecting the environment', adding 'economically viable', adding something about providing services to everyone in the community, and the need to add the Benicia Historical Museum.

Council Member Ioakimedes discussed the over conservative goals listed, some of the goals listed were projects that were already in the works, possibly updating the General Plan, the need to dream a little bit bigger, goals identified during the Seeno Project discussions were not included in the strategic plan goals, lack of mention of the implementation of the Opticos report, utilizing the health component of the General Plan, the solid school system being a key strength of the community, the possible lack of funding to maintain the current school system, and the possibility of having a completely different relationship with the school district

Mayor Patterson stated that Council Members should submit detailed notes and requests to Staff.

Mayor Patterson discussed the need to address suburban crime issues, water conservation, adopt sustainable practices, the Climate Action Plan, comparing the City to other cities as opposed to itself, air quality, water conservation and reduction, the need for an economic study to look at where the City is going and what it could support, the

DRAFT

community center, the need for a sense of timing (short term, mid term, or long term), and the need to measure change.

Vice Mayor Campbell discussed breaking the goals down into two or three year increments

Staff will review all comments and take them into consideration.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:00 p.m.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
APRIL 29, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:00 p.m. on Wednesday, April 29, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Patterson led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN COMMENT:

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin read the announcement of Closed Session.

CLOSED SESSION:

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)
Titles: City Manager
City Attorney

ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:02 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MAY 5, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, May 5, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Mayor Patterson recognized Ann Cardwell and Staff for their efforts in preparing the City Council agendas.

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.

Solano Napa Commuter Information is celebrating California's Bike-to-Work Week from May 11 to May 15. As part of the weeklong festivities, Bike-to-Work Day is Thursday, May 14.

The paintings currently displayed in the Council Chambers are by Jody Mattison. Jodi is an award-winning painter working in the realist tradition.

APPOINTMENTS:

None

PRESENTATIONS:

Report from the Bay Area Air Quality Management District regarding the April 6, 2009 Valero sulfur release:

Jim Erickson, City Manager, described the incident at Valero on April 6, 2009.

Kelly Wee, Director of Compliance and Enforcement, Bay Area Air Quality Management District (BAAQMD), reviewed the incident. BAAQMD could not complete its investigation until Valero completes their internal investigation. Mr. Wee will report back to Council once BAAQMD's investigation is complete to report their findings.

Chris Howe, Valero, apologized to the City and its citizens for the inconvenience the sulfur release caused. Valero expects its internal investigation would be completed within the next two weeks.

Report from the Open Government Commission:

Ms. Lois Requist, Ms. Claire McFadden, and Mr. John Woods, Open Government Commission, reviewed the report. They reviewed a PowerPoint presentation (copy on file).

PROCLAMATIONS:

- Peace Officers' Memorial Days & National Police Week
- Water Awareness Month – May 2009
- National Preservation Month – May 2009

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file)

PUBLIC COMMENT:

1. Marilyn Bardet – Ms. Bardet discussed the upcoming Air Quality Monitoring Workshop on 5/6/09.
2. Council Member Schwartzman – Council Member Schwartzman announced that the Benicia Rotary Club would be sponsoring an exchange student from Slovakia. He urged citizens to participate in the program.

CONSENT CALENDAR:

Council pulled item VII-B.

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 April 21, 2009 were approved.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

City of Benicia Landscaping and Lighting District Fiscal Year 2009-10

Mayor Patterson expressed concern regarding spending the City's reserve funds to pay for the L&L Districts.

Rob Sousa, Finance Director, reviewed the staff report.

Council Member Hughes discussed the need to be proactive rather than reactive.

Council Member Ioakimedes and Staff discussed the need for language regarding being mindful of energy efficiency and conservation, water efficiency programs in City parks, and possible uses for the VIP funds.

Council Member Schwartzman encouraged Staff to follow up on the suggestions of Council regarding various issues, and the possibility of using VIP funds for water enhancements.

Vice Mayor Campbell and Staff discussed the issue of when the City would approach the property owners regarding a rate increase.

Mayor Patterson agreed with Vice Mayor Campbell regarding the need to increase the rates, concern regarding using reserve funds to support the L&L Districts, the need for Staff to come up with a recommendation on a rate increase for the upcoming budget process.

RESOLUTION 09-41 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-2010

On motion of Council Member Hughes, 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

RESOLUTION 09-42 - A RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-10

On motion of Council Member Hughes, 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

RESOLUTION 09-43 - A RESOLUTION 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

On motion of Council Member Hughes, 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

PUBLIC HEARINGS:

None

ACTION ITEMS:

Recommendation of the sustainability working group to establish a commission:
Charlie Knox, Community Development Director, reviewed the staff report.

Gene Doherty, Jim Stevenson, Kathy Kerridge, Michael Paric, and Dan Jensen, Sustainability Working Group, reviewed a PowerPoint presentation (copy on file).

Council Member Hughes clarified that the request was for \$75,000 for staffing.

Mr. Erickson discussed the idea of an advisory vs. a directory commission, having a mandatory check-back or mandatory review period, the issue of overlapping responsibilities with other commissions, and the issue of funding.

Public Comment:

1. Dana Dean and Chris Howe – Ms. Dean and Mr. Howe discussed the structure for funding the various projects. They are working on it and it will be presented to Council in the future. They discussed the need for a mechanism for the transfer of the funds for water conservation. They will try and get the information to Council in time for the next agenda. They discussed future sources of funding for conservation projects in the City, and the need for Council approval on the expenditure of the VIP funds.
2. Dan Smith – Mr. Smith spoke in support of establishing the proposed commission.

3. Marilyn Bardet – Ms. Bardet spoke in support of establishing the proposed commission.
4. Jon Van Landschoot – Mr. Van Landschoot spoke in support of establishing the proposed commission.

Council Member Schwartzman discussed his support of having a commission, concerns regarding it being advisory, Council having an annual review, and the issue of overlapping responsibilities.

Council Member Hughes discussed the level of staff support required to support the proposed commission, making it clear that would be an advisory commission, the need for an annual review, future funding requirements, the issue of overlap, and the need to be clear on the scope of the commission.

Council Member Ioakimedes discussed concerns regarding funding, possible matching dollar grants, concerns regarding commute language, concerns with making BUSD and Valero ex-officio members, the need for more of an emphasis on waste management, concerns regarding transportation (why the train station was not mentioned), concerns regarding the health component, and concerns relating to SB 375.

Mayor Patterson discussed her desire for a motion to include incorporating the principles in the resolution and add some that were heard tonight, and have the ordinance come back to Council as soon as possible. She saw the commission as an advisory commission with a level of expertise. There was no intent to subsume any of the authority or responsibilities of other boards or commissions. The reference for the structure for funding needs to be an integral part of the ordinance (as an implementation tool referenced by the ordinance), She discussed the need for the ordinance to reference the commission funding itself, future funding options, the ex officio status of BUSD and Valero, including the train, the issue of recycling, adding the health aspect, and adding language regarding SB 375.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council directed Staff to approve the concepts presented in the working group's recommendations, taking into consideration the comments added by Council to the public comments, on roll call by the following vote:

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

Noes: None

Mayor Patterson called for a break at 9:38 p.m.

The meeting resumed at 9:46 p.m.

Review of reuse study for Commanding Officer's Quarters and direction regarding short-term use:

Mario Guiliani, Management Analyst, reviewed the staff report.

Charlie Duncan, Carey & Co. Inc. reviewed a PowerPoint presentation (copy on file).

Vice Mayor Campbell discussed the issue of restaurants at the site, and the effect scheduling events at the site would have on the Clocktower's schedule.

Council Member Schwartzman discussed the incredible job Staff did on the building, the need to keep the building in historic order regardless of the use, concerns regarding tables, chairs, etc. for meetings and groups and who would be responsible for supplying them.

Council Member Ioakimedes discussed not being able to envision a restaurant at the site.

Mayor Patterson discussed the citizens committee that used the Brothers Lighthouse (it was a 501c3), having the specific plan amended to include the reuse study, how to go about transitioning from short term to mid term to long term, and how to go about starting a citizens committee.

Public Comment:

1. Lee Wilder Snider – Ms. Wilder Snider discussed the issue of expanding the short-term use, and the possibility of the City allowing Arts Benicia to occupy office space.
2. James Lessenger – Mr. Lessenger complimented Staff on the rehabilitation of the site. He discussed the history of the occupancy of the site and the need for someone to continually occupy the site. He discussed the Benicia Historical Museum's offer to be the landlord for the site, and a book that the Museum was working on regarding the site.
3. Marilyn Bardet – Ms. Bardet discussed having tenants upstairs but not phasing out the public use downstairs.
4. Jim Stevenson – Mr. Stevenson discussed the interest that the museum's book might generate for the site.
5. Jon Van Landschoot – Mr. Van Landschoot discussed a recent tour he and his wife took of the site, the need to not allow the site to go back to how bad it was, and the possibility of having a HPRC meeting at the site.

Staff discussed the issue of not being able to use the site for office space at this time, the ability to use the building on a limited basis for now, and Staff's ability to handle the rental and management of the site at this time.

Council Member Schwartzman discussed the issue of renting out the top addition of the site and what it would take to run the phone and data cables to that section of the building.

Mayor Patterson discussed wanting to see a motion that deals with the issues of immediate occupancy, a process for tenancy with the protection of public use, the exploration of the incorporation into the specific plan, and exploring a voluntary committee (coming up with a game plan).

Council Member Hughes discussed how impressed he was with the site, the need to begin using the site now, support for purchasing tables and chairs for the site, support for private use on second floor and public use on main floor, the need to move forward and

aggressively solicit tenants to use it for meetings and events. Staff should look at medium and long term use, look at cost for tenant improvements so it could be used quickly, and report back to Council with its recommendations.

Vice Mayor Campbell inquired about moving all non-televised commission meetings to the site on a temporary basis (to the extent possible). Staff would look into the issue.

Council and staff discussed the issue of possibly moving City Attorney's office the site.

Council Member Ioakimedes discussed the City Attorney's office being in the trailer, the excellent job staff did on the site, possibly moving some of the events that have outgrown Downtown out to the Arsenal, not separating the district from the building and vice versa, the need for immediate occupancy, possibilities for having a citizens committee, incorporating a 501c3, balance for public access, and maintaining the beauty of the site.

Council Member Schwartzman and Staff discussed the specific plan.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council directed Staff address immediate occupancy, develop a plan for tenancy, incorporating the reuse study into the specific plan (as a separate process that does not delay the occupancy), come back with a recommendation on what a committee would look like, and include authorization to spend funds (up to \$25,000) for miscellaneous furniture, on roll call by the following vote:

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

Noes: None

Extension of the medical marijuana dispensary and hookah lounge moratorium ordinance:

Kat Wellman, Contract Attorney, reviewed the staff report.

Public Comment:

1. Jose Giandinoto – Mr. Giandinoto spoke in support of medical marijuana dispensaries.

Council and Staff discussed the process for obtaining medical marijuana prescriptions.

ORDINANCE 09-11 - AN ORDINANCE TO EXTEND ORDINANCE 09-07, AN URGENCY INTERIM ORDINANCE 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

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

DRAFT

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

Noes: None

INFORMATIONAL ITEMS:

Reports from City Manager:

None

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:14 p.m.

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
CONSENT CALENDAR**

DATE : May 7, 2009
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY ANNA
WHITNEY AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Anna Whitney.

EXECUTIVE SUMMARY:

Claimant alleges that she called a plumber because of the smell and taste of her water. The plumber advised her that the cause was a pressure-reducing valve, which he replaced. After she found this did not cure the problem she called the water treatment plant and was informed of the cause. The claim is for the plumber's bill for the replacement of the valve.

STRATEGIC PLAN:

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

BUDGET INFORMATION:

The amount of this claim is \$285.00.

BACKGROUND:

This was the first time the magnitude of this type of problem was experienced in the 21-year operating history of the State Water Project North Bay Aqueduct (NBA). This was a regional event affecting all the other cities within Solano and Napa counties that use the NBA, approximately 450,000 customers.

The city is only required to notify the public if it is a public health threat. This was an aesthetics issue of bad taste and smell. The water was fully treated, met all water quality standards, and was safe to drink. However, there was a press release regarding the problem in the Benicia Herald and the Vallejo Times Herald, as well as, the city's website and public access channel 27 on the same day as Ms. Whitney called the plumber. Had she contacted the city first she would have been informed of the problem. A city staff person spoke with Ms. Whitney after she had

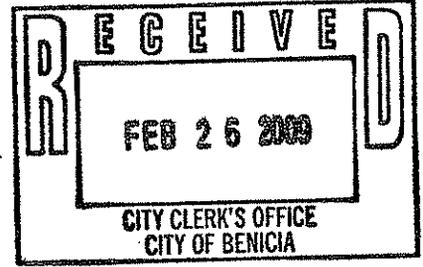
called the plumber. In their discussion Ms. Whitney indicated that the pressure regulator that was replaced was about 20 years old. Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney.

Attachment:

- Copy of Claim Filed Against the City

CLAIM AGAINST THE CITY

In Person



CLAIM AGAINST THE CITY OF BENICIA

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

Complete the following, adding additional sheets as necessary.

- 1. CLAIMANT'S NAME (Print): ANNA B. WHITNEY
- 2. CLAIMANT'S ADDRESS: 142 Dartmouth Pl. P.O. Box 183 Benicia
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: 707-747-2897 WORK PHONE: _____

- 3. AMOUNT OF CLAIM: \$ 285.00 (Attach copies of bills/estimates)

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

Limited Civil Case _____
 Unlimited Civil Case _____

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

 (Name)

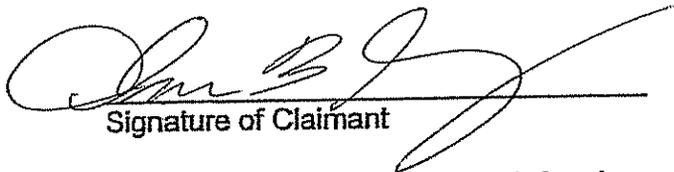
 (Street or P.O. Box Number, City, State, Zip Code)

- 5. DATE OF INCIDENT: 02-23-09 TIME OF INCIDENT: 11:30 am

LOCATION OF INCIDENT: 142 Dartmouth Pl. Benicia 94510

- 6. Describe the incident or accident including your reason for believing that the City is liable for your damages: The smelly water was not announced until Feb. 24, 09. The water was switched Feb. 13, 2009. The city failed to inform the public regarding that smelly awful tasting water.
- 7. Describe all damages which you believe you have incurred as a result of the incident: The city owes me the amount of \$285.00 plumbing bill. Please see enclosed bill.

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


 Signature of Claimant

02-24-2009
 Date

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

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

FLAZER'S AFFORDABLE DRAINS & REPAIRS
 707-552-5949
 492 LA JOLLA ST.
 VALLEJO, CA 94591

No. 2058

DATE 2-22-20
ORDER NO. 247-2877

NAME Mr. Wheeler
ADDRESS 142 Doughty PL Bldg

SOLD BY C. H. 319	<input type="checkbox"/> CASH <input type="checkbox"/> CHARGE	<input type="checkbox"/> C.O.D. <input type="checkbox"/> MERCHANDISE RETURNED	<input type="checkbox"/> PAID OUT <input checked="" type="checkbox"/>
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QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Replaced water pressure reg out in front yard		
	Also replaced flange of valve		
	Paid all work		225.00
	No leaks		
	MAHALO		

adams
NC2581

SIGNATURE *[Signature]*

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.

VII-B-5

GENERAL PURPOSE

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19,2009
CONSENT CALENDAR**

DATE : May 11, 2009
TO : City Council
FROM : City Attorney
SUBJECT : **APPROVAL OF AN AGREEMENT WITH HANSON BRIDGETT FOR LEGAL SERVICES RELATED TO THE LAWSUIT FILED BY VERNON AND MONA LEMINGS**

RECOMMENDATION:

Authorize the City Attorney to execute the agreement with Hanson Bridgett for legal services related to the Lemings' lawsuit.

EXECUTIVE SUMMARY:

Vernon and Mona Lemings have filed a lawsuit against the City related to the denial of their application for a new card room permit for the Pastime. This action is not covered by the Association of Bay Area Governments and so outside counsel must be hired to litigate the case.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

None.

BUDGET INFORMATION:

The actual cost of this agreement cannot yet be determined since the work is litigation. It is anticipated that the cost will be approximately \$30,000 to \$50,000. The actual amount will vary based upon how aggressive the plaintiff is.

BACKGROUND:

As you are aware, the City Council denied the Lemings application for a new card room permit for the Pastime at the February 3, 2009 Council meeting.

The Association of Bay Area Governments ("ABAG"), our joint powers insurance pool, will not cover us. Attached is a quote from Hanson Bridgett. Tom Brown is the former city attorney of

Napa and will lead the team from Hanson Bridgett. This firm previously represented the city in the lawsuit filed by Bill Royal.

Section 3.10.010 of the Benicia Municipal Code requires that service contracts in excess of \$25,000 be awarded by the City Council. The contract has a not to exceed amount of \$85,000. This agreement is being brought to the City Council for approval because the total cost of services is unknown at this time. Cost will depend on a variety of factors including how aggressively the plaintiff prosecutes the case.

Attachment:

- Attorney Agreement

AGREEMENT

THOMAS B. BROWN
PARTNER
DIRECT DIAL 415 995 5857
DIRECT FAX 415 995 3496
E-MAIL tbrown@hansonbridgett.com

April 30, 2009

Heather McLaughlin
City Attorney
City of Benicia
250 East L. Street
Benicia, CA 94510

Dear Ms. McLaughlin:

This letter will confirm your engagement of Hanson Bridgett LLP to provide legal services to the City of Benicia ("City") in connection with the litigation of *Lemings v. City of Benicia* et al., recently filed in the Solano County Superior Court.

Conflicts Review

We have performed a computerized check of potential conflicts of interest that might have prevented us from providing representation in this matter. Based on information provided by you, as well as the information available in our files, we are not aware of any conflicts of interest at this time. If you later learn of any additional parties with an interest in this matter, you should notify us immediately so that we can be certain that they create no problem with our representation of you. We will conduct a similar search with respect to each new matter you may refer to the firm.

Fees and Billing Practices

I will be the attorney responsible for this matter, and will be assisted by other attorneys in our firm. We will use a blended hourly rate of \$305 for me and all other attorneys assisting me. The total amount billed to the City shall not exceed a "cap" of \$85,000. Hours incurred in connection with the following shall not be applied against the cap:

- affirmative and defensive discovery, and discovery-related motions, in excess of 25 hours;
- preparation and review of administrative record in excess of 25 hours;
- mediation and/or settlement conferences, preparation in connection therewith, and drafting of settlement documents, in excess of 25 hours;
- summary judgment motions in excess of 25 hours;
- appeals and/or appellate writs.

VII-C-4

Heather McLaughlin
April 30, 2009
Page 2

The firm's billing policy is described in an attachment to this letter. If you ever have questions about any of our bills – or any other aspect of our relationship – please contact me immediately so that your concerns can be addressed.

Our invoices contain a detailed narrative of the services rendered, together with the name of the attorney or paralegal involved, the time spent, and the amount charged. On matters of a sensitive nature that are subject to the attorney-client privilege, we recommend that you treat our invoices as confidential documents and safeguard them appropriately.

No Warranty of Result

Although we believe that we can assist you in this matter, we cannot predict or represent that a particular result can be obtained within a specified time or at all. We can make no promises or guarantees regarding the outcome of the matter or matters that are the subject of our services.

Arbitration of Disputes

While we certainly do not anticipate conflict between us, in the event of any material dispute regarding the services provided or fees charged by the firm which cannot be settled amicably, we both agree that such dispute shall be submitted, as soon as practicable, to final and binding arbitration in San Francisco in accordance with the rules and procedures of JAMS Inc., a private mediation and arbitration facilitator. Any dispute shall be strictly confidential between the firm and you and, except for our own representatives, will not be disclosed to any other person or entity.

Entire Agreement

This letter and the attached billing policy summary represent our entire agreement. If these are acceptable to you, please sign the enclosed copy and return it to us for our files. We look forward to working with you in this matter.

Very truly yours,

Thomas B. Brown

VII-C-5

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
CONSENT CALENDAR**

DATE : May 13, 2009
TO : City Council
FROM : City Manager
SUBJECT : **ADOPT THE RESOLUTION FINDING A SEVERE FISCAL
HARDSHIP WILL EXIST IF ADDITIONAL CITY
PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL
UNFUNDED MANDATES ARE ADOPTED BY THE STATE
OF CALIFORNIA**

RECOMMENDATION:

Adopt the resolution finding a severe fiscal hardship will exist if additional local property tax funds are seized and additional unfunded mandates are adopted by the State of California.

EXECUTIVE SUMMARY:

The League of California Cities asks that cities consider adopting a resolution expressing opposition to the State's borrowing local property taxes as a means of balancing the State's budget deficit, and asking the State to cease further mandates until the economic climate has improved. The League's request is in response to the State Department of Finance's May 5, 2009 proposal to the Governor, which indicates the State Constitution allows the State to borrow the equivalent of 8 % of local property tax proceeds, to balance the State budget deficit.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Plan Goal:

- Preserve and Enhance City Assets and Infrastructure

BUDGET INFORMATION:

The City's Finance Director projects, based on an 8% reduction, the total amount that would be borrowed from the City of Benicia by the State, including the "triple flip" and VLF, would be \$1,320,000. This will place an additional burden on the City's General Fund, which is suffering major revenue losses from the economic decline and the residential foreclosure crisis. The money will reduce the City's General Fund Undesignated Reserve below the 20% mandated threshold and place the City at risk, should a natural disaster or local economic depression occur.

BACKGROUND:

The League of California Cities has asked cities to oppose the borrowing of local property taxes as a means of balancing the State budget. The League is also asking cities to discourage the State from imposing State mandates until the economic climate improves. The attached memo to City Officials from the League's Executive Director summarizes the League's position on the proposed borrowing.

The League provided a draft resolution that it has asked cities around the state to adopt. The resolution will be considered by a number of local agencies. Balancing the City's 2009-2011 budget has been and continues to be difficult. That situation will only be exacerbated by the State borrowing, should it be approved by the Legislature and Governor.

Attachment:

- Resolution
- Memo from the League of California Cities

RESOLUTION

RESOLUTION NO. 09-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF ADDITIONAL CITY
PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL UNFUNDED
MANDATES ARE ADOPTED BY THE STATE OF CALIFORNIA**

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused city officials to reopen already adopted budgets to make painful cuts, including layoffs and furloughs of city workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over **\$8.6 billion** of city property tax revenues statewide to fund the state budget even after deducting public safety program payments to cities by the state; and

WHEREAS, in FY 2007-08 alone the state seized **\$895 million** in city property taxes statewide to fund the state budget after deducting public safety program payments and an additional \$350 million in local redevelopment funds were seized in FY 2008-09; and

WHEREAS, the most significant impact of taking local property taxes has been to reduce the quality of public safety services cities can provide since public safety comprises the largest part of any city's general fund budget; and

WHEREAS, in 2004 the voters by an 84% vote margin adopted substantial constitutional protections for local revenues, but the legislature can still "borrow" local property taxes to fund the state budget; and

WHEREAS, on May 5 the Department of Finance announced it had proposed to the Governor that the state "borrow" over \$2 billion in local property taxes from cities, counties and special districts to balance the state budget, causing deeper cuts in local public safety and other vital services; and

WHEREAS, in the past the Governor has called such "borrowing" proposals fiscally irresponsible because the state will find it virtually impossible to repay and it would only deepen the state's structural deficit, preventing the state from balancing its budget; and

WHEREAS, the Legislature is currently considering hundreds of bills, many of which would impose new costs on local governments that can neither be afforded nor sustained in this economic climate; and

WHEREAS, state agencies are imposing, or considering, many regulations imposing unfunded mandates on local governments without regard to how local agencies will be able comply with these mandates while meeting their other responsibilities; and

WHEREAS, the combined effects of the seizure of the City's property taxes, increasing unfunded state mandates, and the revenue losses due to the economic downturn have placed the city's budget under serious fiscal pressure; and

WHEREAS, our city simply can not sustain the loss of any more property tax funds or to be saddled with any more state mandates as they will only deepen the financial challenge facing our city; and

WHEREAS, a number of the City's financial commitments arise from contracts, including long term capital leases and debt obligations which support securities in the public capital markets, that the City must honor in full unless modified by mutual agreement of the parties.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia has determined that the City will experience a severe fiscal hardship if the recommendation of the Department of Finance to "borrow" \$2 billion of local property taxes is supported by the Governor and the Legislature; and

BE IT FURTHER RESOLVED, that the City Council strongly and unconditionally opposes the May 5 proposal of the Department of Finance and any other state government proposals to borrow or seize any additional local funds, including the property tax, redevelopment tax increment, and the city's share of the Prop. 42 transportation sales tax; and

BE IT FURTHER RESOLVED, that the City Council strongly urges the state legislature and Governor to suspend the enactment of any new mandates on local governments until such time as the economy has recovered and urges the state to provide complete funding for all existing and any new mandates.

BE IT FURTHER RESOLVED, that the City Clerk shall send copies of this resolution to the Governor, our state senator(s), our state assembly member(s) and the League of California Cities.

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 19th day of May, 2009, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**MEMO FROM THE
LEAGUE OF CALIFORNIA CITIES**



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

TO: City Officials
FROM: Chris McKenzie, Executive Director
RE: Sample Resolution Declaring Severe Fiscal Hardship
DATE: Friday, May 08, 2009

Background. On May 5 the Department of Finance announced it had proposed to the Governor that the state “borrow” over \$2 billion in local property taxes from cities, counties and special districts to balance the state budget, causing deeper cuts in local public safety and other vital service. In order to start that process, the Governor would have to issue a proclamation declaring the existence of a “severe fiscal hardship.” The legislature would then have to implement the “borrowing” program by passing urgency legislation (2/3 vote) which identifies how the “loan” will be repaid with interest.

Resolution. The League has developed the attached **Resolution Finding A Severe Fiscal Hardship Will Exist** if this proposed state property tax raid is added to the pressures of the ongoing property tax losses and the serious revenue losses due to the economic recession. The resolution in effect states that the idea of the state taking property tax funds from already stressed city budgets is ludicrous and irresponsible. It helps demonstrate that part of the reason cities are cutting there budgets today, in fact, is because of past and continuing property tax raids. If possible, we urge that a staff report be prepared with information on property tax losses (see below) and budget cuts the city has made and is facing.

