

May 22, 2008 Special City Council Meeting

**BENICIA CITY COUNCIL
SPECIAL MEETING AGENDA**

City Council Chambers

May 22, 2008

7:00 P.M.

I. CALL TO ORDER:

II. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN

B. PUBLIC COMMENT

IV. STUDY SESSION ITEM:

**[A. Consideration of the appointment process to City Boards, Commissions and Committees.
\(City Attorney & Assistant to the City Manager\)](#)**

This study session is an opportunity for the Council to review how other communities structure the board and commission appointment process, with a particular focus on the application and interviewing process. Former Fairfield City Council Member, Jack Batson, and Town of Danville Planning Commissioner, Lynn Osborn, will provide an overview of how each of their respective cities handles this process. Lois Requist, local representative of the League of Women Voters, will also participate on the panel of speakers. Following the presentations by the panelists, the Council will have an opportunity to receive public input and discuss potential changes to the City's current appointment practices.

Recommendation: Discuss and provide direction to staff.

V. ADJOURNMENT:

Public Participation

The Benicia City Council welcomes public participation.

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

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

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Dan Pincetich, 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.

/Agenda0522.08 Special Meeting

 [appointment process staff report 052208.pdf](#)

**AGENDA ITEM
SPECIAL CITY COUNCIL MEETING: MAY 22, 2008
STUDY SESSION ITEM**

DATE : May 16, 2008

TO : Mayor and City Council

FROM : City Attorney
Assistant to the City Manager

SUBJECT : **CONSIDERATION OF THE APPOINTMENT PROCESS TO CITY
BOARDS, COMMISSIONS AND COMMITTEES**

RECOMMENDATION:

Discuss and provide direction to staff.

EXECUTIVE SUMMARY:

This study session is an opportunity for the Council to review how other communities structure the board and commission appointment process, with a particular focus on the application and interviewing process. Former Fairfield City Council Member, Jack Batson, and Town of Danville Planning Commissioner, Lynn Osborn, will provide an overview of how each of their respective cities handles this process. Lois Requist, local representative of the League of Women Voters, will also participate on the panel of speakers. Following the presentations by the panelists, the Council will have an opportunity to receive public input and discuss potential changes to the City's current appointment practices.

BACKGROUND:

On January 29, 2008, the City Council held a special meeting to discuss a variety of topics, including the City's boards and commissions. In addition to reviewing each of the individual boards and commissions, the Council briefly reviewed the City's current practices as they relate to recruitment of board and commission members, application format, interview/appointment process, term limits, as well as several other related issues. One of the areas identified for further review was the interview/appointment process, in an effort to increase the openness of this process and better integrate Council input in the selection of potential board and commission members.

At the March 4, 2008 City Council meeting, Mayor Patterson announced that she and Council Member Schwartzman would form a sub-committee to meet and explore this process in more detail. As a result of that meeting, the sub-committee recommended that a study session be held in order to give the Council an opportunity to hear from representatives of other communities regarding how they handle the appointments. It was suggested that cities that differ in their processes be selected, in order to fully explore a few different approaches, and so speakers from

the City of Fairfield and the Town of Danville have been invited to illustrate their community's select and appoint board and commission members.

In the City of Benicia, the Mayor interviews and selects an applicant for appointment to a board or commission, and then brings that appointment to the Council for confirmation, while in Fairfield and Danville this process is handled somewhat differently. In Fairfield, there is a subcommittee, comprised of two city council members, who interview each applicant and then provide recommendations to the Mayor. The Mayor still makes the final selection, but has the input from the subcommittee. In Danville, the entire council interviews all applicants at a public meeting, and together selects the best qualified candidate for the board or commission. Materials from both of these cities are attached, which further describe their respective policy statements on appointment of board and commission members.

In addition to the information provided regarding the various appointment processes, sample application forms from each of these cities have been provided, as the subcommittee also expressed the desire to revisit the City's current application form and consider revising it to include more useful information. Further, some additional background regarding the mayor's power of appointment and the Council's power to approve the appointment is also included in the packet for the Council's reference.

Finally, on a related issue regarding designation of historic property owners on the Historic Preservation Review Commission, the Benicia Municipal Code Section 2.56.030 specifically sets forth the qualifications to be a Historic Preservation Review Commission member. Subsection C states: "At least two members shall be owners of a historic property within the historic district. One of these members shall be the owner of a residence in the historic district. The other member shall be the owner of either a residence or business property in the historic district." Currently, there are no HPRC members appointed specifically as historic property owners. If a member were appointed to fill the specific group per BMC 2.56.030, the appointment would allow that member to vote on an issue even though they would ordinarily be precluded from voting because of a conflict of interest. With at least two members appointed because of their property interests, a conflict of interest may be avoided on issues of general historical interest. A conflict will still exist if there is a different financial impact on the member's property. By reappointing the two current members acknowledged as owners of historic property and designating them as such, they will then be able to act on projects that impact the historic district and will be allowed to participate in most discussions where there would otherwise be a conflict of interest because of the location of their property.

