

**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
July 07, 2015
7:00 PM**

*Times set forth for the agenda items are estimates.
Items may be heard before or after the times designated.*

*Please Note:
Regardless of whether there is a Closed Session scheduled, the open session will begin
at 7:00 PM*

I. CALL TO ORDER (6:00 PM):

II. CLOSED SESSION (6:00 PM):

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of litigation pursuant to subdivision (c) of Section 54956.9
Number of potential cases: One (1)

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section
54956.9
Number of potential cases: One (1)

III. CONVENE OPEN SESSION (7:00 PM):

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE 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.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Arts & Culture Commission
1 unexpired term
Application Due Date: July 31, 2015

Civil Service Commission
1 full term
Application Due Date: July 31, 2015

Economic Development Board
2 unexpired terms
2 full terms
Application Due Date: July 31, 2015

Finance Committee
1 full term
1 unexpired term
Application Due Date: July 31, 2015

Human Services Board
1 unexpired term
Application Due Date: July 31, 2015

SoITrans Public Advisory Committee
1 full term
Application Due Date: July 31, 2015

Open Government Commission
1 unexpired term
Application Due Date: July 31, 2015

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.

4. Benicia Arsenal Update

Update from City Attorney

B. PROCLAMATIONS.

- 1. IN RECOGNITION OF TEN YEARS OF THE OPEN GOVERNMENT ORDINANCE**
- 2. IN RECOGNITION OF PARKS MAKE LIFE BETTER MONTH - JULY 2015**

C. APPOINTMENTS.

- 1. Appointment of Council Member Christina Strawbridge to a City Council Subcommittee for a one-year term ending July 31, 2016**

D. PRESENTATIONS.

- 1. MARIN CLEAN ENERGY (MCE) IMPLEMENTATION - UPDATE**

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 (7:30 PM):

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 THE MINUTES OF THE JUNE 2, 2015 AND JUNE 16, 2015 CITY COUNCIL MEETINGS. (City Clerk)

B. AWARD OF ROCK, FITTINGS AND HARDWARE PURCHASES FY 15/16. (Public Works Director)

This action authorizes the purchase of crushed aggregate rock for repair and maintenance of City streets and utility pipelines; authorizes the purchase of fittings and hardware for repair and maintenance of water distribution pipelines. Sufficient funds are available and have been budgeted for these items.

Recommendation: Adopt resolutions:

1. Authorizing the purchase of crushed aggregate rock for Fiscal Year 2015-2016 from Syar Industries Inc. of Vallejo, California, for a not-to-exceed cost of \$56,000.

2. Authorizing the purchase of water distribution pipeline fittings and hardware for Fiscal Year 2015-2016 from Roberts & Brune Co. of Oakley, California, for a not-to-exceed cost of \$75,000.

C. AMENDMENT TO THE ARTS AND CULTURE COMMISSION'S ORDINANCE CHANGING TIME, FREQUENCY, AND LOCATION OF MEETINGS. (Library Director)

The Arts and Culture Commission, established in 2009, was created with a broad scope of work designed to facilitate, encourage, promote and stimulate Arts and Culture in Benicia. To meet the goals established through their purpose and mission statement, the Commission has found it necessary to meet more frequently than every other month as is currently described in the Municipal Code. Therefore, the Arts and Culture Commission is requesting an amendment to allow them to hold regular meetings on a monthly basis, to change the meeting time from 7:00 to 6:30, and to change the locations of the meetings to the Library's Edna Clyne Room.

Recommendation: Introduce an ordinance to amend Chapter 2.104 (Arts and Culture Commission) of Division 2 (Boards and Commissions) of Title 2 (Administration and Personnel) of the Benicia Municipal Code to revise Subsection 2.104.040 to hold monthly meetings starting at 6:30 in the Library's Edna Clyne Room.

D. RESOLUTION SETTING THE FISCAL YEAR 2015-16 SECURED TAX RATE FOR BONDED INDEBTEDNESS FOR THE REFUNDING GENERAL OBLIGATION BONDS, SERIES 2012. (Finance Director)

Each year, the City is required to adopt a resolution setting the bonded indebtedness secured tax rates for placement on the Solano County property tax roll. Due to a slight increase in Assessed Valuation, the rate for each

homeowner will have a decrease from last year's .0137 to .0130 per hundred dollars of assessed valuation. The total amount to be collected on the property tax roll for Fiscal Year 2015-16 is \$639,445, which will be used to pay the principal and interest payments on the 2012 Refunding General Obligation Bonds.

Recommendation: Adopt the resolution setting the Fiscal Year 2015-16 bonded indebtedness tax rate for the Refunding General Obligation Bonds, Series 2012.

E. CITY OF BENICIA'S RESPONSE TO 2014-15 SOLANO COUNTY GRAND JURY REPORT "MITIGATING WATER LOSS". (Public Works Director)

The 2014-15 Solano County Grand Jury investigated the water loss and accountability of the municipal water systems throughout the County of Solano. The Grand Jury issued a report of their findings and associated recommendations to which the City of Benicia needs to respond in writing under State law. The City Council must first approve the response.

Recommendation: Approve, by motion, the response to the 2014-15 Solano County Grand Jury Report entitled "Mitigating Water Loss."

F. CITY OF BENICIA'S RESPONSE TO 2014-2015 GRAND JURY REPORT "TO CHARGE OR NOT TO CHARGE". (Finance Director)

The 2014-2015 Grand Jury investigated the current policies governing the use of credit cards/purchasing cards in Solano County. The Grand Jury issued a report of their findings and associated recommendations to which the City of Benicia needs to respond in writing under the State Law. The City Council must first approve the response.

Recommendation: Approve, by motion, the response to the 2014-2015 Grand Jury Report entitled "To Charge or Not to Charge."

G. APPROVAL OF AMENDMENT TO AGREEMENT WITH SIEMENS INDUSTRY FOR ADDITIONAL STREET LIGHT REPAIR WORK. (Public Works Director)

City staff does not have the expertise or capacity to perform this work in-house. The Amendment to Agreement is necessary because more work needs to be completed within Fiscal Year 2014/15 than originally anticipated.

Recommendation: Adopt a resolution approving an Amendment to Agreement with Siemens Industry for additional street light repair work in the amount of \$29,635.60 and authorizing the City Manager to sign the Amendment to Agreement on behalf of the City.

H. APPROVE AN AGREEMENT BETWEEN CITY OF BENICIA AND WOLF COMMUNICATIONS TO PERFORM TOURISM AND MARKETING SERVICES. (Economic Development Manager)

In an effort to continue to promote a tourism program, prioritized by the City Council and reaffirmed with the adoption of the Business Development Action Plan, staff is recommending the continued partnership with Wolf Communications to provide marketing and public relations services.

Recommendation: Adopt the resolution approving an agreement through June 30, 2016 for tourism marketing services provided by Wolf Communications at a contractual value not to exceed \$60,000.

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

VIII. BUSINESS ITEMS (7:45 PM):

A. PUBLIC HEARING FOR CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FOR FISCAL YEAR 2015-15. (Public Works Director)

The items scheduled for consideration at this meeting will complete the process for levying assessments for Fiscal Year 2015-16 through the Solano County Auditor-Controller's Office for collection of the assessments with the property tax bills. Should the City Council conclude, after receiving comments from interested persons during the public hearing, that any assessment should be amended, no action should be taken on the resolution ordering the maintenance of existing improvements. Staff would then modify the report as directed and bring the matter back for final approval on July 21, 2015. However, this matter must be concluded by August 1, 2015 to meet the filing deadline with the Solano County Auditor-Controller's Office.

Recommendation: 1. Conduct a public hearing to receive oral statements and written comments concerning the City of Benicia Landscape and Lighting Assessment District for the 2015-16 fiscal year.

At the conclusion of the public hearing, 2. Adopt the resolution ordering the maintenance of existing improvements in all five zones of the District, confirming the Assessment Diagram, approving the Engineer's Report and ordering the levy and collection of certain assessments for the City of Benicia Landscape and Lighting District for Fiscal Year 2015-16.

B. INTRODUCTION AND FIRST READING OF AN AMENDMENT TO TITLE 8 HEALTH AND SAFETY TO REDUCE THE PERMITTED HOURS OF CONSTRUCTION IN THE CITY OF BENICIA, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA. (Community Development

Director)

The proposed amendment to Title 8 of the Benicia Municipal Code (Health and Safety) is intended to reduce the hours of construction in Benicia for residential zones, downtown mixed-use districts, and properties within 500 feet of a residential zone or downtown mixed-use district. Construction, as specified in BMC 8.20.150, would be permitted from 7:00 a.m. to 7:00 p.m. on weekdays and 8:00 a.m. to 7:00 p.m. on weekends.

Recommendation: Conduct a first reading of an amendment to the Benicia Municipal Code Title 8, after a determination that the text amendment is exempt from CEQA.

C. INTRODUCTION AND FIRST READING OF AN AMENDMENT TO CHAPTER 6.32 (ANIMAL KEEPING) OF THE BENICIA MUNICIPAL CODE TO ALLOW BEEKEEPING IN THE CITY OF BENICIA, AFTER A DETERMINATION THAT THE TEXT AMENDMENT IS EXEMPT FROM CEQA. (Community Development Director)

In response to Council direction, staff prepared a draft amendment to the Municipal Code that would allow beekeeping. At their April 9, 2015 meeting, the Planning Commission took public comment, reviewed the draft ordinance, and recommended that the City Council adopt the draft ordinance to allow beekeeping with an over-the-counter permit. Given the Council's direction of a simple process, staff did not include in the draft ordinance the public notification component recommended by the Planning Commission. The recommended draft ordinance proposes to repeal Section 6.32.060 (Beekeeping) and add Section 6.33 (Beekeeping) of the Benicia Municipal Code which is administered by the Benicia Police Department.

Recommendation: Conduct a first reading of the draft ordinance to amend Benicia Municipal Code Chapter 6.32 (Animal Keeping) to allow beekeeping the City of Benicia, after determining that the project is exempt from CEQA.

D. AWARD OF CONTRACT TO TYLER MUNIS FOR ENTERPRISE RESOURCE PLANNING SOFTWARE. (Finance Director)

The City of Benicia has prepared and released the Enterprise Resource Planning (ERP) Request for Proposal (RFP). Staff recommends acceptance of the proposal from Tyler Munis for the replacement of the City financial software. The contract with Tyler will replace three existing contracts currently supporting multiple, incompatible financial modules, Sunguard/Bi-Tech (accounting and payroll), Harris (utility billing), and Accela (permitting and licensing). The City is seeking a hosted environment where City will lease the software from Tyler. In return, Tyler is responsible for maintenance and

execution of software, purchasing and housing hardware (servers), storage and retrieval of all data, and carrying out regular updates for compliance with legal and financial reporting changes. Direct access via the internet will allow ease of accessing and transferring information from remote City facilities.

Recommendation: Accept, by motion, the proposal from Tyler Munis to provide Enterprise Resource Planning (ERP) software and authorize staff to execute an agreement.

E. MAYOR PATTERSON'S REQUEST TO AGENDIZE DISCUSSION REGARDING LETTER FROM DONALD BASSO. (City Manager)

Mayor Patterson would like the City Council to consider discussion of a request by Donald Basso regarding supporting proposed changes to Proposition 13.

Recommendation: Consider Mayor Patterson's request to agendize discussion of the request by Donald Basso regarding "adopting a resolution to close a loop hole in the law established by Proposition 13".

IX. ADJOURNMENT (9:30 PM):

Public Participation

The Benicia City Council welcomes public participation.

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

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

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, 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 the 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. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.



PROCLAMATION

IN RECOGNITION OF

TEN YEARS OF THE OPEN GOVERNMENT ORDINANCE

WHEREAS, the Open Government Ordinance was created 10 years ago, with the intention of increasing the public trust and confidence in the city government, with open meetings, easier access to public records, ethical guidelines and a watchdog commission; and

WHEREAS, the Open Government Ordinance enlightens and empowers people to get involved in their government at all levels, making access to government information easier with the right to attend and receive advance notice of all meetings, and with quicker response time to public records requests, so they can be well informed and help make their communities better; and

WHEREAS, the Open Government Ordinance requires that public officials and employees observe the highest ethical standards and discharge faithfully the duties of their offices or employment regardless of personal considerations thereby earning the public trust; and

WHEREAS, the 10th Anniversary of the Open Government Ordinance is cause for celebration and recognition.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia and on behalf of the City Council, do hereby honor and recognize 10 years of Open Government Ordinance on July 5, 2015, and encourage all citizens to educate themselves about government processes that affect their lives.

Elizabeth Patterson, Mayor
July 7, 2015





PROCLAMATION IN RECOGNITION OF



July 2015 is Parks Make Life Better!® Month

WHEREAS, Parks and Recreation makes lives and communities better now and in the future; and

WHEREAS, it is established through statewide public opinion research, 98% of California households visit a local park at least once a year; two in three households visit a park once a month; 50% of households participate in an organized recreation program; and most park use is with family and friends; and

WHEREAS, residents value recreation as it provides positive alternatives for children and youth to reduce crime and mischief especially during non-school hours; it promotes the arts, it increases social connections; aids in therapy; and promotes lifelong learning; and

WHEREAS, residents value their parks for access to outdoor spaces for children and adults to play and be active, exercise and group sports; and

WHEREAS, parks provide access to the serenity and the inspiration of nature and outdoor spaces as well as preserve and protect the historic, natural and cultural resources in our community; and

WHEREAS, the residents of Benicia including youth, families, adults, seniors, businesses, community organizations, and visitors benefit from the wide range of parks, open space, sports fields, tennis courts, facilities and programs including Benicia Community Park, James Lemos Swim Center, City Gym, Benicia Community Center and the Benicia Senior Center provided by the Benicia Parks & Community Services; and

WHEREAS, the City of Benicia urges all its residents to recognize that parks and recreation enriches the lives of its residents and visitors as well as adding value to the community's homes and neighborhoods.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia and on behalf of the City Council, do hereby proclaim July 2015 as Parks Make Life Better!® Month and in doing so, urge all our citizens to use and enjoy our parks, trails, open space, facilities, and recreation opportunities.