Cumulative Property Tax Losses. The attached resolution cites the cumulative property tax losses of cities statewide since the state began taking these funds in the early 1990s— which is \$8.6 billion statewide even after deducting payments cities receive from the Prop. 172 public safety sales tax the state COPS grant program. If you want to see your individual city total, see: <http://www.californiacityfinance.com/ERAFbyCity08.pdf>. Please use the figure in the last column on the right if you want to insert the amount your city has lost to these state raids.

Where to Send Copies. The draft resolution directs the city clerk to send copies to your legislators, the Governor, and the League. We would appreciate you faxing copies to both your League Regional Public Affairs Manager and the League’s Sacramento Office (Fax 916-658-8240).

Note. The last WHEREAS clause was included on the advice of bond counsel to avoid any implication that the city would not honor any of its bond or other contractual obligations.

Questions. If you have any questions or need any information please contact your League Regional Public Affairs Manager.

VII-D-8

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
CONSENT CALENDAR**

DATE : May 11, 2009
TO : City Manager
FROM : Fire Chief
SUBJECT : **AWARD OF A CONTRACT EXTENSION TO A&L
CONSTRUCTION, INC. TO PROVIDE SERVICES FOR WEED
ABATEMENT AND FIRE BREAKS**

RECOMMENDATION:

City Council adopt a Resolution awarding a contract extension to provide services for weed abatement and fire breaks of city-owned properties and open space and authorizing the City Manager to sign the contract on behalf of the City.

EXECUTIVE SUMMARY:

The Fire Department manages the weed abatement and fuel modification program of city-owned properties and open space areas. The initial contract for services was awarded to A & L Services, Inc. in May of 2005. This contract includes an option to extend the agreement up to an additional three (3) years. With the approval of the Resolution, this contract will continue through May of 2010.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 1.00: Protect Community and Environmental Health and Safety
 - Strategy 1.30: Protect neighborhoods from risks to health and safety

BUDGET IMPACT:

The funds were appropriated by the Finance Director, and are budgeted in Account Number 010-2405-8170. The amount covers the costs for abatement and firebreaks in the open space areas received from Pacific Bay Homes (approx 190 acres); the areas of Tourtelot property; and selected additional city-owned properties and open spaces, which were identified as needing these services. A cost breakdown per year is as follows:

2009	\$115,515.00
2010	\$117,825.00

Per the original agreement, these costs are based on the original amount plus agreed upon cost of living adjustments.

BACKGROUND:

The initial contract for services was awarded to A & L Services, Inc. in May of 2005, with an option to extend the contract through 2010. A & L Services, Inc. has been the contractor used by the City for this service for over sixteen (16) years and, being a responsible and responsive company, staff recommends the extension to this contractor. The contract has an optional three (3) year extension with a COLA increase to be determined included. The contract cost is a 2% increase over the 2007 and 2008 costs.

The contractor has performed excellent work, and has requested a nominal increase of 2% per year for the extension. This procedure is in accordance with the California Public Contract Code. It is recommended that this contract be extended.

Attachments:

- Resolution
- Service Contract
- Letter from A & L Services, Inc.

RESOLUTION

RESOLUTION NO. 09-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AWARDING A CONTRACT EXTENSION TO PROVIDE SERVICES FOR WEED ABATEMENT AND FIRE BREAKS OF CITY OWNED PROPERTIES AND OPEN SPACE AREAS FOR THE TERM OF THE CONTRACT EXTENSION TO A & L SERVICES, INC. AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY.

WHEREAS, the abatement of weeds and placement of fire breaks on city-owned properties reduces the risk of a major wildland fire within the City; and

WHEREAS, the City of Benicia solicited proposals for providing weed abatement and fire break services to the City; and

WHEREAS, A and L Services, Inc. was initially awarded a three year contract for providing weed abatement and fire break services to the City, with an option for a three year extension; and

WHEREAS, staff has determined this company to be responsible and responsive.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia does hereby award an extension to the contract to A and L Services, Inc. to provide services for weed abatement and fire breaks of city owned properties and open spaces in the amount of \$115,515.00 for 2009/2010 and \$117,825.00 for 2010/2011, and authorizes the City Manager to sign the contract on behalf of the City.

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 _____ day of _____, 2009, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

AGREEMENT

Weed Abatement and Fire Breaks for City-Owned Properties and Open Space Areas

SERVICE CONTRACT

THIS AGREEMENT, made and entered into this 1st day of May, 2005, by and between A & L Services Inc., hereinafter referred to as "CONTRACTOR" and the CITY OF BENICIA, CALIFORNIA, hereinafter referred to as "CITY".

WITNESSETH:

That for and in consideration of the promises and agreements hereinafter made and exchanged, the CITY and the CONTRACTOR agree as follows:

1. That the CONTRACTOR will furnish all labor, materials, equipment, tools, transportation, services, appliances, and appurtenances for Weed Abatement and Fire Breaks for City-Owned Properties and Open Space Areas (sometimes referred to as "the work") in accordance with the Plans and Specifications therefore, adopted by the CITY Council of the above CITY as prepared by CITY OF BENICIA, and in full accord with the provisions of the Federal, State and local codes, including all addenda and approved change orders.

a. **TERM OF CONTRACT:** The term of this agreement shall be three (3) years (2005-2008) with a option to extend the agreement up to an additional three (3) years by written consent of both parties.

b. **Project Costs:** The agreed upon bid price will be for the three (3) year period. For additional agreement years (contract extensions), the costs will be limited to the original bid amount plus agreed upon cost of living adjustments (COLA).

2. That the CITY will pay the CONTRACTOR progress payments and the final payment, withholding 10% retention from each payment until after the lien period is over, and less any penalties and charges and in accordance with the method set forth in the Specifications with warrants drawn on the appropriate fund or funds as required, according to the prices as bid and accepted, based upon the Plans and Addenda, as follows: up to \$82,500.00.

a. In accordance with California Public Contracts Code §22300, CONTRACTOR shall be permitted to substitute securities for any moneys to be withheld by the CITY to ensure performance under this Agreement. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the CITY, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the CONTRACTOR. Upon satisfactory completion of this Agreement and the passage of any requisite lien period without the filing of stop payment notices or suit, the securities shall be returned to the CONTRACTOR. Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the CONTRACTOR and the CITY. The CONTRACTOR

shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

b. The CITY shall pay the CONTRACTOR the final payment plus any withheld retentions after the requisite lien period has passed provided: (1) no stop payment notices have been filed; (2) the CONTRACTOR is not in default hereunder; and (3) the work has been satisfactorily completed.

3. CITY reserves the right to make reasonable modifications to the plans and specifications whenever field conditions and/or public safety require such modifications. In addition, the CITY may make changes in this agreement or the plans and specifications in the course of construction to bring the completed work into compliance with environmental requirements or standards established by state or federal statutes and regulations enacted after the agreement has been awarded or entered into. The CONTRACTOR shall be paid for the changes in accordance with paragraph 22.

a. This agreement may be terminated for environmental considerations at the discretion of the CITY. Notice of termination of this Agreement shall be given in writing to CONTRACTOR, and shall be sufficient and complete when same is deposited in the United States mail postage prepaid and certified, addressed as set forth in paragraph 34 of this Agreement. The Agreement shall be terminated upon receipt of the Notice of Termination by CONTRACTOR. If CITY should terminate this Agreement, the CONTRACTOR shall be compensated for all work satisfactorily performed prior to time of receipt of cancellation notice, and shall be compensated for materials ordered by the CONTRACTOR or his employees, or services of others ordered by the CONTRACTOR or his employees prior to receipt of notice of cancellation whether or not such materials or final instruments of services of others have actually been delivered, provided that the CONTRACTOR or employees are not able to cancel such orders for materials or services of others. Compensation for the CONTRACTOR in the event of cancellation shall be determined by the CITY Fire Chief in accordance with the percentage of project completed and agreed to by the CONTRACTOR. In the event of cancellation, all notes, sketches, computations, drawings and specifications, or other data, whether complete or not, produced through the time of the City's last payment shall be relinquished to the CITY. The CITY may, at its own expense, make copies or extract information from any such notes, sketches, computations, drawings, and specifications, or other data whether complete or not.

4. The CITY'S Fire Chief and inspector shall inspect all of the improvements to be accepted for maintenance by the CITY. All improvements shall be inspected for compliance with CITY standards, plans, and specifications.

5. CONTRACTOR shall allow CITY'S duly authorized representatives access to the work at all times and shall furnish them with every reasonable facility for ascertaining that the methods, materials, and workmanship comply with the requirements and intent of the approved plans. CITY may reject defective work and require its repair, replacement, or removal by CONTRACTOR, all at the CONTRACTOR'S sole cost.

6. CITY shall not be required to exonerate any surety, release any security relating to satisfactory completion of the improvements until acceptance of proposed public improvements by the CITY or, in the case of improvements which will not be dedicated to and accepted by CITY, until the improvements have passed final inspection by CITY. In addition, release of security or exoneration of sureties will be predicated upon the receipt of required maintenance and/or warranty agreements and security therefore.

7. No improvement shall be accepted by the CITY unless and until it is free of all liens and encumbrances, and free of all material defects and conditions, which may create a hazard to the public health, safety, or welfare. In addition, all properties, rights-of-way, easements, and other interests to be dedicated to the CITY shall be, before acceptance thereof by the CITY, free and clear of all liens and encumbrances of any kind or character whatsoever and free of any and all material defects and conditions creating a hazard to public health or public safety.

8. Time is of the essence of each and every provision of this Contract.

9. CONTRACTOR will pay all workers on the work a salary or wage at least equal to the prevailing rate of per diem wages for such work as set forth in the wage determinations and wage standards applicable to this work, a copy of which is on file with the CITY Clerk. A copy of the prevailing rate of per diem wage shall be posted at the job site. CONTRACTOR shall forfeit to the CITY, as a penalty, TWENTY- FIVE DOLLARS (\$25.00) for each calendar day or portion thereof for each worker paid less than the prevailing rate set forth herein on the work provided for in the contract, all in accordance with section 1775 of the Labor Code of the State of California.

10. CONTRACTOR agrees that in the performance of this Contract, not more than eight (8) hours shall constitute a day's work, and the CONTRACTOR shall not require more than eight (8) hours of labor in a day from any person employed by CONTRACTOR hereunder, except as provided in the Labor Code of the State of California. CONTRACTOR shall conform to Article 3, Chapter 1, Part 7 (Section 1810, et seq.) of the Labor Code of the State of California, and it is agreed that the CONTRACTOR shall forfeit to the CITY as a penalty the sum of TWENTY-FIVE DOLLARS (\$25.00) for each worker employed in the execution of this Contract by the CONTRACTOR for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in violation of said Article.

11. CONTRACTOR shall comply with applicable provisions of §1777.5 of the Labor Code for all apprenticeable occupations. In the event CONTRACTOR willfully fails to comply with the applicable provisions of §1777.5, CONTRACTOR shall forfeit as a civil penalty the sum of FIFTY DOLLARS (\$50.00) for each calendar day of non- compliance, which money may be withheld by CITY pursuant to the provisions of Labor Code §1777.7.

12. CONTRACTOR shall comply with the applicable provisions of §1773.8 of the Labor Code regarding the payment of travel and subsistence payments to each worker necessary to execute the work.

a. It shall be the responsibility of the CONTRACTOR to insure compliance with this section 12(a). Each CONTRACTOR shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONTRACTOR in connection with the work described herein. The CONTRACTOR shall comply with each and every provision of Labor Code Section 1776 pertinent to said records as well as any other records governed by said Section 1776, including, but not limited to, providing copies of payroll records to employees and to the CITY, advising the CITY of the location of said records, preserving the confidentiality of the identities of individual employees, and complying with the penalty provisions of Section 1776. Specifically, in the event that the CONTRACTOR'S noncompliance with Section 1776 is evident after the ten-day period specified in subparagraph (f) of Section 1776, CONTRACTOR shall pay, as a penalty, to the CITY \$25 for each calendar day or portion thereof for each worker until strict compliance is effectuated.

13. CONTRACTOR agrees to complete the work prior to JULY 1, of each contract year after the Notice to Proceed (or approved extensions thereof) and to the entire satisfaction of the CITY before final payment is made. The CONTRACTOR is required to give at least one day's advance notice of the date upon which work is commenced and the date upon which the work is to be completed.

14. It is agreed that CONTRACTOR'S failure to complete the work within the time allowed will result in damages being sustained by the CITY. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with standard specifications, for completion of the work the CONTRACTOR shall pay to the CITY, or have withheld from monies due it, the sum as stipulated in the special provisions as liquidated damages. Progress payments made after the scheduled completion date shall not constitute a waiver of liquidated damages.

15. CONTRACTOR shall comply with all applicable laws, rules and regulations barring discrimination on the basis of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.

16. CITY may withhold, or on account of later discovered evidence, nullify all or part of any certification made to the CONTRACTOR by the CITY as to the amount determined to be due the CONTRACTOR, to such extent and period of time only as may be necessary to protect the CITY from loss on account of: defective work not remedied; claims filed or reasonable evidence indicating probable filing; or for material or labor; reasonable doubt that the work cannot be completed for the balance remaining; damage to third party, damage to property because of any defective works.

17. CITY shall have the option to require additional testing. However, in the event the results indicate defective work or materials, CONTRACTOR shall pay the costs of such tests and an appropriate change order shall be issued.

18. CONTRACTOR agrees that when work involves digging trenches or other excavations that extend deeper than four feet below the surface, that the CONTRACTOR shall promptly notify the public entity in writing, before conditions are disturbed, of any of the following:

- 1) Material that the CONTRACTOR believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- 2) Subsurface or latent physical conditions at the site differing from those indicated.
- 3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

In the event that a dispute arises between the CITY and the CONTRACTOR as to whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the CONTRACTOR shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The CONTRACTOR shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the CONTRACTOR and CITY.

This section of the Contract is referenced to Public Contract Code Section 7104.

19. CONTRACTOR shall, prior to the execution of the contract, furnish two bonds in a form approved by the CITY, one in the amount of One Hundred Percent (100%) of the contract price to guarantee the faithful performance of the work, and one in the amount of One Hundred Percent (100%) of the contract price to guarantee payment of all claims for labor and materials furnished. This contract shall not become effective until such bonds are supplied to and approved by the CITY.

20. To the extent permitted by law, CONTRACTOR shall indemnify, hold harmless, release and defend CITY, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs or liabilities of any nature that may be asserted by any person or entity including CONTRACTOR from any cause whatsoever including another's concurrent negligence arising

out of or in any way connected with the activities of CONTRACTOR, employees and agents hereunder and regardless of City's passive negligence. CONTRACTOR shall be solely responsible and save CITY harmless from all matters relative to payment of his employees including compliance with Social Security, withholding, etc.

This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for CONTRACTOR under Worker's Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this agreement, or the terms, applicability or limitations of any insurance held by CONTRACTOR.

21. CONTRACTOR shall obtain insurance acceptable to the CITY in a company or companies admitted in California and with a Best rating of no less than A or as acceptable to the CITY. The required documentation of such insurance shall be furnished to the CITY at the time CONTRACTOR returns the executed contract. The proper insurance shall be provided within ten (10) days of the date of mailing of the notice that the contract has been awarded and prior to the CITY executing the contract and issuing a notice to proceed. The CONTRACTOR shall not commence work nor shall s/he allow his employees or anyone to commence work until all insurance required hereunder has been submitted and approved and a notice to proceed has been issued.

Without limiting CONTRACTOR'S indemnification provided hereunder, CONTRACTOR shall take out and maintain at all times during the life of this contract, up to the date of acceptance of the work by the CITY, the following policies of insurance:

a. Worker's Compensation insurance to cover its employees. All Workers' Compensation policies shall be endorsed with the provision that it will not be canceled without first giving thirty (30) days prior notice to the CITY.

In the event any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation Statutes, the CONTRACTOR shall provide adequate and suitable insurance for the protection of its employees not otherwise protected. Such policy must be acceptable to CITY and shall provide that it will not be cancelled without first giving thirty (30) days notice to CITY.

CONTRACTOR'S worker's compensation insurance shall include the following language: "All rights of subrogation are hereby waived against the CITY of BENICIA, its officers and employees when acting within the scope of their appointment or employment."

b. Public Liability insurance including bodily injury and property damage insurance for all activities of the CONTRACTOR arising out of or in connection with this contract, written on a comprehensive general liability form including, but not limited to, Broad Form Property Damage, blanket contractual, completed operations, vehicle coverage, products liability and employers non-ownership liability coverage in an amount no less than \$2 million dollars combined, single limit personal injury and property damage for each occurrence. The

completed operations and product liability insurance shall continue for not less than 365 days following acceptance of the work by CITY. Each such policy shall be endorsed with the following language:

(1) The CITY of BENICIA is named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for personal and bodily injuries, deaths or property damage or destruction arising in any respect, directly or indirectly, in the performance of the contract.

(2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

(3) The insurance provided herein is primary and no insurance held or owned by the CITY of BENICIA shall be called upon to contribute to a loss.

(4) The coverage provided by this policy shall not be cancelled without thirty (30) days prior written notice given to the CITY.

(5) This policy does not exclude explosion, collapse, underground excavation hazards or removal of lateral support.

CONTRACTOR shall submit to CITY documentation of the required insurance including a certificate of Insurance on the CITY of BENICIA form, a copy of which is attached as Exhibit "A", signed by the insurance agent and companies named as well as properly executed endorsements, in the form attached as Exhibits "B", "C", and "D" for the additional coverages required hereunder, signed by the named insurance agent.

c. To the extent the following described damage is not covered by insurance, the CONTRACTOR shall be responsible for the cost of repairing or restoring damage to the work ("the costs"), which damage occurs prior to acceptance of the work by the CITY and the damage is determined to be proximately caused by an act of God.

(1) Notwithstanding anything to the contrary stated herein, if said act of God constitutes an earthquake in excess of a magnitude of 3.5 on the Richter Scale and/or tidal waves, the CONTRACTOR shall be responsible for the costs in the amount of 5% of the amount paid to the CONTRACTOR hereunder.

(2) Subparagraph c (1) shall not be applicable if the work paid for by this agreement is financed by revenue bonds.

d. In the event the work involves the construction of a building, bridge or other structure, Builder's Risk "All Risk" completed value insurance coverage (including flood

but unless otherwise specified in the bid documents excluding earthquake and tidal wave) upon the entire project and including completed work and work in progress. The CITY of BENICIA shall be named as an additional insured. The policy shall be endorsed to provide that it will not be cancelled without giving thirty (30) days prior written notice to CITY by mail.

e. Any deductible or self-insured retentions must be declared to and approved by CITY. At the option of CITY insurer shall reduce or eliminate such deductible or self-insured retention as respects CITY, its officers and employees or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigation, claims, administration and defense expenses.

22. Only the CITY's Fire Department has the authority to allow changed or extra work that will result in additional cost to CITY. Any work done without proper authorization shall not render CITY liable to CONTRACTOR and CONTRACTOR shall not be entitled to any payment whether by means of restitution, quantum meruit or otherwise. In the event extra or changed work is duly authorized by the CITY, but agreement regarding payment is not reached with the CONTRACTOR, the CITY can, at its discretion, order CONTRACTOR to proceed with the work and CONTRACTOR shall proceed with work subject to resolution of the dispute at a later date. In the event Specifications or other documents are incorporated into this agreement that provide for procedures pertinent to changed or extra work, those other documents shall control.

23. In the event that the work is not completed to the satisfaction of CITY within the time specified by this agreement, CITY, in addition to any other remedy at law or equity, may complete such work with its own forces or by contract.

24. Neither the final certificate of payment nor any provision in the contract nor partial or entire use of the improvements embraced in this contract by the CITY or the public shall constitute an acceptance of work not done in accordance with the contract or relieve the CONTRACTOR of liability in respect to any warranties or responsibility for faulty materials or workmanship. The CONTRACTOR shall promptly remedy any defects in the work and materials and pay for the costs of any damages resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The CITY will give notice of defective materials and work with reasonable promptness. Before requesting acceptance of the project, the CONTRACTOR shall execute the attached guarantee that all work shall be free from defects in material and workmanship for a period of at least one year after acceptance of the work. CONTRACTOR shall also post a guarantee bond or security in an amount of not less than 10% of the contract amount assuring corrective work required during the guarantee period. For purposes of determining the amount of the guarantee bond, "contract amount" shall mean the entire amount paid by the CITY to the CONTRACTOR under this agreement, including but not limited to, the bid amount and any change orders.

25. No material, supplies, or equipment to be installed or furnished under this contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or

supplier. The CONTRACTOR shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the CITY free from any claims, liens, or charges. Neither the CONTRACTOR nor any person, firm or corporation furnishing any material or labor for any work covered by this contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the CONTRACTOR for their protection or any rights under any law permitting such persons to look to funds due the CONTRACTOR in the hands of the CITY. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

26. The CONTRACTOR shall be solely responsible and save CITY harmless for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters.

27. This Contract by reference includes the Notice Inviting Bids, Bidder's Proposal, Affidavits, Plans and Specifications, Addenda if any, and Contract Bonds; all as the term "Contract" is defined in the Specifications. All documents forming the complete contract are intended to integrate so that any condition or work called for in and one and not mentioned in another shall be executed as if mentioned in all documents and set forth in the drawings. However, in the event of any inconsistencies between such other documents and provisions of this contract, the provisions of this contract shall prevail.

28. CONTRACTOR offers and agrees to assign to the CITY of BENICIA all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this Contract or any subcontract. This assignment shall be made and become effective at the time the CITY of BENICIA tenders final payment to the CONTRACTOR, without further acknowledgment by the parties.

29. Any bidder or CONTRACTOR not properly licensed with the State of California shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors State License Board.

30. Pre-Litigation Meet and Confer and Claims Procedures.

(a) All claims shall be in writing, addressed and delivered as per paragraph 35, and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. The claims procedures set forth herein are supplementary to other claims procedures provided for herein (e.g., change orders), but in terms of preserving the CONTRACTOR'S rights to pursue any claims by litigation, CONTRACTOR must comply with these claim procedures described in this paragraph 31 or CONTRACTOR shall be deemed to

have conclusively waived and abandoned his/her/its rights to pursue any claim for which these procedures were not followed.

(b) "Claim" means a separate demand by the CONTRACTOR for (A) a time extension, (B) payment of money or damages arising from work done by or on behalf of the CONTRACTOR pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the CITY.

(c) For claims of less than \$50,000, the CITY shall respond in writing to a claim within 45 days of the receipt of the claim, or may request in writing, within 30 days of the receipt of a claim, any additional documents supporting the claim or relating to defenses or claims the CITY may have against the CONTRACTOR. The CONTRACTOR shall supply the requested documentation within 15 days of the request therefore. The CITY'S written response to the claim, as further documented, shall be submitted to the CONTRACTOR within 15 days after receipt of the further documentation.

(d) For claims above \$50,000 and up to \$375,000, the CITY shall respond in writing to all written claims within 60 days of receipt of the claim, or may request in writing within 30 days of receipt of the claim, any additional documentation needed to support the claim or relating to any defenses or claims the CITY may have against the CONTRACTOR. The CONTRACTOR shall deliver the requested documentation to the CITY within 30 days after the receipt of the request therefore. The CITY'S written response to the claim, as further documented, shall be submitted to the CONTRACTOR within 30 days after receipt of the further documentation.

(e) If the CONTRACTOR disputes the CITY's written response, or the CITY fails to respond within the time prescribed, the CONTRACTOR may so notify the CITY, in writing, either within 15 days of receipt of the CITY's response or within 15 days of the CITY's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the CITY shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(f) If the meet and confer process does not produce an agreement, the CONTRACTOR may file a claim in accordance with Public Contracts Code 20104.2(e).

31. This Agreement shall inure to the benefit of, and be binding upon, the successors in interest, legal representatives, trustees, and permitted assigns of either party.

32. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to included terms and a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure, section 1856. No modification hereof shall be effective unless and until such modification is evidenced by a writing signed by all parties to this Agreement.

33. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. After receipt of a demand for assurance, either party's failure to provide within a reasonable time but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances is a repudiation of this Agreement by that party. Acceptance of any improper delivery of service or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

34. All notices permitted or required hereunder shall be addressed as follows and shall be deemed delivered upon the posting the notice first class, U.S. mail, postage prepaid:

If to the CITY: Ken Hanley
Fire Chief
City of Benicia
250 East 'L' Street
Benicia, CA 94510

If to the CONTRACTOR: A&L Services Inc.
Jim Lamont
36445 County Road 31
Davis, Ca. 95616

35. This Agreement shall be construed in accordance with the law of the State of California. Venue shall be in the County of Solano.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the said CONTRACTOR and the CITY Manager of the CITY, have caused the names of said parties to be affixed hereto, each in triplicate, the day and year first written above.

CONTRACTOR

(Attach Notary
Acknowledgment)

By: James P. Lamont
James Lamont

Title: President

Date 3/11/05

CITY OF BENICIA, A Public
Corporation

By: Jim Erickson, City Manager
Jim Erickson

Approved as to Form:

Heather C. McLaughlin
City Attorney
Heather McLaughlin

Attachments: Exhibits "A", "B", "C" and "D"
Performance and L & M Bonds (Construction) Guarantee

VII-E-17

LETTER FROM A & L SERVICES



General Engineering License #823087

May 13, 2009

City of Benicia – Fire Department
Attention: Pete Fiori – Division Chief
250 East L St
Benicia CA 94510

Dear Division Chief Fiori:

We request to renew our annual weed abatement contract (including hand work and discing) with the City of Benicia Fire Department.

We request a 2% increase per year for the next two years. The contract price will be as follows:

2009	\$ 115,515.00
2010	\$ 117,825.00

Thank you for your consideration.

Sincerely,

Cheryl Ransdell
Controller

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
ACTION ITEM**

DATE : May 13, 2009
TO : City Manager
FROM : Finance Director
SUBJECT : **CONSIDERATION OF MID-CYCLE BUDGET
ADJUSTMENTS FOR FISCAL YEARS 2007-2009**

RECOMMENDATION:

Adopt the resolution approving budget adjustments for FY 2007-2009.