This item was originally scheduled to come to the City Council at the May 20th meeting, but was placed on hold by the City Manager, pending the outcome of this study session.

Attachments:

- Review of Boards & Commissions – Summary of Practices of Other Cities (excerpt from January 29, 2008 Special City Council Meeting agenda packet)
- Danville Town Council Policy Statement & Sample Applications
- City of Fairfield Resolutions & Sample Application
- Memo from City Attorney and Attorney General's Opinion No. 05-914

**REVIEW OF BOARDS & COMMISSION –
SUMMARY OF PRACTICES OF OTHER CITIES**



**Review of Boards & Commissions
Summary of Practices of Other Cities
January 29, 2008**

Cities:

In compiling a summary of practices utilized by cities as they relate to boards and commissions, the following cities were reviewed:

Belmont, Whittier, Danville, Santa Barbara, Tamarac (FL), Newport Beach, Brookings (OR), Fresno, Cupertino, Lakeport, Burlingame, Tracy, Capitola, Foster City, and Claremont, Fairfield, Vacaville, Vallejo, Suisun, and Dixon

Recruitment – Outreach:

Common Practices: Most of the cities reviewed have similar practices to what the City of Benicia does, i.e., regular notices in the paper, posted notice on web site and cable channel, and announcements at council meetings.

Other methods mentioned that the City does not currently utilize include announcements at the board and commission meetings, placement of openings in other organizations' newsletters, posting openings at other locations, such as the senior center and community center, and sending out letters to local groups / organizations. Most cities also communicate due dates for applications for various board and commission openings.

Recommendations: Posting at additional sites, such as Senior Center and Community Center. Begin to better identify and communicate due dates for applications, for each board and commission opening.

Applications:

Common Practices: All the cities reviewed use an application form for reviewing potential candidates. Retention of applications varies, but typically they remain active between one to three years. The City currently considers applications active for a period of one-year.

Recommendations: Revise the City's application form to include a place to provide references, as well as a section that lists all potential boards & commissions for which an

applicant can apply. Attached is a copy of the City's current form, as well as a sample application from the City of Lafayette, which incorporates both of these suggestions.

Also, it may be useful to revisit the qualifications that are required for each board and commission, and ensure this information is provided on the informational handouts given to potential applicants.

Interview/Appointment Process:

Common Practices: Many of the cities reviewed hold a public meeting for the Council to conduct interviews. Cities time the expirations of terms so that they fall at a certain times of the year, and then multiple interviews are conducted at one time. How mid-cycle resignations are filled varies by city, for example, the Belmont City Clerk asks the council how they wish to deal with such vacancies, whether they wish to leave it vacant until the next cycle occurs or fill it immediately.

Since several of the above-noted cities reviewed do not have Mayors that are directly elected, a review of Solano County cities was also completed, specifically focusing on the interview process. Below is a summary of how Solano County cities conduct interviews of board and commission applicants.

City	Who Interviews Applicants
Fairfield	City Council Appointments Committee (consists of two council members) – recommendation provided to the Mayor
Vallejo	Full Council (sometimes they split into two groups, depending on number of applicants) – recommendations provided to the Mayor
Dixon	The Mayor and Department Head of associated department – Department Head provides recommendation to the Mayor
Suisun	Two Council Members interview the candidates and make a recommendation to the Mayor
Vacaville	Full Council interviews at an open session and recommendations for appointments are discussed during that process

In a survey done by the League of Women Voters in Los Altos/Mountain View in 2002, it was reported that 41% of the cities surveyed have a process where the whole council conducts the interviews, while 34% had no defined interview process.

Recommendation: Consider revisiting the interview process in order to allow for additional Council Member input to the Mayor on board and commission appointments.

Orientation

Common Practices: Several of the cities reviewed have either a handbook or some sort of orientation packet for new members, which covers the charge of the board or

commission, as well as information regarding the Brown Act, how to conduct a meeting, etc.

Recommendation: Develop an orientation packet for newly appointed board and commission members.

Term Limits

Common Practices: In a survey done by the League of Women Voters in Los Altos/Mountain View in 2002, 67% of cities reported no term limits for their boards and commissions. While terms limits are noted by several of the cities reviewed, it appears to vary by type of board or commission.

Term limits for the City of Benicia's boards and commissions currently only apply to four bodies, the Open Government Commission, the Planning Commission, Economic Development Board and the Building Board of Appeals. For all four bodies, members may not serve more than two consecutive full terms (a full term is four years).

Recommendation: Consider whether any term limits should be extended to any additional boards and commissions.

Removing Members from Boards, Commission and Committees

Common Practices: Many of the cities reviewed have implemented attendance requirements, in addition to term limits, in order to manage the membership of various boards and commissions. Additionally, cities typically allow the removal of board and commission members by a majority vote of the Council.