Elizabeth Patterson, Mayor
July 7, 2015



RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF COUNCIL MEMBER CHRISTINA STRAWBRIDGE TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE FOR A ONE-YEAR TERM ENDING JULY 31, 2016.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia that the appointment of Christina Strawbridge to a City Council Appointment Subcommittee by Mayor Patterson is hereby confirmed contingent on the adoption of the subcommittee resolution.

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of July 2015 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
PRESENTATIONS

DATE : June 22, 2015
TO : City Council
FROM : City Manager
SUBJECT : **MARIN CLEAN ENERGY (MCE) IMPLEMENTATION - UPDATE**

RECOMMENDATION:

Review status of MCE Outreach Plan implementation.

EXECUTIVE SUMMARY:

On November 4, 2014, the City Council voted to join Marin Clean Energy (MCE), a community choice aggregation program that will provide Benicia customers with renewable electricity. As part of this program, MCE completes extensive outreach in the community to educate customers about its program and their choice of energy providers. The draft Outreach Plan was presented to the City Council for review and comment on February 3, 2015. MCE incorporated comments received, finalized the plan, and launched the outreach campaign on February 19, 2015. City Council received its first monthly update on the status of Outreach Plan implementation at the March 3, 2015 and follow-up presentations on March 17, April 7, May 5, and June 2, 2015. This report and MCE presentation serves as the July update on the activities completed from March 18 - July 7. This will serve as MCE's last update to Council on Outreach Plan implementation.

BUDGET INFORMATION:

Staff time needed to assist in facilitating community outreach and implementation of the CCA program is already included in the CAP Coordinator's 2014-15 work plan. Some additional staff time will be needed to support the CAP Coordinator in responding to community questions or attending any workshops during the opt-out phase.

ENVIRONMENTAL REVIEW:

The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. City Staff, in consultation with the City Attorney, concluded that potential environmental impacts are speculative in nature and require no further analysis at this time.

GENERAL PLAN:

The project supports the overarching Goal of the General Plan, which is Sustainability.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
 - Strategy #1: Reduce greenhouse gas emissions and energy consumption
 - Strategy #3: Pursue and adopt sustainable practices

BACKGROUND:

Community Choice Aggregation (CCA) allows local governments to purchase and/or develop clean power on behalf of their residents, businesses, and municipal accounts. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E), which delivers renewable electricity, maintains the energy grid, and provides customer service and billing. On November 4, 2014, the Council reviewed these reports and determined that the benefits of joining MCE outweighed the risks and voted unanimously to adopt the enabling resolution and introduce the ordinance approving the Marin Clean Energy (MCE) Joint Powers Agreement and authorizing the implementation of a CCA program. On February 19, 2015, outreach officially launched and the first Opt Out Notice was mailed to Benicia customers.

At the June 2, 2015 meeting, Allison Kirk, MCE Community Affairs Specialist, updated the City Council on the following items:

- Enrollment statistics to date,
- Completed outreach activities (February 19 – present),
- Fourth enrollment notice design,
- Third-party information being distributed about MCE and PG&E to community members, and
- Updates to the confirmation notice mailed to Benicia customers that opt out.

Tonight, MCE will make a presentation explaining the implementation activities that took place June 2 – July 7 as follows:

- Benicia Makerspace Solar Energy Workshop – Presentation 6.03
- Benicia Farmers Market – Table 6.4, 6.11, 6.18, 6.25
- Community Meeting – Event 6.23

This serves as MCE's final update to Council. The enrollment period officially ends after 60 days of service with MCE or the customer's July meter read date. After the enrollment period has closed, the following happens:

- Customers can no longer opt-out of MCE for free (there is the one-time administrative fee \$5 residential, \$25 commercial)
- If a customer opts out of MCE they are required to remain with PG&E service for a year before returning to MCE again

MCE completes most of its community outreach before the enrollment month (May 2015) because it wants customers to be fully informed about MCE before they are enrolled. MCE does continue outreach in all of its member communities after the enrollment month and on a regular basis to inform people about:

- Energy efficiency programs,
- Feed-in-Tariff opportunities,
- Deep Green enrollment, and
- Other MCE offerings.

The Community Leadership Advisory Group (CLAG) will meet for the last time in August and at that time, will discuss the best ways for MCE to continue to be engaged in Benicia. As part of the CAP Coordinator's 2015-16 Work Plan (yet to be approved by the City Council), she will continue to assist MCE to implement its programs and educate customers about rebates, incentives, and other efficiency programs. The CAP Coordinator will continue to be the direct City staff contact and technical resource for Benicia customers.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
June 02, 2015

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the Closed Session to order at 6:00 p.m.

All Council Members were present.

II. CLOSED SESSION:

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (GOVERNMENT CODE SECTION 54956.8)
City Owned Property, 1189 Washington Street
Related to Benicia Industrial Park Broadband Project**

III. CONVENE OPEN SESSION:

Mayor Patterson called the meeting to order at 7:01 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Carol Berman led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

- 1. Announcement of action taken at Closed Session, if any.**

Heather McLaughlin, City Attorney, reported that Staff received direction from Council.

- 2. Openings on Boards and Commissions:**

Arts and Culture Commission
1 unexpired term
open until filled

Economic Development Board
2 unexpired terms
open until filled

Finance Committee
1 full term
open until filled

SolTrans Public Advisory Committee
1 full term
open until filled

Human Services Board
1 unexpired term
open until filled

Open Government Board
1 unexpired term
open until filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update

Update from City Attorney

Heather McLaughlin, City Attorney, reported there was nothing new to report. Staff is working on getting documents to the Department of Toxic Substance Control (DTSC).

B. PROCLAMATIONS

1. In Memory of Michael Nourot

C. APPOINTMENTS

1. Appointment of Michael Pretzer to Open Government Commission for an unexpired term ending January 31, 2018

RESOLUTION 15-50 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF MICHAEL

PRETZER TO THE OPEN GOVERNMENT COMMISSION TO FILL AN UNEXPIRED TERM ENDING JANUARY 31, 2018

On motion of Mayor Patterson, Council adopted Resolution 15-50, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

D. PRESENTATIONS

1. MARIN CLEAN ENERGY (MCE) IMPLEMENTATION UPDATE

V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Four items received (copies on file).

B. PUBLIC COMMENT

1. Don Basso - Mr. Basso requested Council agendize the issue of getting involved with Proposition 13, the property tax law, to benefit the schools. He gave Council a copy of a draft resolution for consideration.
2. Carol Berman and Mike Caplan - Ms. Berman and Mr. Caplan discussed upcoming events sponsored by the Benicia State Parks Association and other groups.
3. Hunter Stern - Mr. Stern discussed an email he sent to Council regarding concerns about Marin Clean Energy (MCE).
4. Constance Beutel - Ms. Beutel discussed Patty Gavin's excellent leadership on the Community Sustainability Commission.

VII. CONSENT CALENDAR:

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted the Consent Calendar, as presented, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

- A. APPROVAL OF THE MINUTES OF THE MAY 19, 2015 CITY COUNCIL MEETING**
- B. CITY OF BENICIA ARTS AND CULTURE COMMISSION POLICY ON DISTRIBUTION OF FUNDS FOR GRANTEES AND FUNDRAISING**
- C. APPROVAL OF AMENDMENT TO AGREEMENT WITH EOA FOR TECHNICAL SUPPORT RELATED TO PERMITS AND RECYCLED WATER**

RESOLUTION 15-51 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO AGREEMENT WITH EOA, INC. FOR ADDITIONAL TECHNICAL SUPPORT SERVICES RELATED TO PERMITS AND RECYCLED WATER FOR THE PUBLIC WORKS DEPARTMENT FOR A NOT-TO-EXCEED COST OF \$23,500 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT TO AGREEMENT ON BEHALF OF THE CITY

- D. REVIEW OF APRIL WATER REPORT**
- E. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.**

VIII. BUSINESS ITEMS:

- A. CONSIDER RECOMMENDATION OF THE COMMUNITY SUSTAINABILITY COMMISSION FOR FUNDING CLIMATE ACTION PLAN SERVICES**

Christina Ratcliffe, Community Development Director, reviewed the staff report.

Council Member Campbell and Staff discussed the contract with Pacific Municipal Consultants (PMC), the amount of staffing and hours in the task-driven contract, and the savings that could go toward the second year of the contract.

Council Member Schwartzman and Staff discussed the hours per week in the contract, how much money the City is putting towards the program (not grants,

Good Neighbor Steering Committee (GNSC) funds, etc.).

Vice Mayor Hughes and Staff discussed the significant work Ms. Porteshawver has done for the City, the cost of the program, the dwindling GNSC funds, the drought, concern regarding spending General Fund money (and other monies), possibly moving to a one-year contract, accelerating the transition year, and possibly contracting the work to be done.

Council Member Strawbridge and Staff discussed her previous suggestion to negotiate with PMC on the cost, and paying for the Climate Action Plan (CAP) Coordinator out of the GNSC funds.

Council Member Campbell and Staff discussed concern regarding the cost of the contract, and accelerating the transition period.

Mayor Patterson and Staff discussed looking at how we transition into a staff position, not being able to leverage the opportunities that we have been able to do, not wanting to jump into having a staff person in charge of all of the things that CAP coordinator, not wanting to lose momentum going into the next year, and the need to be flexible and agile with regards to the VIP settlement funds, as there are many benefits to the flexibility and agility.

Council Member Schwartzman and Staff discussed the breakdown of the hourly rate in the contract, going with a one-year agreement for now, and bringing it back at the fiscal budget for recommendations for year two and whether the City could handle staffing the position in the future.

Vice Mayor Hughes discussed support for accepting the challenge of staffing the position in-house in the future.

Public Comment:

1. Sharon Maher, Vice Chair, Community Sustainability Commission (CSC), discussed Alex and the position's value, and why the Commission recommended continuance of the position.
2. Constance Beutel spoke of greenhouse gas reduction and City's action. Spoke of MCE and the work Ms. Porteshawver has done for the City.

Council Member Schwartzman thought it might be a challenge and a burden on staff to transition within one year. He could approve this with a caveat: 1) staffing and transition within a year might be a problem, two years might be better, and 2) he would like to see the grants that are awarded with the balance of the VIP GNSC funds be made available (minus the \$225,000) for direct water-related activities.

Council Member Campbell discussed lack of support for the 2-year contract, concerns regarding the cost of the contract, staff's involvement with CAP

coordinator projects, the CSC's lack of funding for programs, and what happens when VIP money runs out. He thinks the terms should be different.

Vice Mayor Hughes discussed the sacrifices and changes the City has and will experience because of the budget, concern regarding the cost of the contract, and the need to be flexible and reprioritize. He's still open to agreeing to a 1-year contract.

Councilmember Strawbridge and Staff discussed the money the City has for water projects, how the City will track the savings from using the MCE program, and whether it could be used for the CAP coordinator position.

Mayor Patterson and Staff discussed the idea of developing and fulfilling the idea of sustainability (MCE), justification for moving forward with the contract, the cost of consultants, understanding the reluctance on the second year, approving Staff's recommendation as submitted, and to provide direction that there should be a water-centric consideration for the grant-making process. Ms. Cardwell noted that Staff recommended doing at least a one-year contract and back with options for the second year, as there are programs in place and those could be jeopardized.

Council Member Schwartzman made a motion to approve recommendation to fund \$25,000 for year two with the direction that future GNSC grants be awarded to direct water oriented projects. Mayor Patterson seconded the motion. Council Member Schwartzman and Mayor Patterson voted yes. All other Council Members voted no. The motion did not pass.

Council Member Hughes offered an alternate motion to approve a 1- year contract with PMC for \$150,000, paid for by the Valero GNSC funds, with the expectation that we revisit the transition plan for two years and expedite it to one year, knowing full-well Council would have to reprioritize things. Council Member Schwartzman seconded the motion.

Mayor discussed concerns regarding programs dying and using GNSC funds to train staff, as the programs could die if all the time is spent transitioning the program to Staff.

Council Member Hughes clarified his motion, and read it as it was stated above.

Ms. McLaughlin clarified that the motion was approving the funding for the project. As a result of the direction it looks like Council is going, Staff would go back to PMC and renegotiate the tasks that will be done.

Mayor Patterson discussed concern regarding all of the focus being on transition, as we have to sustain the programs. Ms. McLaughlin stated it would be good to do this with input from the CSC and Staff to see how we could best accomplish that.

Council Member Schwartzman offered an amendment to the motion that it be

a one-year contract, \$150,000, and that it is the intent of parties to reprioritize projects with the intent of making the transition in one year. Vice Mayor Hughes confirmed he could live with the proposed language to move this item along.

Vice Mayor Hughes restated the motion was to approve a 1- year contract with PMC for \$150,000, to be paid for by the Valero GNSC funds, with the expectation that we revisit the transition plan and expedite it in order to complete the transition in one year, with the intent that the CSC, PMC, and Staff may need to reprioritize the projects/activities.

Ms. McLaughlin confirmed Staff would then bring the contract back for Council's approval.

Mayor Patterson stated she wanted Council to affirm the programs would be supported and there would be a transition.

Vice Mayor Hughes restated the motion was to approve a 1- year contract with PMC for \$150,000, to be paid for by the Valero GNSC funds, with the expectation that the proposal would be revisited, with the intent of possibly reprioritizing the projects and activities, and with the expectation that the transition is completed in one year.

Ms. McLaughlin and Council clarified that Council was approving the funding, and the contract would be brought back.

Mayor Patterson stated she would not be at the June 16th or 23rd Council meetings, as she would be out of town.

Ms. Cardwell discussed concerns regarding timing, as the contract expires 6/30/15. Bringing it back on 6/16 would be cutting it close. Staff wondered if Council could be flexible with the tasks in year one, and leaving the reprioritizing of tasks to the CSC and Staff to work out.

