

**June 6, 2006  
BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
SPECIAL MEETING AGENDA**

**June 6, 2006**

**6:15 P.M.**

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

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

**June 6, 2006**

**7:00 P.M.**

- **CALL TO ORDER:**
- **CLOSED SESSION:**
  - **NONE**
- **CONVENE OPEN SESSION:**
  - **ROLL CALL**
  - **PLEDGE OF ALLEGIANCE**
  - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:**
  - **ANNOUNCEMENTS:**
    - **Announcement of action taken at Closed Session, if any.**

- **Openings on Boards and Commissions:**
    - Human Services Fund Board:
      - One unexpired term to June 30, 2008
      - One full term to June 30, 2010
  - **APPOINTMENTS:**
    - **Human Services Fund Board**
      - One full term to June 30, 2010
      - Becky Billing
    - **Benicia Housing Authority Board of Commissioners - One full term to June 30, 2010**
      - Phyllis McKeever
    - **Library Board of Trustees - One unexpired term to June 1, 2007**
      - Michael Radesky
    - **Economic Development Board - One full term to June 30, 2010**
      - Duane Oliveira
  - **PRESENTATIONS:**
    - **Solano County Senior Coalition (SCSC) - Overview of new advisory board**
      - Juliana Acker, SCSC
  - **PROCLAMATIONS:**
    - **Hunger Awareness Day**
      - Food Bank of Contra Costa and Solano
- **ADOPTION OF AGENDA:**
- **OPPORTUNITY FOR PUBLIC COMMENT:**
  - WRITTEN
  - PUBLIC COMMENT
- **CONSENT CALENDAR:**
  - **Approval of Minutes of April 26, 2006, May 2, 2006 and May 16, 2006 (City Clerk)**
  - **Adoption of the League of California Cities' Telecommunications Policy and Principles. (City Manager & City Attorney)**

**Congress and the California state legislature are beginning a serious debate on a new regulatory framework for telecommunications services in the 2006 legislative session. The League of California Cities Board of Directors adopted a Policy Framework for Telecommunications Reform in March 2006 that lists a number of principles that should be included in any new state or federal standards. There is no budget impact by adopting this resolution, however, if state or federal law is changed regarding regulation of rights-of-way or franchising of telecommunications providers, City revenues may decrease.**

**Recommendation: Adopt the resolution supporting the League of California Cities' Policy Framework for Telecommunications Reform.**

- **Acceptance of public improvements for the Harbor Walk Subdivision. (Public Works Director)**

The Harbor Walk subdivision is located on First Street at B Street. This subdivision created 36 new residential units and approximately 7,200 square feet of ground floor commercial space. The public improvements have been completed in accordance with the Final Map and Improvement Plans to the satisfaction of the City Engineer. Following acceptance by City Council, the Developer's bonds insuring the completion of work will be released and the Developer's maintenance bond guaranteeing the public improvements will come into effect for one year. This item has no impact on the City's budget.

**Recommendation: Adopt the resolution accepting the public improvements for the Harbor Walk.**

- **Approval of Joint Sidewalk Repair Agreement for 733-739 First Street. (Public Works Director)**

The property owner of 733-739 First Street is willing to enter into a Joint Sidewalk Repair Agreement with the City to perform repairs to the sidewalk along First Street and West H Street frontages of the property. In accordance with the agreement, the City will share in the costs of the work up to a maximum of \$25,967.69.

**Recommendation: Approve, by motion, the proposed Joint Sidewalk Repair Agreement with the property owner at 733-739 First Street.**

- **Approval of the parcel map for the "Former West 7th Street Right-of-Way between West J and West K Streets" Project. (Public Works Director)**

This parcel map subdivides the subject property into two parcels and is being brought before the Council for approval because it establishes easements and right-of-way that are required as a condition of approval for the project. The parcel map conforms with the tentative map that was approved by the Planning Commission on March 9, 2006 by Resolution No. 06-10. There is no budget impact associated with this action.