Currently, the City of Benicia has such language incorporated in the Benicia Municipal Code for the majority of those boards and commissions established by ordinance. Specifically, the various ordinances note that a board or commission member is immediately removed if he or she misses three successive meetings without cause and the ordinances also note that a member of board or commission may be removed by the affirmative votes of at least four members of the council.

Two exceptions:

- The Parks, Recreation & Cemetery Commission and the Historic Preservation Review Commission limit the number of allowed consecutive absences without cause to two, instead of three.
- The Open Government Ordinance does not have an attendance requirement or any language regarding the removal of commission members of the Open Government Commission.

It appears that language regarding removal of members is not typically incorporated for those bodies established by resolution (e.g., Sky Valley Open Space Committee). Although, the Council's Rules of Procedure do allow for removal of any board, commission or committee member of any body which it has created by an affirmative votes of at least four members of the Council, if removal is not specified in the City Code (Section IV-C of the Rules of Procedure).

Recommendation: Given the practices of other cities, consider allowing for removal of board and commission members with a majority vote of the Council, as well as consider implementing consistent practices across all boards, commissions and committees.

Sunset of Ad-Hoc Committees

Common Practices: For certain committees that are formed for a specific purpose by cities, it is noted in the originating documents that the committee will cease to exist once the goal of the body has been accomplished. For example, in Santa Barbara, this applies to a number of their advisory groups, including their Arts Advisory Committee, Downtown Parking Committee, and Sign Committee.

Relatively recent examples of such committees at the City of Benicia include the Police Station and Civic Center Restoration Committee and PURE, specifically:

- Police Station and Civic Center Restoration Committee: Resolution No. 03-175 states that the committee "shall complete its purpose no later than May 2004."
- PURE: The originating resolution states that "The panel will continue to function until the water reuse facility is up and running."

Further, the Rules of Procedure also indicate that any special committee, board or commission created by the Council will cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council (Section IV-A of the Rules of Procedure).

Recommendation: Continue to clearly identify sunset dates or criteria, as applicable, for ad-hoc committees in the resolution forming the committee.

**DANVILLE TOWN COUNCIL POLICY
STATEMENT & SAMPLE APPLICATIONS**



*"Small Town Atmosphere
Outstanding Quality of Life"*

TOWN COUNCIL POLICY STATEMENT

Subject: Selection and appointment of Town Commissioners by the Town Council.

Purpose: The Town Council desires to recruit and appoint the best qualified candidates possible to serve the Town in various advisory commission capacities. The purpose of this statement is to formalize the Town Council's policy for how Planning, Parks and Leisure Services, Heritage Resource and Arts Commission (and new Commissions as may be created from time to time) terms will be filled.

Policy: This statement addresses commissioner recruitment, interview and selection; and maximum length of service desirable on any individual commission.

Recruitment

The City Clerk will notify the Town Council of the pending expiration of all commission terms, by placing the matter onto a regular Town Council agenda, and requesting authorization to recruit and fill new commission terms. This process will specify the time period within which the recruitment process will occur, and may proceed only upon authorization of the Town Council.

Candidate Interviews

Potential commission candidates will be interviewed by the Town Council at a time and place to be arranged. Such interviews will be duly noticed pursuant to the Ralph M. Brown Act.

Commission Appointments

Upon completion of the duly noticed candidate interview process, the Town Council will select the best qualified candidates for appointment. Within 48 hours of the appointments, the Mayor will notify all candidates interviewed of their selection or non-selection, and the Town Council will issue a press release announcing the appointments. Commission appointees will be introduced at the next available Town Council meeting.

Length of Service

In making commissioner selections, the Town Council believes that it is essential and appropriate to provide opportunities for dynamic change to occur in order to introduce new community members into the process and recognize divergent community perspectives.

In order to meet this objective, it is the intent of the Town Council to consider all applicants regardless of incumbency, and to promote an appropriate level of turnover through the appointment of new commissioners.

(amended 2/15/05)

4. Why do you think the arts needs to play a lead role in fortifying the quality of life in Danville? Do you see an area of the arts that needs to be expanded at this point?

5. Describe your involvement in community activities. List any memberships or affiliations with professional associations, arts non-profit organizations, volunteer and civic organizations, or other groups. What roles have you played in these organizations?

6. What qualities, experience and expertise would you bring to this Commission? (Specify any hands-on, administrative and/or fundraising experience you might have.)

7. Please include any other general information or comments you would like to make.

Are you available to interview on one of the following dates?