Mayor Patterson suggested including in the motion to continue the funding of the Climate Action Services for one year (as stated in the previous motion), with the direction from Council that the transition be expedited, and modification to existing programs, and that the contract would be approved by Council.

Staff suggested doing a short, interim contract during the time it would take to rework the contract.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved a 1- year contract with PMC for \$150,000, to be paid for by the Valero GNSC funds, with the expectation that the proposal would be revisited, with the intent of possibly reprioritizing the projects and activities, and with the expectation that the transition is completed in one year, and modification to existing programs and that the contract would be approved by Council, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

B. APPROVE THE MUNICIPAL BUDGET FOR FISCAL YEAR'S 2015-2017 INCLUDING THE BUDGET IMPLEMENTATION PLAN; THE ECONOMIC DEVELOPMENT SPECIALISTS JOB SPECIFICATION AND ADDITION TO THE CITY'S SALARY SCHEDULE; APPROPRIATIONS LIMIT FOR FISCAL YEAR 2015-2016; INVESTMENT POLICY FOR FISCAL YEAR 2015-2016; AND FEES FOR JULY 1, 2015

Karin Schnaider, Finance Director, reviewed the staff report and a PowerPoint presentation.

Council discussed whether to go through the entire staff report or do a quick version.

All departments briefly reviewed their PowerPoint slides.

Public Comment:

None

Council Member Campbell and Staff discussed the issue of overtime at the Fire Department, the Measure C funds, and repairs to the James Lemos Pool.

Vice Mayor Hughes and Staff discussed support for adding the additional 5% to the Human Services organizations, the budget funds for the Broadband project in the Industrial Park, and the master fee schedule.

Council Member Strawbridge and Staff discussed the Arts & Culture Commission funding, and support for raising human services groups by 10%.

Mayor Patterson confirmed there was support for modifying Human Services funding by 5%, which the motion for the budget resolution would reflect. She discussed her proposed amendments (copy on file) to the resolution adopting the budget.

Ms. Cardwell confirmed the amended resolution was pulling information from the staff report for consistency.

Mayor Patterson stated the motion would include the 5% increase to the Human Services grants, and adopt the amended resolution.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 15-52, as amended, on roll call by the

following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 15-53, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 15-54, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 15-55, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 15-56, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:44 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
June 16, 2015

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Vice Mayor Hughes called the meeting to order at 7:00 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

Mayor Patterson was absent.

All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Vice Mayor Hughes led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

Arts & Culture Commission
1 unexpired term
open until filled

Economic Development Board
2 unexpired terms
open until filled

Finance Committee
1 full term

open until filled

SoITrans Public Advisory Committee

1 full term

open until filled

Human Services Board

1 unexpired term

open until filled

Open Government Commission

1 unexpired term

open until filled

3. Mayor's Office Hours

4. Benicia Arsenal Update

Update from City Attorney

Heather McLaughlin, City Attorney, reported there were no updates. Staff continues to work with the consultants, and hope to have some good progress in the next month or so.

B. PROCLAMATIONS

C. APPOINTMENTS

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

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

Ayes: Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Three items received (copies on file).

B. PUBLIC COMMENT

None

VII. CONSENT CALENDAR:

Council pulled items VII.B and VII.F for discussion.

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

Ayes: Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

A. ACCEPTANCE OF PROPOSAL FOR PUBLISHING AND PRINTING LEGAL NOTICES FROM BENICIA HERALD AND APPROVAL OF AN AGREEMENT BETWEEN THE CITY AND BENICIA HERALD FOR FISCAL YEARS 2015/2016 AND 2016/2017

RESOLUTION 15-57 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE PROPOSAL FOR LEGAL PUBLICATIONS FROM THE BENICIA HERALD, AWARDING THE CONTRACT FOR FISCAL YEARS 2015/2016 AND 2016/2017, AND AUTHORIZING MAYOR AND CITY CLERK TO EXECUTE SAID CONTRACT

B. SUPPORT OF GRANT APPLICATIONS FOR THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 7 TO RECEIVE FUNDINGS TO ADDRESS TRAFFIC SIGNAL AT MILITARY WEST AND WEST 7TH STREET

RESOLUTION 15-66 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA IN SUPPORT OF GRANT APPLICATIONS TO THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 7 FOR FINANCIAL ASSISTANCE TO IMPROVE THE TRAFFIC SIGNAL AND STRIPING AT THE INTERSECTION OF MILITARY WEST AND WEST 7th STREET

Council Member Schwartzman and Staff discussed the issue of the traffic signal at Military and West 7th Street (Specifically the delay in the left-hand signal when turning left from Military onto West 7th Street.).

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 15-66, on roll call by the following vote:

Ayes: Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

- C. SUPPORT OF GRANT APPLICATIONS FOR THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 7 TO RECEIVE FUNDINGS TO ADDRESS THE CROSSING OF EAST 5TH STREET AT VECINO STREET**

RESOLUTION 15-58 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA IN SUPPORT OF GRANT APPLICATIONS TO THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 7 FOR FINANCIAL ASSISTANCE TO IMPROVE CROSSING AND SIDEWALK ALONG EAST 5th STREET AT VECINO STREET

- D. AWARD OF CHEMICAL CONTRACTS FOR WATER AND WASTEWATER TREATMENT FOR FISCAL YEAR 2015-2016**

RESOLUTION 15-59 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING BIDS AND AWARDING CONTRACTS TO THE LOWEST RESPONSIBLE BIDDERS FOR FURNISHING CHEMICALS FOR WATER AND WASTEWATER TREATMENT FOR FISCAL YEAR 2015-2016 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS ON BEHALF OF THE CITY

- E. APPROVE THE 2015-2016 CONTRACT SERVICES AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA MAIN STREET**

RESOLUTION 15-60 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AWARDING A CONTRACT FOR DOWNTOWN SUPPORT AND ACTIVITIES TO BENICIA MAIN STREET, IN THE AMOUNT NOT-TO-EXCEED \$100,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

- F. DENIAL OF CLAIM AGAINST THE CITY BY LAURA EYTAN AND REFERRAL TO INSURANCE CARRIER**

Council Member Campbell and Staff discussed the issue of the towing charge (seemed excessive). Staff stated that the towing contracts were renewed and the rates had increased.

Public Comment:

None

On motion of Vice Mayor Campbell, seconded by Council Member Strawbridge, Council approved the denial of claim against the City by Laura Eytan and referral to insurance carrier, on roll call by the following vote:

Ayes: Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

- G. DENIAL OF THE CLAIM AGAINST THE CITY BY KENNETH GOMES AND REFERRAL TO INSURANCE CARRIER
- H. APPROVAL OF A CONTRACT AMENDMENT FOR CONTINUED BUILDING INSPECTION AND PLAN CHECK SERVICES

RESOLUTION 15-61 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT AMENDMENT OF \$20,000, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$140,000 FOR FISCAL YEAR 2014-2015, WITH BUREAU VERITAS FOR BUILDING INSPECTION AND PLAN REVIEW SERVICES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

- I. APPROVE THE COMMITTED FUND BALANCES FOR FISCAL YEAR ENDING JUNE 30, 2015

RESOLUTION 15-62 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING GASB 54: FUND BALANCE REPORTING AND GOVERNMENTAL FUND TYPE DEFINITIONS

- J. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED MARCH 31, 2015
- K. CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FISCAL YEAR 2015-2016

RESOLUTION 15-63 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2015-2016

RESOLUTION 15-64 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2015-16

RESOLUTION 15-65 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THEREFORE SETTING A PUBLIC HEARING ON JULY 7, 2015 TO CONSIDER THE FISCAL YEAR 2015-16 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT

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

VIII. BUSINESS ITEMS:

- A. **APPEAL OF THE PLANNING COMMISSION DECISION TO DENY THE APPEAL AND UPHOLD THE ZONING ADMINISTRATOR'S APPROVAL OF A USE PERMIT FOR A LARGE FAMILY DAY CARE AT 579 COOPER DRIVE, AFTER A DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA**

RESOLUTION 15-67 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DENYING THE APPEAL AND UPHOLDING PLANNING COMMISSION RESOLUTION NO. 15-6 REGARDING APPROVAL OF A USE PERMIT TO ESTABLISH A LARGE FAMILY DAY CARE FACILITY WITH A MAXIMUM OF 14 CHILDREN AT 579 COOPER DRIVE (15PLN-00030)

Vice Mayor briefly explained the appeal before Council and how the appeal process worked.

Amy Million, Principal Planner, reviewed the staff report.

Council Member Campbell and Staff discussed the issue of the City inspections, stress-bearing walls, electrical issues, and whether the owner lived in the home.

Appellant:

The Appellant was not present.

Applicant:

Kristi Claverie, Applicant, discussed the various concerns raised by some of the neighbors (traffic, noise, etc.). She discussed concerns regarding attacks on her integrity, harassment, unsubstantiated claims regarding taxes, etc. She discussed concern regarding having to pay double mortgage on both homes during this process, and the hardship it had caused. She discussed the licensing process she went through and the standards she has to adhere to. She discussed construction she had done on her home. She had an electrician come out and inspect her home and complete various repairs. The electrician deemed her home safe. She was glad the inspectors came to her home and confirmed it was safe and up to codes. She urged Council to grant her childcare permit.

Council Member Schwartzman and Ms. discussed the balcony on the property.

Public Comment:

1. Dianna Brennan - Ms. Brennan spoke in support of Ms. Claverie's daycare business.
2. Kathy Lago - Ms. Lago spoke in support of Ms. Claverie's daycare

business.

3. Brian Stone - Mr. Stone spoke in support of Ms. Claverie's daycare business. He urged Council to waive her appeal fee.
4. James Claverie - Mr. Claverie spoke in support of his wife's daycare business. He urged Council to uphold the Planning Commission's decision to grant their use permit.
5. Abby Shaudell - Ms. Shaudell spoke in support of Ms. Claverie's daycare business.
6. Citizen - The citizen spoke in support of Ms. Claverie's daycare business.
7. Christine Willaker - Ms. Willaker spoke in support of Ms. Claverie's daycare business.

Public Hearing Closed.

Council Member Schwartzman discussed the Claverie's appeal process. He was concerned about the length of time it took for this appeal.

Council Member Campbell and Staff discussed the issue of the appeal being based on building code violations.

Council Member Strawbridge and Staff discussed whether the Claverie's process could be expedited (because of the delays they have had to go through). If approved tonight, they could occupy the home tomorrow. Council Member Strawbridge discussed the opportunity to educate neighbors in the City on the issue of in-home daycare businesses.

Vice Mayor Hughes discussed the importance of following the appeal process.

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, Council adopted Resolution 15-67, on roll call by the following vote:

Ayes: Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

B. Council Member Committee Reports:

1. **Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: September 16, 2015**
2. **Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Vice Mayor Hughes and Council Member Schwartzman) Next Meeting Date: TBD**

3. **Finance Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: June 25, 2015**
4. **League of California Cities. (Mayor Patterson and Vice Mayor Hughes) Next Meeting Date: June 29, 2015**
5. **School Liaison Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: July 30, 2015**
6. **Sky Valley Open Space Committee. (Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: TBD**
7. **Solano EDC Board of Directors. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: July 9, 2015**
8. **Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Campbell) Next Meeting Date: July 8, 2015**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson, Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: August 13, 2015**
10. **Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: July 16, 2015**
11. **Tri-City and County Cooperative Planning Group. (Vice Mayor Hughes and Council Member Schwartzman) Next Meeting Date: September 14, 2015**
12. **Valero Community Advisory Panel (CAP). (Council Member Campbell and Council Member Schwartzman) Next Meeting Date: TBD**
13. **Youth Action Coalition. (Vice Mayor Hughes and Council Member Strawbridge) Next Meeting Date: June 24, 2015**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. <http://www.baywaterforum.org/> (Mayor Patterson) Next Meeting Date: TBD**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Vice Mayor Hughes and Council Member Campbell) Next Meeting Date: June 18, 2015**
16. **MARIN CLEAN ENERGY (MCE). (Council Member Schwartzman**

and Council Member Strawbridge) Next Meeting Date: TBD

IX. **ADJOURNMENT:**

Vice Mayor Hughes adjourned the meeting at 7:57 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 2, 2015

TO : City Manager

FROM : Public Works Director

SUBJECT : **AWARD OF ROCK, FITTINGS AND HARDWARE PURCHASES FY 15/16**

RECOMMENDATION:

Adopt resolutions:

1. Authorizing the purchase of crushed aggregate rock for Fiscal Year 2015-2016 from Syar Industries Inc. of Vallejo, California, for a not-to-exceed cost of \$56,000.
2. Authorizing the purchase of water distribution pipeline fittings and hardware for Fiscal Year 2015-2016 from Roberts & Brune Co. of Oakley, California, for a not-to-exceed cost of \$75,000.

EXECUTIVE SUMMARY:

This action authorizes the purchase of crushed aggregate rock for repair and maintenance of City streets and utility pipelines; authorizes the purchase of fittings and hardware for repair and maintenance of water distribution pipelines. Sufficient funds are available and have been budgeted for these items.

BUDGET INFORMATION:

The cost of purchasing crushed aggregate rock for Fiscal Year 2015-2016 will not exceed \$56,000. Sufficient funds are budgeted and \$31,000 will be charged to Account No. 090-8215-8809 (Street Repairs) and \$25,000 will be charged to Account No. 090-8215-9856 (Service Line Replacement.)

The cost of purchasing water distribution pipeline fittings and hardware for Fiscal Year 2015-2016 will not exceed \$75,000. Sufficient funds are budgeted and \$30,000 will be charged to Account No. 090-8215-8777 (Fittings and Hardware) and \$45,000 will be charged to Account No. 090-8215-9856 (Service Line Replacement).

GENERAL PLAN:

Relevant General Plan Goals:

- Goal 2.28: Improve and maintain public facilities and services.

- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #4: Preserving and Enhancing Infrastructure
- Strategic Issue #1: Protecting Community Health and Safety

BACKGROUND:

Crushed Aggregate Rock

The Public Works Maintenance Division repairs and maintains City streets and water, sewer and storm drain pipelines. Crushed aggregate rock is used to backfill excavations after work has been completed. City staff purchases the rock from Syar Industries Inc. to maintain inventory levels and on an as-needed basis.