EXECUTIVE SUMMARY:

During the previous budget review on March 17, 2009, staff indicated that several budget adjustments could be required due to the continued slide in residential home prices and corresponding property tax receipts. As predicted, the national and regional economic downturn has led to an additional operating revenue losses of \$916,580 million in property taxes and other development-related revenues this fiscal year. Fortunately, the City has received offsetting revenue gains of \$721,305, primarily in Sales Tax and PG&E Franchise Fees, that narrowed the budget shortfall to \$195,275. In order to mitigate the losses and balance the General Fund Budget, the City Manager recommends recognizing expenditures that are expected to finish the year below their authorized budget levels. This will result in net operational savings of \$189,440 and non-recurring savings of \$70,340, thus maintaining the mandatory 20% Undesignated Fund Balance Reserve of \$6,513,785. The financial reductions will have minimal impact on public services and project planning. The current budget situation has been used to develop revenue and expenditure estimates for the next two-year budget cycle, with budget workshops to begin June 1, 2009.

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 combined budgetary impacts for all funds are listed below.

FY 2008-09				
Fund	Revenue Adjustments	Expenditure Adjustments	Balance Sheet Adjustments	Net Impact on Fund Balance
General Fund				
Operating	(\$195,275)	\$189,440		(\$5,835)
Non-Recurring	\$3,325,155	(\$3,284,815)		\$40,340
Net Impact				\$34,505
Other Funds	\$548,965	(1,627,060)		(\$1,078,095)

BACKGROUND:

Overview. The biennial Municipal Budgets for Fiscal Years 2007-09 were approved by the City Council on June 19, 2007. During the course of the two-year budget, staff is directed to return from time-to-time with recommendations for adjustments to the municipal budgets that reflect known changes in forecasted budget amounts, as well as, additional revenue and expenditure appropriations recommended by the City Manager. There have been two such reviews of the budget by the City Council, one on August 19, 2008 and the other on December 2, 2008.

This is the third and final major adjustment to the current fiscal year budget and includes across-the-board reviews of every revenue and expenditure to ensure the budget amounts accurately portray current conditions. Not only does this serve to balance the current year budget but it also allows the current budget to serve as the basis for analyzing and developing budget recommendations for the upcoming two-year budget cycle that will begin on July 1, 2009.

Budget Adjustments. The City of Benicia's financial condition has fared much better than other surrounding cities, as our reliance on consumer-related sales tax and new residential home sales is much less. Even so, the continued slide in home prices and sales velocity are beginning to take their toll on City revenues. This was made evident when the property tax allocations were received from the County at the end of April. The numbers indicated that more homes sold below their current assessed value than those that sold for more. This resulted in negative tax collections (tax refunds) that impacted our Supplemental Property Tax collections and resulted in a huge drop in Property Transfer taxes. While sales velocity is expected to increase in the future, the sales price is expected to continue its downward slide into the next quarter or two.

There are a number of other key revenue shortfalls since the last budget update that total \$916,580 million. The information in *Table 1.* on the following page lists several of the major revenue adjustments plus other changes in our financial projections that have an impact on the FY 2008-09 budget, leaving a shortfall of \$195,275 since the last budget review. There is a brief explanation relating to each item in the attachments to the Resolution following the report.

It is important to note that the Industrial Park has seen a surge in Petro-Chemical sales and service that has increased the City's expected sales tax receipts by \$334,710. This is primarily due to the Valero Improvement Project and turnarounds at Tesoro and Conoco Phillips. The low sales price at the pump has also led other refineries to shut-down for retooling and the sales tax resulting from those is expected to continue for the next couple quarters.

Table 1.
Major Revenue Adjustments

Note	Description	Amended Budget 2008-09	Forecast Actual 2008-09	Required Adjustments 5/19/09	Percent
<u>REVENUE ADJUSTMENTS</u>					
13	Property Tax Adjustment	13,557,405	13,250,795	(306,610)	-2%
34	CDD Service Fees	580,000	360,000	(220,000)	-38%
35	Police Taxes, Fines & Fees	530,000	358,630	(171,370)	-32%
30	Investment Earnings	495,000	420,000	(75,000)	-15%
29	Property Transfer Tax	150,000	76,000	(74,000)	-49%
28	Transient Occupancy Tax	290,000	243,000	(47,000)	-16%
31	State Mandated Costs	25,000	2,400	(22,600)	-90%
7	PG&E Franchise Fee	1,137,490	1,353,240	215,750	19%
11	Sales Tax	4,203,290	4,538,000	334,710	8%
	Balance of Revenue Adjustments	682,615	853,460	170,845	25%
	Balance of Operational Revenues	10,520,160	10,520,160		
Subtotal Operational Revenues		\$ 32,170,960	\$ 31,975,685	\$ (195,275)	-0.6%
10	Commandants Reserve Transfer <i>(Not included in Total)</i>	0	1,728,145	1,728,145	
12	Transfer in from Water & Wastewater	30,000	0	(30,000)	
15	Loan from Wastewater Connection	0	1,627,010	1,627,010	
	Balance of Non Recurring	154,670	154,670		
Subtotal One-Time Revenues		\$ 184,670	\$ 1,781,680	\$ 1,597,010	
Combined Revenues		\$ 32,355,630	\$ 33,757,365	\$ 1,401,735	

As you can see from the list above, there is a net reduction of \$195,275 in operating revenues. This brings the total reduction for the year to \$871,820, a total drop of 2.7%. While this is difficult to compensate for within a budget year, it is far better than the 20% declines that many other Solano County cities are experiencing.

Table 2. on the following page lists the major expenditure adjustments discovered during a thorough review of every department's year-to-date expenditures. Fortunately, several departments have identified reductions in expenditure levels relating to Frozen Positions and/or reduced commodity prices, such as gasoline and diesel, that have allowed for significant savings.

That is not to say there hasn't been other cost increases, which you will also notice in **Table 2.** One of the larger setbacks this year came from Solano County, as they began to charge Property Tax Administration Fees on the State's Triple Flip Pass-Through and other similar subventions. This has increased our Admin Fees by more than 100% in the last three years.

While the primary goal was to offset the revenue losses mentioned above, the secondary goal was to develop an accurate budget accounting for the expected year-end results. The adjustment requests accomplish this secondary goal and will serve as the basis for analyzing and projecting budget estimates for the FY 2009-11 Municipal Budgets.

Table 2.
Major Expenditure Adjustments

Note	Description	Amended Budget 2008-09	Forecast Actual 2008-09	Required Adjustments 5/19/09	Percent
<u>Operational Expenditures</u>					
27	Allocate Salary Savings to Frozen Position	(375,000)	(66,600)	308,400	-82%
13	Property Tax Administration Fee	146,880	209,155	62,275	42%
40	Adjustment to ISF Funding	812,860	508,490	(304,370)	-37%
42	Mills Community Center Utilites	54,000	24,000	(30,000)	-56%
42	BUSD Utilities	116,975	66,975	(50,000)	-43%
	Balance of Expenditure Adjustments	859,940	857,330	(2,610)	
	Salary & Benefits - Reconcile to Actuals	17,024,305	16,851,170	(173,135)	
	Balance of Operational Expenditures	13,772,745	13,772,745		0%
Subtotal Operational Expenditures		\$ 32,412,705	\$ 32,223,265	\$ (189,440)	-0.6%
<u>Non-Recurring Expenditures</u>					
1	Arsenal EIR	\$ 32,535	\$ 33,035	\$ 500	
8	Housing Element	60,000	67,600	7,600	
10	Commandants Reserve Transfer	97,000	1,825,145	1,728,145	
14	Transfer to Storm Water Improvements	0	(20,000)	(20,000)	
15	Payoff Valero Property Tax Loan	0	1,627,010	1,627,010	
16	Contract City Attorney Fees	120,000	170,000	50,000	
17	Contract Services Audit/Survey/ARRA	15,600	65,600	50,000	
18	Liability Insurance Settlements		50,000	50,000	
19	Business Loans/Grants	36,845	16,845	(20,000)	
20	BERT	26,000	22,000	(4,000)	
21	Transfer Out Storm Water CIP	80,000	15,000	(65,000)	
22	Diesel Truck CARB Retrofit	38,000	0	(38,000)	
23	Corp Yard Repairs	15,000	0	(15,000)	
24	1st St Parking Improvements	32,575	0	(32,575)	
25	1st St Sidewalk Improvements	30,000	0	(30,000)	
26	East 5th St Smart Growth	89,965	86,100	(3,865)	
	Balance of Non-Recurring Expenditures	99,140	99,140		
Subtotal One-Time Expenditures		\$ 772,660	\$ 4,057,475	\$ 3,284,815	
Combined Expenditures		\$ 33,185,365	\$ 36,280,740	\$ 3,095,375	
Net Budget Adjustments				\$ (1,693,640)	

Due to the late arrival of information used to prepare the major budget adjustments presented in this report, staff will conclude the staff report with a referral to the Budget Resolution Attachments that follow. A brief explanation is included for each of the items mentioned above that should provide you with an understanding of each adjustment. Staff will also prepare a more thorough review for presentation at the Council meeting.

Attachments:

- Budget Resolution
- Attachments to the Resolution "A" to "D"
- General Fund Summary

RESOLUTION

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING ADJUSTMENTS TO THE MUNICIPAL BUDGETS FOR FISCAL YEAR 2008-2009

WHEREAS, the City Manager presented a proposed two-year budget for fiscal years 2007-2008 and 2008-2009 that was approved by the City Council on June 19, 2007 for all Municipal Funds; and

WHEREAS, the City Manager has presented recommendations for adjustments to the municipal budgets for fiscal year 2008-2009 at a regular meeting of the City Council on May 19, 2009 as evidenced by the Attachments "A" through "D" attached to this resolution and incorporated herein; and

WHEREAS, the City Council has determined the aforementioned adjustments are consistent with the Balanced Operating Budget Policy and the Fund Balance Reserve Policy, previously adopted to ensure the fiscal sustainability of the City of Benicia.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby adopts adjustments to the Municipal Budgets for Fiscal Year 2008-09 as evidenced by Attachments "A" through "D" attached hereto and incorporated herein.

On motion of _____, seconded by _____, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of May, 2009 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**ATTACHMENTS TO THE RESOLUTION
“A” TO “D”**

ATTACHMENT -A-
Prior Approvals and Non-Discretionary Adjustments - General Fund
Requested Budget Adjustments

Acct. #	Description	Amended Budget 2008-09	Proposed Adjustments 5/19/09	Amended Budget 2008-09
<u>REVENUE ADJUSTMENTS</u>				
010-9305-7810	2 Benicia Bike Club	0	300	300
010-9305-7645	3 Snow Day	380,000	4,000	384,000
010-2405-7208	7 PG&E Franchise Fee	1,137,490	215,750	1,353,240
010-2405-7121	11 Sales Tax	4,203,290	334,710	4,538,000
010-2405-xxxx	13 Property Tax Adjustment	13,557,405	(306,610)	13,250,795
010-2405-7211	28 TOT	290,000	(47,000)	243,000
010-2405-7214	29 Property Transfer Tax	150,000	(74,000)	76,000
010-2405-7411	30 Investment Earnings	495,000	(75,000)	420,000
010-2405-7507	31 State Mandated Costs	25,000	(22,600)	2,400
010-3205-7411	32 City Treasurer	55,285	37,225	92,510
010-3132-7710	33 Insurance Refunds	0	23,900	23,900
010-4105-7xxx	34 CDD Service Fees	580,000	(220,000)	360,000
010-5xxx-7xxx	35 Police Taxes, Fines & Fees	530,000	(171,370)	358,630
010-6105-7720	36 Fire Reimbursable OT	242,330	60,000	302,330
010-8705-7710	37 Street Maintenance Reimbursements	0	7,500	7,500
010-8805-7616	38 Engineering Plan Processing	5,000	30,000	35,000
010-9505-7455	39 Lake Herman House Rent	0	7,920	7,920
Subtotal Operational Revenues		\$ 21,650,800	\$ (195,275)	\$ 21,455,525
011-9205-7xxx	10 Commandants Reserve Transfer	0	1,728,145	1,728,145
011-2405-7999	12 Transfer in from Water & Wastewater	30,000	(30,000)	0
011-2405-7428	15 Loan from Wastewater Connection	0	1,627,010	1,627,010
Subtotal One-Time Revenues		\$ 30,000	\$ 3,325,155	\$ 3,355,155
Combined Revenues		\$ 21,680,800	\$ 3,129,880	\$ 24,810,680

ATTACHMENT -A-
Prior Approvals and Non-Discretionary Adjustments - General Fund
Requested Budget Adjustments

Acct. #	Description	Amended Budget 2008-09	Proposed Adjustments 5/19/09	Amended Budget 2008-09
<u>EXPENDITURE ADJUSTMENTS</u>				
<u>Operational Expenditures</u>				
010-9305-8124	2 Benicia Bike Club	128,000	300	128,300
010-9305-8124	3 Snow Day	128,300	4,000	132,300
010-9050-8102	4 Mills Community Center Contract Services	0	4,200	4,200
010-5205-8000	5 Police Salary Reconcile	7,345,465	63,655	7,409,120
010-2605-8252	6 First Street Sidewalk Cleaning		3,500	117,500
010-4105-8106	8 CDD Professional Services	45,000	(7,600)	37,400
010-2405-9858	9 Household Hazardous Waste	17,755	8,000	25,755
010-2405-8954	13 Property Tax Adjustment	146,880	62,275	209,155
010-2405-9999	14 Transfer to Storm Water Improvements	202,500	23,755	226,255
010-2405-9022	15 Accrued Interest for WW Loan Repayment	0	8,205	8,205
010-2405-9051	15 Adjust Valero Property Tax Payment	281,120	(75,705)	205,415
010-2105-xxxx	27 Salary Adjustments City Mgr	470,625	30,800	501,425
010-2605-xxxx	27 Salary Adjustments Economic Dev	265,605	3,690	269,295
010-2705-xxxx	27 Salary Adjustments Human Resources	325,205	(63,190)	262,015
010-3205-xxxx	27 Salary Adjustments City Treasurer	21,380	31,130	52,510
010-3105-xxxx	27 Salary Adjustments Finance	567,100	(31,295)	535,805
010-3305-xxxx	27 Salary Adjustments IT	359,245	(36,420)	322,825
010-4105-xxxx	27 Salary Adjustments CDD Planning	588,440	88,775	677,215
010-4205-xxxx	27 Salary Adjustments CDD Building Insp	658,310	(93,945)	564,365
010-6105-xxxx	27 Salary Adjustments Fire	6,422,930	(166,335)	6,256,595
010-2405-Misc	27 Offset to "Salary Savings"	(375,000)	308,400	(66,600)
010-3305-8132	41 Computer Maintenance	57,265	28,735	86,000
010-9050-8150	42 Mills Community Center Utilites	54,000	(30,000)	24,000
010-9054-8150	42 BUSD Utilities	116,975	(50,000)	66,975
010-xxxx-xxxx	40 Adjustment to ISF Funding	812,860	(304,370)	508,490
Subtotal Operational Expenditures		\$ 18,639,960	\$ (189,440)	\$ 18,564,520

ATTACHMENT -A-
Prior Approvals and Non-Discretionary Adjustments - General Fund
Requested Budget Adjustments

Acct. #	Description	Amended Budget 2008-09	Proposed Adjustments 5/19/09	Amended Budget 2008-09
<u>Non-Recurring Expenditures</u>				
011-4105-9182	1 Arsenal EIR	32,535	500	33,035
011-4105-9200	8 Housing Element	60,000	7,600	67,600
011-9205-9999	10 Commandants Reserve Transfer	97,000	1,728,145	1,825,145
011-2405-9999	14 Transfer to Storm Water Improvements	100,000	(20,000)	80,000
011-2405-905x	15 Payoff Valero Property Tax Loan	0	1,627,010	1,627,010
011-2505-8260	16 Contract City Attorney Fees	120,000	50,000	170,000
011-2405-8100	17 Contract Services Audit/Survey/ARRA	15,600	50,000	65,600
011-3132-8990	18 Liability Insurance Settlements	120,000	50,000	170,000
011-2605-9187	19 Business Loans/Grants	36,845	(20,000)	16,845
011-6105-8541	20 BERT	26,000	(4,000)	22,000
011-2405-9999	21 Transfer Out Storm Water CIP	80,000	(65,000)	15,000
011-8705-9150	22 Diesel Truck CARB Retrofit	38,000	(38,000)	0
011-8705-9999	23 Corp Yard Repairs	15,000	(15,000)	0
011-8705-9746	24 1st St Parking Improvements	32,575	(32,575)	0
011-8705-9617	25 1st St Sidewalk Improvements	30,000	(30,000)	0
011-8705-9758	26 East 5th St Smart Growth	89,965	(3,865)	86,100
Subtotal One-Time Expenditures		\$ 893,520	\$ 3,284,815	\$ 4,178,335
Combined Expenditures		\$ 19,533,480	\$ 3,095,375	\$ 22,742,855
Net Budget Adjustments			\$ 34,505	

**ATTACHMENT -B-
Prior Approvals and Non-Discretionary Adjustments - General Fund
Requested Budget Adjustments**

Item	Description
1	Department requested additional funding for Arsenal EIR Project. Memo dated 11/6/08.
2	Parks received a donation from the Benicia Bike Club for children's programs \$300
3	Snow Day event not previously budgeted, revenue and expense \$4,000
4	LEED certification of the Benicia Community Center \$4,200
5	Reconcile adjustment to Police salary for Solnet and CSLEF funding \$63,655
6	First St sidewalk cleaning \$3,500 approved 12/16/08 Council meeting
7	Revised PG&E Franchise fee, increase \$215,750
8	Reallocation of budget from Community Development Professional Services account to Housing Element account, \$7,600. Per Dept request
9	Household Hazardous Waste additional funding \$8,000 for FY 08/09
10	Balance of transfer from GF to Commandants \$1,728,145
11	Revised Sales Tax increase \$344,710
12	Reduce transfer in from Water and Wastewater for Bi-Tech software upgrade <\$30,000>
13	Adjustment for Property Tax <\$368,885>
14	Storm Water Improvements - Panorama Slop Repair \$20,000 reduced capital expense and increase operating exp. Additional \$3,755 from prior Council approved adjustment for increase in street sweeping costs approved August 19, 2008.
15	Loan from Wastewater Connection fund to pay off Valero Property Tax balance \$1,627,010.
16	Increase Contract Attorney Fees \$50,000
17	Increase Contract Services to cover ARRA, audit, and survey contract costs \$50,000
18	Increase Contract Services for insurance liability settlements \$50,000
19	Reduce Business Loans/Grants <\$32,000>
20	Reduce BERT expense <\$4,000>
21	Reduce Storm Water CIP expense <\$65,000>
22	Reduce Diesel Truck CARB Retrofit <\$38,000>
23	Reduce Corp Yard Repairs <\$15,000>
24	Reduce 1st Street Parking Improvements <\$32,575>
25	Reduce 1st Street Sidewalk Improvements <\$30,000>
26	Reduce East 5th St Smart Growth <\$3,865>
27	Various salary and benefit savings.
28	Decrease in TOT receipts <\$47,000>
29	Decrease in Property Transfer Tax <\$74,000>
30	Decrease in Investment Earnings <75,000>
31	Decrease in State Mandated Costs <22,600>
32	Increase Interest Income Transfer to Treasurer Division to cover Expenditures
33	Increase Insurance Refunds \$23,900
34	Decrease CDD Plan Processing <\$80,000>, Constructin Permits <\$100,000>, Plan Check Fees <\$40,000>
35	Adjust Police Revenue : Prop 172 <\$50,000>, Dog License \$9,130, Vehicle Code Fines <\$7,500>, Traffic Fines <\$10,000>, Range Fees <\$10,000>, Post Reimb <\$20,000>, Reimbursable OT <\$64,000>, Donations <\$9,000>, Towing Fees <\$10,000>
36	Increase Fire Reimbursable Overtime \$60,000
37	Increase Street Reimbursements \$7,500
38	Increase Engineering Plan Processing \$30,000
39	Increase Lake Herman House Rent \$7,920
40	Adjustment to ISF Funding
41	Finance Increase Computer Maintenance \$28,735
42	Adjustment for utilities for Mills Community Center and BUSD Field Maintenance <\$80,000>

ATTACHMENT -C-
Prior Approvals and Non-Discretionary Adjustments - Other Funds
Requested Budget Adjustments

Acct. #	Description	Amended Budget 2008-09	Proposed Adjustments 5/19/09	Amended Budget 2008-09
087-3489-7810	1 Friends of the Library Add'l Funding	26,000	35,000	61,000
036-7036-7538	3 CSLEF Grant Funding	50,000	50,000	100,000
087-3486-7549	4 John Adams Traveling Exhibit Grant	9,500	2,500	12,000
041-7451-7710	5 Valero K9 Training	0	6,300	6,300
041-7451-7710	6 ABAG Risk Management Reimbursement	6,300	6,635	12,935
050-3450-7810	7 Friends of the Library Donation	0	2,700	2,700
035-7735-7xxx	9 Prop 1B Funding	0	667,010	667,010
017-8705-7520	9 Prop 1B Funding	218,000	(218,000)	0
041-7041-7549	10 County Radio Interoperability Project	0	100,000	100,000
087-xxxx-xxxx	11 Valero Grants	0	11,500	11,500
111-3101-7995	13 Transfer In From Water & Wastewater	654,190	81,115	735,305
080-8080-7999	15 Transfer in from GF to Storm Water	351,535	(61,245)	290,290
113-9205-9705	16 Transfer in from GF CIP Corp Yard Repairs	15,000	(15,000)	0
110-2401-799x	18 Workers Comp Service Charge	508,825	(29,220)	479,605
039-7439-7549	19 SOLNET	90,000	(30,000)	60,000
019-xxxx-xxxx	21 Transit	1,342,255	(60,330)	1,281,925
Revenue Adjustments		\$ 3,271,605	\$ 548,965	\$ 3,820,570
<u>EXPENDITURE ADJUSTMENTS</u>				
<u>Operational Expenditures</u>				
087-3489-xxxx	1 Friends of the Library	15,200	35,000	50,200
048-3148-9766	2 Regional Bus Stop/PnR RM2 Project	34,700	92,000	126,700
036-7036-xxxx	3 CSLEF Grant Funding	112,980	51,265	164,245
087-3486-xxxx	4 John Adams Traveling Exhibit Grant	0	2,500	2,500
041-7451-8113	5 Valero K9 Training	0	6,300	6,300
041-7451-9404	6 ABAG Risk Mgmt Reimb Defense Equip	0	6,635	6,635
021-3121-8323	8 Benicia Community Garden Grant	4,800	3,200	8,000
035-7735-xxxx	9 Prop 1B Funded Projects	0	550,000	550,000
017-8705-xxxx	9 Prop 1B Funded Projects	550,000	(550,000)	0
041-7041-xxxx	10 County Radio Interoperability Project	0	100,000	100,000
087-xxxx-xxxx	11 Valero Grants	0	11,500	11,500
047-9020-9255	12 Commandant's Residence Improvements	3,016,755	72,805	3,089,560
111-3101-xxxx	13 Administrative Services	353,995	81,115	435,110
014-8305-8993	13 Transfer to Administrative Services	381,640	40,555	422,195
090-8205-8993	13 Transfer to Administrative Services	272,550	40,560	313,110
xxx-xxxx-9999	14 Water and Wastewater Transfer Out to GF	30,000	(30,000)	0
080-8080-9225	15 West J St at Continental Apts	40,000	(40,000)	0
080-8080-9227	15 West 5th St Drainage Trunkline	25,000	(25,000)	0
113-9205-9705	16 Corp Yard Repairs	15,000	(15,000)	0
044-8044-9041	17 Loan to GF for Valero Property Tax Payoff	0	1,627,010	1,627,010
039-7439-8000	19 SOLNET	90,000	(30,000)	60,000
110-2401-xxxx	20 Workers Comp ISF	31,210	(20,000)	11,210
019-xxxx-xxxx	21 Transit	0	(383,385)	(383,385)
Expenditure Adjustments		\$ 4,973,830	\$ 1,627,060	\$ 6,600,890
Net Budget Adjustments		\$ (1,078,095)		

**ATTACHMENT -D-
FY 2007-09 All Other Funds Budget Update
Requested Budget Adjustments**

Item Description

1	Friends of the Library has donated an additional \$25,000 for Services, Books, and Office Equipment. Add'l \$10,000 Friends donation for books.
2	Benicia Intermodal Facilities Project \$92,000 approved Council Special Meeting December 2, 2008.
3	Previously forecasted to be reduced; the Police Department received notice of funding in the amount of \$100,000 for CSLEF. Approved at Council Special Meeting December 2, 2008.
4	The Library received a grant for the John Adams Traveling Exhibit \$2,500
5	Agreement with Valero to fund K9 training expenses \$6,300
6	ABAG Risk Management Reimbursement for Defense Tactics Training Equipment \$6,635
7	Donation from Friends of the Library for the Library Basement Project \$2,700
8	Benicia Gardens Grant approval for prior fiscal year grant not issued. Quarterly reports not provided till current fiscal year. \$3,200
9	Move Prop 1B revenue and projects to Special Funded Street Projects 035
10	County Radio Interoperability Project. Improvement of the County's ability to communicate with other public safety agencies during a countywide emergency or disaster. \$100,000
11	Valero Early Literacy Grant \$10,000 from Library Foundation for Teens. Valero Intern Grant \$1,500
12	Prior year Carryover overlooked Commandants \$72,805
13	Error in calculation of Salary and Benefits adjustment for ISFAdmin Services. Reverse previous reduction. \$81,115
14	Reduce transfer to GF from Water and Wastewater due to software cancellation <\$30,000>.
15	Storm Water Improvements - Panorama Slope Repair \$20,000 reduced capital expense and increase operating exp. Additional \$3,755 from prior Council approved adjustment for increase in street sweeping costs approved August 19, 2008. Reduce expense WJ St a
16	Reduce Corp Yard Repairs <\$15,000>
17	Loan from Wastewater Connection fund to pay off Valero Property Tax Loan.
18	Adjustment for ISF Workers Comp funding due to various Salary and Benefit adjustments
19	Reduce funding for SOLNET to \$60,000 due to County budget shortfall.
20	Reduce expense for Workers Comp ISF <20,000>
21	Adjustments to Transit fund to reflect changes approved on October 6, 2008.