November 14, morning: _____ YES _____ NO

November 21, evening: _____ YES _____ NO

Date submitted _____

Submit completed application to the City Clerk:

E-mail: msunseri@ci.danville.ca.us

Fax: (925) 838-0548

Mail: Town of Danville, 510 La Gonda Way, Danville, CA 94526



*"Small Town Atmosphere
Outstanding Quality of Life"*

Application deadline 4:00 p.m.
Thursday, October 25, 2007

APPLICATION TO SERVE ON THE HERITAGE RESOURCE COMMISSION

Name: _____
Last First Middle

Present Address: _____
Street City Zip Code

Home Phone: _____ Business Phone: _____

Cell Phone: _____ e-mail address: _____

Occupation: _____

Education: _____

1. What interests you about this Commission? Have you attended a Heritage Resource Commission meeting? If so, when?

2. What do you understand to be the purpose of the Heritage Resource Commission?

510 LA GONDA WAY, DANVILLE, CALIFORNIA 94526

Administration
(925) 314-3388

Building
(925) 314-3330

Engineering & Planning
(925) 314-3310

Transportation
(925) 314-3310

Maintenance
(925) 314-3450

Police
(925) 314-3410

Parks and Recreation
(925) 314-3400

IV-A-16

Are you available to interview on one of the following dates?

November 6, morning: _____ YES _____ NO

November 13, evening: _____ YES _____ NO

Date submitted _____

Submit completed application to the City Clerk:

E-mail: msunseri@ci.danville.ca.us

Fax: (925) 838-0548

Mail: Town of Danville, 510 La Gonda Way, Danville, CA 94526

On-line: www.ci.danville.ca.us



*"Small Town Atmosphere
Outstanding Quality of Life"*

Submit to the City Clerk
Application Deadline 4:00 p.m.
Friday, May 20, 2005

APPLICATION TO SERVE ON THE DANVILLE PARKS AND LEISURE SERVICES COMMISSION

Name: _____
Last First Middle

Present Address: _____
Street City Zip Code

Home Phone: _____ Business Phone: _____

Cell Phone: _____ e-mail address: _____

1. What interests you about serving on this Commission? Have you attended a Parks and Leisure Services Commission meeting? If so, when?

2. What do you understand to be the purpose of this Commission? What do you see as the role of a Parks and Leisure Services Commissioner?

510 LA GONDA WAY, DANVILLE, CALIFORNIA 94526

Administration
(925) 314-3388

Building
(925) 314-3330

Engineering & Planning
(925) 314-3310

Transportation
(925) 314-3310

Maintenance
(925) 314-3450

Police
(925) 314-3410

Parks and Recreation
(925) 314-3400

IV-A-19



*"Small Town Atmosphere
Outstanding Quality of Life"*

Application deadline 4:00 p.m.
Thursday, November 2, 2006

APPLICATION TO SERVE ON THE DANVILLE PLANNING COMMISSION

Name: _____
Last First Middle

Present Address: _____
Street City Zip Code

Home Phone: _____ Business Phone: _____

Cell Phone: _____ e-mail address: _____

Occupation: _____

Education: _____

1. Please describe your business and/or professional experience:

2. Please describe your civic and community activities:

510 LA GONDA WAY, DANVILLE, CALIFORNIA 94526

Administration
(925) 314-3388

Building
(925) 314-3330

Engineering & Planning
(925) 314-3310

Transportation
(925) 314-3310

Maintenance
(925) 314-3450

Police
(925) 314-3410

Parks and Recreation
(925) 314-3400

IV-A-21

7. What do you see as Danville's role in regional planning issues?

8. What type of housing do you feel is needed in Danville?

9. What, if anything, should be done about Danville's business areas?

10. What do you feel should be required of new development?

11. Other information:

- A. Are you willing to attend night meetings?
- B. Are you a resident of the Town of Danville?
- C. Is your place of business or employment in Danville?
- D. Do you have any property ownerships, other than your home, or any business or personal relationships which might be considered a conflict of interest in carrying out your responsibilities on the Planning Commission?

12. Any other thoughts you feel we should be aware of in considering your application?

Are you available to interview on one of the following dates?

November 14, morning: _____ YES _____ NO

November 21, evening: _____ YES _____ NO

Date submitted _____

Submit completed application to the City Clerk:

E-mail: msunseri@ci.danville.ca.us

Fax: (925) 838-0548

Mail: Town of Danville, 510 La Gonda Way, Danville, CA 94526

**CITY OF FAIRFIELD RESOLUTIONS
& SAMPLE AGENDAS**

City of Fairfield

Resolution No. 95-275

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD
AMENDING RESOLUTION NO. 89-91
PROVIDING GUIDELINES FOR APPOINTMENT OF MEMBERSHIP TO
COMMISSIONS, COMMITTEES AND TASK FORCES**

WHEREAS, the Mayor of the City of Fairfield, with the approval of the City Council, appoints certain members of the community to commissions, committees and task forces except when otherwise provided by statute, ordinance or resolution; and

WHEREAS, the City Council has appointed a subcommittee to establish guidelines for these appointments; and

WHEREAS, the Appointment Subcommittee of the City Council has met and recommended to the City Council, policy guidelines for these appointments.