Syar Industries Inc. on Lake Herman Road in Vallejo is the only manufacturer of crushed aggregate rock within a reasonable distance from Benicia; therefore, this is a sole source purchase. The next closest rock supplier is Esparto in Yolo County; however, only smooth river rock can be supplied, which does not meet City specifications for compaction. Further, the City receives reasonable delivery prices due to the close proximity of Syar and saves wear and tear on City dump trucks when staff must pick up the rock. In accordance with Benicia Municipal Code Section 3.08.090C, bid procedures are waived when the commodity can only be obtained via sole source procurement. Based on the total amount spent on this product last fiscal year, staff recommends purchasing crushed aggregate rock for Fiscal Year 2015-2016 from Syar Industries Inc. for a not-to-exceed cost of \$56,000.

Fittings and Hardware

The distribution system consists of 160 miles of pipelines that deliver drinking water from the water treatment plant to customers. The Public Works Maintenance Division repairs and maintains the water distribution pipelines. Products such as fittings, couplings, valves, clamps, nuts and bolts are needed for this work.

A Request for Quotation (RFQ) for fittings and hardware was sent to four qualified vendors in accordance with City policy. Three of the four responded. The quotes below represent the total cost for one of each type of fitting and hardware product since it is impossible for staff to determine exactly how many of each item they will need during a fiscal year.

RANK	VENDOR'S NAME AND CITY	QUOTE
1	Roberts & Brune Company Oakley, CA	\$486.16
2	Groeniger & Company/Ferguson Hayward, CA	\$509.50
3	Corix Water Products Pittsburg, CA	No Response
4	Ferguson Enterprises, Inc Pittsburg, CA	Incomplete

Roberts & Brune Company is the lowest responsible and responsive bidder. The City has purchased fittings and hardware from Roberts & Brune for the past eight years and staff has been pleased with the service. The service from Roberts & Brune also includes emergency after hour service. They have located and delivered parts to emergency job sites at all hours of the day and night.

Based on the total amount spent on these products last fiscal year, staff recommends purchasing water distribution pipeline fittings and hardware for Fiscal Year 2015-2016 from Roberts & Brune Company for a not-to-exceed cost of \$75,000.

Attachments:

- Proposed Resolution (Crushed Aggregate Rock)
- Proposed Resolution (Fittings and Hardware)

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF CRUSHED AGGREGATE ROCK FOR FISCAL YEAR 2015-2016 FROM SYAR INDUSTRIES INC. OF VALLEJO, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$56,000

WHEREAS, crushed aggregate rock is needed for staff to repair and maintain City streets and utility pipelines; and

WHEREAS, Syar Industries Inc. is the only manufacturer within a reasonable distance from Benicia of crushed aggregate rock; therefore, this purchase must be sole-sourced; and

WHEREAS, in accordance with Benicia Municipal Code Section 3.08.090C, bid procedures are waived when the commodity can only be obtained via sole source procurement.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the sole source purchase of crushed aggregate rock for Fiscal Year 2015-2016 from Syar Industries Inc. of Vallejo, California, for a not-to-exceed cost of \$56,000 [\$31,000 will be charged to Account No. 090-8215-8809 (Street Repairs) and \$25,000 will be charged to Account No. 090-8215-9856 (Service Line Replacement).]

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 7th day of July, 2015, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF WATER DISTRIBUTION PIPELINE FITTINGS AND HARDWARE FOR FISCAL YEAR 2015-2016 FROM ROBERTS & BRUNE CO. OF OAKLEY, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$75,000

WHEREAS, fittings and hardware are needed for City staff to repair and maintain water distribution pipelines; and

WHEREAS, a Request for Quotation (RFQ) for fittings and hardware was sent to four qualified vendors in accordance with City policy; and

WHEREAS, Roberts & Brune Co. of Oakley, California, was determined to be a responsible vendor submitting the lowest responsive quote.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the purchase of water distribution pipeline fittings and hardware for Fiscal Year 2015-2016 from Roberts & Brune Co. of Oakley, California, for a not-to-exceed cost of \$75,000 [\$30,000 will be charged to Account No. 090-8215-8777 (Fittings and Hardware) and \$45,000 will be charged to Account No. 090-8215-9856 (Service Line Replacement).]

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 7th day of July, 2015, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 11, 2015

TO : City Manager

FROM : Library Director

SUBJECT : **AMENDMENT TO THE ARTS AND CULTURE COMMISSION'S
ORDINANCE CHANGING TIME, FREQUENCY, AND LOCATION
OF MEETINGS**

RECOMMENDATION:

Introduce an ordinance to amend Chapter 2.104 (Arts and Culture Commission) of Division 2 (Boards and Commissions) of Title 2 (Administration and Personnel) of the Benicia Municipal Code to revise Subsection 2.104.040 to hold monthly meetings starting at 6:30 in the Library's Edna Clyne Room.

EXECUTIVE SUMMARY:

The Arts and Culture Commission, established in 2009, was created with a broad scope of work designed to facilitate, encourage, promote and stimulate Arts and Culture in Benicia. To meet the goals established through their purpose and mission statement, the Commission has found it necessary to meet more frequently than every other month as is currently described in the Municipal Code. Therefore, the Arts and Culture Commission is requesting an amendment to allow them to hold regular meetings on a monthly basis, to change the meeting time from 7:00 to 6:30, and to change the locations of the meetings to the Library's Edna Clyne Room.

BUDGET INFORMATION:

This will have minimal budget impact. The ACC has been holding regular and special meetings on a monthly basis to conduct their business, so no additional staff time will be required for this increase.

GENERAL PLAN:

Relevant Goals and Policies:

- Goal 3.6: Support and promote the arts as a major element of Benicia's community identity.

STRATEGIC PLAN:

Relevant Strategic Plan Issue and Strategies:

- Strategic Plan Issue #5: Maintain and Enhance a High Quality of Life

- Strategy #3: Promote arts and culture

BACKGROUND:

When the Arts and Culture Commission (ACC) was formed in 2009, the range of responsibilities and duties assigned were wide-ranging, and as the commissioners explored the possibilities of enhancing arts and culture in the community, it quickly became apparent that they needed to increase the frequency of commission meetings. Since the need for frequent meetings has not declined in the five years since the commission was formed, the commission is recommending that the Municipal Code be amended to approve their meeting on a monthly basis. Not only do regular meetings allow the commission to communicate better with each other, but they also allow the commission to pay the grantees shortly after the end of each quarter, rather than requiring them to wait an additional month for payment.

The ACC is also recommending that the meeting time be moved slightly, from 7:00 p.m. to 6:30 p.m. and that the meetings be held in one of the Library's meeting rooms, providing staff with easier access to information, a copier machine, and other equipment if necessary.

Attachment:

- Proposed Ordinance

CITY OF BENICIA

ORDINANCE NO. 15-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 2.104 (ARTS AND CULTURE COMMISSION) OF DIVISION 2 (BOARD AND COMMISSIONS) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE BY REVISING SECTION 2.104.040 TO AMEND THE COMMISSION'S MEETING TIME AND PLACE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

Section 2.104.040 (Meeting time and place) of Chapter 2.104 (Arts and Culture Commission) of Division 2 (Boards and Commissions) of Title 2 (Administration and Personnel) is revised to read as follows:

2.104.040 Meeting Time and Place. The commission shall meet on the second Thursday of each month at the hour of 6:30 p.m. in the Library's Edna Clyne Conference Room, 150 East L Street, Benicia, California.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 7th day of July, 2015, and adopted at a regular meeting of the Council held on the _____ day of _____, 2015, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR**

DATE : June 15, 2015

TO : City Manager

FROM : Finance Director

SUBJECT : **RESOLUTION SETTING THE FISCAL YEAR 2015-16 SECURED TAX RATE FOR BONDED INDEBTEDNESS FOR THE REFUNDING GENERAL OBLIGATION BONDS, SERIES 2012**

RECOMMENDATION:

Adopt the resolution setting the Fiscal Year 2015-16 bonded indebtedness tax rate for the Refunding General Obligation Bonds, Series 2012.

EXECUTIVE SUMMARY:

Each year, the City is required to adopt a resolution setting the bonded indebtedness secured tax rates for placement on the Solano County property tax roll. Due to a slight increase in Assessed Valuation, the rate for each homeowner will have a decrease from last year's .0137 to .0130 per hundred dollars of assessed valuation. The total amount to be collected on the property tax roll for Fiscal Year 2015-16 is \$639,445, which will be used to pay the principal and interest payments on the 2012 Refunding General Obligation Bonds.

BUDGET INFORMATION:

There is no budget impact for the City.

GENERAL PLAN:

There is no General Plan impact.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
 - Strategy 4.00: Manage City Finances prudently

BACKGROUND:

Each year at this time, the City Council adopts a resolution setting the secured tax rate for debt service on outstanding general obligation bonds for the coming fiscal year. This resolution is then forwarded to the Solano County Auditor-Controller for inclusion on the property tax roll for City of Benicia property owners.

The proposed resolution sets the tax rate for the Refunding General Obligation Bonds, Series 2012. The tax rate is calculated using the County's estimate of \$4.912 billion for the City of Benicia's secured assessed valuation for Fiscal Year 2015-16. The proposed Fiscal Year 2015-16 tax rate of \$.0130 per hundred dollars of assessed valuation will generate an estimated \$639,445 to fund the annual debt service payments on the outstanding bonds. The Fiscal Year 2015-16 tax rate of .0130 is approximately 5 percent less than the Fiscal Year 2014-15 tax rate of .0137. For Fiscal Year 2015-16, a property with assessed valuation of \$300,000 would receive an assessment of \$39.05 ($\$300,000/100 \times .0130$).

Attachments:

- Resolution
- Attachment 1 – Calculation of Ad Valorem Secured Tax Rate

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SETTING THE FISCAL YEAR 2015-16 SECURED TAX RATES FOR THE REFUNDING GENERAL OBLIGATION BONDS, SERIES 2012

WHEREAS, the City is required to set tax rates on secured property for payment of the refunding general obligation bonds indebtedness.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby adopts the following secured tax rates required to pay the City of Benicia bonded indebtedness:

SECURED TAX RATES REQUIRED FOR FISCAL YEAR 2015-16

<u>BOND</u>	<u>AMOUNT</u>	<u>RATE PER \$100</u>
Refunding General Obligation Bonds	\$639,445	0.0130

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 7th day of July, 2015 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

Date

Attachment 1

**City of Benicia Refunding General Obligation Bonds, Series 2012
Calculation of Ad Valorem Secured Tax Rate for Fiscal Year 2015-16**

	<u>2012 Wastewater Bonds</u>	
Net Unsecured Tax Roll	\$ 258,170,391	
Adjusted Unsecured Tax Roll	2,581,704	
FY 14-15 Secured Tax Rate	<u>0.01370</u>	
	35,368	
Principal and Interest	674,813	
less amount paid by unsecured	<u>(35,368)</u>	
Total to be paid by Secured Tax Roll	<u><u>\$639,445</u></u>	
Net Local Secured	4,911,152,346	
SBE values	<u>1,131,561</u>	
Net Total Secured	4,912,283,907	
Adjusted	49,122,839	
Tax Rate for FY 15-16	<u>639,445</u> = 0.01302	
	49,122,839	

Tax on \$300,000 Assessed Value

Balance Due:	<u>\$ 2,310,000</u>
Total Tax Base	\$ 51,704,543
Example based on \$300,000	300,000
Tax Rate for FY 15-16	<u>0.0130</u>
	3,905
	100
Total Tax on \$300,000 Assessed Value	<u><u>\$ 39.05</u></u>

	<u>2012 Refunding GO Bonds</u>
<u>Debt Requirements</u>	
Interest	\$ 14,438
Interest	10,375
Principal	<u>650,000</u>
Total Debt Requirement for FY	<u><u>\$ 674,813</u></u>

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 23, 2015

TO : City Manager

FROM : Public Works Director

SUBJECT : **CITY OF BENICIA'S RESPONSE TO 2014-15 SOLANO COUNTY GRAND JURY REPORT "MITIGATING WATER LOSS"**

RECOMMENDATION:

To approve staff's response to the 2014-15 Solano County Grand Jury Report entitled "Mitigating Water Loss."

EXECUTIVE SUMMARY:

The 2014-15 Solano County Grand Jury investigated the water loss and accountability of the municipal water systems throughout the County of Solano. The Grand Jury issued a report of their findings and associated recommendations to which the City of Benicia needs to respond in writing under State law. The City Council must first approve the response.

BUDGET INFORMATION:

Responding to these recommendations will require a significant financial investment by the City of Benicia. Most of the actions have been identified in the 2015-2025 Capital Improvement Program for the Public Works Department. However, not all have been incorporated in to the Water Fund budget. Staff anticipates discussing the costs associated with implementing the Grand Jury recommendations as part of the upcoming water rate and meter installation study sessions.

GENERAL PLAN:

Relevant General Plan Goals:

- Overarching Goal of the General Plan: Sustainability
- Goal 2.28: Improve and maintain public facilities and services
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses.

STRATEGIC PLAN:

Relevant Strategic Plan issues:

Strategic issue #1: Protecting Community Health and Safety

Strategic issue #2: Protecting and Enhancing the Environment

Strategic issue #3: Preserving and Enhancing infrastructure

BACKGROUND:

The 2014-215 Solano County Grand Jury investigated the water loss and accountability of the municipal water systems throughout the County of Solano. The Grand Jury issued a report of their findings and recommendations to which the City is required to reply. Their report identified that Benicia did not conduct regularly scheduled water audits in order to discover the origins of the reported 26% unaccounted for water loss in the distribution system. The Grand Jury made four (4) recommendations to Benicia: 1) Conduct routine scheduled water audits in order to improve control of water loss and for water supply planning; 2) Identify and replace aging infrastructure; 3) Develop a program to address inaccurate water meters; and 4) Expand and enforce water conservation measures for residential and business customers.