**Recommendation: Adopt the resolution approving the parcel map for the "Former West 7th Street Right-of-Way between West J and West K Streets" project, accepting utility easements and public right-of-way for alley purposes, and authorizing the City Clerk to execute the City Council Certificate on behalf of the City.**

- **Acceptance of the First Street Peninsula Improvements Project and the appropriation of funds from the West 9th Street Launch Ramp Improvements Project. (Parks & Community Services Director)**

The contractor, Hess Construction Co., Inc., has completed the First Street Peninsula Improvements Project to the satisfaction of City staff. The project included the paving of the gravel parking to have sixty-three (63) parking spots with three (3) ADA accessible parking spaces; the installation of curbs and striping; installation of ADA-accessible restrooms; creation and paving of a perimeter pathway around the staging area; construction of a turnaround; installation of lighting; placement of interpretive signs for educational purposes; and construction of a storm water drainage system. In order to close the project, funds originally allocated to the already completed West 9th Street Launch Ramp Improvements Project will have to be transferred.

**Recommendation:** Adopt the resolution accepting as complete the First Street Peninsula improvements and authorizing the City Manager to sign the Notice of Completion and the City Clerk to file the same with the Solano County Recorder, and appropriating \$8,793.76 originally allocated to the West 9th Street Launch Ramp Improvements Project to close the project.

- Acceptance of the Civic Center Tennis Court Lighting Project. (Parks & Community Services Director)

This is the completion of the Civic Center Lighting Project. This project involved the installation of lighting at the courts to allow night play. The project was funded for \$120,000 and the final construction cost is \$115,485.80.

**Recommendation:** Adopt the resolution accepting the Civic Center Tennis Court Lighting Project and authorizing the City Manager to sign the Notice of Completion and the City Clerk to file the same with the Solano County Recorder.

- Approval to amend Resolution No. 03-134, modifying the approved projects funded under Proposition 40. (Parks & Community Services Director)

This request involves the reallocation of Proposition 40 funding, as approved in Resolution No. 03-134, from the James Lemos Swim Center Lights Project to the Civic Center Bocce Ball Improvements. If approved, Proposition 40 funding in the amount of \$10,000 allocated to the James Lemos Swim Center Lights Project will be reallocated to the Civic Center Bocce Ball Improvements project.

**Recommendation:** Amend Resolution No. 03-134, modifying the approved projects funded under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coast Protection Act of 2002, also known as Proposition 40.

- Award of contract for the Bocce Ball Courts Project at Civic Center Park. (Parks & Community Services Director)
- Staff opened bids for the Civic Center Bocce Ball Courts on April 12, 2006. A

total of five (5) bids were received. A low bid of \$73,103 was received from Maxistone, Inc. of Fairfield, CA. The City Council is asked to accept the bids received and award the construction contract to Maxistone, Inc. and designate \$25,000 received from the Inflow and Infiltration Relief Sewer Pipeline Project (I & I Pipeline Project) for the Civic Center Bocce Ball Project.

**Recommendation:** Adopt the resolution accepting the bids, awarding the contract for the Civic Center Bocce Ball Courts to Maxistone, Inc. of Fairfield, CA, the low bidder in the amount of \$73,103, designating \$25,000 received from the I & I Pipeline Project and authorizing the City Manager to sign the construction contract on behalf of the City.

- **Approval of a building inspection services agreement with Marker Lovell. (Community Development Director)**

Marker Lovell has been providing building inspection services to the City for over nine years. The purpose of the daily inspection services is to provide inspection services when the daily workload demands additional manpower. Mr. Lovell's hourly rate is substantially lower than utilizing staff from other outside agencies. The agreement shall not exceed \$50,000 and the term of the agreement is from May, 2006 - November, 2007. There are adequate funds in the Building Inspection Division Professional/Technical Services Account for on-call inspection services.

**Recommendation:** Adopt the resolution approving a consultant agreement with Marker Lovell for Building Inspection Services and authorizing the City Manager to execute the agreement on behalf of the City.

- **Authorization of the filing of an application with the Metropolitan Transportation Commission for Transportation Development Act Funds to operate Benicia Breeze for Fiscal Year 2006-07. (Finance Director)**

Each year, the City files an application with the Metropolitan Transportation Commission (MTC) for Transportation Development Act (TDA) funds to support the City's transit operation, Benicia Breeze. The Transit Fund is an enterprise fund that depends solely on TDA, fare revenue from passengers, advertising revenue sold on the buses and other Federal Transit Administration grants. This year's request amounts to \$1,098,635.