NOW, THEREFORE, the City Council of the City of Fairfield does hereby resolve as follows:

1. That members of these commissions, committees and task forces shall be Fairfield residents when available.
2. That persons who are not City residents may sit on task forces for specific projects if they own or operate a business in an area affected by the project, or have particular expertise, assuming compliance with State of California conflict of interest laws.
3. That members of the Planning Commission and Community Services Commission shall serve a maximum of two terms plus any unexpired term to which they are appointed, not to exceed ten years.

That all members of the Community Services Commission shall serve four-year terms ending in December and the Planning Commission members shall serve four-year terms ending in June. Existing terms shall be extended to the subsequent June or December.

4. That beginning January 1, 1989, a two-member subcommittee appointed by the Mayor, which rotates bi-annually among Councilmembers with one new appointee each year, shall be appointed to interview applicants for commissions, committees and task forces that the Mayor appoints.

This subcommittee shall recommend two applicants to the Mayor for each vacancy. The Mayor shall make the appointments from the recommended applicants. If none of the applicants are acceptable to the Mayor, the subcommittee shall recommend two additional applicants.

5. (a) No person shall serve simultaneously on more than one of the following:
Planning Commission
Community Services Commission

(b) No member of the Planning Commission or Community Services Commission shall serve simultaneously on more than one other committee or task force, nor shall any other person serve simultaneously on more than two task forces or committees.

6. The policies of this resolution apply only to the following committees, commissions and task forces and to those committees, commissions and task forces that may be created hereafter unless at that time it is expressly otherwise provided:

- Community Services Commission
- Planning Commission
- Open Space Commission
- Community Development Block Grant Steering Committee
- Cultural Arts Advisory Committee
- Golf Advisory Board
- Housing Authority
- Senior Citizens Building Advisory Committee

7. Members serving on City commissions, committees and task forces on the effective date of this resolution shall be subject to its provisions.

8. The City Attorney is hereby directed to prepare the appropriate ordinances to amend the City Code to be consistent with the policies set forth in this resolution. The City Manager and City Attorney shall establish the procedure for phasing this resolution into effect.

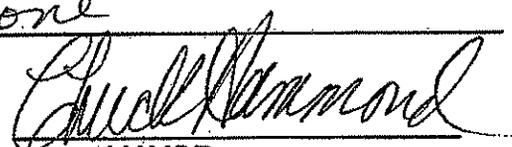
PASSED and ADOPTED this 19th day of December, 1995 by the following vote:

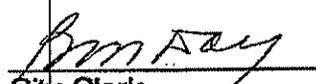
AYES: Councilmembers Lessler/MacMillan/O'Regan/Pettygrove/Hammond

NOES: Councilmembers None

ABSENT: Councilmembers O'Regan

ABSTAIN: Councilmembers None


MAYOR

ATTEST:

City Clerk

CITY OF FAIRFIELD

RESOLUTION NO. 98-14

A RESOLUTION AMENDING RESOLUTION 95-275 PROVIDING
GUIDELINES FOR APPOINTMENT OF MEMBERSHIP TO
COMMISSIONS, COMMITTEES AND TASK FORCES

Whereas, the Mayor of the City of Fairfield, with the approval of the City Council, appoints certain members of the community to commissions, committees and task forces except when otherwise provided by statute, ordinance or resolution; and

Whereas, the City of Fairfield adopted Resolution 95-275 providing guidelines for appointment of membership to commissions, committees and task forces; and

Whereas, the guidelines established with Resolution 95-275 do not allow for ongoing, open recruitment,

NOW, THEREFORE, the City Council of the City of Fairfield does hereby resolve as follows:

1. That members of these commissions, committees and task forces shall be Fairfield residents when available.
2. That persons who are not City residents may sit on task forces for specific projects if they own or operate a business in an area affected by the project, or have particular expertise, assuming compliance with State of California conflict of interest laws.
3. That members of the following commissions, committees and task forces shall serve a maximum of two terms plus any unexpired term to which they are appointed, not to exceed ten years:

Community Services Commission
Planning Commission
Open Space Commission
Community Development Block Grant Steering Committee
Cultural Arts Advisory Committee
Golf Advisory Board
Housing Authority
Senior Citizens Building Advisory Committee

4. That no person shall serve simultaneously on more than one of the following:

Planning Commission
Community Services Commission.

5. That no member of the Planning Commission or Community Services Commission shall serve simultaneously on more than one other committee or task force, nor shall any other person serve simultaneously on more than two task forces or committees.

6. That effective immediately the City Clerk shall maintain an applicant pool for each commission, committee, and task force for the calendar year so that persons interested in being appointed to these positions may submit an application for their desired position at any time during the year.

7. That the Mayor may select and interview applicants from the pool of applicants for each commission, committee and task force.

8. That members currently serving on City commissions, committees and task forces on the effective date of this resolution shall be subject to its provisions.