GENERAL FUND SUMMARY

General Fund Summary - By Department

	Actual 2005-06	Actual 2006-07	Actual 2007-08	Adopted Budget 2008-09	Mid Year Adjustment	Amended 2008-09
Revenues						
City Council	0	0	200	0	0	0
City Clerk	0	50	0	0	0	0
City Treasurer	21,390	52,570	56,850	55,285	37,225	92,510
City Manager	2,560	190	570	0	0	0
City Attorney	1,605	130	0	0	0	0
Economic Development	40	0	1,000	0	0	0
Human Resources	260	505	515	0	0	0
Finance	210	30	0	0	0	0
Library	73,085	74,195	67,365	72,770	0	72,770
Community Development	710,070	510,100	482,585	583,450	(220,000)	363,450
Police	493,095	483,210	453,825	523,000	(113,370)	409,630
Fire	147,545	286,275	335,435	124,750	277,330	402,080
Public Works	78,455	198,000	45,255	52,000	37,500	89,500
Parks & Community Services	978,605	961,310	1,023,270	996,000	(47,780)	948,220
Insurances	10	0	6,640	0	23,900	23,900
Non-Departmental	25,971,055	27,511,940	29,291,595	30,359,835	(866,625)	29,493,210
Interfund Transfer-In	115,910	168,230	78,165	80,415	0	80,415
Revenue Total	\$ 28,593,895	30,246,735	31,843,270	32,847,505	(871,820)	31,975,685
					-2.7%	
Expenditures						
City Council	94,930	82,420	97,075	101,575	0	101,575
City Clerk	81,300	69,175	78,010	76,410	4,500	80,910
City Treasurer	34,145	52,570	56,850	55,285	37,225	92,510
City Manager	399,275	418,230	454,430	441,940	104,265	546,205
City Attorney	481,645	571,485	569,185	584,070	(4,875)	579,195
Human Resources	368,250	450,820	365,100	414,525	(39,140)	375,385
Finance	936,990	999,675	983,070	1,127,060	(7,010)	1,122,410
Community Grants & Programs	346,100	388,225	486,255	526,525	(19,775)	506,750
Economic Development	265,150	383,335	454,740	483,220	18,275	501,495
Library	1,013,665	1,144,595	1,209,775	1,241,465	32,325	1,273,790
Community Development	1,166,155	1,227,030	1,433,840	1,476,170	11,380	1,487,550
Police	6,611,815	7,293,635	8,026,425	8,214,255	(89,195)	8,125,060
Fire	5,772,525	6,203,785	6,899,210	7,048,230	(65,010)	6,983,220
Public Works	1,661,840	1,774,765	1,956,655	2,059,420	27,225	2,086,645
Parks & Community Services	3,977,935	4,366,800	5,268,170	5,495,790	(51,885)	5,443,905
Insurances	799,805	725,110	712,735	673,305	(156,680)	516,625
Non-Departmental & Debt Service	1,649,490	1,547,545	2,164,320	2,078,625	(477,335)	1,701,290
Interfund Transfer-Out	241,335	632,785	595,815	674,990	23,755	698,745
Expenditure Total	\$ 25,902,350	28,331,985	31,811,660	32,772,860	(651,955)	32,223,265
Operational Surplus/(Deficit)	2,691,545	1,914,750	31,610	74,645		(247,580)
Capital Projects & Non-Recurring						
Non-Recurring Revenues	825,250	2,140,390	1,358,625	110,000	1,671,680	1,781,680
Non-Recurring Expenditures	2,108,835	1,754,520	1,580,235	145,630	3,911,845	4,057,475
Combined Surplus/(Deficit)	1,407,960	2,300,620	(190,000)	39,015	(2,240,165)	(2,523,375)
Transfers to B.S. Loans Receivable	(201,960)	(190,115)	(281,145)	(66,440)	(1,728,145)	(66,440)
Transfers to Internal Service Funds	0			0		
Transfers to Designated Reserves	921,865			0		
Transfers to Project Reserves	0	2,550,535				(1,728,145)
Misc Adj to Fund Balance		(97,050)	(185,295)		(490,480)	
Fund Balance	\$ 6,928,885	6,966,135	7,242,575	6,638,520		6,513,785
Reserve Percentage	26.8%	24.6%	22.8%	20.3%		20.2%
Over/(Short) of 20% Requirement	1,748,415	1,299,738	880,243	83,948		69,132

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 13, 2009
TO : Mayor Patterson
FROM : City Manager
SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:00 pm. The May Mayors' Committee meeting will be held on May 20, 2009. The agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 7, 2009

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Attorney

SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the May 19, 2009 council meeting:

- The Spring General Assembly was held on Thursday, April 23, 2009, at the Palace Hotel in San Francisco.
- Attached is a summary of the meeting.
- The 2009 Fall General Assembly is scheduled for Thursday, October 22, 2009 in Oakland.

Attachment:

- Summary of meeting

ABAG Spring General Assembly PowerPoint Presentation and List of Third Annual Growing Smarter Together Award Winners Now Available

Posted Friday, April 24, 2009

**ABAG Spring General Assembly
Call to Action: SB 375—Reducing Greenhouse Gas Emissions
through Land Use and Transportation Planning
April 23, 2009**

More than 175 of the region's elected officials and civic leaders attended the ABAG Spring General Assembly where they tackled the critical issue of climate change through the lens of SB 375 and AB 32. The General Assembly provided a platform for Bay Area leaders to discuss how past initiatives and policies have prepared the region to move forward and meet the land use, transportation climate action challenges of SB 375.

Keynote speaker Nancy McFadden, Senior Vice President, Public Affairs, Pacific Gas & Electric Company discussed regional climate action energy efficiency partnerships such as the ABAG Energy Watch Program and the proposed Solar Energy Efficiency District that will help meet climate protection goals. Mark Green, ABAG Vice President and Union City Mayor and Steve Kinsey, Marin County Supervisor and MTC Commissioner discussed the land use and transportation strategies that are being undertaken to meet the region's climate protection goals. PowerPoint presentations from Mayor Mark Green and Supervisor Steve Kinsey can be viewed [here](#).

The General Assembly also featured the presentation of the third annual ABAG Growing Smarter Together Awards. Local governments were recognized for outstanding efforts in planning and development. These local government efforts demonstrated significant commitment toward achieving the regional planning goals of the Bay Area Vision and focused growth principles being advanced in the FOCUS Initiative.

The 2009 Award winners are:

Urban Design

City of Berkeley, Oxford Plaza and David Brower Center

Sharing the Benefits

City of San Ramon, Housing Rehabilitation Program

On the Ground – Getting It Done

City of Union City, Intermodal Station District Plan

Public-Private Partnership

San Mateo County, Housing Endowment and Regional Trust, The HEART of San Mateo County

Preserving and Protecting the Environment

Alameda County, Public Works Department

During the ABAG Business Meeting, the 2009-10 Annual Budget and Work Plan was approved. The

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delegates also voted to amend the Bylaws to allow for flexibility in scheduling the Spring Business Meeting of the General Assembly.

ABAG's General Assembly is a bi-annual conference that brings Bay Area decision-makers together to explore key issues and trends in a regional context. Founded in 1961, ABAG is the regional planning agency for the nine counties and 101 cities and towns of the Bay Area and is recognized as the first council of governments in California.

X-B-2-3

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 12, 2009

TO : Vice Mayor Campbell
Council Member Schwartzman

FROM : Finance Director

SUBJECT : **FINANCE, AUDIT AND BUDGET COMMITTEE**

The following information is provided for your committee report at the May 19, 2009 Council meeting.

The committee held meetings on April 10 and May 8, 2009 at 8 a.m. in the Commission Room. The Draft Minutes from those meetings are attached.

The committee is recommending changing the meeting time to the fourth Friday of each month. The next meeting will be held on Friday, May 29, 2009, the fifth Friday due to the Memorial Day Holiday.

**FINANCE, AUDIT AND BUDGET COMMITTEE
REGULAR MEETING MINUTES
COMMISSION ROOM
MAY 8, 2009 - 8:00 AM**

1. Call to Order at 8:03 am.

Attended by Committee Chair Ralph DeJesu, Board members Larry Grossman, Dennis Lowry and Lee Wines. Staff present included Finance Director Robert Sousa and Accounting Systems Supervisor Alyson Kauzer. Council Members Tom Campbell, Alan Schwartzman and Treasurer Teddie Bidou – excused absent.

2. Notice to the Public

3. Approval of Minutes from the Regular Meeting held on April 10, 2009

Approved by consensus. Member Lowry noted that #5-4 should show 2 payments of \$47,84.08.

4. Previous Month Warrant Register Review for March 2009.

Member Wines inquired about:

1. payment of \$3,114.47 to AFLAC for insurance. The Finance Director explained that this was employee paid insurance for disability.
2. payment of \$5,000 to Benicia Volunteer Fire. The Finance Director explained that these funds go to the non-profit volunteer group and is not compensation.
3. payment of \$146,644.20 to Pacific Coast Reconstruction for Commandant's residence. The Finance Director explained that the project is now finished with the grand reopening ceremony being held Monday, May 11 at 5:00pm.
4. payments totaling \$111,705.61 to Peterson – purchase of backhoe. The Finance Director explained that multiple divisions who will be using the backhoe paid this.
5. payment of \$146,086.00 to Carbon Activated Corp for the change out carbon in filter. The Finance Director explained that this was a major replacement and these filters usually last approximately one year.
6. payment of \$6,397.50 to Catholic Social Services. The Finance Director explained the Human Services process and assured the committee that there is no religious affiliation.

Member Grossman recommended the committee consider doing monthly budget reviews in conjunction with the review of the warrant register. Discussion was held regarding the timing of the meeting not coinciding with month end. The committee approved moving the monthly Finance, Audit and Budget Committee meetings to the fourth Friday of each month with the next meeting scheduled for May 29, 2009 due to the Memorial Day Holiday.

Member Lowry inquired about:

1. payments for Union Dues. The Finance Director explained that these are pass through expenditures and are paid by the employees through a payroll deduction.
2. payment of \$14,116.04 to Brenntag Pacific Inc. for hydrofluosilicic acid. The Finance Director explained that this is used by the Water Treatment plant and is stored in bulk.
3. payment of \$1,272.00 to Fleetview Self Storage for 6 months storage. Finance Director explained that there are over 400 BERT members and this is to store the BERT supplies. He also explained that there is a shortage of storage for City related items
4. payment of \$4,697.25 to William Mathis, PHD. The Finance Director explained that this is payment for facilitating meeting regarding strategic initiatives.
5. payment of \$3,760 to Target Safety for Training subscriptions. The Finance Director explained that this is for required training of the field crew in accordance with our Safety Program and OSHA.
6. payment of \$2,03.33 to Patti Baron. The Finance Director explained that this is a pass through expense paid by the County for our intervention program.
7. payment of \$20,000 to Benicia Historic Museum. The Finance Director explained that this is quarterly support to keep the museum open and other miscellaneous improvements.

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8. payment of \$14,211 to SWRCB for waste discharge fee. The Finance Director explained that this is a recurring monthly fee.
9. payment of \$14,150 to Darrell Dearborn. The Finance Director explained that Mr. Dearborn was filling in for the Economic Development Manager while she was on maternity leave. Also, he was providing services regarding Economic Stimulus coordination.
10. payment of \$5,500 to Keyser Marston Assoc. The Finance Director explained that this firm was hired to research the possibility of establishing a redevelopment agency in the industrial park.
11. payment of \$10,922.28 to Valero Capital Corp. for fuel. The Finance Director explained we have our own gas facility at the corporation yard and get our fuel for wholesale plus a penny.

Councilman Schwartzmann inquired about:

1. payment of \$1,800.00 to Lawrence Murphy for police department survey. The Finance Director explained that this survey is a requirement of P.O.S.T.
2. payment of \$4,250 to Ma Rohrer Construction for concrete work. The Finance Director will look into where the work was done.
3. payment of \$3,566 to Patti Baron for advance PERS disability. The Finance Director explained that our Human Resource Department is closely monitoring this and has a PERS representative walking the paperwork through to get it resolved.
4. payment of \$8,750 to Benicia Unified School District – The Finance Director explained this was Human Service funding for the Special Friends Program.

Councilman Campbell inquired about:

1. payment of \$4,697.25 to William Mathis, PhD. The Finance Director explained that he provides services for reorganization studies and City Manager and City Attorney reviews.

Member Lowry commented on the City Attorney division being over budget. The Finance Director explained that there have been numerous unforeseen issues that have caused the budget overage.

Rick Ernst inquired about:

1. payment of \$8,729.50 to DLA Piper. The Finance Director explained that they handled the contract for Valero water.

Chairman DeJesu inquired about:

1. payment of \$20,072.08 to Ameca. The Finance Director explained that the change order was a progress payment for an alley entrance repair.

Approve by consensus

Additional discussion was held regard the need to review the warrant register. The Finance Director reminded the committee that it is required by City Council. Future questions regarding the warrant register will be emailed to the Finance Director and the list will be review during the meeting.

5. Review and Update Investment Policy.

The Finance Director presented a draft investment policy, which allows more flexibility and provides a balance of risk, liquidity and return. Member Grossman raised concerns with our investment contactor being the creator of the City's investment policy. The Finance Director assured him that this is a policy that is used by other cities and that a division separate from those who specifically make the City's investment decisions drafted it. It was agreed that the definition of terms, related government codes and a list of all eligible securities will be included as appendices with the final policy. The Finance Director will invite a representative from MBIA to come in after the June quarterly report.

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6. City of Benicia Budget Orientation

The Finance Director reviewed the fund structure with emphasis on the General Fund.

10. Review Long Range Calendar

The next FAB meeting will be held on May 29, 2009.

11. Public Comment

12. Adjournment

Meeting was adjourned at 10:20 a.m.

**FINANCE, AUDIT AND BUDGET COMMITTEE
REGULAR MEETING MINUTES
COMMISSION ROOM
APRIL 10, 2009 - 8:00 AM**

1. Call to Order at 8:00 am.

Attended by Committee Chair Ralph DeJesu, Board members Larry Grossman, Dennis Lowry and Lee Wines. Staff present included Finance Director Robert Sousa and Asst. Finance Director Abby Urrutia. Council Members Tom Campbell, Alan Schwartzman and Treasurer Teddie Bidou – excused absent. Guests in attendance were Carlos Oblites and Sarah Meacham from PFM Asset Management.

2. Notice to the Public

3. Welcome New Member

The Mayor and City Council appointed Larry Grossman on April 7, 2009 as the newest member of the Finance, Audit and Budget Committee. He was welcomed into the committee and introductions of everyone in attendance were made.

4. Approval of Minutes from the Regular Meeting held on March 6 and Special Meetings on March 27 and April 2, 2009.

Approved by consensus. Further clarification from staff on a side discussion (after committee meeting between Member Lowry and Rick Ernst) on the Valero water reuse agreement. Director Sousa to follow up.

5. Previous Month Warrant Register Review for March 2009.

Member Wines inquired about:

1. payment of \$3,193.47 to AFLAC for insurance. The Finance Director explained that this was employee paid insurance for disability.
2. payment of \$26,270.32 to Benicia Unified School District for ATOD. The Finance Director explained that the City pays for programs administered by BUSD. This payment is funded by the County.
3. payment of \$115,858.57 to Pacific Coast Reconstruction for Commandant's residence. The Finance Director explained that the project will be finished by the end of this month, with final cost of project at \$3.5 million.
4. payments of \$47,841.08 to Riverview International Truck – 2 payments for dump truck. The Finance Director explained that one dump truck was purchased and was being paid from Water and Wastewater funds.
5. payment of \$8,544.55 to Cal Poly for services for climate action plan. The Finance Director explained that the City had to do a carbon footprint survey within the City and a climate action plan had to be formulated. The City had contracted with Cal Poly to perform this task.
6. payment of \$3,500 to Benicia Main Street for advertising. The Finance Director explained that the City have agreements with Benicia Main Street to develop First Street.
7. payment of \$63,343.92 to Pakpour Consulting Group for the State Park Road/Bridge project. The Finance Director explained that Pakpour is the City's design engineer and general contractor for the State Park bridge project.

Member Grossman inquired why the committee is reviewing the warrant register. The Finance Director informed the committee that it is a requirement of the law and it used to be the responsibility of the Council during Council meetings to review warrant registers. A cursory review was done by Council members at the dais and eventually it was decided that the review of registers will be delegated to the Finance, Audit committee for a much thorough review.

Member Lowry inquired about:

1. payment of \$1,425 to City of Pinole for televised meetings. The Finance Director explained that the City has a contract with Pinole to shoot and televise Council meetings and School

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District meetings. The City does not have staff to perform this service and it is more economical to have Pinole do the service.

2. payment of \$11,625 to Napa Vallejo Waste for hazardous waste disposal. All cities are under a source recycling reduction program whereby hazardous materials, such as electronic equipment can no longer be disposed off in your garbage. Twice a year the City allows its citizens to drop off electronic materials at designated areas and the Napa Vallejo Waste disposes of them.
3. payment of \$75.00 to PTS for pay phones. Finance Director stated that the City has public phones at parks within the City that we pay for. Member Lowry suggested that the City look into issuing an RFP for telecommunication services as a bundled service since the City has various vendors for its landlines and cellular phones and the possibility of having savings are there.

Member Lowry also suggested that the City look into centralizing the purchasing function by using current staff .

Chairman DeJesu inquired about the payments of \$418.14 and \$585.36 to Rochester Midland for restroom check. The Finance Director will verify what the payment was for and report back on the next meeting.

6. Review Investment Performance for 3rd Quarter delivered by Carlos Oblites of PFM Asset Management.

The Finance Director explained to the committee that three years ago, it was decided that the City's investments would achieve a better return if someone else actively managed the portfolio instead of being invested at the state's Local Agency Investment Fund (LAIF) pool. To be on the risk neutral side, it was decided that two investment firms can manage half of our investments at \$30 million, with each investment firm handling \$15 million each. PFM and MBIA were chosen as the City's two investment firms.

Carlos Oblites, with Sarah Meacham of PFM Asset Management, presented to the committee a market update and the City's investment portfolio update for the 3rd quarter. The current value of the City's portfolio with PFM is \$18 million. The investment goals are preservation of principal, liquidity and returns of investments. PFM manages the City's investments using the Merrill Lynch 0-5 year Treasury index as the benchmark. The past year, the returns beat the benchmark; however for the past three years, the returns are under the benchmark due to holding of investments until maturity. The city has historically followed a buy and hold to maturity strategy. It was suggested that the committee revisit the issue of holding securities to maturity as it impacts the benchmark. It will be agendized on the next meeting.

Overall the committee is satisfied with the performance of PFM and will continue to have them.

7. Review Auditor background results and forward recommendation to the City Council.

It was explained that an RFP was issued for auditing services and interviews were held and a finalist, which was Mayer Hoffman McCann, was selected by the committee with background investigations by staff. The City had Maze and Associates for the past 14 years.

The Finance Director informed the committee that staff has contacted Mayer Hoffman McCann's (MHM) references, as well as a prior client, which was not one of the firm's references. It was a mixed review, with some satisfied and others not totally satisfied, including a prior client. The contract is a one-year contract with an option to extend for four additional years, giving the City an option not to go beyond the first year if service and standards are not met. The RFP by MHM is considerably lower than Maze and Associates by \$10,000 each year. The Finance Director will forward to the City Council a recommendation to have Mayer Hoffman McCann as the auditors on the April 21st Council meeting.

Recommended, not by consensus, by committee to forward to Council.

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8. **Review and Update Investment Policy** – moved to the next regular meeting.
9. **City of Benicia Budget Orientation** – moved to the next regular meeting.
10. **Review Long Range Calendar**
The next FAB meeting will be held on May 8, 2009.
11. **Public Comment**
12. **Adjournment**
Meeting was adjourned at 10:20 a.m.

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 13, 2009

TO : Mayor Patterson
Council Member Schwartzman

FROM : City Manager

SUBJECT : LEAGUE OF CALIFORNIA CITIES

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The North Bay Division met on April 30, 2009 in Rohnert Park. The agenda for that meeting follows. The next North Bay Division meeting will be on July 30, 2009 in Napa County.



MISSION STATEMENT: To be recognized and respected as the leading advocate for the common interests of California's Cities.
MISSION AND CORE BELIEFS: To restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

**NORTH BAY DIVISION
LEAGUE OF CALIFORNIA CITIES
GENERAL MEMBERSHIP MEETING**
Hosted by the City of Rohnert Park

DRAFT AGENDA
Thursday, April 30, 2009

~
Foxtail Golf Club
100 Golf Course Drive, Rohnert Park

6:00 p.m. Reception
7:00 pm Dinner
7:15 pm Business Meeting & Program

1. **Call to Order-** Shawn Marshall, Division President
2. **Welcome Remarks**
3. **Roll Call and City Introductions**
4. **Minutes-** February 19, 2009- General Membership Meeting, Benicia
5. **Treasurer's Report**
6. **Appoint Nominating Committee**
7. **Announcements:**
 - Applications Available for North Bay Division 2nd Vice President (Napa County)
 - Policy Committee Vacancies
 - July 30 Division Meeting and CITIPAC Reception
8. **Policy Committee Reports (3 minutes max, per policy committee report)**
 - Administrative Services: Dorothy Roadman (American Canyon) / VACANCY
 - Community Services: Joan Bennett (American Canyon) / VACANCY
 - Employee Relations: Curtis Hunt (Vacaville) / VACANCY
 - Environmental Quality: Jake Mackenzie (Rohnert Park) / Pat Eklund (Novato)
 - Housing, Community & Economic Development: Carla Condon (Corte Madera) / Jim Krider (Napa)
 - Public Safety: Jack Gingles (Calistoga) / Gary Plass (Healdsburg)
 - Revenue & Taxation: Len Augustine (Vacaville) / Michael Wilson (Vallejo)
 - Transportation, Communications & Public Works: Mike Hudson (Suisun City) / Barbara Heller (San Rafael)
9. **League Board of Directors' Report-** Alice Fredericks, Division Director
10. **The State Budget and the May 19th Special Election-** Honorable Mark Leno, State Senator, 3rd District
11. **Impacts of the Economic Downturn: California Public Employee Retirement System-** Tony Oliveira, Local Government Representative, CalPERS Board of Administration
12. **Grassroots Report –** Chuck Dalldorf, Regional Public Affairs Manager
13. **Other Matters for Consideration**

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Adjournment of Business Meeting- Adjourn to next General Membership Meeting, Thursday, July 30, 2009, Napa County.

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 13, 2009

TO : Council Member Ioakimedes
Council Member Hughes

FROM : City Manager

SUBJECT : CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. The next meeting is June 11, 2009 and an agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 13, 2009

TO : Vice Mayor Campbell
Council Member Ioakimedes

FROM : City Manager

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the May 19, 2009 Council meeting.

The Sky Valley Open Space Committee met on Wednesday, May 6th, 2009 at the regularly scheduled quarterly meeting. The Committee directed staff to develop and circulate an RFP for land appraisals and a habitat study for the purpose of acquisition of conservation easements. Staff was also directed to draft a letter to specified property owners in the Sky Valley project area to solicit interest for conservation easements.

In addition, staff was pleased to report that the California Rangeland Trust, the City's conservation easement partner, is in the process of hiring a staff person for the Bay Area who will be assigned to this important project.

The next quarterly meeting of the Sky Valley Open Space Committee is scheduled for Wednesday, August 5, 2009 at 7:00 p.m. A draft meeting agenda for the August 5th meeting is unavailable at this time but will be forwarded to Council when it becomes available.



**BENICIA SKY VALLEY OPEN SPACE COMMITTEE
COMMISSION ROOM
REGULAR MEETING AGENDA**

**Wednesday, May 6, 2009
7:00 P.M.**

I. CALL TO ORDER

- A. Roll Call of Committee Members**
Chair Scott Shepard, Vice Chair Craig Snider, Tom Campbell, John Furtado, Mike Ioakimedes
- B. Reference to Fundamental Rights of Public** - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

III. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Sky Valley Committee or a member of the public by submitting a speaker slip for that item.

A. Minutes of February 4, 2009

IV. REGULAR AGENDA ITEMS

A. RANGELAND TRUST/CONSERVATION EASEMENT UPDATE (Discussion Item)

B. SKY VALLEY LAND APPRAISAL AND HABITAT STUDY (Action Item)

1. RFP FOR LAND APPRAISALS AND HABITAT STUDY (Action Item)

The Committee should discuss and vote to direct staff to prepare an RFP for a master appraisal report for 15 properties, held by 8 property owners, and for a comprehensive habitat study for the same 15 properties.

2. RECOMMENDATION TO EXPEND VIP SETTLEMENT AGREEMENT FUNDS FOR LAND APPRAISALS AND HABITAT STUDY (Action Item)

The Committee should discuss and vote to make a recommendation to the City Council regarding the use of VIP settlement agreement funds, earmarked for the acquisition of watershed lands in the Sky Valley area, to fund the necessary land appraisals and comprehensive habitat study.

V. COMMUNICATIONS FROM COMMITTEE MEMBERS

V. COMMUNICATIONS FROM STAFF

VI. ADJOURNMENT

Chair Shepard will adjourn the meeting to the next regularly scheduled meeting of the Sky Valley Committee, August 5, 2009.

Public Participation

The Benicia Sky Valley Open Space Committee 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 Sky Valley Open Space Committee allows speakers to speak on non-agendized matters under public comments, 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 Sky Valley Open Space Committee.

Should you have material you wish to enter into the record, please submit it to the Committee Secretary.

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 Committee 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 Sky Valley Open Space Committee.

Public Records

The agenda packet for this meeting is available at the City Clerk's Office, the Benicia Public Library during regular working hours, and at the Community Development Department. To the extent feasible, the packet is also available on the City's website at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an agenda item that are distributed after the agenda packet is prepared are available before the meeting at the Community Development Department, or at the meeting. If you wish to submit written information on an agenda item, please submit to Mike Marcus, Assistant Planner, as soon as possible so that it may be distributed to the Sky Valley Open Space Committee.



DRAFT

**BENICIA SKY VALLEY OPEN SPACE COMMITTEE
MEETING MINUTES**

**Wednesday, February 4, 2009
7:00 P.M.**

I. CALL TO ORDER

C. Roll Call of Committee Members

Members in attendance: Chair Scott Shepard, Tom Campbell, John Furtado, Mike Ioakimedes, Craig B. Snider

Staff present: Mike Marcus, Assistant Planner

Members of the Public: Marilyn Bardet, Jon Van Landschoot, Jim Stevenson

- D. Reference to Fundamental Rights of Public** – Chair Shepard read a plaque stating the Fundamental Rights of each member of the public, noting the plaque's location at the entrance to the Commission room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

V. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Jon Van Landschoot addressed the committee to clarify the Committee's meeting schedule. Chair Shepard clarified that the Committee meets quarterly.