**Recommendation:** Adopt the resolution authorizing the Finance Director file an application with the MTC for TDA funds to operate Benicia Breeze for Fiscal Year 2006-07.

- **Approval of an agreement with Hanson Bridgett for legal services related to the lawsuit filed by Bill Royal. (City Attorney)**

Bill Royal has filed a lawsuit against the City related to the approval of his project. This action is not covered by the Association of Bay Area Governments

and so outside counsel must be hired to litigate the case. The actual cost of the agreement cannot yet be determined since the work is litigation.

**Recommendation:** Authorize, by motion, the City Attorney to execute the agreement with Hanson Bridgett for legal services related to Bill Royal's lawsuit.

- Approval of agreement for downtown asset management services with Benicia Main Street. (Economic Development Manager)

This agreement confirms the current relationship among the City, Benicia Main Street (BMS), and the Downtown Asset Management Program (DAMP) consultant by establishing a scope of work for DAMP and having BMS take responsibility for its implementation. The City's already-allocated funding for the program will be disbursed in accordance with the terms of the agreement. It provides for continuing downtown business attraction and retention through the end of next fiscal year, under more clearly defined terms and conditions than presently exist.

**Recommendation:** Approve, by motion, the attached agreement with Benicia Main Street for downtown asset management, which includes business attraction and retention, using the existing approved budget allocation for this program.

- Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.
- **PUBLIC HEARINGS:**
- **ACTION ITEMS:**
  - Consideration of a new ordinance for maintenance and repair of sidewalks. (City Attorney)

This ordinance incorporates Streets and Highways Code procedures for requiring property owners to repair sidewalks. It also incorporates provisions recently approved by the Appellate Court to transfer liability for injuries to the public regarding sidewalk related accidents. This ordinance will be in conformance with the City's existing procedures for addressing claims for sidewalk injuries and the City's Sidewalk Repair Policy with proposed amendments. This item was previously presented to the City Council and clarification was requested on certain issues, which are addressed in the revised staff report.

**Recommendation:** Approve the following two actions:

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

By motion, approve changes to the Sidewalk Repair Policy as outlined in the Council report.

Authorization of award of contract to MV Public Transportation to operate Benicia Breeze from July 1, 2006 through June 30, 2011.

Staff issued a Request for Proposal for the Operation and Maintenance of Benicia Transit in December 2005. Two proposals were received, one from MV Public Transportation (MV) and one from First Transit, Inc. A panel of transit professionals and community members conducted interviews of the two proposers in February and determined the City should enter into negotiations with MV for the operation and maintenance of the Benicia Breeze for five years, including five optional one-year extensions. The total cost of the five-year contract is based on 24,438 hours at a combined cost of \$5,304,451.

**Recommendation:** Approve the resolution authorizing the City Manager to execute an agreement with MV Public Transportation, Inc. to operate Benicia Breeze for five years beginning July 1, 2006.

- **INFORMATIONAL ITEMS:**

- Reports from City Manager.

Status report on air quality equipment installation - Valero Improvement Project Environmental Impact Report Settlement Agreement. (City Manager)

An update will be provided on the installation of air quality equipment envisioned in the settlement agreement between Valero, the City, and organizations that appealed the Planning Commission's certification of the Valero Improvement Project (VIP) Environmental Impact Report (EIR).

**Recommendation:** No recommendation, this is an informational report.

- **COMMENTS FROM COUNCIL MEMBERS:**

- Reports from City Manager.

Consideration of Bay Area Water Forum Memorandum of Understanding. (Council Member Patterson)

Council Member Patterson has requested that the Council consider agendaizing the adoption of a resolution on the June 20, 2006 agenda authorizing the City of Benicia to become a signatory to the Bay Area Water Forum Memorandum of Understanding.

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

- **ADJOURNMENT:**

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### Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on

agendized and nonagendized matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

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#### **Disabled Access**

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

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#### **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.