PASSED AND ADOPTED this 19th day of May, 1998 by the following vote:

- AYES: Councilmembers LESSLER/MACMILLAN/O'REGAN/PRICE/PETTYGROVE
- NOES: Councilmembers Macmillan
- ABSENT: Councilmembers None
- ABSTAIN: Councilmembers None

George Pettygrove
Mayor

Attest:
Bm Day
City Clerk

CITY OF FAIRFIELD

RESOLUTION NO. 2000-46

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF FAIRFIELD AMENDING RESOLUTION NO. 98-74
BY ESTABLISHING A COUNCIL COMMITTEE TO RECOMMEND
COMMISSION, COMMITTEE AND TASK FORCE APPOINTMENTS**

Section 1. Resolution No. 98-74 of the City Council of the City of Fairfield establishes guidelines for the appointment of members to City Commissions, Committees and Task Forces. The City Council desires to amend this resolution and provide for the establishment of a rotating Council Committee to make recommendations to the Mayor on appointments to Commissions, Committees and Task Forces.

Section 2. Section 7 of Resolution No. 98-74 is hereby amended to read:

"7. A City Council Appointments Committee is hereby established to make recommendations to the Mayor on the appointment of members to City Commissions, Committees and Task Forces. Committee members shall serve for one year, rotating terms. Each one-year term after the initial term will be filled by Councilmembers who did not serve on the Committee during the prior term. The Appointments Committee shall interview applicants for Commissions, Committees and Task Forces selected from the applicant pool maintained by the City Clerk. The Committee shall recommend two applicants to the Mayor for each vacancy. The Mayor shall make the appointment from the two applicants recommended by the Committee. If neither of the recommended applicants are acceptable to the Mayor, the Committee shall recommend two additional applicants until an appointment is made by the Mayor, which shall be subject to the final approval of the full Council."

PASSED AND ADOPTED this 15th day of February, 2000, by the following vote:

AYES: Councilmembers BATSON/LESSLER/MACMILLAN/PRICE/PETTYGROVE

NOES: Councilmembers Batson

ABSENT: Councilmembers none

ABSTAIN: Councilmembers none

George Pettygrove
MAYOR

ATTEST:

Gina Neuell
City Clerk

CITY OF FAIRFIELD

RESOLUTION NO. 2000-68

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF FAIRFIELD AMENDING RESOLUTION NO. 2000-46
WHICH ESTABLISHES A COUNCIL COMMITTEE TO RECOMMEND
COMMISSION, COMMITTEE AND TASK FORCE APPOINTMENTS**

Section 1. On February 15, 2000, the City Council adopted Resolution No. 2000-46 to establish a Council Committee to recommend commission, committee and task force appointments to the Mayor. At its recent workshop, the Council directed that this resolution be clarified to provide that the Council Committee recommend no more than two applicants to the Mayor for appointment to each position. If only one qualified applicant is available, the Committee may make a single recommendation. This resolution amends Resolution No. 2000-46 to make this clarification.

Section 2. Section 7 of Resolution No. 98-74 is hereby amended, as shown below by the shaded and crossed out words, to read:

"7. A City Council Appointments Committee is hereby established to make recommendations to the Mayor on the appointment of members to City Commissions, Committees and Task Forces. Committee members shall serve for one year, rotating terms. Each one-year term after the initial term will be filled by Councilmembers who did not serve on the Committee during the prior term. The Appointments Committee shall interview applicants for Commissions, Committees and Task Forces selected from the applicant pool maintained by the City Clerk. The Committee shall recommend no more than two applicants to the Mayor for each vacancy. The Mayor shall make the appointment from the applicants recommended by the Committee. If the recommended applicants are not acceptable to the Mayor, the Committee shall recommend additional applicants until an appointment is made by the Mayor, which shall be subject to the final approval of the full Council."

PASSED AND ADOPTED this 21st day of March, 2000, by the following vote:

AYES: Councilmembers BATSON/LESSLER/MACMILLAN/PRICE/PETTYGROVE

NOES: Councilmembers none

ABSENT: Councilmembers none

ABSTAIN: Councilmembers none

George Pettygrove
MAYOR

ATTEST:

Gina Merrell
City Clerk

PLANNING COMMISSION

FILING
DEADLINE: _____

City of Fairfield
1000 Webster Street - Fairfield, CA 94533
(428-7400)

Information Sheet (Please Print)

NAME: _____
(Last) (First) (Middle)

ARE YOU A RESIDENT OF THE CITY OF FAIRFIELD? YES _____ NO _____
(If you have questions about your residency, please consult the City Attorney's Office at 428-7419.)

ADDRESS: _____

BUSINESS PHONE: _____ HOME PHONE: _____

OCCUPATION: _____

PLACE OF EMPLOYMENT: _____

EDUCATION: _____

FIELD OF SPECIALTY: _____

AREAS OF SPECIAL INTEREST: _____

ORGANIZATIONS: _____

OFFICES HELD: _____

COMMUNITY WORK: _____
(i.e. Boy Scouts, Heart Fund)

I, the undersigned, am sincerely interested in serving in this position for the City of Fairfield, and, if appointed, will be available for evening meetings as may be required.