VI. PRESENTATIONS

A. SOLANO ORDERLY GROWTH INITIATIVE

Mike Marcus, Assistant Planner, introduced Christina Wong of the Greenbelt Alliance and Duane Kromm of the Solano County Orderly Growth Committee to present an update on the Orderly Growth Initiative and what it means for Sky Valley

Ms. Wong gave an overview of the Greenbelt Alliance, including a brief history of the organization's 50-year history. Ms. Wong emphasized the organization's focus on promoting locally grown food and livable/walkable communities, and accommodating for growth within existing communities rather than greenfield development.

Mr. Kromm presented the history of Solano County's Measure T ballot initiative and answered various questions that related to the Orderly Growth Initiative.

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B. CALIFORNIA RANGELAND TRUST

Mr. Marcus introduced Darrell Sweet, a Board of Director for the California Rangeland Trust, to present an update to the Committee on the status of the Sky Valley conservation easement project and the Trust's process and estimated timeline.

Mr. Sweet gave a brief history of the California Rangeland Trust, including its relationship with the California Cattlemen's Association. He emphasized the organization's success, including the 35 ranches that they currently hold in trust, equating approximately 200,000 acres of land. Mr. Sweet shared the fact that 25% of land in California is owned by ranchers and that nearly 50% is influenced by ranchers via land leases, etc, making preservation of ranches a key environmental concern.

Mr. Sweet introduced the importance of conservation easements as a tool to preserve rangeland, with the basic premise of protecting ranches the way they are today in perpetuity. To ensure that this is achieved, the California Rangeland Trust establishes a monitoring endowment for each contract that is entered into to fund annual performance monitoring.

Mr. Sweet emphasized that the most time intensive step of the process is initially getting family members from each ranch in the same room and on-board with the program. Impediments to participation include upfront costs of land appraisals, a baseline conditions/habitat report, and legal/financial advice.

VII. CONSENT CALENDAR

B. Minutes of October 1, 2008

The committee voted unanimously to adopt the October 1, 2008 minutes. The motion was made by Committee Member Furtado and was seconded by Council Member Campbell.

VIII. REGULAR AGENDA ITEMS

C. RANGELAND TRUST/CONSERVATION EASEMENT UPDATE (Discussion Item)

Mr. Marcus gave a brief update on the Rangeland Trust/conservation easement process and offered that Mr. Sweet would be available to answer questions directed to the California Rangeland Trust.

Council Member Campbell inquired as to who would be interacting with the ranchers and what the first step would be. Mr. Sweet noted that bringing the first family on board is the most important because neighboring property owners then become interested and want to learn more.

Council Member Campbell suggested that the City begin the process by approaching interested property owners and that the City use Valero Improvement Program (VIP) Settlement Agreement funds to fund initial appraisal and other upfront costs.

Committee members discussed a variety of appraisers and contacts that staff may want to contact as we move forward.

Chair Shepard noted that we are at the first step of the process and as part of that, staff needs to work with the California Rangeland Trust to engage local landowners and work internally with Valero and the City Council for funding of upfront costs.

Mr. Sweet noted that the California Rangeland Trust staff could assist by developing a preliminary budget.

Council Member Campbell summarized the committee's next steps and direction to staff:

- Engage property owners.
- Report on the up-front costs for the first several easements, including appraisals, habitat studies, etc.
- Approach Valero for use of VIP funds to fund appraisals and related studies.

D. ELECTION OF VICE CHAIR (Action Item)

The Committee unanimously voted to elect Craig Snider as the Committee's Vice Chairman.

V. COMMUNICATIONS FROM COMMITTEE MEMBERS

Committee Member Furtado inquired about how many open seats are currently available on the Sky Valley Open Space committee. Mr. Marcus informed the committee that there are currently 2 vacancies for the 7-member committee.

VII. COMMUNICATIONS FROM STAFF

VIII. ADJOURNMENT

Chair Shepard adjourned the meeting at 9:10pm and noted that the next regularly scheduled meeting of the Sky Valley Committee is scheduled for May 6th, 2009.



Community Development Department

MEMORANDUM

Date: April 29, 2009
To: Sky Valley Open Space Committee
From: Mike Marcus, Assistant Planner
Re: Agenda Item IV(B) 1 & 2: Sky Valley Land Appraisal and Habitat Study

City staff recommends issuing a request for proposals (RFP) for a master appraisal report that would assess the conservation easement AND fee simple value of each of the 15 target parcels, totaling 1,900 acres, in the area north of Lake Herman Road, commonly known as Sky Valley. This includes the parcels previously determined by the Sky Valley Open Space committee as being the priority conservation easement parcels, as well as the adjacent city owned parcels. It should be noted that there are 8 primary landowners for the 15 parcels, 3 of which are of blood relation, and 1 of which is the City of Benicia. As such, the City would be working with 4 primary ranch families through this process.

In addition, staff recommends developing an RFP for a biology/habitat study that would assess and document the flora and fauna of each of the 15 target parcels, with a focus on rare and endangered species. The findings from such study would be used to gain grant funding as part of the California Rangeland Trust's effort to piece together a funding package.

With these two studies in hand, the City in partnership with the California Rangeland Trust will be able to prioritize parcels based on cost and relative impact based on acreage and habitat value, and will provide a baseline for staff to discuss said options with targeted property owners.

Staff developed this proposal after conferring with the California Rangeland Trust and the Solano Land Trust.

Funding:

Staff has reached a preliminary agreement with the Valero Refinery to fund the appraisal and the habitat study via the \$1 million earmarked in the Valero Improvement Project (VIP) Settlement Agreement for the acquisition of watershed lands. Staff anticipates the cost for said studies to range between \$45,000 and \$55,000.

Necessary Actions:

Action 1: Direct staff to draft an RFP for a land appraisal and habitat study for the 15 target parcels.

Action 2: Recommend that the City Council, Valero Refinery and the Good Neighbor Steering Committee fund the land appraisals and the habitat study from the VIP Settlement Agreement funds that are earmarked for the protection/acquisition of watershed lands in the Sky Valley area.

~~X-B-6-17~~

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 12, 2009

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Jim Erickson, City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the May 19, 2009 Council meeting:

The last Board of Directors meeting was held on Thursday, April 30, 2009. The agenda for that meeting is attached. The minutes are not yet available.

The Board of Directors meeting scheduled for May 28th has been canceled. The next Board of Directors meeting is scheduled for Thursday, July 23, 2009 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 13, 2009
TO : Mayor Patterson
Council Member Schwartzman
FROM : Dan Schiada, Director of Public Works
SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The May meeting of the STA Board is scheduled for May 13, 2009. The agenda for that meeting is attached, along with minutes from the preceding meeting. The next STA meeting is June 10, 2009.



Solano Transportation Authority

SOLANO TRANSPORTATION AUTHORITY BOARD MEETING AGENDA

Wednesday, May 13, 2009, 6:00 p.m.

Suisun City Hall Council Chambers
701 Civic Center Drive
Suisun City, CA 94585

Mission Statement: To improve the quality of life in Solano County by delivering transportation system projects to ensure mobility, travel safety, and economic vitality.

Public Comment: Pursuant to the Brown Act, the public has an opportunity to speak on any matter on the agenda or, for matters not on the agenda, issues within the subject matter jurisdiction of the agency. Comments are limited to no more than 3 minutes per speaker unless modified by the Board Chair, Gov't Code § 54954.3(a). By law, no action may be taken on any item raised during the public comment period (Agenda Item IV) although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency.

Speaker cards are helpful but not required in order to provide public comment. Speaker cards are on the table at the entry in the meeting room and should be handed to the STA Clerk of the Board.

Americans with Disabilities Act (ADA): This agenda is available upon request in alternative formats to persons with a disability, as required by the ADA of 1990 (42 U.S.C. §12132) and the Ralph M. Brown Act (Cal. Govt. Code §54954.2). Persons requesting a disability related modification or accommodation should contact Johanna Masiclat, Clerk of the Board, at (707) 424-6008 during regular business hours at least 24 hours prior to the time of the meeting.

Staff Reports: Staff reports are available for inspection at the STA Offices, One Harbor Center, Suite 130, Suisun City during regular business hours, 8:00 a.m. to 5:00 p.m., Monday-Friday. You may also contact the Clerk of the Board via email at jmasiclat@sta-snci.com. Supplemental Reports: Any reports or other materials that are issued after the agenda has been distributed may be reviewed by contacting the STA Clerk of the Board and copies of any such supplemental materials will be available on the table at the entry to the meeting room.

Agenda Times: Times set forth on the agenda are estimates. Items may be heard before or after the times shown.

Table with 2 columns: ITEM and BOARD/STAFF PERSON. Items include CALL TO ORDER/PLEDGE OF ALLEGIANCE, CONFIRM QUORUM/ STATEMENT OF CONFLICT, and APPROVAL OF AGENDA.

Table listing STA BOARD MEMBERS and STA BOARD ALTERNATES with names and affiliations.

IV. OPPORTUNITY FOR PUBLIC COMMENT
(6:00 – 6:05 p.m.)

V. EXECUTIVE DIRECTOR'S REPORT
(6:10 – 6:15 p.m.)
Pg. 1

Daryl K. Halls

VI. COMMENTS FROM CALTRANS, THE METROPOLITAN TRANSPORTATION COMMISSION (MTC), AND STA
(6:15 – 6:30 p.m.)

A. Caltrans Report:

Doanh Nguyen, Caltrans
Chair Spring

B. MTC Report:

C. STA Reports:

1. Water Emergency Transportation Authority (WETA) Transitional Plan

Anthony Intintoli, Vice Chair, WETA/
Nina Rannells, Executive Director, WETA
Crystal Odum-Ford, Vallejo Transit

2. STA Status Reports:

A. Projects

B. Planning

C. Transit and Rideshare

Janet Adams
Robert Macaulay
Elizabeth Richards

VII. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(6:30 – 6:35 p.m.)

A. STA Board Meeting Minutes of April 8, 2009

Johanna Masiclat

Recommendation:

Approve STA Board Meeting Minutes of April 8, 2009.

Pg. 7

B. Review Technical Advisory Committee (TAC) Draft Minutes for the Meeting of April 29, 2009

Karen Koelling

Recommendation:

Receive and file.

Pg. 15

C. Continuation of Administrative Services Contract with the City of Vacaville

Susan Furtado

Recommendation:

Authorize the Executive Director to renew the Administrative Services Contract with the City of Vacaville for Accounting and Personnel Services for an additional three-year contract term for FY 2009-10 through 2011-12 for \$153,900.

Pg. 23

X-B-8-3

- D. **Fiscal Year (FY) 2008-09 Third Quarter Budget Report** Susan Furtado
Recommendation:
Receive and file.
Pg. 25
- E. **Fiscal Year (FY) 2009-10 Regional Measure 2 (RM 2) Transit Operating Funding Plan** Elizabeth Richards
Recommendation:
Approve the RM 2 Solano Transit Operating Funding Plan for FY 2009-10 as shown on Attachment A.
Pg. 29
- F. **Intercity Transit Funding Agreement Fiscal Year (FY) 2009-10** Elizabeth Richards
Recommendation:
Approve the following:
 1. *The FY 2009-10 Cost-Sharing Intercity Transit Funding Agreement as shown on Attachment A; and*
 2. *Authorize the Executive Director to enter into a funding agreement with the seven local funding partners.***Pg. 33**
- G. **Fiscal Year (FY) 2009-10 Transportation Development Act (TDA) Matrix – May 2009** Elizabeth Richards
Recommendation:
Approve the May 2009 TDA Matrix for Fiscal Year (FY) 2009-10.
Pg. 37
- H. **STA Safe Routes to School (SR2S) Radar Speed Sign Program** Sam Shelton
Recommendation:
Approve the following:
 1. *Funding for 28 radar speed feedback signs as shown in Attachment A; and*
 2. *Swapping \$40,000 of Transportation Enhancements funding with \$40,000 of FY 2009-10 TDA Article 3 funding for SR2S Radar Speed Signs.*
 3. *Resolution No. 2009-09, requesting \$40,000 from MTC for SR2S Radar Speed Signs as shown in Attachment B.***Pg. 41**
- I. **State Route (SR) 113 Major Investment and Corridor Study** Robert Guerrero
Recommendation:
Approve the SR 113 Major Investment and Corridor Study.
Pg. 45

X-B-8-4

- J. **Federal Economic Stimulus Update for Transportation in Solano County** Sam Shelton
Recommendation:
Approve the American Recovery and Reinvestment Act (ARRA) Tier 2 funding distribution for Solano local agencies as shown in Attachment C.
Pg. 55
- K. **North Connector Project – Contract Amendment for Right of Way Relocation Services** Janet Adams
Recommendation:
Approve a contract amendment with ARWS in the not-to-exceed amount of \$30,000 to complete the right-of-way relocation services for the North Connector Project.
Pg. 63
- L. **North Connector Project Contract Amendment - BKF Engineers** Janet Adams
Recommendation:
Approve a contract amendment for BKF Engineers to cover design related services, including the design of the mitigation site, for an amount not-to-exceed \$417,100.
Pg. 67
- M. **Contract Award for Building Demolition for North Connector Project** Janet Adams
Recommendation:
Approve the following:
 1. *Approve Resolution No. 2009-08 for the North Connector Building Demolition Contract; and*
 2. *Authorize the Executive Director to award the Building Demolition Contract to the lowest responsive and responsible bidder.***Pg. 71**
- N. **I-80 High Occupancy Vehicle (HOV) Lanes Project Mitigation** Janet Adams
Recommendation:
Authorize the Executive Director to execute an agreement with Elsie Gridley Mitigation Bank for the purchase of conservation credits for mitigation to impacts to the wetlands in the amount of \$25,000.00.
Pg. 77

X-B-8-5

O. Environmental Mitigation for the North Connector and Other I-80 Projects

Janet Adams

Recommendation:

Authorize the Executive Director to:

1. Enter into an agreement with the Solano Community College for implementation of the mitigation site for the North Connector and other projects on Solano Community College property, with the construction of commensurate amount of additional parking and/or pathway improvements on Solano Community College property; and
2. Enter into an agreement to purchase 13 Valley Longhorn Elderberry Beetle (VELB) mitigation credits at the off-site French Camp Conservation Bank in the amount of \$45,000.00

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VIII. ACTION FINANCIAL ITEMS

A. Redwood Parkway – Fairgrounds Drive Improvement Project

Janet Adams

Recommendation:

Approve the following:

1. Authorize the STA to be the lead agency for the environmental document for the Redwood Parkway – Fairgrounds Drive Improvement Project;
2. Authorize the Executive Director to initiate a funding agreement between Solano Transportation Authority, the City of Vallejo, and the County of Solano for the environmental document for the Redwood Parkway – Fairgrounds Drive Improvement Project; and
3. Authorize the Executive Director to initiate a cooperative agreement with Caltrans for the environmental document and project approval for the Redwood Parkway – Fairgrounds Drive Improvement Project.

(6:35 – 6:45 p.m.)

Pg. 81

B. Initiation of Solano County's Priority Express/High Occupancy Toll (HOT) Lanes Network on I-80

Janet Adams

Recommendation:

Authorize the Executive Director to forward a letter to the MTC/Bay Area Toll Authority (BATA) requesting funds to complete the environmental document and detailed preliminary engineering for the priority Express/High Occupancy Toll (HOT) Lanes on I-80 in Solano County as shown in Attachments C and D.

(6:45 – 6:55 p.m.)

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IX. ACTION NON-FINANCIAL ITEMS

A. Public Hearing on Proposed Changes in the Provision of Paratransit Services:

Daryl K. Halls
Elizabeth Richards

- Receive the Solano Paratransit Transitional Plan, and
- Approval of Proposed Dissolution of Solano Paratransit

Recommendation:

CONDUCT a Public Hearing to consider changes in the provision of Paratransit services:

1. Staff Presentation of the Summary of Potential Service Strategies and Preliminary Transition Plan as shown in Attachments C and E to the staff report;
2. Open Public Hearing and receive public comment;
3. Close Public Hearing;
4. Board Consideration of the following proposed actions
 - a. Dissolve the Solano Paratransit service and transfer the responsibility for the passengers served by Solano Paratransit to the local transit operators serving the communities in which they reside;
 - b. Authorize the STA to work with the County of Solano to develop a transitional plan for Solano Paratransit riders residing in the County unincorporated area; and
 - a. Authorize the Executive Director to send out notification of the dissolution of Solano Paratransit to all registered Solano Paratransit passengers providing contact information for each transit agency to address questions and for clarification.

(6:55 – 7:15 p.m.)

Pg. 95

B. Regional Transportation Impact Fee (RTIF) Stakeholders Committee and Governance

Janet Adams

Recommendation:

Approve the following:

1. The formation of a RTIF Stakeholder Committee as specified in Attachment B, and authorize the STA Executive Director to work with the RTIF Working Group and STA Board Executive Committee to identify and invite interested participants; and
2. Designate the Solano Transportation Improvement Authority (STIA) as the recommended governance body to develop, approve and administer the proposed Regional Transportation Impact Fee (RTIF).

(7:15 – 7:25 p.m.)

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- C. **Adoption of STA's Overall Work Plan (OWP) for Fiscal Year FY) 2009-10 and FY 2010-11** Daryl Halls
Recommendation:
Approve the STA's Overall Work Program for Fiscal Year (FY) 2009-10 and FY 2010-11.
 (7:25 – 7:35 p.m.)
Pg. 123
- D. **Water Emergency Transportation Authority (WETA) Transition Plan Status** Elizabeth Richards
Recommendation:
Authorize the STA Chair to forward a letter on behalf of the STA requesting WETA's consideration of ferry transitional issues as specified in Attachment D.
 (7:35 – 7:40 p.m.)
Pg. 151
- E. **Legislative Update** Jayne Bauer
Recommendation:
Recommend the STA Board to support AB 1414 (Hill).
 (7:40 – 7:45 p.m.)
Pg. 181

X. INFORMATIONAL- NO DISCUSSION ITEMS

- A. **Development of Sustainable Communities Strategy for SB 375** Robert Macaulay
Informational
Pg. 209
- B. **Transportation for Livable Communities (TLC)/ American Recovery and Reinvestment Act (ARRA) TE Funding Status Update** Robert Guerrero
Informational
Pg. 227
- C. **Highway Projects Status Report:** Janet Adams
 - 1.) I-80/I-680/SR 12 Interchange
 - 2.) I-80 EB Cordelia Truck Scales Relocation
 - 3.) North Connector
 - 4.) I-80 HOV Lanes: Red Top Road to Air Base Parkway
 - 5.) I-80 HOV Lanes Vallejo/Fairgrounds Access
 - 6.) Jepson Parkway
 - 7.) State Route 12 (Jameson Canyon)
 - 8.) State Route 12 East SHOPP Project
 - 9.) I-80 SHOPP Rehabilitation Projects

Informational

X-B-8-8

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- | | | |
|----|--|------------------|
| D. | Regional Transportation Plan (RTP) Update
<i>Informational</i>
Pg. 239 | Robert Macaulay |
| E. | Comprehensive Transportation Plan (CTP) Update
<i>Informational</i>
Pg. 240 | Robert Macaulay |
| F. | Model Technical Advisory Committee (TAC) Update
<i>Informational</i>
Pg. 241 | Robert Guerrero |
| G. | Disadvantaged Business Enterprise – Race Conscious
<i>Informational</i>
Pg. 243 | Kenny Wan |
| H. | Project Delivery Update
<i>Informational</i>
Pg. 245 | Kenny Wan |
| I. | Bike to Work Week May 11-15, 2009
<i>Informational</i>
Pg. 251 | Judy Leaks |
| J. | Funding Opportunities Summary
<i>Informational</i>
Pg. 255 | Sara Woo |
| K. | STA Board and Advisory Committee Meeting Schedule
for 2009
<i>Informational</i>
Pg. 263 | Johanna Masiclat |

XI. BOARD MEMBERS COMMENTS

XII. ADJOURNMENT

The next regular meeting of the STA Board is scheduled for **Wednesday, June 10, 2009, 6:00 p.m., Suisun City Hall Council Chambers.**

X-B-8-9



SOLANO TRANSPORTATION AUTHORITY
Board Minutes for Meeting of
April 8, 2009

I. CALL TO ORDER

Chair Spring called the regular meeting to order at 6:00 p.m. A quorum was confirmed.

**MEMBERS
PRESENT:**

Jim Spering, Chair	County of Solano
Pete Sanchez, Vice-Chair	City of Suisun City
Elizabeth Patterson	City of Benicia
Jack Batchelor, Jr.	City of Dixon
Chuck Timm (Alternate Member)	City of Fairfield
Jan Vick	City of Rio Vista
Len Augustine	City of Vacaville
Osby Davis	City of Vallejo

**STAFF
PRESENT:**

Daryl K. Halls	Executive Director
Charles Lamoree	Legal Counsel
Johanna Masiclat	Clerk of the Board
Janet Adams	Deputy Executive Director/Director of Projects
Robert Macaulay	Director of Planning
Susan Furtado	Financial Analyst/Accountant
Liz Niedziela	Transit Manager/Analyst
Judy Leaks	SNCI Program Manager
Sam Shelton	Project Manager
Kenny Wan	Assistant Project Manager

**ALSO
PRESENT:**

In Alphabetical Order by Last Name:

Frank Crim	Member of the Public
John Fadhl	Member of the Public
Rick Fuller	Vice Mayor, City of Dixon
George Gwynn	Member of the Public
Kurt Han	Member of the Public
Curtis Hunt	Vice Mayor, City of Vacaville
Dan Kasperson	City of Suisun City
Gary Leach	City of Vallejo

Wayne Lewis
Alysa Majer
John Takeuchi
Vern VanBuskirk
Paul Wiese

City of Fairfield
City of Suisun City
Member of the Public
Member of the Public
County of Solano

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

On a motion by Board Member Vice Chair Sanchez, and a second by Board Member Batchelor, the STA Board approved the agenda.

IV. OPPORTUNITY FOR PUBLIC COMMENT

Members of the public came forward to address the Board on the following:

- George Gwynn commented on tax increases and promoting bus systems in Solano County.
- Jon FadhI commented on STA's public outreach and information process at public meetings.

V. EXECUTIVE DIRECTOR'S REPORT

Daryl Halls provided an update on the following topics:

- SR 12 Rehabilitation and Safety Project Groundbreaking
- Proposed Amendments to STA's Joint Powers Agreement
- STA Proposes to Expand Mitigation Partnership with Solano Community College
- Status of Travis AFB Access Projects
- I-80/I-680/I-780 Corridors Highway Operations Implementation Study
- Solano Paratransit Service Partnership Requested to be Disbanded

VI. COMMENTS FROM METROPOLITAN TRANSPORTATION COMMISSION (MTC), CALTRANS, AND STAFF:

A. Caltrans Report:

On behalf of Caltrans, Janet Adams announced Caltrans will be opening bids on the I-80 SHOPP Rehabilitation Project next Tuesday, April 14, 2009.

B. MTC Report:

Chair Spering announced that at an earlier meeting, MTC's Programming and Allocations Committee approved the recommendation for the state element of the American Recovery Reinvestment Act (ARRA) for 2009 also known as the Federal Stimulus. He listed the Solano County projects to receive funding as follows:

- | | |
|---|-----------|
| • The Benicia State Park Overcrossing of I-780 | \$320,000 |
| • McGary Road Enhancement Project | \$640,000 |
| • Old Town Cordelia Bikeway Improvement Project | \$800,000 |

He added that MTC agreed to allocate an additional \$23 million to Local Streets and Roads (LS&R) preservation including \$1.8 million in additional LS&R for Solano County.

C. STA Reports:

1. A status of the Travis Air Force Base South Gate Access Improvement Project was presented by County of Solano's Paul Wiese
2. STA Status Reports:
 - A. Projects – An update of the North Connector (East End) Project was provided by Janet Adams
 - B. Planning – An update of the Rail Performance and Rail Station Projects were provided by Robert Macaulay
 - C. Transit and Rideshare – An update of the Bike to Work Week Campaign for 2009 was presented by Judy Leaks

VII. CONSENT CALENDAR

On a motion by Vice Chair Sanchez, and a second by Board Member Patterson, the STA Board unanimously approved Consent Calendar Items A thru I.

- A. **STA Board Meeting Minutes of March 18, 2009**
Recommendation:
Approve STA Board Meeting Minutes of March 18, 2009.
- B. **Review TAC Draft Minutes for the Meeting of March 25, 2009**
Recommendation:
Receive and file.
- C. **Safe Routes to School Mapping Project – Request for Qualifications**
Recommendation:
Authorize the Executive Director to release a Request for Qualifications for the STA's Safe Routes to School Mapping Project and enter into a contract for an amount not to exceed \$60,000.
- D. **2009 Model TAC Work Plan**
Recommendation:
Approve the 2009 Model Technical Advisory Committee (TAC) Work Program.
- E. **Unmet Transit Needs Response for Fiscal Year (FY) 2009-10**
Recommendation:
Approve the following:
 1. The FY 2009-10 Unmet Transit Needs response as specified in Attachment B;
and
 2. Authorize the Executive Director to submit the FY 2009-10 Unmet Transit Needs response to MTC.
- F. **Paratransit Coordinating Council (PCC) Appointment**
Recommendation:
Appoint Dawna Ferneau as a Social Service representative to the PCC for a 3-year term.

G. Environmental Mitigation Partnership with Solano Community College
Recommendation:
Authorize the Executive Director to enter into an agreement with the Solano Community College for implementation of the mitigation site for the North Connector Project, the High Occupancy Vehicle (HOV) Lanes Project and the I-80 Eastbound Cordelia Truck Scales Project on Solano Community College property, with constructing a commensurate amount of additional parking and pathway improvements on Solano Community College property

H. Support for Local Grant Applications for the State Safe Routes to School (SR2S) Program
Recommendation:
Approve Resolution No. 2009-07, committing the STA to supporting Safe Routes to School activities and projects for the five schools described in each local agency's State-legislated Safe Routes to School (SR2S) Program grant application, should these schools receive grant funding.

I. Yolo Solano Air Quality Management District (YSAQMD) Application Review Committee
Recommendation:
Authorize the STA Board Chair to appoint two STA Board Members or STA Board Alternates from the YSAQMD area to participate in the STA/YSAQMD Clean Air Application Review Committee.

VIII. ACTION – FINANCIAL ITEMS

A. Solano Rail Crossing Inventory and Improvement Plan Consultant Contract
Robert Macaulay provided an overview of the Solano Rail Crossing Inventory and Improvement Plan. He cited that the STA, working in partnership with the Capitol Corridor Joint Powers Authority, is seeking a consultant to develop a rail crossing inventory and improvement plan for all of Solano County.