City staff reviewed the report and prepared the attached draft response letter for City Council review and approval.

Attachments:

- Letter of Response to Solano County Grand Jury
- Grand Jury Report on Mitigated Water Loss

July 7, 2015

Honorable E. Bradley Nelson
Presiding Judge
Superior Court of the State of California
County of Solano
675 Texas Street
Fairfield, CA 94533

Subject: Grand Jury Final Report on Water: Mitigating Water Loss

Dear Honorable Presiding Judge Nelson:

Pursuant to the provisions of Section 933.05 of the California Penal Code, the governing body of any public agency subject to the Grand Jury's review authority must respond to recommendations and findings pertaining to matters under their control. Therefore, the purpose of this letter is to comply with the aforementioned law and to advise you that after review of the 2014-2015 Solano County Grand Jury Report on Mitigating Water Loss, the Council of the City of Benicia accepts the Report. In the report, the Solano County Grand Jury requested that the City of Benicia respond to findings and recommendations 1, 2, 3, and 4.

The 2014-15 Solano County Grand Jury investigated the water loss and accountability of the municipal water systems throughout the County of Solano. The report identified that Benicia did not conduct regularly scheduled water audits in order to discover the origins of their reported 26% unaccounted for water loss in the distribution system. The Grand Jury made 4 recommendations to Benicia: 1) Conduct routine scheduled water audits in order to improve control of water loss and for water supply planning; 2) Identify and replace aging infrastructure; 3) Develop a program to address inaccurate water meters; and 4) Expand and enforce water conservation measures for residential and business consumers.

Each of these recommendations will create a considerable financial impact on the general and enterprise funds. These fiscal impacts have been identified in the 2015-2025 Capital Improvement Program for the Public Works Department. Implementation of each recommendation will be methodically planned in order to be sustainable in the Water Division financial reserves.

BACKGROUND:

On January 17, 2014, the Governor declared a drought and asked for 20% voluntary water reduction. On April 1, the Governor mandated a 25% statewide reduction from 2013 usage.

The City of Benicia has a population of approximately 28,000 people, 8,500 residential water meter service connections, and 1,000 commercial, industrial and institutional connections. The City purchases approximately 10,000 acre - feet or 3.3 billion gallons of water per year, and half of this water is used at the Valero Oil Refinery. The State Water Project (SWP) supplies 75% to 85% of the City's water from the Sacramento - San Joaquin Delta and the Solano Project (SP) supplies 15% to 25% of the City's water from Lake Berryessa. Lake Herman has historically been used as an emergency water supply and temporary storage reservoir.

The City has 3,100 acre-feet of reliable water supply and has purchased water from various agencies when needed. Allocations of water from the SWP have varied from 5% to 65%. The 2015 SWP allocation is 25%. When the allocation exceeds 35%, the City has an adequate water supply. Some of the SWP and SP water that is allocated and not used can be carried over or "banked" for use in future years. Approximately 10,000 acre-feet of Solano Project water has been "banked" in Lake Berryessa for use during a drought.

The City is managing its water supply to maximize the use of the allocated State Water Project water, conserve Solano Project water that can be stored/banked in Lake Berryessa, maximize Lake Herman water storage and delivery, and make improvements to components of the water infrastructure to ensure reliability and redundancy. All of these efforts are intended to ensure, to the extent feasible, an adequate water supply through December 2017 in case the drought continues. A forecast of Benicia's water source supply through 2018 is attached. In December 2014, Benicia customers reached the goal of 20% water conservation.

Monthly reports about residential customer water use are submitted to the State Water Resources Control Board (SWRCB). In April, Benicia's water conservation rate was 35.7%, compared to the statewide average of only 13.5%. Benicia's per capita water use was 73 gallons per person per day (GPPD) in April, compared to the statewide average of 91 GPPD, which is the latest information available.

FINDING 1: *Not all of the cities are conducting regularly scheduled water audits.*

GRAND JURY RECOMMENDATION 1: *Each city conduct routine scheduled water audits in order to improve control of water loss and for water supply planning.*

City's Response to Finding 1 and Recommendation 1

The City agrees with the finding. The City of Benicia will initiate a semi-annual water audit during the months of July and January. Utilizing the American Water Works Association (AWWA) free "Water Audit Software Package (version 2.0) as the standard tool of water accounting, water production and consumption data will be measured for the periods of January – June (July water audit) and from July – December (January water audit). These audits will become an internal business requirement of the Water Division and made available to internal and external customers.

The inception of the July 2015 Water Audit will be crucial in determining how much of our water losses are real versus apparent, and specifically, how much is a non-revenue water loss. Information gleaned from this audit will determine the extent and direction of a formal leak detection program, as well as a water meter reliability program.

Scott Rovanner, Water Treatment Plant Superintendent, will serve as the Water Audit coordinator. The City has already invested in three AWWA guidance tools:

- Water Audit Software Package (V 2.0)
- Water Audits and Loss Control Program, Manual of Water Supply Practices, M36, 3rd Edition
- Water Loss Control, 2nd Edition

It is the City's intent to reduce its "unaccounted for water" from the current 26% to a value that is less than 10%. Based on other water loss control programs in the nation, the City will transition from a "percentage-based" loss indicator to a "volume-based" metric. Water loss, whether true water loss or apparent water loss, is more translatable when annual comparisons are based on unit volumes, not statistical variations. Volume have the inherent foundation of being converted to a lost revenue value. As an example, inaccurate or low reading water meters exert a "retail water value" loss to the utility. A water main break or undiscovered leaks exert a "wholesale water value" loss, because the water represented the cost of transmission, treatment, and distribution (wholesale). Apparent water losses are due to meter performance, meter reading anomalies, and billing computations, and thus, represents water "lost" after it was delivered to customer's meter (retail).

The semi-annual water audit will also confirm the reliability of the water meters within the distribution system. As the City moves forward in a full water meter replacement program and deployment of an automated meter infrastructure (AMI), water audits will measure the component of non-revenue water due to meter data, and thus, identify true water lost due to leaks and main breaks.

FINDING 2: *All the cities face deteriorating water delivery infrastructure.*

GRAND JURY RECOMMENDATION 2: *Each city identify and replace aging infrastructure.*

City's Response to Finding 2 and Recommendation 2

The City agrees with the finding. In 2012, NV5 prepared a comprehensive Water Master Plan on behalf of the City of Benicia. This plan identified the need to repair and/or replace several water mains that are critical to the delivery of water within the City. The City is currently seeking funding to complete these projects.

The City also established a water service replacement program in 2000 to replace existing polyethylene pipe service laterals with copper pipe within the Southampton Subdivision. The existing service laterals were experiencing premature leaks and failures due to high water pressures in the area. Under this program approximately 80% of the polyethylene pipes have been replaced. Other mains, such as the cast iron pipes and asbestos concrete pipes in the older downtown area, have been

replaced in order to reduce the risk of pipe failure associated with aging infrastructure.

In April 2015, the City initiated a water leak detection project. This project is expected to be completed in October with identified repairs to be completed by December 2015. The City intends to expand this project into a water main condition assessment program where the condition of the mains will be evaluated on a regular basis in order to identify deterioration trends. Projects can then be developed to minimize future water loss from leaks and main breaks.

The City is currently in the process of placing water assets into a Geographic Information System (GIS) and Computerized Maintenance Management System (CMMS) to track water infrastructure age and maintenance history. Reports from these systems will provide the City with data that will be used to prioritize the maintenance and repair of water distribution infrastructure for capital improvement projects.

FINDING 3: *All the cities have identified under-recording water meters as a cause of apparent water loss.*

GRAND JURY RECOMMENDATION 3: *Each city comply with programs to address inaccurate reading water meters.*

City's Response to Finding 3 and Recommendation 3

The City agrees with the finding. The City of Benicia does not maintain a water meter reliability program. Nearly 60% of the residential water meters are 30 years or older and nearly all of the commercial meters are over 40 years in age. All of the City's water meters are mechanical by design, and over time, mechanical meter accuracy deteriorates. The City does not have a meter testing program. Meters are replaced when it becomes apparent that the meter is reading low or not at all. It is theorized that at least half of the unaccounted for water percentage of 26% is due to meter inaccuracy.

The City of Benicia Public Works Department has determined that the most fiscally-responsible approach to resolving this problem is to replace the mechanical meters with solid state (non-mechanical) water meters. There are two major types of solid state water meters, ultrasonic and magnetic. Due to established data where by solid state water meters maintain their accuracy (within 2%) over their 20 year life cycle, the Department will be recommending to the City Council that

approximately 9,800 water meters be replaced, switching from a mechanical to a solid state design. The Department also is recommending that an automated meter infrastructure (AMI) be constructed, allowing the Finance Department to collect water meter data on a daily basis (if not hourly), as compared to the bi-monthly frequency the City currently employs. A properly integrated AMI system will provide useful flow data to the City as well as for the customer.

The Department will also institute a Water Meter Testing Program, whereby all water meters will be tested at an independent meter testing laboratory on a pre-determined schedule. The goal is to have this program instituted within 5 years after the deployment of the new solid state meters and will necessitate a computer maintenance management system that will track meter testing and eventual replacement.

If the City Council approves of the Department's recommendation, a "Request for Proposal" to hire a contractor to administer and deploy the equipment will be issued. Staff is intending on bring this to the City Council for discussion this fall. If approved the goal is to have the water meter replacement and AMI deployment completed in 2016.

FINDING 4: *All the cities have developed water loss mitigation and conservation programs that serve their communities.*

GRAND JURY RECOMMENDATION 4: *Each city enforce and continue expanding water conservation measures for residential and business consumers.*

City's Response to Finding 4 and Recommendation 4

The City agrees with the finding. On April 1, 2015, Governor Brown issued an Executive Order mandating a 25% reduction in water use for all urban water users from 2013 usage. The cuts apply to all California urban water suppliers, who are classified into tiers based on per capita water consumption with reduction targets for each agency ranging from 8% to 36% depending on the residential daily water use per person. On June 9, 2015 Benicia's water conservation target was reduced from 28% to 20%. Benicia's target was adjusted after the City submitted revised gallon per person calculations that more accurately reflected water production in 2014 and complied with the Water Board's reporting requirements. Benicia already is way ahead of state-mandated targets. The efforts of all Benicia water customers are acknowledged and appreciated. Not only

are residents exceeding state-mandated goals, Benicia's conservation rate in May was among the highest in the state.

The table below shows Benicia's residential gallons per capita per day by month. These figures are calculated by multiplying the monthly treated water production by the residential percentage of treated water (54%), multiplying by a conversion factor of 325,851, dividing by Benicia's population (28,086) and then dividing by the number of days in the month.

Residential – Gallons Per Capita Per Day (R-GPCD)

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2013	72	84	100	114	147	135	138	134	126	112	92	85
2014	83	70	71	82	112	120	113	104	100	86	67	58
2015	62	60	70	73	81							

The following table shows the amount of water the City municipal meters have used since 2013.

City Facilities Metered Water Use (in acre-feet)

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2013	8.8	2.3	10.0	18.9	17.9	57.5	22.9	63.3	21.7	50.6	17.8	16.2
2014	10.0	13.6	11.8	4.8	12.5	26.8	22.1	40.3	17.6	30.8	14.1	7.4
2015	4.9	1.6	8.9	6.6	9.8							
2014 percent difference from 2013	13.6%	491.3%	18.0%	-74.6%	-30.2%	-53.4%	-3.5%	-36.3%	-18.9%	-39.1%	-20.8%	-54.3%
2015 percent difference from 2013	-44.3%	-30.4%	-11.0%	-65.1%	-45.3%							

The City of Benicia has demonstrated that a well-crafted "Emergency Outdoor Water Conservation Ordinance" and a proper public outreach to its customers will result in a significant reduction of water usage, as evident in the City's ability to meet the 20% water conservation goal by the end of 2014. Through May of 2015, the City's customers are conserving nearly 29% as compared to 2013.

The City employs many public outreach tools to remind its customers of the severity of the current drought and the need to continue to conserve water. These efforts include:

- A municipal recycled water pilot at the WWTP to reduce seal water consumption
- A “cash for grass” program in partnership with the Solano County Water Agency, where Benicia customers will be reimbursed for removing lawns
- Water comparison metrics on the customers water bills, demonstrating historic demand data and comparisons to a similar household
- Water conservation “give-aways” such as low flow shower heads, sprinkler timers, hose devices, and toilet leak indicator tablets
- Rebates for the replacement of toilets and washing machines
- Poster, banners, and table signage urging customers to reduce water usage

In concert with the City water conservation efforts, the Public Works Department has been working on long-term water procurement agreements with neighboring agencies within Solano County. In 2014, the City purchased 4,000 acre-feet of Vacaville’s “banked” carry-over water in Lake Berryessa. The City is also pursuing a similar procurement of Solano Project carry-over water owned by the University of California at Davis. The Water Treatment Plant is maximizing its efforts to pump and treat the Origin of Area Settlement Water it negotiated with the Department of Water Resources (DWR) in 2009. Settlement water is Delta water pumped at the same location as the State Water Project. The City does not pay for the 10,500 acre-feet, but must pay DWR for the conveyance through the North Bay Aqueduct. Settlement water is often available in the winter months, but its water quality is so poor that treatment results in non-compliance of the Disinfection Byproduct Rule. The WTP will blend higher quality Solano Project water with the lower quality Settlement Water in 2016, thus utilizing a major source within the City’s source water portfolio.

WATER CONSERVATION

Governor’s April 1 Executive Order

Other Solano County cities have required cuts ranging from 16% for Vallejo to 36% for Rio Vista.

The per capita water use only includes treated drinking water, and does not include industrial use of untreated water by the Valero Oil Refinery.

The City will need to reduce the amount of water leaving the Water Treatment Plant each month (TMP) by 20%. This could be achieved by reducing leaks or reducing use by all customers, which includes residential, commercial, industrial, institutional, and City. Even though reducing outdoor water use is the easiest way to achieve the goal and the gallons per person per day calculation was used to set the tiers, it is the TMP that is being measured for the percent reduction.