(Signed)

(Date)

RETURN TO: CITY CLERK'S OFFICE, 1000 Webster Street, Fairfield, CA 94533 (Fourth Floor of City Hall)

-----For Office Use Only-----

Date In: _____

By: _____

IV-A-35

CITY OF FAIRFIELD
PLANNING COMMISSION
SUPPLEMENTAL APPLICATION QUESTIONNAIRE

This questionnaire will assist the City Council in assessing your qualifications and experience for the Planning Commission vacancy.

Please type or print the answers to these questions on plain paper and return with your application to:

City of Fairfield
City Clerk's Office
1000 Webster Street
Fairfield, CA 94533

1. Please explain the two most important reasons you have for wanting to serve on the Planning Commission.

2. What in your opinion would be the most important asset/perspective you would bring to the Planning Commission if appointed?

3. What role do you feel the Planning Commission plays in making Fairfield a desirable community in which to live and/or work?

4. What do you believe are the most critical issues facing the City during the next five years?

Signature _____

Date _____

MEMO FROM CITY ATTORNEY



City Attorney's Office
MEMORANDUM

Date: August 24, 2006
To: City Council
From: Heather C. Mc Laughlin, City Attorney
Re: Appointment to Planning Commission

Attached please find a copy of the opinion from the Attorney General regarding appointments to the planning commission. You may recall Assembly Member Wolk requested an opinion from the Attorney General to clarify whether appointments to the planning commission should be by the mayor or by the entire city council.

Basically, the opinion concludes that appointments to the planning commission are just like other appointments by a directly elected mayor of a general law city. The opinion expressly disapproves the previous opinion of the Attorney General that used the planning commission as an example of appointments by the entire council and not the mayor. Thus, the mayor has the power of appointment and the Council the power to approve the appointment.

Given this opinion, the language of Benicia Municipal Code Section 2.52.010 should be amended. You may remember the previous City Council changed this language in 2005 to provide for appointment by the City Council. I will try to have an ordinance ready for introduction at the September 19, 2006 meeting.

Copies of previous memos on this subject are available if you would like to review them again.

Please let me know if you have any questions.

Attachment

cc: City Manager
Community Development Director

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: 916/322-3360

Facsimile: 619/645-2489
619/645-2210

August 14, 2006

The Honorable Lois Wolk
California Legislature
State Capitol
P. O. Box 942849
Sacramento, CA 94249-0008

RECEIVED
AUG 16 2006

CAPITOL

RE: ATTORNEY GENERAL'S OPINION

Dear Assemblywoman Wolk:

Enclosed is our Opinion No. 05-914 issued in response to your request of September 15, 2005.

Sincerely,

Rodney O. Lilyquist
RODNEY O. LILYQUIST
Senior Assistant Attorney General

For **BILL LOCKYER**
Attorney General

ROL:pkf

Enclosure

RECEIVED
AUG 21 2006

ANALYSIS

As distinguished from a city operating under a city charter, a general law city has only those powers expressly granted to it by the Legislature, together with such powers that are necessarily incident to those expressly granted or essential to the declared object and purposes of the municipal corporation; a general law city may not act contrary to state statute. (See *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 20-21; *Martin v. Superior Court* (1991) 234 Cal.App.3d 1765, 1768; 81 Ops.Cal.Atty.Gen. 75, 76 (1998).) Government Code section 34900¹ permits the voters of a general law city to determine whether to have an elected mayor. In the context of a general law city that has an elected mayor, we are asked whether the members of the planning commission are to be appointed by the mayor or by the city council. We conclude that this appointment power rests with the city's elected mayor, but that the mayor's selections are subject to the approval of the city council.

Our analysis begins with section 40605, which generally directs the mayor of a general law city to make all appointments to city boards, commissions, and committees with the approval of the city council:

"In general law cities where the office of mayor is an elective office pursuant to Article 5 (commencing with Section 34900) of Chapter 7 of Part 1 of Division 2 of Title 4, the mayor, with the approval of the city council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute."

With specific regard to a city planning commission, subdivision (a) of section 65101 states:

"The legislative body may create one or more planning commissions each of which shall report directly to the legislative body. *The legislative body shall specify the membership of the commission or commissions.* In any event, each planning commission shall consist of at least five members, all of whom shall act in the public interest. If it creates more than one planning commission, the legislative body shall prescribe the issues, responsibilities, or geographic jurisdiction assigned to each commission. If a development project affects the jurisdiction of more than one planning commission, the legislative body shall designate the commission which shall hear the entire development project." (Italics added.)

¹ All further references to the Government Code are by section number only.