Board Comments:

Board Member Batchelor stated that STA and the local jurisdictions should make sure that efforts they take to improve or close crossings should receive credit from the railroads. He stated that they are often asked for at-grade crossings to be removed, and we should make sure that if we remove them that they are recognized by the railroad. Board Member Patterson asked if the study would be considering impacts of sea level rise on crossings and rail lines; specifically, the potential Benicia station site could be inundated by expected rise in the sea level, and STA should be cautious about spending money on rail crossings that might have to be relocated. Chair Spering cautioned that it may not make sense to spend large sums of money for something that may not happen, or not in the foreseeable future. Board Member Batchelor agreed with Chair Spering.

Public Comments:

None presented.

Recommendation:

Authorize the Executive Director to issue a Request for Proposals and enter into a contract to conduct the Solano Rail Crossing Inventory and Improvement Plan Study for an amount not to exceed \$75,000 as directed by noted above.

On a motion by Board Member Patterson, and a second by Board Member Jan Vick, the STA Board unanimously approved the recommendation.

- B. I-80 Eastbound Cordelia Truck Scales Relocation Project Implementation**
Janet Adams reviewed the Metropolitan Transportation Commission (MTC)'s condition of the Regional Measure 2 (RM 2) funding allocation request. She stated that STA is required to adopt Resolution No. 2009-06 which indicates that STA approves the Initial Project Report (IPR) for RM 2 Project 7 and cash flow plan and that STA authorizes the Executive Director to submit an allocation request with MTC for RM 2.

Board Comments:
None presented.

Public Comments:
None presented.

Recommendation:
Approve Resolution 2009-06 and Funding Allocation Request from Metropolitan Transportation Commission (MTC) for \$20.7 million for final design and right-of-way acquisition for the I-80 Eastbound Cordelia Truck Scales Relocation Project.

On a motion by Board Member Batchelor, and a second by Board Member Vick unanimously approved the recommendation.

IX. ACTION NON-FINANCIAL ITEMS

- A. Updating STA's Joint Powers Agreement**
Legal Counsel Charles Lamoree gave a brief history of STA's Joint Powers Agreement (JPA). He reviewed the amendment process of the JPA and listed the suggested revisions of STA's Powers, proposed amended, existing JPA, and the JPA with proposed changes. Board Member Patterson suggested that language be included to address SB 375 and other regional planning issues. At that time, further discussions were opened up amongst the Board Members leading to the approval of the draft amended JPA with the following additional language added to the Planning Section:

"STA will work to integrate local and regional land use and transportation planning initiatives. In addition to STA's role in helping the Metropolitan Transportation Commission develop the Regional Transportation Plan for Solano County, the STA will coordinate the development of a Sustainable Community Strategy or Alternative Planning Strategy for Solano County as appropriate in partnership with the Solano City County Coordinating Council. The STA will also work to periodically produce statistical information needed to analyze progress towards implementing such regional programs."

Public Comments:

Kurt Hahn, City of Fairfield Resident, voiced his concern about the General Powers segment of the JPA.

Vern VanBuskirk, City of Fairfield Resident, addressed his opposition to the provisions of the Authority's JPA related to eminent domain authority. He state STA is too far removed from voters and citizens will have difficulty understanding what is exactly happening.

Recommendation:

Approve the following:

1. Revisions to the STA's Joint Powers Agreement as specified in Attachment A (Exhibit A); and
2. Authorize the Executive Director to seek approval of the JPA Amendment by all member agencies.

On a motion by Board Member Patterson, and a second by Board Member Vick, the STA Board unanimously approved the recommendation *with the amended language shown above in bold italics*.

X. INFORMATIONAL ITEMS

A. Update on the I-80/I-680/I-780 Corridors Highway Operations Implementation Study

Sam Shelton provided an overview of the development in progress of the I-80/I-680/I-780 Corridors Highway Operations Implementation Study. He cited that to develop the study, the STA and MTC created the Solano Highway Partnership (SoHIP) with the cities of Benicia, Dixon, Fairfield, Vacaville, and Vallejo, and Caltrans Districts 3 & 4 to develop operational improvements and policy recommendations relating to a long range Intelligent Transportation System (ITS), ramp metering, High Occupancy Vehicle, network/lane extensions, and hardscape improvements that visually link corridor segments to areas of Solano County.

B. Discussion of Draft STA Overall Work Plan for Fiscal Year (FY) 2009-10 and FY 2010-11

Daryl Halls reviewed STA's Draft OWP for FY 2009-10 And FY 2010-11. He indicated staff intends to request adoption by the STA Board at the May 13, 2009 Board Meeting. He indicated that once adopted, the OWP will guide the development of the STA's budget priorities for FY 2009-10 and FY 2010-11.

NO DISCUSSION

C. Legislative Update

D. 2009 Congestion Management Program (CMP) Update

E. Comprehensive Transportation Plan (CTP) Update

F. Local Streets and Roads (LS&R) Biennial Needs Revenue and Performance Survey

- G. Project Delivery Update
- H. Funding Opportunities Summary
- I. STA Board Meeting Schedule for 2009
- X. BOARD MEMBER COMMENTS
- XI. ADJOURNMENT

The STA Board meeting was adjourned at 7:00 p.m. The next regular meeting of the STA Board is scheduled for **Wednesday, May 13, 2009, 6:00 p.m., Suisun City Hall Council Chambers.**

Attested by:

_____/_____
Johanna Masiclat Date
Clerk of the Board

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 13, 2009

TO : Mayor Patterson
Vice Mayor Campbell

FROM : Dan Schiada, Director of Public Works

SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The May Solano Water Authority (SWA) Board of Directors is May 14, 2009. The agenda for that meeting, and minutes from the preceding meeting, follow. The next SWA meeting is on June 11, 2009.

The SWA also has a Delta Committee that typically meets each month directly before the regular SWA meeting.

SOLANO COUNTY WATER AGENCY



BOARD OF DIRECTORS MEETING

DATE: Thursday, May 14, 2009

TIME: 6:30 - 7:00 p.m. (Note: Change in regular time - City County Coordinating Council meets at 7:00)

PLACE: Solano Irrigation District
508 Elmira Road
Vacaville

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENT

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. CONSENT ITEMS

- (A) Minutes: Approval of the Minutes of the Board of Directors meeting of April 9, 2009 is recommended.
- (B) Expenditure Approvals: Approval of the April checking account register and list of checks \$500 and over to be paid is recommended.
- (C) North Bay Aqueduct Alternate Intake Project – Grant Funding for Napa County: Stating the intent of the Water Agency to share prospective Proposition 84 grant funding, if awarded, for the permitting and environmental review of the North Bay Aqueduct Alternate Intake Project on a basis of 69% Water Agency and 31% Napa County Flood Control and Water Conservation District is recommended.

P.O. Box 349 • 6040 Vaca Station Road, Building 84
Elmira, California 95625-0349
Phone (707) 451-6090 • FAX (707) 451-6099
www.scwa2.com



X-B-9-2

- (D) California Habitat Conservation Planning Coalition Resolution:
Authorization of the Chairman to sign the California Habitat Conservation Planning Coalition Resolution is recommended.
- (E) Putah Diversion Compound Renovation Project:
1. Authorization of General Manager to execute Letter of Agreement for Demolition and Construction of the United States' Solano Project Headquarters Complex with the United States Bureau of Reclamation is recommended.
 2. Authorization of Chairman to execute a new agreement with Laugenour & Meikle for technical assistance during bidding and construction support services, and on-call surveying services is recommended. Cost is \$82,800
 3. Affirmation of the Water Agency's intent to provide financing of the Vacaville Fire Protection District's improvements to be constructed as part of the Putah Diversion Compound Renovation Project is recommended.
- (F) Financial Assistance Agreement: Adoption of Resolution 2009-1 authorizing the Water Agency to enter into an agreement with the State of California for a principle forgiveness loan (grant) to use Clean Water Act stimulus funds, to restore one thousand acres of Lower Putah Creek is recommended.

6. BOARD MEMBER REPORTS

RECOMMENDATION: For information only.

7. GENERAL MANAGER'S REPORT

RECOMMENDATION: For information only.

8. WATER AGENCY STAFFING

RECOMMENDATIONS:

1. Create a new Administrative Services Manager classification and authorize General Manager to recruit and fill the position.

2. Authorize new Associate/Senior Water Resources Engineer Position with emphasis on Flood Control and authorize General Manager to recruit and fill the position.
3. Authorize creation of Principal Water Resources Engineer and Principal Water Resources Specialist positions.

9. **BUDGET COMMITTEE**

RECOMMENDATION: Chairman to appoint a Budget Committee to review draft FY 2009/2010 budget and make a recommendation to the Board at the June Board meeting.

10. **DELTA MATTER AND LEGISLATIONS**

RECOMMENDATION: Hear report from General Manager on Delta issues and legislation. Provide staff guidance as necessary.

11. **TIME AND PLACE OF NEXT MEETING**

Thursday, June 11, 2009 at 7:00 pm at the Solano Irrigation District offices.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

**SOLANO COUNTY WATER AGENCY
BOARD OF DIRECTORS MEETING MINUTES**

MEETING DATE: April 9, 2009

The Solano County Water Agency Board of Directors met this evening at the Solano Irrigation District. Present were:

Mayor Elizabeth Patterson, City of Benicia
Mayor Len Augustine, City of Vacaville
Mayor Jan Vick, City of Rio Vista
Councilmember Chuck Timm, City of Fairfield
Mayor Pete Sanchez, City of Suisun City
Mayor Osby Davis, City of Vallejo
Supervisor Barbara Kondylis, Solano County District 1
Supervisor Linda Seifert, Solano County District 2
Supervisor Jim Spering, Solano County District 3
Supervisor John Vasquez, Solano County District 4
Supervisor Mike Reagan, Solano County District 5
Director Whiting, Reclamation District 2068
Director Bob Bishop, Solano Irrigation District
Manager Don Holdener, Maine Prairie Water District

CALL TO ORDER

The meeting was called to order at 7:00 pm by Chairman Holdener.

APPROVAL OF AGENDA

On a motion by Supervisor Kondylis and a second by Mayor Patterson, the Board unanimously approved the agenda.

PUBLIC COMMENT

No public comment was received.

CONSENT ITEMS

On a motion by Supervisor Spering and a second by Mayor Vick the Board unanimously approved the following consent items, including the addendum to agenda item (B), Additional Expenditure Approvals:

- (A) Minutes
- (B) Expenditure Approvals
- (C) Rio Vista Flood Risk Study
- (D) Solano Project Rehabilitation and Betterment: Lake Solano Flow Control Improvement
- (E) Amendment to Water Purchase Agreement with Yuba County Water Agency

BOARD MEMBER REPORTS

No reports were given.

X-B-9-5

GENERAL MANAGERS REPORT

In addition to the written report, Manager Okita informed the Board that the Water Agency has been selected as recipient of the City of Davis 2009 Environmental Recognition Award for the non-profit category in recognition of restoration project achievements along Lower Putah Creek and Creek stewardship activities. The Water Agency was nominated for the award by Senator Wolk and the Putah Creek Council. Manager Okita presented the award letter from the City of Davis and nomination letter from Senator Wolk.

SOLANO PROJECT REHABILITATION AND BETTERMENT: PUTAH DIVERSION COMPOUND RENOVATION

Staff gave a presentation on the Project. The project entails demolishing and re-constructing four buildings on Bureau of Reclamation property with joint participation with the Vacaville Fire Protection District. Principles of an agreement between the Water Agency and the District were outlined. The Board discussed a proposal for future development of alternative solar energy capabilities on-site.

On a motion by Supervisor Kondylis and a second by Mayor Patterson the Board unanimously approved to:

1. Authorize Chairman to execute Amendment No. 1 to the agreement with Solano Construction for building planning and design services.
2. Adopt the plans and specifications for the Putah Diversion Compound Renovation Project.
3. Authorize staff to advertise and solicit bids to construct the project.

The Board also directed staff to include solar energy panels.

SACRAMENTO RIVER REGION IRWMP

Manager Okita outlined the principles of the Memorandum of Understanding for the Board to consider. On a motion by Supervisor Kondylis and a second by Supervisor Reagan the Board unanimously authorized the Chairman to execute a Memorandum of Understanding with the counties of Yolo, Lake, Napa and Colusa to cooperate in the development of an Integrated Regional Water Management Plan.

DELTA COMMITTEE REPORT

Manager Okita summarized discussions by the Board's Delta Committee that met prior to the Board meeting. The Committee recommended the Board adopt the "Solano County Delta Related Preferred Outcomes List". Manager Okita presented the document for the Board to consider. The basic principles of the list were previously adopted by the Board and circulated among the Boards of Solano and Yolo Counties. Both Counties have adopted a very similar document with some minor changes to address local concerns. This refined list provides a common basis for ongoing Delta discussions.

On a motion by Supervisor Seifert and a second by Supervisor Kondylis the Board unanimously approved adoption of the Solano County Delta Related Preferred Outcomes List.

Mayor Patterson informed the Board that the latest update to the California Water Plan by the CA Department of Water Resources is available. General thought on the Plan were discussed and copies of the update were distributed.

LEGISLATION

Manager Okita and Patrick Leathers, Legislative Advocate, informed the Board on the status of SB460 in contrast to AB49. SB460 is a Water Conservation Bill that was developed by Senator Wolk with input from the Water Agency. The Board directed staff to work with the Legislature on language for a new water conservation bill after the defeat of AB2175 last fall and opposed by the Board. The Association of California Water Agencies is co-sponsoring the SB460. AB49 is essentially a revamp of last years AB2175 bill.

On a motion by Mayor Sanchez and a second by Councilmember Timm the Board unanimously adopted the following positions on respective bills:

- SB460 – Water Conservation: Urban Water Use by Senator Wolk - Support
- SB456 – Safe, Clean, Reliable Drinking Water Supply Act of 2010 – Senator Wolk - Support
- SB457 – Sacramento – San Joaquin Delta – Senator Wolk - Support
- SB458 – Conservancies – Sacramento – San Joaquin Delta Conservancy – Senator Wolk - Support
- AB49 – Water Conservation: Urban Water Use – Assembly Members Feuer and Huffinan - Oppose

APPOINTMENT OF STAFFING COMMITTEE

A motion to appoint the Executive Committee with the addition of representation from Solano Irrigation District as the Staffing Committee was made by Supervisor Sperring and seconded by Mayor Sanchez. A substitute motion to not establish a Staffing Committee and have the full Board consider staffing issues was offered by Mayor Davis with a second by Director Bishop. On a vote of 8 to 6 the substitute motion was passed. Director's Sanchez, Sperring, Vasquez, Reagan, Seifert, and Kondylis were dissenting votes.

PROSPECT ISLAND

General Manager Okita summarized a previous study conducted by the Water Agency regarding the technical feasibility of utilizing Prospect Island as a water storage facility. The study concluded that such a project was very expensive and not cost effective at this time. There were also technical concerns regarding water quality issues in the stored water and potential habitat mitigation costs to reclaim the island.

Supervisor Reagan outlined a concept to utilize the island to store "Settlement Water", an area of origin water source held by the Cities of Benicia, Fairfield, and Vacaville. Rick Wood, City of Fairfield Assistant Director Public Works, informed the Board that the three Cities are the beneficiaries of the settlement agreement and that the Cities do not need to store settlement water to perfect the right nor would they be interested in participating in such a storage project. Manager Hardesty, Reclamation District 2068, informed the Board regarding the potential liability with the questionable integrity of the island's levees.

Supervisor Reagan requested the Board to consider sending a letter of interest to acquire the property to the Government Accounting Office (GAO). The Board expressed concerns regarding staff time commitment and potential liability. A motion was put forth by Supervisor Seifert to respond affirmatively to the GAO with a letter of interest with minimally required staff effort. On a second by Supervisor Vasquez the motion failed by an 8 to 6 margin. Directors Vick, Whiting, Patterson, Sanchez, Davis, Holdener, Sperring, and Kondylis were not in favor of the motion.

TIME AND PLACE OF NEXT MEETING

The next regularly scheduled meeting will be Thursday, May 14, 2009 at 6:30 p.m. at the Solano Irrigation District offices, preceding the City-County Coordinating Committee meeting.

X-B-9-7

ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned
at 8:25 p.m.

David B. Okita, General Manager
and Secretary to the Board of Directors of the
Solano County Water Agency

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A-16

X-B-9-8

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 12, 2009

TO : Vice Mayor Campbell
Council Member Hughes

FROM : Dan Schiada, Public Works Director

SUBJECT : **TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS)
COMMITTEE**

The following information is provided for your committee report at the May 19, 2009 Council meeting.

The Traffic, Pedestrian and Bicycle Safety (TPBS) Committee meets quarterly at 7:00 p.m. in the Commission Room at City Hall.

The regularly scheduled meeting for April 16, 2009 was cancelled.

A special meeting was held on Thursday, April 23, 2009, 7:00 pm, in the Council Chambers at City Hall. This meeting agenda is attached and the minutes are in process.

Another special meeting was scheduled and held on Wednesday, May 6, 2009, 5:30 pm in the Council Chambers. This meeting agenda is attached and the minutes are in process.

The next regularly scheduled meeting is for July 16, 2009, 7:00 pm, in the Commission Room.



City of Benicia
**TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE**

SPECIAL MEETING

City Hall – Council Chambers
Thursday, April 23, 2009
7:00 pm

AGENDA

I. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

- November 6, 2008 Special Meeting

III. PUBLIC COMMENT

1. Request to permit unrestricted use (i.e. 24 hr/day) of the East E Street Parking Lot and to keep the Kuhland Alley gate open at all times. (Patrick M. Donaghue - Citizen)
2. Other Public Comments

IV. VERBAL UPDATES

1. Safety Enhancements on Drolette Drive near Mary Farnar Elementary School (M. Roberts - Staff)

V. INFORMATIONAL ITEMS:

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (M. Throne - Staff)
2. Regional Signal Timing Program Grant (M. Throne)

VI. ACTION ITEMS

1. East 2nd Street/Riverhill Drive Crosswalk (M. Roberts/F. Hartig)
Recommendation: The Committee receive a report from staff on the recent pedestrian accident, hear concerns from residents about pedestrian safety, and recommend installation of a ladder type crosswalk and pursue outside grant funding for radar speed signs.
2. Safe Routes to School Radar Speed Sign Grant Program (M. Throne)
Recommendation: The Committee confirm the selection of the East Second Street corridor and Southampton Road corridor as appropriate Safe Routes to School sections for the placement of radar speed signs.
3. On-Street Parking on East 4th Street Between East I and East J Streets (M. Roberts)
Recommendation: The Committee receive a report from staff, hear concerns from residents about the lack of on-street parking, and recommend appropriate action to take.

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

X-B-10-2

Public Participation

The Traffic Pedestrian and Bicycle Safety (TPBS) Committee 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 TPBS Committee allows speakers to speak on agendized and non-agendized 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 TPBS Committee.

Disabled Access

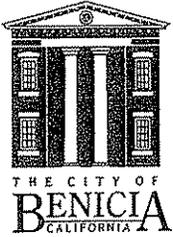
In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton the ADA Coordinator at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility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

Meeting Procedures

All items listed on this agenda are for the TPBS Committee 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 TPBS Committee.

Public Records

The agenda packet for this meeting is available at the Public Works Department, City Clerk's Office and the Benicia Public Library during regular work hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." If you wish to submit written information on an agenda item, please submit to the Public Works Director as soon as possible so that it may be distributed to the Committee.



City of Benicia
**TRAFFIC PEDESTRIAN &
BICYCLE SAFETY (TPBS) COMMITTEE**

SPECIAL MEETING

City Hall – Council Chambers
Wednesday, May 6, 2009
5:30 pm

AGENDA

I. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Fundamental Rights Statement

II. ACTION ITEM

1. **East E Street Parking Lot - Request to keep Kuhland Alley Gate Open at all times and to allow Unrestricted Parking (24 hrs/day)**

Recommendation: That the parking restrictions (No Parking 2:00 am to 6:00 am) in the E Street parking lot remain in place and the Committee consider revising the current policy to close the Kuhland Alley gate (except for special events) if requested by the majority of the impacted neighborhood.

III. PUBLIC COMMENT

IV. ADJOURNMENT

Public Participation

The Traffic Pedestrian and Bicycle Safety (TPBS) Committee welcomes public participation.

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X-B-10-4

Meeting Procedures

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**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 12, 2009

TO : Vice Mayor Campbell
Council Member Hughes

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING
GROUP**

The following information is provided for your committee report at the May 19, 2009 Council meeting.

The Governing Board of the Tri-City and County Cooperative Planning Group met on Monday, May 11th. Agenda items included:

- Acceptance of the 09/10 Budget (this item had been delayed for approval due to a lack of quorum from the Board during the past two meetings). Staff will bring back an updated budget for final authorization at the Board's next meeting, scheduled for June 8, 2009;
- Received information from staff concerning the status of the Hiddenbrook School facility. A meeting will be held Monday, May 18th at 7 PM at the Golf Course. Staff has been trying to reach Mel Jordan from the school district, however no contact has been made. Staff will coordinate with staff from Vallejo to obtain a status report based on the May 18th meeting.
- Staff from Solano Land Trust provided a report titled, "Year Two Annual Assessment of Operations for Lynch Canyon Open Space". This report includes Success Criteria, or performance measures, to measure the success of the public outreach and events. The Board congratulated the Trust for all of its efforts, and encouraged them to continue and expand their programs to the extent feasible (see attached report).
- Staff from the Greater Vallejo Recreation District provided an update on the McIntyre Ranch Master Plan. The environmental document is almost complete and will be available for review and comment. The Board requested that staff write a letter encompassing the Board's and the Tri-City and County Citizens Advisory Committee's (CAC) comments on the plan, which include the need for a staging area and assurance of access via St. John Mine's Road.
- Staff provided an update on the annual Spring Tour event. Due to schedules and timing, the Board agreed to postpone the event until the Fall 2009.

X-B-11-1

The next schedule meeting will be with the CAC on May 20, 2009. The agenda is not yet complete, however the McIntyre Ranch Master Plan will be discussed to obtain a status report and provide comments.

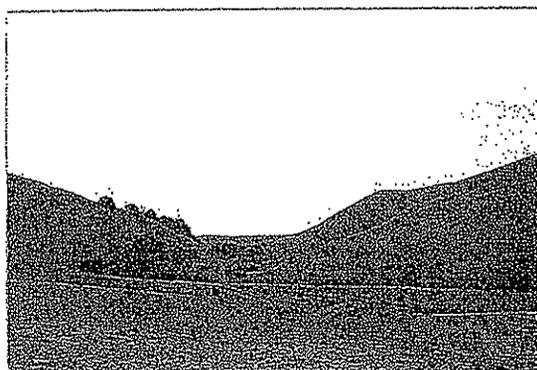
A joint/workshop with the Governing Board and CAC is planned for September 2009.

YEAR TWO ANNUAL ASSESSMENT OF OPERATIONS LYNCH CANYON OPEN SPACE MAY 1, 2009

EXECUTIVE SUMMARY

Over the two years since it opened in May 2007, Lynch Canyon Open Space has grown to fill a unique role in the Solano County Parks system. Solano County's investment in this park offers its citizens new ways to play and learn that are not available at other County Parks. These include scenic ridgeline trails for horse riders, hikers and cyclists, and large flat areas of grassland within the park's 1,000+ acres, which are used as an outdoor classroom and venue for revenue-generating events. Several active, outdoor events at Lynch Canyon have supported the County's interest in promoting healthy lifestyles for children and families in the community.

The other three County parks (Lake Solano, Sandy Beach and Belden's Landing) are very popular for camping, fishing, boating, picnicking and short trail hikes, but these parks are smaller and fully developed sites that cannot offer the same range of open space activities and long trails as Lynch Canyon Open Space.



The Year Two Annual Assessment of Operations (May 2008 to May 2009) details the park's popular and growing recreational and educational programs, made possible by the concerted efforts of the County-funded staff members, volunteers and a cooperative partnership with the Solano Land Trust. Public interest in Lynch Canyon Open Space is reflected in the 3,800 visitors to the park in Year 1 and 4,570 visitors in Year 2, as well as over 2,900 volunteer hours that 263 volunteer docents, trail workers and event workers have donated to this County Park. \$14,368 in funds and materials have also been donated by individuals, organizations and corporations to improve the park's facilities.

1.) INTRODUCTION

This is the second Annual Assessment to Solano County Board of Supervisors and Solano Land Trust Board of Directors for Lynch Canyon Open Space. This report covers progress in the second year of operation and additional information on volunteer and program contributions since the park opened to the public on May 11, 2007.

2.) BACKGROUND

The Solano County Department of General Services, Parks and Recreation Division (County) operates Lynch Canyon Open Space as a County Park in cooperation with Solano Land Trust (SLT), the owner of the property, through a Cooperative Management Agreement (Agreement) dated December 12, 2006. The Agreement specifies that this Annual Assessment be prepared by May 1 of each year and forwarded to the Board of Supervisors and Board of the Solano Land Trust.

The Agreement will expire November 30, 2009 unless it is extended by the County and SLT. The Agreement established the Lynch Canyon Working Committee (Committee), consisting of two (2) members representing Solano Land Trust and two members (2) representing Solano County. The Committee members are Daniel Sykes, Solano County Parks Services Manager; Pamela Ogle, Assistant Director, Solano County General Services Department; Marilyn Farley, Executive Director, SLT; and Teri Engbring, Volunteer and Education Coordinator, SLT. County Ranger Supervisor Ted Armstrong also provides input and serves as an alternate County representative. This team is working well together and feels that good progress is being made.

The Committee has continued to meet regularly over the past year to work on systems and procedures, operations, marketing, outreach, infrastructure improvements and other issues related to ensuring smooth operation of this property as a County Park. In the second year of operation, a significantly higher number of programs drawing visitors to the park were the result of implementation of a strong volunteer recruitment, training and support system. The Committee wishes to give special recognition to the tireless efforts of Teri Engbring, the Lynch Canyon Volunteer and Education Coordinator, who has successfully spearheaded efforts to develop the volunteer network and event programming at the park.

3.) LYNCH CANYON'S ROLE IN THE COUNTY PARK SYSTEM

A Unique Park Property

Lynch Canyon Open Space is unique among the County's parks because it offers amenities not found elsewhere in the County Parks system. These include scenic, ridgeline trails for horse riders, hikers and cyclists, and large flat areas of grasslands within the park's 1,039 acres, which are used as an outdoor classroom and venue for revenue-generating events.

The other three County parks (Lake Solano, Sandy Beach and Belden's Landing) are very popular for camping, fishing, boating, picnicking and short trail hikes, but these parks are smaller and fully developed sites that cannot offer the same range of open space activities and long trails

as Lynch Canyon Open Space. More than 63 varied, free, public events and programs were held at Lynch Canyon Open Space in Year 2 (detailed in Section 6 of this report).