The mandatory reduction is not added to the voluntary reduction in 2014. If the average reduction by all residential water customers is less than the mandatory reduction, then the water rate payers could be subject to paying \$10,000 per day through increased water bills.

Mandatory Outdoor Water Restrictions and SWRCB Emergency Regulations

On July 1, 2014, City Council enacted mandatory restrictions on outdoor water use. Since outdoor water use accounts for about 50% of residential water demand, this was an effective conservation measure that was critical to reaching last year's 20% reduction goal. The restrictions apply to both residential and commercial customers and will remain in effect until the City Council declares an end to the water shortage emergency.

On March 17, 2015, the SWRCB adopted emergency water conservation regulations that expand the regulations adopted in July 2014. One of the major provisions continued from 2014 is that urban water providers like Benicia must implement the stage of their drought contingency plan that requires mandatory outdoor water restrictions (or limit watering to twice per week if they do not have a contingency plan). Benicia's contingency plan restricts outdoor water use to three days per week, as described below.

On April 1, watering restrictions, which restrict use of sprinklers to three days per week, changed back to the spring/summer schedule as follows:

- Residents with addresses ending in an odd number (1, 3, 5, 7 or 9) can only water on Mondays, Wednesdays and Fridays.
- Residents with addresses ending in an even number (0, 2, 4, 6 or 8) can only water Tuesdays, Thursdays and Saturdays.
- Residents are allowed to water on their designated day only, before 8:00 am or after 7:00 pm.

There are exceptions for hoses with a shut-off nozzle, drip irrigation, watering container plants and for watering turf at recreational areas.

New rules in the March 17 SWRCB regulations include the following:

- Restaurants and other food service establishments can only serve water to customers on request.
- Operators of hotels and motels must provide guests with the option of choosing not to have towels and linens laundered daily and prominently display notice of this option.
- Water agencies are required to notify customers when they are aware of leaks within the customer's control.
- Monthly reporting requirements will now include the limit on outdoor irrigation and a description of enforcement efforts.

City staff delivered table cards to local restaurants in 2014 and have been working with local restaurants and hotel/motels to ensure that these regulations are followed. This outreach was completed in May.

The following is a summary of Benicia's water conservation enforcement actions, which are reported to the State:

Monthly Enforcement Statistics	Jan	Feb	Mar	Apr	May
Water Waste Complaints	0	0	0	14	13
Contact Follow-ups	0	0	0	14	13
Warning Actions (door hangers)	1	4	10	15	1
Warning Letters	0	0	1	0	1
Penalties (fines issued)	0	0	0	0	0

Solano County Turf Replacement Program Update

The Solano County Water Agency (SCWA) has administered a turf-replacement program since 2010 using state Proposition 84 grant funding that provides rebates to residents who replace their water thirsty lawn with drought-tolerant landscaping. This program will reimburse a property owner \$1.00 per square foot, up to \$1,000 per project. With the additional funding SCWA received for this rebate program in March, SCWA is now accepting new applications for \$1.00/square foot, up to \$1,000.

Last year, the Benicia Community Sustainability Commission (CSC) provided a \$100,000 grant funding for an additional \$1.00/ sq. ft. rebate for Benicia residents for an enhanced rebate of \$2.00 per sq. ft., up to \$2,000, until the grant funds are exhausted. As of May 8, \$83,187 of the \$100,000 CSC grant has been paid to 107 Benicia residents. The balance remaining of \$16,813 will go to residents that are already in the queue, on a first come first serve basis. As of May 8, there were 51 Benicia residents in the queue.

Public Works applied for another \$100,000 grant through the CSC on May 15 since this is a popular water conservation rebate program. If that grant is awarded, then the rebate will resume to \$2.00 per square foot, up to \$2,000.

Other Water Conservation Programs and Activities

With the onset of summer weather and the April 1 change in outdoor water restrictions, the City is implementing a multi-pronged public outreach campaign that includes the following elements:

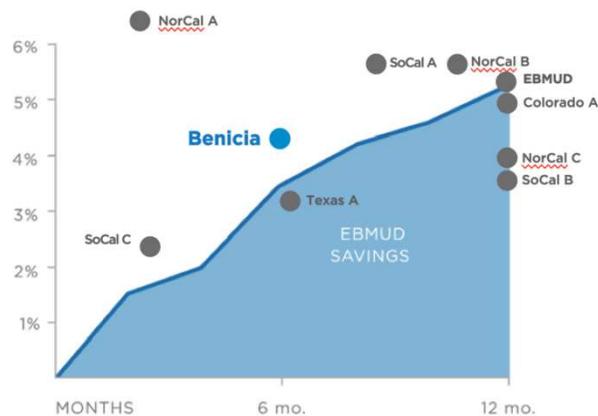
- A postcard mailed to all residents reminding them of the April 1 outdoor watering limits listed earlier in this report and a media release on the same topic.
- The Mayor's Challenge campaign encouraged Benicia residents to take an on-line water conservation pledge. Benicia ranked #11 in the National Mayor's Challenge for its population category of 5,000 – 29,999.
- City booth at the weekly Farmer's Market (April – October) with water conservation materials.
- Signs highlighting the City's Parks & Community Services Department's water conservation efforts (i.e. evapotranspiration controllers, drip irrigation and turf replacement) at various locations.
- An updated flier with water conservation tips.
- Displays at City Hall and the Library.
- Additional outreach is being considered that will be reported in a future update.

Benicia citizens also have access to two free home assessment programs, WattzOn (Benicia Home Efficiency Program) and SCWA's home audit programs, that can inform water conservation decisions by providing information on how water is being used and on suggestions for ways to conserve. And the WaterSmart pilot program will continue until October,

providing tailored information home water report on water use and conservation options to those residents in the program.

WaterSmart

The City began a one-year pilot program with WaterSmart in November 2014. WaterSmart statistics show that residential water use decreases by 3-7% after one year of being on the program. Based on information received at a mid-year meeting with WaterSmart managers on May 14, 2015, Benicia has already achieved 4.2% cumulative water savings at only six months into the pilot program. Benicia is on-track to reach the annual goal of 5% water savings. Below is a graph that shows Benicia at 4.2% at six months into the one-year pilot program compared to other anonymous agencies, all of which are compared to East Bay Municipal Utilities District which serves as the trend line. WaterSmart is an effective way to reduce the amount of water consumed by residential customers.



An article in the October 2014 American Economic Review reports that the best long term behavioral change for water conservation habits is after the program has been in place for two years. To that end, the Public Works Department applied for a Community Sustainability Commission grant on May 15 for funding for the second year of the WaterSmart Program.

Water Recycling

Use of recycled water is an increasingly important part of California's water portfolio, and currently constitutes approximately 7% of the state's water supply. In response to the drought, the State has moved to encourage wider use of recycled water, including direct and indirect

potable reuse. Water reuse is a major priority for the SWRCB, which last year revised the recycled water regulations and adopted a statewide general permit to simplify regulatory approval of water reuse projects.

In-Plant Recycled Water at the Wastewater Treatment Plant

The Wastewater Treatment Plant (WWTP) presently uses 25,000 to 30,000 gallons per day of potable water to run plant process equipment. In addition, potable water is used during the dry weather season for landscape irrigation. In late 2014, WWTP staff initiated an in-plant recycle water pilot study that utilized micro filtration technology. This trial resulted in saving 627,000 gallons of potable water over several months. Unfortunately, this system did not perform consistently enough to warrant further testing and/or purchasing this equipment. Staff researched other options and recently chose to test a mechanical filter system. Staff modified the WWTP's internal water supply and delivery systems, installed the mechanical filter, and placed this system online April 14, 2015. So far, this system has been successfully saving 27,000 gallons per day of treated drinking water, which would be an annual savings of 30 acre feet per year.

As part of the pilot study, the Water Quality Division is performing water quality tests on the filtered recycled water. The data collected will be used to support for a Notice of Intent (NOI) that will be filed with the Regional Water Quality Control Board (RWQCB) requesting that the RWQCB approve the use of filtered recycled water for plant irrigation at the WWTP site. If the RWQCB approves this use, an additional 2.0 acre feet of potable water can be saved per year.

The Table below shows the number of Benicia residents that took advantage of the various water conservation rebates and surveys the City offers through its partnership with Solano County Water Agency.

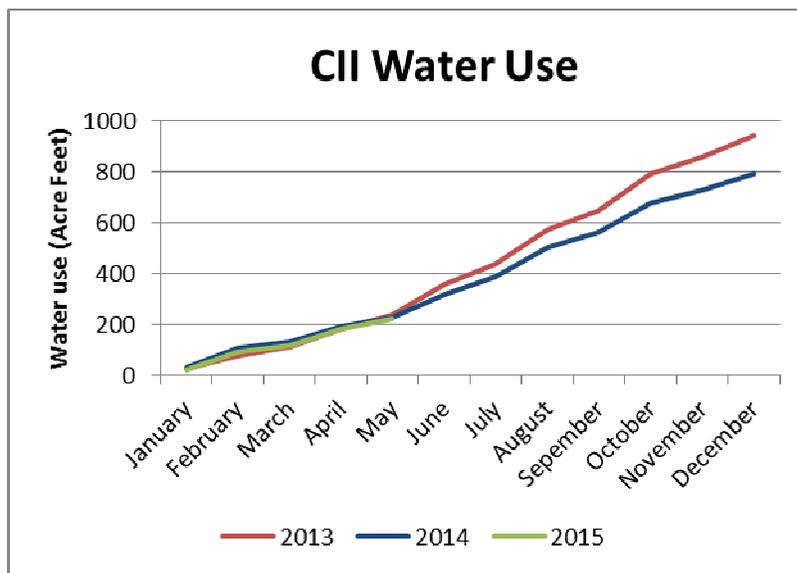
Water Conservation Programs	2007	2008	2009	2010	2011	2012	2013	2014	2015	Totals
High Efficiency Washer Rebates	90	220	387	54	46	76	95	126	39	1133
High Efficiency Toilet Rebates (program discontinued)	3	55	75	139	56	74	130	197	14	743
SCWA Residential Surveys			138	143	61	143	65	55		605
Turf Replacement Rebates					2	5	14	74	37	132
Commercial/Industrial/Institutional High Efficiency Toilet Rebates		99				300				399

Table XX and Graph XX show the amount of water the Commercial/Industrial/Institutional customers (i.e. businesses) in the City have used during this same period. A total of 945 acre-feet were used in 2013 and 794 acre-feet were used in 2014, which is a 16% annual reduction.

Table XX
Commercial/Industrial/Institutional (CII) Metered Water Use
(in acre-feet)

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2013	27.5	51.1	34.2	69.6	53.5	124.1	78.4	135.1	72.4	146.5	65.2	87.7
2014	34.1	72.6	27.4	57.6	37.3	88.4	69.2	117.7	57.0	116.8	50.0	66.2
2015	24.7	67.2	24.5	67.1	40.5							
2014 percent difference from 2013	24.0%	42.1%	-19.9%	-17.2%	-30.3%	-28.8%	-11.7%	-12.9%	-21.3%	-20.3%	-23.3%	-24.5%
2015 percent difference from 2013	-10.2%	31.5%	-28.4%	-3.6%	-24.3%							

Graph XX
Cumulative Commercial/Industrial/Institutional (CII) Metered Water Use
(in acre-feet)



Presiding Judge Nelson
July 7, 2015
Page 15 of 15

We hope that this letter adequately responds to your findings and recommendations. If you have any questions regarding these responses, please kindly contact Graham Wadsworth at your convenience at 707-746-4240.

Sincerely,

Brad Kilger
City Manager

Attachment

cc: City Council
City Attorney
Public Works Director
Grand Jury



SOLANO COUNTY GRAND JURY
2014 - 2015

MITIGATING WATER LOSS

MITIGATING WATER LOSS

2014-2015 Solano County Grand Jury

I. SUMMARY

The 2014-2015 Solano County Grand Jury chose to investigate the water loss and accountability of the municipal water systems throughout the County of Solano. This report also addresses the effects of the current four year drought and the resultant imposition of water conservation measures by each City within the County. This investigative report is about the mitigation of water loss in Solano County.

For purposes of this investigation, water loss is considered to be the difference in the amount of water that is treated by each municipality and the amount of water used that is billed to the final consumer.

The Grand Jury found that cities within the County; Benicia, Dixon, Fairfield, Rio Vista, City of Suisun City, Vacaville and Vallejo, each had annual water loss of 9% to 25% of their total distributed water supply. The Cities did not conduct regularly scheduled water audits in order to discover areas where large amounts of the water supply were being lost. The research indicated that the two main culprits of water loss in all the Cities are distribution pipeline leaks and inaccurate water meters. The Grand Jury completed collection of data for this report as of February 28, 2015.

Each City has implemented intervention programs to control the water losses, but only makes replacement or repairs as a reactive condition. Water conservation programs are instituted in all the Cities within the County. Public awareness is promoted via consumer utility bill inserts, mandatory water reductions and/or excessive water usage surcharges, city website information, and public display campaigns.

II. INTRODUCTION/BACKGROUND

California's drought, now in its fourth year, demonstrates with dramatic force the many deficiencies of the aging infrastructure of the water distribution system in all seven cities within Solano County. This leaking infrastructure is a major cause of water loss for each city. The other significant source of water loss experienced in these cities is inaccurate water meters at residences and businesses.

Solano County has several sources of water. Each city within the county has its own water source or is sourced by one or more State or County water agencies. For example, Rio Vista water is supplied by ground water wells, while Benicia must import all of its water supply. Ground water wells, the State Water Project, and the Solano County Water Agency are the major suppliers of water for Solano County. The Solano Irrigation District is a major distributor of water from the Solano County Water Agency. None of the water sources are infinite, as

ground water wells can pump aquifers dry and drought can empty reservoirs. Water is considered a valuable asset, one not to be wasted or squandered, but conserved and used wisely.

According to the Environmental Protection Agency, the nationwide average water loss in distribution systems is 16%, of which only 75% is recoverable. Water loss must be defined as real loss and apparent loss. Unavoidable annual real water loss, as defined by the American Water Works Association, is estimated at 3.3%. The current industry goal for North American water systems is to limit losses to 10% of the system input volume.