The "legislative body" of a general law city is its city council. (§§ 34000, 36501, subd. (a).) Does the directive in section 65101, subdivision (a), that "the legislative body shall specify the membership" of a planning commission make this statute an exception to the general mandate of section 40605 directing the mayor, with the approval of the city council, to make all appointments to city commissions? Has subdivision (a) of section 65101 "otherwise specifically provided" an alternative to the mayor-city council appointment process?

To answer this question, we apply well established principles of statutory construction. "When interpreting a statute our primary task is to determine the Legislature's intent. [Citation.]" (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 826.) "In determining intent, we look first to the language of the statute, giving effect to its 'plain meaning.'" (*Kimmel v. Goland* (1990) 51 Cal.3d 202, 208-209.) "Of course, we interpret a statute in context, examining other legislation on the same subject, to determine the Legislature's probable intent. [Citations.]" (*California Teachers Association v. Governing Bd. of Rialto Unified School Dist.* (1997) 14 Cal.4th 627, 642.)

Applying these rules of construction, we find that the key word "specify," as used in the context of section 65101, means something other than "appoint." In related statutory schemes, the Legislature has distinguished between the two terms. For example, Health and Safety Code section 101525, subdivision (b), states in part:

" . . . The enabling ordinance shall specify the membership of the authority, the qualifications of members, the manner of appointment, selection, or removal of members, and their term of office, and any other matters that the board of supervisors deems necessary or convenient for the conduct of the authority's activities"

Similarly, Health and Safety Code section 101850, subdivision (c) provides:

"A hospital authority established pursuant to this chapter shall be governed by a board that is appointed, both initially and continually, by the Board of Supervisors of the County of Alameda. . . . The enabling ordinance shall specify the membership of the hospital authority governing board, the qualifications for individual members, the manner of appointment, selection, or removal of governing board members, their terms of office, and all other matters that the board of supervisors deems necessary or convenient for the conduct of the hospital authority's activities."

Welfare and Institutions Code section 14087.31, subdivision (c), states:

"The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as the board of supervisors deems necessary or convenient for the conduct of the county commission's activities. Members of the commission shall be appointed by the county board of supervisors"

Other examples may be given of the Legislature's use of the term "specify" in a manner that is distinguished from its use of the term "appoint." (See, e.g., Welf. & Inst. Code, §§ 14087.38, subd. (c); 14087.51, subd. (e); 14087.52, subd. (d); 14087.53, subd. (c); 14087.54, subd. (d).) In the context of these statutes, "specify" means "state precisely or in detail" (Webster's 3d New Internat. Dict. (2002) p. 2187) the number and status of the various members, whether regular members, alternate members, ex officio members, or the like.

In contrast, when the Legislature has intended to grant to a city council the power to appoint persons to a particular office, it has used such words as "appoint" or "select." For example, section 36505 states:

"The city council shall appoint the chief of police. It may appoint a city attorney, a superintendent of streets, a civil engineer, and such other subordinate officers or employees as it deems necessary."²

If the Legislature had intended to authorize city councils to appoint the individual members of a planning commission, rather than to approve all appointments made by the mayor, it could have easily done so by phrasing section 65101 in terms of "specify and appoint." A legislative articulation of specific statutory authority in one respect indicates the absence of such authority in related respects. (See *Safer v. Superior Court* (1975) 15 Cal.3d 230, 238; 85 Ops.Cal.Atty.Gen. 181, 185 (2002).)

Section 40605 generally directs the mayor of a general law city, with the approval of the city council, to make all appointments to city boards, commissions, and committees. It is a well known principle of statutory construction that "[e]xceptions to

² Other state statutes set forth precisely who is to "appoint" the members of various boards, commissions, and committees. (See, e.g., Health & Saf. Code, § 40420 [South Coast Air Quality Management District]; Pub. Resources Code, § 29735 [Delta Protection Commission]; Pub. Utilities Code, § 30201 [Southern California Rapid Transit District].)

the general rule of a statute are to be strictly construed." (City of Lafayette v. East Bay Mun. Utility Dist. (1993) 16 Cal.App.4th 1005, 1017.) Consistent with this principle, we find that the Legislature's use of the word "specify," and not the word "appoint," in section 65101 fails to meet the test of *specifically* providing for non-mayoral appointments of planning commission members as required by section 40605. Of course, section 40605 does not grant a mayor unfettered discretion in making commission appointments; instead, it requires the mayor to submit each of his or her designated appointees to the city council for its approval. (81 Ops.Cal.Atty.Gen., *supra*, at p. 80.)

We conclude that the appointing power of an elected mayor of a general law city extends to the appointment of the members of the city's planning commission, but each appointment must have the approval of the city council.³

³ In 81 Ops.Cal.Atty.Gen. 75, *supra*, we described section 65101 as an example of a statute authorizing "a non-mayoral appointment for a city board, commission, or committee." (*Id.* at p. 78, fn. 3.) That characterization, made only in passing, is inconsistent with the conclusion we reach herein, and it is therefore disapproved.