Beneficial Land Uses

In a larger land use perspective, Lynch Canyon Open Space represents an approach Solano County can use to balance the need to promote growth of high-value economic land uses in the County with the need to conserve other lands that preserve Solano County's rural beauty and agriculture heritage. Open spaces can provide "buffer areas" that reinforce the urban form around cities. Lynch Canyon Open Space is an example of a buffer area that retains its productive agricultural use (grazing) and also provides beneficial recreational uses for the public. Lynch Canyon also contributes to providing a trained workforce for the County through its use by classes from Solano Community College.

A recent economic study of open spaces in Alameda and Contra Costa Counties showed that well managed open spaces in East Bay watersheds and parks had a positive effect on the quality of life, property values and tourism. Positive effects of open space occurred because they preserved view sheds, provided buffers between cities, promoted a sense of place and provided nearby recreation (Economic Planning Systems, "Quantifying Our Quality of Life," 2000).

Recreation and Promotional Opportunities

Lynch Canyon Open Space is meeting a demonstrated demand for recreational opportunities that are underserved in Solano County. Important examples of these are horse riding and large outdoor exercise events (e.g., trail running, mountain biking events, trail walk events, etc.). Lynch Canyon can accommodate equestrians (horse riders) and their events because its parking lot is large enough for horse trailers, and its over 10 miles of trails provide challenging rides and scenic views.

The kinds of large-scale events that can be held at the park lend themselves to promoting tourism into the County, corporate sponsorships and individual donations. Part of the success of the events held in Year 2 has been that the park has advantages that allow for the promotion and access to the site. These advantages include flat, large open spaces to gather hundreds of people, easy highway access from Interstate 80, and a location within 20 minutes of hundreds of thousands of potential customers within Solano County and less than 1 hour from population centers in Contra Costa, Yolo and Sacramento Counties. Interest from surrounding counties has led to advertisement in magazines and newspapers outside of Solano County, including the Sacramento Bee and *Sunset* and *Bay Nature* magazines.

In April 2009 SLT and County Public Communications Officer, Steven Pierce partnered with the Fairfield Tourism Association to bring the spring 2009 *Outdoor Writers of California* Conference to Fairfield, and promote Lynch Canyon, other parks and open spaces in Solano County. A hike of Lynch Canyon Open Space was a featured activity. This exposure to travel writers helped to further publicize the park and promote County tourism.

With Lynch Canyon's good access and flat topography, there is future potential for developing more revenue-producing events or facilities on the property. These could include group campsites to serve scout groups and overnight environmental education camps, shaded,

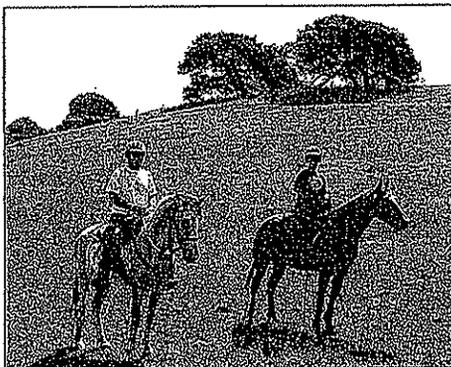
reservable picnic areas, further promotion of special events targeted to user groups, collaboration on events with Solano County's employee health program, and other ideas.

A good example of the kinds of events that Lynch Canyon can offer is the Kite Festival held April 19, 2009 that drew over 200 participants (mostly families with children from Western Solano County).

Solano County could benefit economically by providing locations for horse riding such as Lynch Canyon Open Space that will support the equestrian community in the county. Based on the number of horse boarding facilities in Solano County, there are an estimated 8,000 horses kept in the County. Yet, local equestrians say they few public trails in Solano County to ride. For example, the public trail system offered at Rockville Hills Park (City of Fairfield) lacks adequate equestrian staging facilities, and Lagoon Valley Park (City of Vacaville) offers a short equestrian trail system, with one graveled fire road. Christine Kenaston, a Vacaville resident, equestrian and active Lynch Canyon volunteer docent recently noted:

Lynch Canyon is the ONLY place in Solano County where equestrians can ride their horses on public land that offers great terrain and miles of trails, and where riders can adequately exercise their horses and enjoy their sport safely.

The potential benefits of supporting horse-riding households could be notable, as well as an appropriate land use to support given the County's agricultural heritage. For comparison, a study by the Sonoma State University Economics Department estimated that horse-riding households contribute over \$100 million to the Sonoma County economy through hay and feed purchases, stable operations, trainers, veterinary services, and other related economic activity ("Horse Riding in Sonoma County – Its Impacts on the Economy of the County," 1994).



Finally, Lynch Canyon Open Space is also providing space for training and other County-supported functions. During Year 2, Lynch Canyon was used to train groups from the Sheriff Office's Search and Rescue Team and Cordelia Fire Protection District. The Solano County Probation Department regularly uses the volunteer trail work days as opportunities for individuals on probation to fulfill their public service hours. The park has also provided a location for several local Eagle Scout candidates to complete their community service projects.

4.) RETURN ON INVESTMENT, VOLUNTEER HOURS AND DONATIONS

The estimated budget presented to the Solano County Board of Supervisors in 2006, when approving the three-year pilot project to operate Lynch Canyon Open Space, was an estimated investment of \$772,675 over three years to provide public access to the park. Recent actual, annual costs were \$167,981 in fiscal year 2007/08, and are projected to be \$168,771 for fiscal year 2008/09. To offset these operational costs, revenue to the park from the \$5-per-vehicle parking fee amounts to approximately \$12,455 per year (parking revenue figure for FY 2007/08, the only full fiscal year of operation so far). However, it is worthwhile to consider other returns on the investment of County funds at Lynch Canyon, including volunteer labor and donations.

The concerted efforts of the County-funded staff members, including the Volunteer Coordinator, Park Ranger and Park Ranger Assistant, resulted in recruiting and utilizing a large number of volunteers who donated labor time to the park. This volunteer labor time has provided a value-added return on the County's investment. In the last two years, 263 volunteers have contributed over 2,900 hours to activities at the park, ranging from helping at public hikes and trail runs to leading tours for school classes, birders, mountain bikers and equestrians. They have helped build and maintain trails and plant native trees. If these volunteer services were provided at cost to the County, it is likely the labor cost would have well exceeded \$100,000.

In addition, supportive community groups have also brought in donations of \$14,368 that have paid for signs, event flyers, education programs, equipment and supplies, benches, and horse gates for Lynch Canyon Open Space. Of special note in Year Two was the first Lynch Canyon Trail Run and Community Hike June 21, 2008. This event was almost entirely planned and administered by volunteers. The event earned net revenues of \$8,000 in one day from donations and entry fees for park improvements, including new trail markers and interpretive signs. The dynamic 6-member volunteer planning team organized a well publicized event that utilized 55 volunteers (children to retirees) and drew over 300 runners and hikers. Building on this success, the Second Trail Run and Community Hike Event is scheduled to take place on May 30, 2009.



5.) MEASURING PROGRESS AT LYNCH CANYON

The Lynch Canyon Working Committee developed a list of five (5) Success Criteria in spring 2008 to measure progress with the operation of Lynch Canyon Open Space. The Criteria were updated for Year 2, and approved by the Solano County Park and Recreation Commission, the Tri-City and County Citizens Advisory Committee and the Solano Land Trust Board. To measure the progress in Year 2, the five Success Criteria are listed in the following section, followed by a report of how each criterion was met.

6.) PROGRESS MADE IN YEAR TWO

The remainder of this assessment focuses on how well the 5 Success Criteria were met.

Success Criterion #1: The established Lynch Canyon User Advisory Group will continue to meet and meets at least quarterly to provide feedback on operations. The group has one representative from each of the significant user groups (hikers, mountain cyclists, equestrians, birders, educators, and runners)

Progress in Year Two

Six (6) members of the public volunteered to serve on the Lynch Canyon User Advisory Group (LCUAG) during year one, and all have served through the second year of operation. The LCUAG met four times in year two: June 3, 2008, October 1, 2008, November 21, 2008, and January 29, 2009.

The six, volunteer members each represented different park user groups: Doris Klein (hikers, Bay Area Ridge Trail), Brett Saunders (mountain bikers and trail work volunteers), Earl Swenerton (birders), Chris Abess (trail runners, and Lynch Canyon Trail Run director), Christine Kenaston (equestrians), and Jennifer Kaiser (educators).

The LCUAG members helped and advised the County Park Rangers and Working Committee on several issues during Year 2. This included program planning, leading programs, access issues with gates, safe protocol around grazing cattle at the park, park promotions, expanded event parking, developing interpretive messages and planning for interpretive signs in the park.

Success Criterion #2: A schedule of regular events will continue to be implemented at Lynch Canyon.

Progress in Year Two

County Park Rangers, SLT Staff and volunteers hosted a full slate of public events in Year Two. All of these were free to the public (except two fundraisers that had entry fees). These consisted of the following:

1. GOAL: Hold docent or ranger-led nature walks/hikes (wildflowers, birds, etc.), once a month on average.
 - 20 events were held in year 2

2. GOAL: Hold docent-led equestrian rides, twice a year.
 - 4 events were held in year 2
3. GOAL: Hold docent-led birding events, six times a year.
 - 6 events were held in year 2
4. GOAL: Hold focused, Ranger-led volunteer work parties, 6-12 times a year
 - 13 events were held in year #2, plus 2 special trail work parties with Bay Area Ridge Trail and REI volunteers
5. GOAL: Hold one exercise-related event per year (e.g., trail run, introductory hiking or biking activity for youth, etc.).
 - 5 events were held in year #2 (bike rides, fitness hike, and Lynch Canyon Trail Run and Community Hike)
6. GOAL: Hold one special event per year with public activities, to promote the open space.
 - 7 special events occurred, including 5 separate events as part of the park's first anniversary weekend May 10 - 11, 2008 (geocache tour, wildlife demonstration, scavenger hunt, other family activities and wagon rides for disabled visitors) and a fundraising walk for "Access Adventures," a group dedicated to providing outdoor experiences for disabled persons.
7. GOAL: Hold a photography-related event.
 - One Lynch Canyon Photo Tour was hosted by 3 volunteer photographers in conjunction with a guided spring wildflower walk on April 18, 2009.

Success Criterion #3: The existing docent training program will be offered to volunteers, and 6 additional Lynch docents will be trained. These docents will commit to leading six activities each year.

Progress in Year Two

A two-part docent training was further developed by Volunteer Coordinator Teri Engbring for use in recruiting and preparing new and continuing docents. 36 volunteers attended Part 1, an introduction and field safety training that was offered throughout the year. 10 new volunteers and County Park Rangers attended Part 2, training specific to Lynch Canyon Open Space, including: human and geologic history, flora and fauna, land management, interpretation (how to lead a tour), key messages and logistics. More than 40 docents led or supported activities at Lynch in Year 2.

Success Criterion #4: Further develop a curriculum-based environmental education program for school age children at Lynch Canyon, based on watershed ecology, wildlife, habitats and local agriculture.

Progress in Year Two

Two Solano Community College instructors used Lynch Canyon for curriculum-based art and science classes, including plein aire painting and biology. A class from Rodriguez High School also visited the site for nature study in fall 2008.

The Watershed Explorers program, an excellent elementary school program was scheduled to be offered by the Solano Resource Conservation District during Year 2, but unfortunately this program lost its funding source and was unable to operate this year.

Volunteers and staff developed a human history tour of Lynch Canyon (ranging from Native American grinding rocks, to General Vallejo's cattle operations, to today's blend of grazing and park use). Docents recently began public tours with this curriculum. The next subject under development is a Natural History Tour, which will include field guides specially tailored to the site and a program designed to explore the park's flora and fauna with school children and adults.

This docent training also directly benefitted County employees, by training County Ranger staff in how to conduct public interpretive/educational programs about the history, wildlife, habitats and land management of the property.



Success Criterion #5: Increase attendance to 4,180 people during the second full year of operation (from May 1, 2008 to April 30, 2009), or 10% greater than the first year estimated attendance figure of 3,800.

Progress in Year Two

Using data from parking revenue and a sign-in sheet at the entry gate, we established that approximately **4,570 people** visited Lynch Canyon Open Space during the second year of operation. The usage continues to increase both with a growing number of regularly returning park users and first time visitors to Lynch Canyon. Local media continue to be supportive by providing stories about coming events, with regular articles in the *Vacaville Reporter*, *Fairfield Daily Republic*, *Vallejo Times-Herald*, *Benicia Herald*, *Davis Enterprise*, and *Sacramento Bee*.

7.) CONCLUSION

The achievements presented above indicate that the operation of Lynch Canyon Open Space during Year 2 continues to meet or exceed the Success Criteria. Lynch Canyon Open Space provides a wide range of recreation opportunities and promotion of healthy exercise that complements the other, more developed and water-oriented park facilities at the three other County Parks (Lake Solano, Sandy Beach and Belden's Landing). Lynch Canyon Open Space helps the County achieve its goals for healthy residents of Solano County by providing fun outdoor recreation and exercise opportunities on the trails and in nature that are offered on very few sites within the county. Agricultural use of the property (cattle grazing and ranching operations) has required some additional public information and signage to ensure public awareness and safety, but continues to be compatible with recreational use. The steady growth in volunteers and park use demonstrates public interest in affordable ways to play and serve their community close to home.

Respectfully Submitted,

The Lynch Canyon Open Space Working Committee

Daniel Sykes, Solano County Parks Services Manager, Committee Chair
Marilyn Farley, Executive Director Solano Land Trust, Committee Secretary
Pamela Ogle, Assistant Director, Solano County General Services Department
Teri Engbring, Volunteer and Education Coordinator, Solano Land Trust
Ted Armstrong, Park Ranger Supervisor (Alternate)

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 13, 2009
TO : Council Member Hughes
FROM : Steve Vucurevich, Fire Chief
SUBJECT : VALERO COMMUNITY ADVISORY PANEL (CAP)

The following information is provided for your committee report at the May 19, 2009 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The next CAP meeting date has not yet been determined.

AGENDA ITEM
CITY COUNCIL MEETING: May 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS

DATE : May 13, 2009

TO : Mayor Patterson
Council Member Mike Ioakimedes
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The Youth Action Coalition held their regular monthly meeting on April 22, 2009. Chairman Jerry Pollard will be giving a presentation to the City Council at the May 19, 2009 meeting.

The next meeting of the Youth Action Coalition is Wednesday, May 27, 2009 at 3:30 p.m. at the City Commission Room. The agenda is not yet available.

**AGENDA ITEM
CITY COUNCIL MEETING: MAY 19, 2009
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : May 13, 2009
TO : City Council
FROM : Mayor Patterson
SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The following information is provided for your committee report at the May 19, 2009 City Council meeting.

The next meeting of the Water Forum is scheduled for May 25, 2009. An agenda for that meeting has not yet been distributed.

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Mayor Patterson

Requested Council Meeting Date:

May 19, 2009

Agenda Item Name:

Request to agendize consideration of support for SB 435.

Mayor Patterson has requested that the Council consider agendizing consideration of support for SB 435, which would require biennial smog checks for motorcycles. Please see attached for additional information.

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 435

Introduced by Senator Pavley

February 26, 2009

An act to amend ~~Section 44011~~ Sections 44010.5, 44011, and 44012 of, and to add Section 44012.5 to, the Health and Safety Code, and to amend Section 4000.1 of the Vehicle Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 435, as amended, Pavley. Smog check program: motorcycles.

Existing

(1) *Existing* law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts from biennial inspection all motorcycles until the department implements test procedures applicable to motorcycles. Violations of smog check requirements are a crime.

This bill would require the department to include *Class III* model-year 2000 and newer motorcycles in the smog check program beginning January 1, 2012.

Because violations of smog checks for motorcycles would be a crime, this bill would impose a state-mandated local program.

The bill would make various conforming, clarifying, and technical changes to the smog check program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44010.5 of the Health and Safety Code
2 is amended to read:

3 44010.5. (a) The department shall implement a program with
4 the capacity to commence, by January 1, 1995, the testing at
5 test-only facilities, in accordance with this chapter, of 15 percent
6 of that portion of the total state vehicle fleet consisting of vehicles
7 subject to inspection each year in the biennial program and that
8 are registered in the enhanced program area, as established pursuant
9 to paragraph (1) of subdivision (a) of Section 44003.

10 (b) (1) The department shall increase the capacity of the
11 program so that the capacity exists to commence, by January 1,
12 1996, the testing at test-only facilities of that portion of the state
13 vehicle fleet that is subject to inspection and is registered in the
14 enhanced program area, which is sufficient to meet the emission
15 reduction performance standards established by the Environmental
16 Protection Agency in regulations adopted pursuant to the Clean
17 Air Act Amendments of 1990, taking into account the results of
18 the pilot demonstration program established pursuant to Section
19 44081.6.

20 (2) Upon increasing the capacity of the program pursuant to
21 paragraph (1), the department shall afford smog check stations
22 that are licensed and certified pursuant to Sections 44014 and
23 44014.2 the initial opportunity to perform the required inspections.
24 The department shall adopt, by regulation, the requirements to
25 provide that initial opportunity.

26 (3) If the department determines that there is an insufficient
27 number of licensed test-only smog check stations operating in an
28 enhanced area to meet the increased demand for test-only
29 inspections, the department may increase the capacity of the
30 program by utilizing existing contracts.

31 (c) The program shall utilize the testing procedures described
32 in Section 44012.

1 (d) Vehicles that are ~~not~~ *neither* diesel-powered *nor motorcycles*
2 in the enhanced program area ~~which and that~~ are not subjected to
3 the program established by this section may be tested at smog
4 check stations licensed pursuant to Section 44014 that use loaded
5 mode dynamometers. Diesel-powered vehicles *and motorcycles*
6 in the enhanced program area that are not subjected to the program
7 established by this section may be tested at smog check stations
8 licensed pursuant to Section 44014 using appropriate testing
9 procedures as determined by the department.

10 (e) (1) The department may implement the program established
11 pursuant to subdivision (a) through a network of privately operated
12 test-only facilities established pursuant to contracts to be awarded
13 pursuant to this section.

14 (2) The initial contracts awarded pursuant to this section shall
15 terminate not later than seven years from the date that the contracts
16 were executed.

17 (f) No person shall be a contractor of the department for
18 test-only facilities in all air basins, exclusively, where the enhanced
19 program is in effect unless the department determines, after a public
20 hearing, that there is not more than one qualified contractor. The
21 South Coast Air Basin shall have at least two contractors, and the
22 combined enhanced program area that includes Bakersfield, Fresno,
23 and Sacramento shall have at least two contractors. The department
24 may operate test-only facilities on an interim basis while
25 contractors are being sought.

26 (g) (1) In awarding contracts under this section, the department
27 shall request bids through the issuance of a request for proposal.

28 (2) The department shall first determine which bidders are
29 qualified, and then award the contract to the qualified bidder, giving
30 priority to the test cost and convenience to motorists.

31 (3) The department shall provide a contractual preference, as
32 determined by the department, not to exceed 10 percent of the total
33 proposal evaluation score, based on the following factors:

34 (A) Up to 5 percent to bidders providing firm commitments to
35 employ businesses that are licensed or otherwise substantially
36 participating in the smog check program after January 1, 1994.

37 (B) Up to 5 percent to bidders based on the extent to which
38 bidders maximize the potential economic benefit of the smog check
39 program on this state over the term of the contract. That potential
40 economic benefit shall include the percentage of work performed

1 by California-based firms, the potential of the total project
2 workforce who will be California residents, and the percentage of
3 subcontracts that will be awarded to California-based firms.

4 (4) Any contract executed by the department for the operation
5 of a test-only facility shall expressly require compliance with this
6 chapter and any regulations adopted by the department pursuant
7 to this chapter.

8 (h) The department shall ensure that there is a sufficient number
9 of test-only facilities, and that they are properly located, to ensure
10 reasonable accessibility and convenience to all persons within an
11 enhanced program area, and that the waiting time for consumers
12 is minimized. The department may operate test-only facilities on
13 an interim basis to ensure convenience to consumers. The
14 department shall specify in the request for proposal the minimum
15 number of test-only facilities that are required for the program.
16 Any contracts initially awarded pursuant to this section shall ensure
17 that the contractors are capable of fulfilling the requirements of
18 subdivision (a).

19 (i) Any data generated at a test-only facility shall be the property
20 of the state, and shall be fully accessible to the department at any
21 time. The department may set contract specifications for the storage
22 of that data in a central data storage system or facility designated
23 by the department.

24 (j) The department shall ensure an effective transition to the
25 new program by implementing an effective public education
26 program and may specify in the request for proposal a dollar
27 amount that bidders are required to include in their bids for public
28 education activities, to be implemented pursuant to Section
29 44070.5.

30 (k) The department shall ensure the effective management of
31 the test-only facilities and shall specify in the request for proposal
32 that a manager be present during all hours of station operation.

33 (l) The department shall ensure and facilitate the effective
34 transition of employees of businesses that are licensed or otherwise
35 substantially participating in the smog check program and may
36 specify in the request for proposal that test-only facility
37 management be Automotive Service Excellence (ASE) certified,
38 or be certified by a comparable program as determined by the
39 department.

1 (m) As part of the contracts to be awarded pursuant to
2 subdivision (e), the department may require contractors to perform
3 functions previously undertaken by referee stations throughout the
4 state, as determined by the department, at some or all of the
5 affected stations in enhanced areas, and at additional stations
6 outside enhanced areas only to the extent necessary to provide
7 appropriate access to referee functions.

8 (n) Notwithstanding any other provision of law, to avoid delays
9 to the program implementation timeline required by this chapter
10 or the Clean Air Act, the Department of General Services, at the
11 request of the department, may exempt contracts awarded pursuant
12 to this section from existing laws, rules, resolutions, or procedures
13 that are otherwise applicable, including, but not limited to,
14 restrictions on awarding contracts for more than three years. The
15 department shall identify any exemptions requested and granted
16 pursuant to this subdivision and report thereon to the Legislature.

17 (o) The department shall implement the program established in
18 this section only in urbanized areas classified by the Environmental
19 Protection Agency as a serious, severe, or extreme nonattainment
20 area for ozone or a moderate or serious nonattainment area for
21 carbon monoxide with a design value greater than 12.7 ppm, and
22 shall not implement the program in any other area.

23 (p) If existing smog check stations, in order to participate in the
24 enhanced program, have been required to make additional
25 investments of more than ten thousand dollars (\$10,000), the
26 department shall submit recommendations to the Governor and
27 the Legislature for any appropriate mitigation measures.

28 ~~SECTION 1.~~

29 *SEC. 2.* Section 44011 of the Health and Safety Code, as added
30 by Section 3 of Chapter 739 of the Statutes of 2007, is amended
31 to read:

32 44011. (a) All motor vehicles powered by internal combustion
33 engines that are registered within an area designated for program
34 coverage shall be required biennially to obtain a certificate of
35 compliance or noncompliance, except for the following:

36 ~~(1) All motorcycles manufactured prior to the 2000 model year.~~

37 (1) All motorcycles not subject to inspection pursuant to Section
38 44012.5.

39 (2) All motor vehicles that have been issued a certificate of
40 compliance or noncompliance or a repair cost waiver upon a change

1 of ownership or initial registration in this state during the preceding
2 six months.

3 (3) All motor vehicles manufactured prior to the 1976
4 model-year.

5 (4) (A) Except as provided in subparagraph (B), all motor
6 vehicles four or less model-years old.

7 (B) Beginning January 1, 2005, all motor vehicles six or less
8 model-years old, unless the state board finds that providing an
9 exception for these vehicles will prohibit the state from meeting
10 the requirements of Section 176(c) of the federal Clean Air Act
11 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
12 respect to the state implementation plan required by the federal
13 Clean Air Act.

14 (C) All motor vehicles excepted by this paragraph shall be
15 subject to testing and to certification requirements as determined
16 by the department, if any of the following apply:

17 (i) The department determines through remote sensing activities
18 or other means that there is a substantial probability that the vehicle
19 has a tampered emission control system or would fail for other
20 cause a smog check test as specified in Section 44012.

21 (ii) The vehicle was previously registered outside this state and
22 is undergoing initial registration in this state.

23 (iii) The vehicle is being registered as a specially constructed
24 vehicle.

25 (iv) The vehicle has been selected for testing pursuant to Section
26 44014.7 or any other provision of this chapter authorizing
27 out-of-cycle testing.

28 (D) This paragraph does not apply to diesel-powered vehicles
29 or motorcycles.

30 (5) In addition to the vehicles exempted pursuant to paragraph
31 (4), any motor vehicle or class of motor vehicles exempted pursuant
32 to subdivision (b) of Section 44024.5. It is the intent of the
33 Legislature that the department, pursuant to the authority granted
34 by this paragraph, exempt at least 15 percent of the lowest emitting
35 motor vehicles from the biennial smog check inspection.

36 (6) All motor vehicles that the department determines would
37 present prohibitive inspection or repair problems.

38 (7) Any vehicle registered to the owner of a fleet licensed
39 pursuant to Section 44020 if the vehicle is garaged exclusively

1 outside the area included in program coverage, and is not primarily
2 operated inside the area included in program coverage.

3 (8) (A) All diesel-powered vehicles manufactured prior to the
4 1998 model-year.

5 (B) All diesel-powered vehicles that have a gross vehicle weight
6 rating of 8,501 to 10,000 pounds, inclusive, until the department,
7 in consultation with the state board, pursuant to Section 44012,
8 implements test procedures applicable to these vehicles.

9 (C) All diesel-powered vehicles that have a gross vehicle weight
10 rating from 10,001 pounds to ~~13,999~~ 14,000 pounds, inclusive,
11 until the state board and the Department of Motor Vehicles
12 determine the best method for identifying these vehicles, and until
13 the department, in consultation with the state board, pursuant to
14 Section 44012, implements test procedures applicable to these
15 vehicles.

16 (D) All diesel-powered vehicles that have a gross vehicle weight
17 rating of ~~14,000~~ 14,001 pounds or greater.

18 (b) Vehicles designated for program coverage in enhanced areas
19 shall be required to obtain inspections from appropriate smog
20 check stations operating in enhanced areas.

21 (c) For purposes of subdivision (a), a collector motor vehicle,
22 as defined in Section 259 of the Vehicle Code, is exempt from
23 those portions of the test required by subdivision (f) of Section
24 44012 if the collector motor vehicle meets all of the following
25 criteria:

26 (1) Submission of proof that the motor vehicle is insured as a
27 collector motor vehicle, as shall be required by regulation of the
28 bureau.