Types of Water Losses

Real water loss is physical. Physical water loss identified in the scope of this investigation includes loss within infrastructure and distribution from leakage during transmission and distribution mains, leakage and overflows from the water storage tanks, and leakage from service connections up to and including the meter. The issue of water loss from pipeline leakage is exacerbated by the shrinking water supplies allocated to Solano County.

Water meters, both at the source and at the service connection, are important for all aspects of the water supply operations and make accurate water auditing possible. Meters make it possible to charge customers based upon the quantities of water that the customers consume. As water meters age, they begin to under record water usage. For the older mechanical meters, a six year life expectancy is average. The older the meter, the less accurate the reading, resulting in consumers not knowing their actual water usage and the specific city not accurately billing for actual water usage. New meters allow for a more accurate reading of water usage and have a life expectancy of at least ten years.

Meters can encourage conservation by making customers aware of their usage, as well as help detect leaks and establish accountability. Meter records provide data that is used for planning purposes to determine future needs and to address water loss in the system.

Apparent water loss as identified in the scope of this investigation consists of unauthorized consumption or theft at hydrants, customer metering inaccuracies, and systematic data handling errors in the meter reading and billing processes.

Non-revenue water loss is identified as a water loss condition resulting from water usage not billed, not paid, and not reported. Unbilled authorized consumption consists of unbilled metered consumption and unbilled un-metered consumption. There can be authorized water losses that are unaccounted for, such as fire suppression, hydrant flushing, water pressure valve checks, and municipal use.

Water Audit vs. Water Management Plan

A water audit identifies and quantifies the water uses and losses from a water system. Each Solano County city had either conducted a formal water audit or generated a water use measurement report in lieu of an audit, but none of the Cities conducted an audit on a scheduled or annual basis. At present, there is no State requirement for cities to conduct water audits.

There is a 1983 State requirement for cities to undertake and implement an Urban Water Management Plan (UWMP) every five years in order to preserve water supply sources and for water conservation programs. The purpose of a UWMP is to ensure that urban water suppliers have adequate water supplies for existing and future demands. Plans must identify and discuss various factors affecting current and projected water supplies and demand, and must identify steps being taken to ensure the availability and reliability of future supplies.

A water management plan will include preventive measures such as infrastructure design that allows for maximum structural integrity and effective maintenance for proactive repairs and optimal operating performance. Pipeline pressure management evaluates areas of excessive pressure and implements controls to reduce pipeline leakage and rupture. Repairing and replacing leaking pipes requires prompt fixes and scheduled detection procedures, as well as inventory of parts and materials.

III. METHODOLOGY

- Questionnaires were sent in November 2014, to the seven cities within Solano County requesting specific details regarding that City's water loss conditions and water loss control programs occurring in the past and current year. A Water Loss Control Comparative Analysis Matrix was prepared by the 2014-2015 Grand Jury.
- Tour of Benicia Water Treatment Plant and interviews with plant and Public Works personnel in September 2014.
- September 18, 2014 interview with Benicia City management.
- Various newspaper articles addressing water loss problems specific to Benicia, Vacaville, Solano County and the Bay Area that were published between August and December 2014 in the Daily Republic, Benicia Herald, Bay Area News Group; and magazine reporting on the California drought in the "The Kiplinger Letter".
- Federal, state and agency documents pertaining to water loss, water usage and water regulations:
 - Water Audits and Water Loss Control for Public Water Systems, Environmental Protection Agency, EPA816-13-002, July 2013
 - Water Loss Control Manual, Julian Thornton, McGraw-Hill Companies, 2002
 - Water Audits and Loss Control Programs, AWWA, Manual M36, 3rd edition, 2009
 - Metered Districts, Software, Help Stem Water Leakage, Carl Yates, "Waterworld", October 2007

- City of Benicia 2014 Water System Facts, September 22, 2014
- **Legislative Action Relative to Water Meters and Water Loss Control**
There are four (4) pertinent California legislative actions concerning water meters:
 - **AB2572** (2004) - requires water services to be billed at a metered rate. This bill, with certain exceptions, will require an urban water supplier to install water meters on all municipal and industrial water service connections that are located in its service area on or before January 1, 2025.
 - **AB1420** (2009) – requires compliance to the Best Management Practices (BMP) of the Urban Water Conservation Council. Also requires that the terms and eligibility for any water management grant or loan made to an urban water supplier (UWS) awarded or administered by the Department of Water Resources (DWR), State Water Resources (SWR), or California Bay-Delta Authority (CBDA) be conditioned on the implementation of the water demand management measures called best management practices.
 - **SBX7-7** (2009) – requires a statewide 20% reduction in urban per capita water use by 2020. It requires that urban water retail suppliers determine baseline water use and set reduction targets according to specified requirements, and requires agricultural water suppliers prepare plans and implement efficient water management practices. Compliance is required for continued State water grants and loan eligibility to special water districts.
 - **Urban Water Management Planning Act of 1983** – requires privately-owned and public water agencies that serve water for municipal purposes to more than 3,000 water service connections, or serve more than 3,000 acre-feet of water per year to prepare and submit an updated Urban Water Management Plan to the California State Department of Water Resources every five years.

IV. STATEMENT OF FACTS

In response to the 2014-2015 Grand Jury questionnaires requesting information regarding water loss experienced during the past years, each City provided the most recent data identifying the percentage of water supply loss, the causes of that water loss, water supply sources, and information on water audits, water loss intervention, and present and future water conservation plans, along with public awareness conservation programs. The data collection from each City was completed as of February 28, 2015, and is profiled below and in the form of the Water Loss Control Comparative Analysis Matrix attached to this report.

CITY OF BENICIA

Benicia states that their water loss is 25%. Inaccurate meters account for 10% of the total loss, water main breaks account for 7%, and service line leaks account for 6%. The remaining 2% of loss is due to theft and reservoir overflows.

All of the City of Benicia's water supply is imported, with 85% of supply received from the State Water Project (SWP) North Bay Aqueduct. The secondary source is Putah Canal water received from the Solano Project (SP). Benicia has an emergency water supply source from Lake Herman located in the City limits. In 2014, the City was put in the position of having to purchase replacement water when the SWP allocation was reduced by 85%.

The City has developed a water meter replacement program which has yet to be instituted. A plan to secure a contractor for the detection of water main and service line leaks is underway. Repair of the leaks by the City will follow with a planned completion by end of 2015. Benicia imposed a three-tier surcharge over and above regular water rates in order to recover the cost of the additional water purchases in 2014. The rate surcharge is intended to encourage conservation. Benicia instituted a program through the Solano County Water Agency (SCWA) to reduce water usage by 20% city-wide.

The City of Benicia has established water conservation signage, publically displayed banners, and conservation pamphlets which are available throughout the City. Additional consumer water conservation information is available on the City website.

CITY OF DIXON

In August 2014, the City of Dixon experienced a change of water providers. The City of Dixon now administers water services for approximately one-half of the City's consumers. A contractor, Severn Trent Services (STS) provides maintenance and operations for those consumers. California Water Service Company (CalWater) provides administration, operations and management for the other half of the City water consumers, primarily in the older, downtown area.

Ground well water is the City of Dixon's only water supply source. In a circumstance when the City would need a supplemental source, there is an agreement in place with Solano County Water Agency for water purchases from the North Bay Aqueduct, but Dixon would need to finance and construct the infrastructure to both deliver and treat that water.

To date, identifiable causes of water loss have included non-calibrated pumping facility meters, contractors not correctly utilizing hydrant meters/ backflow devices during construction practices, and street sweeping services utilizing hydrants without meters for water supply. As the providers have had less than a year to compile pertinent information, they were not able to submit enough water loss data for the purpose of this inquiry. Water audits, which are integral components of operation planning, have not been conducted as of this date by either of the current providers. Initial surveys, however, have begun to identify areas of concern and a means to direct appropriate remedies. Addressing the water loss issues, STS has begun monitoring construction sites and increased the use of hydrant meters and backflow devices, providing leak detection services when requested by customers, and replacing leaking customer meters.

In regard to water conservation programs, the City adopted an Urgency Ordinance on August 26, 2014, to enact water conservation measures. Dixon intends to perform activities to accurately account for water usage. Water conservation programs funded through SCWA are highlighted on the City's website. The City has also used utility bill inserts to increase public awareness of water conservation requirements.

CITY OF FAIRFIELD

Fairfield reports approximately 10% of the total water produced that is treated water and distributed from the water treatment plants is unaccounted for or lost. The primary losses of water are from inaccurate and under-recorded amounts of water that flow through the meters, leaks in pipelines through water services, and unauthorized or unreported consumption.

The City of Fairfield water supply comes from two sources: Lake Berryessa, which is distributed by the Solano Project, and the Sacramento-San Joaquin Delta via the North Bay Aqueduct, administered by the State Water Project.

Within the past few years, Fairfield has replaced all existing water meter heads with radio-read technology, increasing frequency of reads and early leak detection. Infrastructure cast iron water mains still exist and are scheduled for replacement over the next several years as part of the annual pipeline replacement and renewal program.

Although the City of Fairfield completes a desktop water audit each year using software provided by the American Water Works Association, it also conducted a water audit in 2013. The City participates in the regional water conservation program administered by Solano County Water Agency, which includes free customer water audits, free water conservation devices, and rebate programs to help residents reduce usage. As a member of the Urban Water Conservation Council, the City implemented water conservation best management practices, and continues to investigate programs that will reduce unaccounted for and lost water. To promote consumer water conservation, the City website provides conservation information.

CITY OF RIO VISTA

The City of Rio Vista experiences an annual water loss of approximately 9%, calculated by volume of water pumped from flow meters at ground wells compared to the water measured at the metered consumers. Aging equipment, pipelines, valves, and under-reporting water meters are the primary causes of water loss.

The City's only water supply source is seven operating ground water wells. There are no other supplemental water supply sources at this time.

Rio Vista is currently conducting a water audit of their water distribution infrastructure. Since 2010, the City has spent over \$2 million to replace the aging equipment that is a major cause of water loss. In July 2014, Rio Vista adopted the new State requirements for water conservation.

Currently, there is a project under construction for replacing old supply pipelines. There is a plan in 2015 for the City to complete a water meter installation and replacement project to better manage water distribution and production losses.

The City sends water conservation tips in monthly utility bills and also has a demonstration garden at the airport that promotes water conservation.

CITY OF SUISUN CITY

Approximately 22% of total water produced into the Suisun City distribution system is lost. The physical water loss is primarily from leaks in the pipeline system, and apparent water losses due to customer meter read inaccuracies, data handling errors, and water theft.

The City water supply is provided from Lake Berryessa through the Suisun-Solano Water Authority and Solano Irrigation District, and has no other supplemental water supply sources.

In 2013, Suisun City conducted a water audit for calendar year 2011, which confirmed the loss volume and infrastructure leak sources. A thorough leak detection survey and minimum night flow analysis was conducted on the Old Town Suisun City distribution system in 2013. Discovered leaks were repaired, saving an estimated 50 acre foot per year of treated water.

Suisun City water conservation activities are based on the Suisun-Solano Water Authority Urban Water Management Plan. The City's Water Loss Control Program includes implementation of district metered areas for proactive leak detection and advanced pressure management, and the development of a detailed inventory of the customer meters and services using a Geographic Information System that will be implemented by Solano Irrigation District in 2015, for the purpose of meter testing and meter replacement. The City participates in State and local water conservation programs sponsored by Solano Water Agency and the California Department of Water Resources. Suisun City uses local media and mail inserts to increase public water conservation awareness.

CITY OF VACAVILLE

Vacaville reports that approximately 10% of their annual water production is unaccounted for and reported as lost. As with other cities in Solano County, these losses are from breaks or leaks in the distribution pipeline system and the deterioration in accuracy of the water meter consumption reporting.

Vacaville has three annual authorized water sources: 9,000 acre feet from Lake Berryessa through Solano County Water Agency and the Solano Irrigation District; 18,000 acre feet from the North Bay Aqueduct through the Solano Water Project; plus 8,100 acre feet of ground water from the 12 permitted wells located in the City. The City of Vacaville's annual average consumption is approximately 17,200 acre feet of water. There are no other supplemental water sources.

The City has not conducted a formal water audit, but production reports are produced and reviewed on a monthly basis. Annual reports on water production and loss are reported to the State. Ongoing water loss intervention and prevention measures include repair of pipeline breaks and leaks when detected or reported. The City also has a program to replace aging water meters that has been ongoing since 2007. Between 2012 and 2013, the City replaced approximately 14,000 conventional water meters with automatic-read meters for residential customers. The goal is to replace all meters on a ten year cycle, which is the expected time period for the automatic-read meters to remain highly accurate.

Vacaville has an aggressive water conservation program which consists of public and school education, commercial and residential fixtures and landscape rebates and water use surveys. Personalized water usage information has been provided in utility bills since 2009 to aid consumers to better track their usage. The City recently updated its Urban Water Shortage Contingency Plan to comply with State drought regulations, and updated the municipal code sections related to water conservation to align with the Urban Water Shortage Contingency Plan to establish fines and penalties for water waste and prohibitions. Early in 2015, Vacaville implemented a mandatory 20% reduction in water use city-wide. Extensive conservation information is located on the City website.

CITY OF VALLEJO

In Fiscal Year 2013-2014, the City of Vallejo estimated the City's water loss to be 11%. Identified causes of physical water losses are: leakage from water pipeline systems, leakage and overflows at storage facilities, and leakage on service connection laterals up to and including the City's side of the service meter, and under-reporting water meters. Causes of apparent water losses reported are: unauthorized consumption which includes direct water theft, customer metering inaccuracies, and data handling errors, including unmetered City use of water and incorrect allowable unmetered water use.

The City of Vallejo's water supply sources are Lake Berryessa, the Sacramento River via the North Bay Aqueduct, and Lakes Madigan and Frey. Due to drought-related water rights curtailment from the North Bay Aqueduct, the City had to exchange a Lake Berryessa water allotment with the Cities of Benicia and Suisun City for an equal portion of Sacramento River water supply.