29 (2) The motor vehicle is at least 35 model-years old.

30 (3) The motor vehicle complies with the exhaust emissions
31 standards for that motor vehicle's class and model-year as
32 prescribed by the department, and the motor vehicle passes a
33 functional inspection of the fuel cap and a visual inspection for
34 liquid fuel leaks.

35 *SEC. 3. Section 44012 of the Health and Safety Code, as added*
36 *by Section 5 of Chapter 739 of the Statutes of 2007, is amended*
37 *to read:*

38 44012. The test at the smog check stations shall be performed
39 in accordance with procedures prescribed by the department,
40 pursuant to Section 44013, and shall require, at a minimum, for

1 all vehicles that are ~~not~~ *neither* diesel-powered *nor motorcycles*,
2 loaded mode dynamometer testing in enhanced areas, and
3 two-speed testing in all other program areas. The department shall
4 ensure all of the following:

5 (a) Emission control systems required by state and federal law
6 are reducing excess emissions in accordance with the standards
7 adopted pursuant to subdivisions (a) and (c) of Section 44013.

8 (b) Motor vehicles are preconditioned to ensure representative
9 and stabilized operation of the vehicle's emission control system.

10 (c) For other than diesel-powered vehicles, the vehicle's exhaust
11 emissions of hydrocarbons, carbon monoxide, carbon dioxide, and
12 oxides of nitrogen in an idle mode or loaded mode are tested in
13 accordance with procedures prescribed by the department. In
14 determining how loaded mode and evaporative emissions testing
15 shall be conducted, the department shall ensure that the emission
16 reduction targets for the enhanced program are met.

17 (d) For other than diesel-powered vehicles, the vehicle's fuel
18 evaporative system and crankcase ventilation system are tested to
19 reduce any nonexhaust sources of volatile organic compound
20 emissions, in accordance with procedures prescribed by the
21 department.

22 (e) For diesel-powered vehicles, a visual inspection is made of
23 emission control devices and the vehicle's exhaust emissions are
24 tested in accordance with procedures prescribed by the department,
25 that may include, but are not limited to, on-board diagnostic testing.
26 The test may include testing of emissions of any or all of the
27 pollutants specified in subdivision (c) and, upon the adoption of
28 applicable standards, measurement of emissions of smoke or
29 particulates, or both.

30 (f) A visual or functional check is made of emission control
31 devices specified by the department, including the catalytic
32 converter in those instances in which the department determines
33 it to be necessary to meet the findings of Section 44001. The visual
34 or functional check shall be performed in accordance with
35 procedures prescribed by the department.

36 (g) A determination as to whether the motor vehicle complies
37 with the emission standards for that vehicle's class and model-year
38 as prescribed by the department.

39 (h) The test procedures may authorize smog check stations to
40 refuse the testing of a vehicle that would be unsafe to test, or that

1 cannot physically be inspected, as specified by the department by
2 regulation. The refusal to test a vehicle for those reasons shall not
3 excuse or exempt the vehicle from compliance with all applicable
4 requirements of this chapter.

5 ~~(i) This section shall become operative on January 1, 2010.~~

6 ~~SEC. 2.~~

7 *SEC. 4.* Section 44012.5 is added to the Health and Safety
8 Code, to read:

9 44012.5. (a) Beginning January 1, 2012, the department shall
10 include model-year 2000 and newer *Class III* motorcycles,
11 registered for on-road use in California, in the inspection and
12 maintenance program established pursuant to this chapter. The
13 department, in cooperation with the state board, shall adopt
14 regulations to implement this section, including prescribing test
15 procedures for motorcycles, by July 1, 2011.

16 (b) *Motorcycles subject to testing under this section shall be*
17 *inspected using appropriate procedures as determined by the*
18 *department in consultation with the state board.*

19 (c) *As used in this section, "Class III motorcycle" means a*
20 *motorcycle containing an engine with a displacement of 280 cubic*
21 *centimeters or greater.*

22 *SEC. 5. Section 4000.1 of the Vehicle Code is amended to read:*

23 4000.1. (a) Except as otherwise provided in subdivision (b),
24 (c), or (d) of this section, or subdivision (b) of Section 43654 of
25 the Health and Safety Code, the department shall require upon
26 initial registration, and upon transfer of ownership and registration,
27 of any motor vehicle subject to Part 5 (commencing with Section
28 43000) of Division 26 of the Health and Safety Code, a valid
29 certificate of compliance or a certificate of noncompliance, as
30 appropriate, issued in accordance with Section 44015 of the Health
31 and Safety Code.

32 (b) With respect to new motor vehicles certified pursuant to
33 Chapter 2 (commencing with Section 43100) of Part 5 of Division
34 26 of the Health and Safety Code, the department shall accept a
35 statement completed pursuant to subdivision (b) of Section 24007
36 in lieu of the certificate of compliance.

37 (c) For purposes of determining the validity of a certificate of
38 compliance or noncompliance submitted in compliance with the
39 requirements of this section, the definitions of new and used motor

1 vehicle contained in Chapter 2 (commencing with Section 39010)
2 of Part 1 of Division 26 of the Health and Safety Code shall control.

3 (d) Subdivision (a) does not apply to a transfer of ownership
4 and registration under any of the following circumstances:

5 (1) The initial application for transfer is submitted within the
6 90-day validity period of a smog certificate as specified in Section
7 44015 of the Health and Safety Code.

8 (2) The transferor is the parent, grandparent, sibling, child,
9 grandchild, or spouse of the transferee.

10 (3) A motor vehicle registered to a sole proprietorship is
11 transferred to the proprietor as owner.

12 (4) The transfer is between companies the principal business of
13 which is leasing motor vehicles, if there is no change in the lessee
14 or operator of the motor vehicle or between the lessor and the
15 person who has been, for at least one year, the lessee's operator
16 of the motor vehicle.

17 (5) The transfer is between the lessor and lessee of the motor
18 vehicle, if there is no change in the lessee or operator of the motor
19 vehicle.

20 (6) The motor vehicle was manufactured prior to the 1976
21 model-year.

22 (7) ~~Beginning January 1, 2005, the~~ *The* transfer is for a motor
23 vehicle ~~that is four or less model-years old~~ *that is neither*
24 *diesel-powered nor a motorcycle.* The department shall impose a
25 fee of eight dollars (\$8) on the transferee of a motor vehicle ~~that~~
26 ~~is four or less model-years old~~ *that is exempt from subdivision (a)*
27 *pursuant to this paragraph.* Revenues generated from the
28 imposition of that fee shall be deposited into the Vehicle Inspection
29 and Repair Fund.

30 (e) The State Air Resources Board, under Part 5 (commencing
31 with Section 43000) of Division 26 of the Health and Safety Code,
32 may exempt designated classifications of motor vehicles from
33 subdivision (a) as it deems necessary, and shall notify the
34 department of that action.

35 (f) Subdivision (a) does not apply to a motor vehicle when an
36 additional individual is added as a registered owner of the motor
37 vehicle.

38 (g) For purposes of subdivision (a), any collector motor vehicle,
39 as defined in Section 259, is exempt from those portions of the
40 test required by subdivision (f) of Section 44012 of the Health and

1 Safety Code, if the collector motor vehicle meets all of the
2 following criteria:

3 (1) Submission of proof that the motor vehicle is insured as a
4 collector motor vehicle, as shall be required by regulation of the
5 ~~bureau~~ *Bureau of Automotive Repair*.

6 (2) The motor vehicle is at least 35 model-years old.

7 (3) The motor vehicle complies with the exhaust emissions
8 standards for that motor vehicle's class and model year as
9 prescribed by the ~~department~~ *Department of Consumer Affairs*,
10 and the motor vehicle passes a functional inspection of the fuel
11 cap and a visual inspection for liquid fuel leaks.

12 ~~SEC. 3.~~

13 *SEC. 6.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

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BIKERS BEWARE

CITIZENS ARE TAKING THE COMMUNITY BACK

Screaming loud exhaust pipes ruin neighborhoods

Motorcycles are an enjoyable and purposeful machine when operated properly. What makes them noisy is when riders illegally remove or modify the muffler tailpipe to make it louder. The rationale is that loud pipes attract the attention of distracted motorists on the road but the real reason is to make more noise.

The intense roaring vibrational noises can travel long distances through windows and walls. The noise is nerve shattering to adults and frightening to young children. This type of noise pollution is a blight to communities across the United States.

The Environmental Protection Agency (EPA) certifies acceptable noise emissions at 80dB(a) for motorcycle exhaust systems. The EPA label match-up program requires a matching label on the chassis and the exhaust pipe approved for street-legal use that is enforceable by police.

We are a united coalition of citizens, elected representatives, researchers, law enforcement professionals, and activists from the United States and abroad. We are dedicated to combating this urban blight that is ruining communities *everywhere*.

Learn about your rights as a citizen and your rights to peace and quiet in your own home.

- How to deal with neighbors with noisy motorcycles who disturb you.
- Bikers often claim that 'loud pipes save lives,' but there is no study on record or correlation between the noise level of a motorcycle and its ability to reduce accidents.
- The noise from loud pipes decreases the ability for others to hear pedestrians other vehicles, including emergency vehicles.
- Inexperienced and aggressive bikers often cause accidents and fatalities on the road endangering you and your family.
- Participate in our message board and connect with other citizens to reduce noise pollution.
- How to lobby your local community council to strengthen the noise ordinance.
- Solutions you can use right away to reduce unwanted noise in your area.

Visit us on the web and learn more.



WWW.NOISEOFF.ORG

THE CITIZENS COALITION AGAINST NOISE POLLUTION



December 18, 2005

Making Bikers Pipe Down

Armed with a decibel meter, a Laguna Beach police officer works to rid the city's streets of noisy motorcycles. He's a hero to some, an irritation to others.

By Hector Becerra, Times Staff Writer

A month after rolling out of Austin, Texas, on his Harley-Davidson, Zack Padilla could boast of plenty of air-through-the-hair biker adventures.

His friend ran over a deer as they rode out of biker mecca Sturgis, S.D.

Padilla, a Charles Schwab server administrator, spied plumes of wildfires in Idaho, took a tumble on a snowy road in Oregon and rambled past the mighty redwoods of Northern California.

"I had a sense of being in 'The Lord of the Rings,' " the burly black-leather-clad, goateed biker said. "I thought 'Treebeard' was going to come out and talk to me.' "

FOR THE RECORD:

Motorcycle noise — An article in Sunday's California section about a crackdown on loud motorcycles in Laguna Beach said an increase of 10 decibels is a twofold increase in sound. It is a tenfold increase.

Then at mile 4,666 of his adventure, as he rolled into the artsy town of Laguna Beach, Padilla ran into the "Wall of Sound."

That is, Officer Tom Wall, 60, keeper of the decibel meter.

A fit retired Marine with a buzz cut, Wall stepped off the curb and waved for Padilla, 33, to park his Springer Softail on the side of Pacific Coast Highway. The chopper's exhaust system rattled like a shivering giant's jaw.

"Now, if you give it a little bit of gas for me in neutral," Wall asked, as he pointed the sound measuring device at the motorcycle's exhaust pipe.

The motorcycle let out a roar. The numbers on the sound meter jumped into the triple digits.

"Your motorcycle noise level is 117.5," Wall said.

"Cool," responded an impressed Padilla.

The citable limit in California is 95 decibels, Wall explained.

If Padilla represents today's Harley rider — careerists who shed button-down lives to play out "Easy Rider" fantasies — then Wall represents the response to all that motorcycle noise.

For many, the throaty growl of motorcycles has long been part of the machines' appeal. So spiritually intertwined is sound to riding motorcycles that in 1995 Harley-Davidson tried to trademark the distinctive sound created by its V-twin motorcycle engines.

But with motorcycle ownership increasing by more than 34% since 1998, this year has been marked by a growing concern that bike noise is becoming a source of tension. Laguna Beach is far from the only place to crack down: Police have also stepped up patrols along some favorite biker routes, from the Sunset Strip in West Hollywood to Main Street in Daytona Beach, Fla.

Hundreds of thousands of bikers streaming into Daytona Beach's Bike Week this year were met with signs that read, "You're Back, We're Glad!" and "Ride Quietly, Please," along with tighter enforcement of noise ordinances. Some communities, including Myrtle Beach, S.C., are considering shortening, rescheduling or even doing away with motorcycle rallies.

The industry has taken notice of the complaints as never before.

In May, the 265,000 member American Motorcycle Assn. held its second "noise summit" in Columbus, Ohio, to tackle an issue it said represents the most pointed threat to bikers' rights.

"This is an issue which could affect our right to ride," said Tom Lindsay, a spokesman for the group.

Lindsay mentioned a Louisville, Ky., restaurant he visited recently. "They had a sign that said, 'No helicopters, horse trailers or motorcycles,'" Lindsay said. "That was very clever.... That was very disappointing to us, but it's also the handwriting on the wall."

Harley-Davidson has even asked dealers not to sell straight, unmuffled exhaust pipes, and last year it removed Screaming Eagle parts that are intended for off-street race use from its main catalogs.

But in towns like Laguna Beach that are magnets for weekend bikers, residents aren't waiting to see whether self-regulation works.

Laguna Beach relies on people like Wall, a foot soldier in the battle against noise.

As he stood guard near a grassy area along Pacific Coast Highway, Wall's eyes — hidden by sunglasses — scanned the busy street for traffic scofflaws. His ears were attuned to any break from the normal beach town sounds, the decibel meter often no farther away than a six-shooter would be from a gunslinger.

"My standing here with this thing in my hand sends a message. As people drive through, the legend continues to grow," Wall said with a chuckle. "It takes the subjectivity out of the equation."

It didn't take Wall long to show that Padilla's bike was too loud. Wall points the decibel meter 10 feet behind bikes' exhaust pipes and asks riders to let their bikes idle before revving them to operating or cruising rpm to get the maximum noise level.

Laguna Beach uses the California Highway Patrol's citable threshold of 95 decibels. An increase of 10 decibels may not seem like much, but it's actually a twofold increase in sound, Wall said.

Padilla's bike, at 117.5 decibels, was four times as loud as the 95 considered the lawful limit, Wall said. The Texan could have been fined.

"My job is to sell the citation and make a point. I try to use as much of what I call posture to get their attention and let them know I'm serious," Wall said. "Once we've reached that understanding, that I'm in charge, that this is my traffic stop and that this is how we're going to do it, then I give them a couple of options."

In his time with the Marines, Wall flew more than 1,000 combat missions in Vietnam and was shot down in seven helicopters. He was shot in the arm, and a co-pilot lost his leg during one attack.

After leaving Vietnam, he taught such topics as military history and leadership at the University of Minnesota during the 1970s, at a time when there were frequent campus demonstrations against the military.

By day, Wall works at a global engineering company. But on weekends, he dons his Laguna Beach police uniform. He joined the force nine years ago after impressing department brass by being the only person to complain about a street preacher who aggressively harassed beachgoers. He works 100 hours a month, every Saturday and Sunday and every holiday, and is paid about minimum wage.

For some bikers, many bent on conjuring a Steppenwolf, anti-establishment image — at least on weekends — Wall is about as establishment as it gets. To them, he is "RoboCop."

"It's ridiculous. They got one guy, an ex-military guy, and all he does is write tickets," said Ruben Hummel, an Orange County firefighter and Harley rider. "He's just badge-heavy. He just wants to show his authority."

Wall extends his patrol to traffic scofflaws and distracted pedestrians.

Recently, when a woman pushing a baby stroller entered the crosswalk just as the green signal was replaced by blinking red, he ordered her back to the sidewalk. He told one man whose car poked past a crosswalk line to avoid such intrusions in the future.

The owner of the Marine Room tavern, a popular biker hangout that features roots-rock bands, said some bikers have vowed no longer to visit Laguna Beach because of the city's and Wall's approach.

"He takes that approach that there's only black and white, no gray. It's terrible," said Marine Room owner Kelly Boyd, a former Laguna Beach councilman. "He takes no prisoners."

Boyd, a Vietnam veteran himself, said business has dropped since the crackdowns began two years ago.

"On a good Sunday we used to have anywhere from 40 to 100 bikes out on the street," Boyd said. "Now I hear we had 10 yesterday.... It's affecting my business, and that irritates the hell out of me."

It's with a certain Joe Friday style that Wall patrols downtown Laguna Beach, a colorful pastiche of restaurants, art galleries, high-fashion stores, ice cream shops and bars.

He believes "people crave example and structure in their lives, and I see it all the time. And I try to be a positive example for the other police officers and for people in town and provide some structure."

For Wall, structure means anything from "stern warnings to a ticket." A driver's license is a contract to adhere to certain rules, he said.

On the streets, he's by-the-book.

"You on the bikes ... those pipes are illegal," he recently told a middle-aged man and woman riding Harley-Davidsons on Forest Avenue. The woman's jaw dropped.

Laguna Beach City Councilwoman Toni Iseman is glad to hear that Wall has a reputation for being tough on loud motorcycles.

"I think he's my hero," she said. "It's a cheap thrill for some of these guys to make a lot of noise. People can't have conversations when these guys go by en masse, and they think it's so cute to make noise."

But because motorcyclists are a big part of Laguna's tourist economy, not all merchants agree with Iseman. To critics, the city's noise crackdown hurts business by driving away customers.

Once, after the anti-noise effort intensified, motorcyclists rode through Iseman's neighborhood revving their engines. It appeared, said Laguna Beach Police Chief James E. Spreine, that they were expressing their displeasure at the councilwoman's stance on exhaust noise.

"I'm not a hard-nosed guy. I want some type of happy medium. I want a win-win solution," Spreine said. "But I haven't been able to figure it out."

Beyond the crackdown, there has been much debate about Wall's methods. To some bikers, he comes across as almost confrontational.

To cool tempers, Spreine recently asked Wall not to station himself near the Marine Room because his presence might be seen as inflammatory. The chief said he strongly supports Wall but thinks some bikers are annoyed by his lectures.

Standing on the sidewalk outside the Marine Room, former police officer Dennis Sanders, 53, of Foothill Ranch said some bikers go out of their way to be loud.

"I don't blame the cops for writing tickets for people who are abusing things, who rev their bikes, bikes with no baffles in them, stuff like that," Sanders said. "But this one cop, he just sees Harleys coming and he pulls them over.... You can't declare war on people with their recreational vehicles, because this is a recreational town."

As he patrolled Pacific Coast Highway, Wall shrugged off such comments. "As long as my granddaughters hug me and tell me they love me," he said, "I don't care."

As a young Marine in the 1960s, he rode off-road motorcycles in the Saddleback Mountain area with his buddies, he said. He has owned three Harleys, including a Fat Boy and a Sportster.

"Riding a motorcycle is almost a cathartic experience," Wall said. "It's a chance for freedom of expression. There's nothing better than hopping on a motorcycle."

But he said he never for a second considered altering their exhaust systems to make them louder — or riding a bike without a full-face helmet.

"I was old enough to see 'Easy Rider' in the movie theater, and that whole approach in the '60s was completely against my character and training," Wall said.

He said loud bikes have been known to irritate motorists into violently lashing out against motorcyclists, so he views the issue as one of public safety. Therefore, a bike he can hear from a block away is a candidate for a traffic stop. "Like a small dog waiting for the owner to come home ... my ears perk up," Wall said.

A spirited confrontation with an affluent biker from Newport Beach prompted the department to buy the high-tech decibel meter that Wall now uses.

Wall had given the biker a citation for having loud pipes. The motorcyclist argued that the officer was making a subjective call and that he had a constitutional right to express himself through his bike, Wall recalled.

A hearing officer sided with the biker. Wall said it came down to a judgment call, and the hearing officer did not feel there was a definitive way of proving that the man's bike was too loud.

Enter the decibel meter — or as some bikers have called it, according to Wall, his "rectal thermometer." He still catches flak from many bikers.

Wall said at least one wealthy motorcyclist told him he probably "makes six times as much money" as the officer.

"I usually say, 'Well, you probably make more than that.... I just do it for fun,' " Wall said, setting up a punch line. " 'I just love writing tickets.' "

It appeared that Zack Padilla was going to be getting one of those tickets. Wall heard the rumble of his Springer Softail from a block away on Pacific Coast Highway. Padilla was also wearing an allegedly illegal helmet.

"I've never had anybody do a decibel meter on me in the state of Texas or any of the other 20 states I've been through in the last three weeks," Padilla said.

After checking Padilla's driving record and chatting about his trip, Wall gave him back his driver's license and cautioned him that the helmet he had bought at the Oregon border would not protect him in case of a fall.

"People won't find you until the buzzards do," Wall said. Padilla chuckled and nodded.

"You're clear, you've got a good driving record. I appreciate that," Wall said. "Zack, I appreciate your cooperation, and now you have a nice trip."

A few minutes passed, and Padilla hopped onto his motorcycle. Then, with a thundering roar, he rocketed back onto Pacific Coast Highway and headed south.

This time, luck was on his side. Neither Wall nor the decibel meter was in range.

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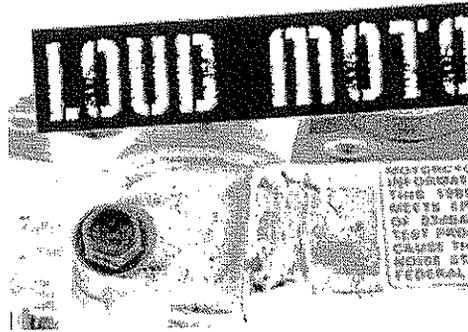
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Loud Motorcycles

A simple and effective regulatory measure for states and municipalities to control motorcycle noise by utilizing the EPA's dormant "label match-up" program.

Written by Jeff McCulley. Forward by Jeff Rustowicz.

FOREWARD The Myth of Loud Pipes
 On the surface it seems obvious that the noise emitted by loud motorcycle exhaust systems would aid in conspicuity and cause more watchful driving by other motorists. Yet not a single thoughtful study has been done that supports the theory.

SECTION 1 Executive Summary
 Noise caused by loud motorcycles - specifically, loud motorcycle exhaust systems - has long been identified as a societal problem. In the current day, however, the popularity among a small minority of motorcyclists for ever louder, even deafening, exhaust systems has never been greater.



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SECTION 2 Introduction

Why are some motorcycles incredibly loud and others hardly noticeable? The answer is simple. The quiet ones are equipped with their original equipment exhaust systems. The loud ones have had either their original equipment exhaust systems modified, or replaced with an aftermarket exhaust system by their owners.

SECTION 3 EPA's Position on Motorcycle Noise

The EPA looked at all sources of environmental noise and identified motorcycles and motorcycle exhaust systems as a major source of environmental noise. They examined several methods to abate motorcycle noise, and created a national plan that utilizes local level police as enforcement to achieve this goal.

SECTION 4 Adverse Health Effects

The effects of excessive motorcycle noise on the health and welfare of the general public are well documented. The EPA became concerned about the issue of motorcycle noise when it became evident that in every survey, motorcycle noise was found to be a major source of disturbances of people's everyday activities. Excessive motorcycle noise can have serious negative health effects on the unsuspecting public.

SECTION 5 Urban Blight

The traffic noise associated with the degradation of

neighborhood citizens' health is also recognized as a leading factor of urban blight. Police officials learned from neighborhood community meetings that residents were more concerned with crimes that caused the degradation of their neighborhoods than high profile crimes.

SECTION 6 The Problem

The EPA stated that modified motorcycles could easily increase noise emissions to over 100dba. The type of motorcycles that typically uses loud aftermarket competition use exhaust systems currently represents over forty-five percent (45%) of new motorcycles sold today.

SECTION 7 Rider Safety

The EPA also considered the issue of "noise visibility" as popularized by the slogan, "loud pipes save lives". This is the theory that a small group of motorcyclists believes that they are making themselves more conspicuous to other motorists in traffic by modifying their motorcycle exhaust systems to produce an excessive level of exhaust noise.

SECTION 8 Addressing Motorcycle Noise

The EPA addressed this the motorcycle noise problem by creating a simple enforcement tool specifically for local police, called the "label match-up".

SECTION 9 The Label Match-Up Program

Two key elements of the label match-up are contained in the federal regulations. They are

noise emissions testing, and labeling. This applies to street (highway use), and off road (dirt bikes) motorcycles.

- SECTION 10 The EPA and the States
Loud aftermarket exhaust systems manufacturers are aware of the fact that there aren't any states enforcing the Noise Control Act and motorcycle noise emissions regulations, so these manufacturers intentionally make simple and crude exhaust systems that barely meet states' ineffective and antiquated muffler laws.
- SECTION 11 The Solution
Congress gave states and their subdivisions broad powers to control motorcycles and motorcycle exhaust systems with respect to vehicle owners who deliberately make their motorcycles loud.
- SECTION 12 The Role of Political Subdivisions
Most states allow their subdivisions to restrict vehicle noise by measuring noise emissions with sound level meters either passively (vehicle in use), or by ineffective stationary testing procedures.
- SECTION 13 Noise Control of Pre-Regulation Motorcycles
When a state recognizes, and enforces the Noise Control Act and the EPA's motorcycle and motorcycle exhaust system noise emissions regulations, they will be utilizing the highest standard of motorcycle exhaust system technology.

SECTION 14 Prohibited Exhaust Systems
The following section contains photo examples of loud aftermarket exhaust systems, and definitions that are designed to allow police, including vehicle owners, to easily identify them.

SECTION 15 Conclusion
This proposal will have no effect or impact at all, on any motorcycle that is equipped with its original (from the factory) unmodified exhaust system. It only singles out motorcycles that are equipped with loud aftermarket, or tampered with original equipped, exhaust systems.

Appendix I
Examples of label match-up on exhaust systems.

Appendix II
Examples of illegal tampering on exhaust systems.

Appendix III
Examples of loud aftermarket mufflers designed and marketed to be installed on federally regulated motorcycles that are missing the match-up label as required by law.

Appendix IV
EPA regulatory analysis appendices for the noise emissions regulations for motorcycles and motorcycle exhaust systems.

Appendix V
Example ads from the motorcycle aftermarket exhaust industry and how they market their mufflers.

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Vice Mayor Campbell and Council Member Ioakimedes

Requested Council Meeting Date:

May 19, 2009

Agenda Item Name:

Request to agendize consideration of campaign spending limit.

Vice Mayor Campbell and Council Member Ioakimedes have discussed some numbers they think will work for Benicia contribution and spending campaign limits. They would like to agendize discussion and action on amending the Benicia campaign and election ordinance.