An annual estimated water balance report is prepared, but no formal audit has been conducted. A record keeping system tracks several parameters of leak repair, but does not yet capture the full range of required data, including leak running time from report to repair. The City is implementing a new asset management and maintenance activity database software program, which will include information needed for a standard water audit.

Vallejo implements various means to mitigate their water loss. Leak detection equipment is used to pinpoint locations of underground leaks, repairing the leaks when found, and an ongoing water main replacement program to replace aging infrastructure is in place. The

Water Loss Control Program consists of ongoing water meter calibrations and advising customers whenever leaks exist on the customer's side of the meter. The City has a replacement program to replace aging and inaccurate meters and has taken steps to reduce the loss of water through contractor construction mishaps involving pipeline ruptures.

Vallejo has an active water conservation program to reduce municipal water use and loss. In addition to the Wasteful Water Use Prohibition Ordinance, the City adopted the drought restrictions imposed by the State, along with a Water Shortage Contingency Plan to monitor stages of water supply shortage. There is consumer water conservation program information on the City's website.

STATEMENT OF FACTS SUMMARY:

- The seven cities within Solano County have and are experiencing water loss ranging from 9% to 25% of distributed water.
- All cities reported water loss primarily due to leaking pipelines and non-reporting or inaccurately reporting water meters.
- All cities are not conducting water audits on a regularly scheduled basis.
- All cities are planning and/or are progressing in replacement of leaking pipelines, replacing or recalibrating inaccurate water meters, detecting leakage in supply and distribution pipelines.
- All cities have invoked water conservation plans.
- All cities have created and are promoting public awareness programs for community conservation.

V. FINDINGS AND RECOMMENDATIONS

Finding 1

Not all of the cities are conducting regularly scheduled water audits.

Recommendation 1

Each city conduct routine scheduled water audits in order to improve control of water loss and for water supply planning.

Finding 2

All the cities face deteriorating water delivery infrastructure.

Recommendation 2

Each city identify and replace aging infrastructure.

Finding 3

All the cities have identified under-recording water meters as a cause of apparent water loss.

Recommendation 3

Each city comply with programs to address inaccurate reading water meters.

Finding 4

All the cities have developed water loss mitigation and conservation programs that serve their communities.

Recommendation 4

Each city enforce and continue expanding water conservation measures for residential and business consumers.

Comments

The 2014-2015 Grand Jury found the seven cities to be very cooperative in their response to the information requests. Ongoing developments of water supply and conservation complicated by the current drought are a challenge for everyone. Each city has paid attention in varying degrees to address their water concerns. However, the action to mitigate the pipeline infrastructure water losses has been slow and incomplete. All water consumers in Solano County must take responsibility in water conservation efforts.

Required Responses:

City of Benicia – All Findings

City of Dixon – All Findings

City of Fairfield – All Findings

City of Rio Vista – All Findings

City of Suisun City – All Findings

City of Vacaville – All Findings

City of Vallejo – All Findings

Courtesy Copies:

Clerk, Solano County Board of Supervisors

VI. GLOSSARY

Acre foot of water: a unit of volume commonly used in reference to reservoirs, aqueducts, canals, sewer flow capacity, irrigation water and river flows. Defined as the volume of one acre of surface area to a depth of one foot and is equal to 325,851 gallons of water. One acre-foot is taken to be the planned annual water usage of a suburban family household. One acre-foot per year equates to approximately 893 gallons of water per day.

American Water Works Association (AWWA): largest nonprofit, scientific and educational association dedicated to managing and treating public water. With approximately 50,000 members, AWWA provides solutions to improve public health and protect the environment.

Apparent Water Loss: non-physical water loss that occurs due to customer meter inaccuracies, data handling errors and water theft. Water is consumed but is not properly measured or accounted for.

California Water Service Company (CalWater): California Water Service Company (Cal Water) is the largest investor-owned American water utility west of the Mississippi River and the third largest in the country. Formed in 1926, the San Jose-based company serves more than 473,100 customers through 28 Customer and Operations Centers throughout the State. To meet the needs of Dixon customers, eight wells are utilized (with an additional well under construction), one storage tank, and 32 miles of pipeline to pump and deliver one million gallons of local groundwater per day.

Non-Revenue Water Loss: unbilled metered water consumption and un-billed un-metered water consumption with no payment received.

Raw Water: ground or surface water that is taken directly from its source without treatment. Not potable water. Water is considered to be raw until it is treated by a potable water treatment process.

Real Water Loss: physical water loss that occurs due to pipe leaks and breaks, storage tank overflows, and undetected water leaks in the distribution system.

Severn Trent Services (STS): private company employed by City of Dixon to provide water operations services, calibrate well production meters, leak detection services, and monitoring construction sites for hydrant construction meter assembly.

Solano County Water Agency (SCWA): a wholesale water agency providing untreated water to cities and agricultural districts in Solano County from the Federal Solano Project and the North Bay Aqueduct of the State Water Project. The agency also has a flood control function.

Solano Irrigation District (SID): an independent special district, a local government agency, formed in 1948. SID has entitlements for 141,000 acre feet of agricultural and domestic water for service to many areas in Solano County each year. The district is the operator of the Solano Project, which delivers Lake Berryessa water to four cities, the Maine Prairie Water District, and SID customers. The district owns and operates the hydroelectric power plant at the base of Monticello Dam. SID is partners with Suisun City in water delivery.

Solano Project (SP): The Solano Project is mostly in Solano County. Monticello Dam at the Lake Berryessa reservoir is the main project feature. Other important features are Putah Diversion Dam, Putah South Canal with a small terminal reservoir, and the necessary waste-ways, laterals, and drainage works. The project was designed to irrigate approximately 96,000 acres of land. The project also furnishes municipal and industrial water to the principal cities of Solano County. Putah Creek is the source of water for the Solano Project.

State Water Project (SWP): the nation's largest state-built water and power development and conveyance system. Planned, designed, constructed and now operated and maintained by the California Department of Water Resources, this unique facility provides water supplies for 25 million Californians and 750,000 acres of irrigated farmland. SWP is a water storage and delivery system of reservoirs, aqueducts, power plants and pumping plants. Its main purpose is to store water and distribute it to 29 urban and agricultural water suppliers in Northern California, the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. Of the contracted water supply, 70 percent goes to urban users and 30 percent goes to agricultural users. SWP makes deliveries to two-thirds of California's population. SWP is also operated to improve water quality in the Delta, control Feather River flood waters, provide recreation, and enhance fish and wildlife.

Suisun-Solano Water Authority (SSWA): a joint powers authority partnership with Suisun City and the Solano Irrigation District to provide domestic water service in Suisun City. Suisun Solano Water Authority qualifies as an Urban Water Supplier under the Urban Water Management Planning Act. SSWA is a public agency directly providing water for municipal purposes to 8,400 customers. An UWMP is required to be completed for 2010 and every five years thereafter and submitted to the California Department of Water Resources.

Urban Water Conservation Council (UWCC): California Urban Water Conservation Council was created to increase efficient water use statewide through partnerships among urban water agencies, public interest organizations, and private entities. The Council's goal is to integrate urban water conservation Best Management Practices into the planning and management of California's water resources.

Urban Water Management Plan (UWMP): the Urban Water Management Plan has been prepared in response to the Urban Water Management Planning Act, California Water Code Sections 10610 through 10650. The main purposes of the Act are to achieve proper water supply planning.

Urban Water Supplier (UWS): a supplier, either publicly or privately owned, providing water for municipal purposes directly or indirectly to 3,000 or more service connections or supplying 3,000 acre-feet or more of water annually. UWS includes a supplier or contractor for water, regardless of basis of water rights, which distributes or sells for ultimate resale to customers.

VII. APPENDIX

WATER LOSS CONROL COMPARATIVE ANALYSIS MATRIX

CONDITION	BENICIA	DIXON	FAIRFIELD	RIO VISTA	SUISUN	VACAVILLE	VALLEJO
% OF TOTAL WATER SUPPLY LOST	25% between metered treatment plant and metered customers	Data unavailable	9-10% of total treated water	9% annually from pumped flow meters to measured meters	22% of water put into the system	10% of water production lost annually	10.8%, add 3.3% for unavoidable Real Loss
CAUSES OF WATER LOSS	<ul style="list-style-type: none"> *Water main pipe breaks *Service pipeline leaks *Hydrant damage *Reservoir overflows *Unaccounted for water due to low reading meters 	<ul style="list-style-type: none"> *Non-calibrated pumping facility meters *Unmetered hydrant use 	<ul style="list-style-type: none"> * Leaks in supply pipelines and water services * Under-recording of water flow through meters *Unauthorized use *Unreported use (theft) 	<ul style="list-style-type: none"> *Aging equipment, pipelines, valves, water meters 	<ul style="list-style-type: none"> *Apparent Loss: inaccurate meters *Real Loss: leaks and overflows 	<ul style="list-style-type: none"> *Leaks and deterioration or failure of meters 	<ul style="list-style-type: none"> *Theft, old meters, unmetered water leakage
LAST WATER AUDIT	AWWA audit in 2011	Last water audit unknown	<ul style="list-style-type: none"> *2013 *Annual desktop water audit 	No audit reported	Audit in 2013 for calendar year 2011	Annual State reports submitted	Annual water balance estimate only

CONDITION	BENICIA	DIXON	FAIRFIELD	RIO VISTA	SUISUN	VACAVILLE	VALLEJO
INTERVENTION	<ul style="list-style-type: none"> *Leak detection survey and repair *Meter replacement program for all users in 2015 	<ul style="list-style-type: none"> *Calibrating well production meters *Leak detection at customer request *Monitoring hydrant construction meter assembly at construction sites 	<ul style="list-style-type: none"> *Replacing cast iron water mains *Replaced all water meter heads with radio-read meter heads 	<ul style="list-style-type: none"> Since 2010, \$2M spent to replace aging equipment 	<ul style="list-style-type: none"> *Water Audit *Leak detection survey in Old Town with indicated repairs 	<ul style="list-style-type: none"> *System leak repairs *14,000 residential meters replaced during 2012-2013 	<ul style="list-style-type: none"> *Leak identify and repair *Water main replacement program *Replacement aging and inaccurate meters
WATER CONSERVATION PLANS	<ul style="list-style-type: none"> *Voluntary 20% reduction *Implemented drought surcharge on water utility bill *Leak detection and repair *Water main pipe and service pipeline repair 	<ul style="list-style-type: none"> *Compliance with California conservation measures *Enacted Urgency Ordinance 14-012 in 2014 	<ul style="list-style-type: none"> *Free customer water audits *Free water conservation devices *Implement UWCC best management practices 	<ul style="list-style-type: none"> *Adopted State requirements *2015 project to install and replace water meters 	<ul style="list-style-type: none"> *Leak detection and pressure management *Inventory of customer meters 	<ul style="list-style-type: none"> *On-going leak repair *Ten year cycle to replace City meters *Mandatory 20% use reduction. 	<ul style="list-style-type: none"> *Minimize City water use *State and County water recommendations of water waste reporting

CONDITION	BENICIA	DIXON	FAIRFIELD	RIO VISTA	SUISUN	VACAVILLE	VALLEJO
	<ul style="list-style-type: none"> *Reduced hydrant testing *Reduced distribution system flushing program *Water meter replacement *Reduced irrigation at City parks 						
PUBLIC AWARENESS CONSERVATION PROGRAMS	<ul style="list-style-type: none"> *WaterSmart conservation program *Conservation signage in public areas *City website and at community events *Water usage devices and landscape rebates 	<ul style="list-style-type: none"> *Customer utility bill inserts *City website conservation information 	<ul style="list-style-type: none"> *Conservation information on City website *Staff promotes conservation at community events 	<ul style="list-style-type: none"> *Water conservation demo garden *Water-wise flyers inserts in water utility bill 	<ul style="list-style-type: none"> *Solano County Water Agency website *Solano Irrigation District website 	<ul style="list-style-type: none"> *Water use surveys, landscape rebates all with local media coverage *Conservation information on City website 	<ul style="list-style-type: none"> *Public information campaigns *Referrals to Solano County website

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AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 19, 2015

TO : City Manager

FROM : Finance Director

SUBJECT : **CITY OF BENICIA'S RESPONSE TO 2014-2015 GRAND JURY REPORT "TO CHARGE OR NOT TO CHARGE"**

RECOMMENDATION:

Approve, by motion, the response to the 2014-2015 Grand Jury Report entitled "To Charge or Not to Charge."

EXECUTIVE SUMMARY:

The 2014-2015 Grand Jury investigated the current policies governing the use of credit cards/purchasing cards in Solano County. The Grand Jury issued a report of their findings and associated recommendations to which the City of Benicia needs to respond in writing under the State Law. The City Council must first approve the response.

BUDGET INFORMATION:

Reviewing the Grand Jury report and preparing the response to the Grand Jury requires staff time. There are no other budget impacts.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Strategic Issue 3: Strengthening Economic and Fiscal Conditions
 - Strategy 4: Manage City finances prudently

BACKGROUND:

The 2014-215 Solano County Grand Jury investigated the current policies governing the use of credit cards/purchasing cards (cards) in Solano County. The Grand Jury issued a report of their findings and recommendations to which the City is required to reply:

Finding 1

Card usage saves time and money by not having to process purchase orders and wait for the arrival of ordered goods.

Recommendation 1

Continue the use of cards.

City's Response to Finding 1

The City concurs with the finding, as stated in the Purpose of the City's Cal-Card Purchasing Card Program Manual, which has been utilized since 2009. We continue to use the cards.

Finding 2

The use of cards has a transaction fee which is passed on to the consumer. On time remittance of payment for card statements earn cash rebates which offset transaction fees.

Recommendation 2

All cities should seek to use financial institutions which offer cash rebates and pay all invoices on time to qualify for rebates.

City's Response to Finding 2

The City concurs with the finding. The Statement Review and Approval Procedures section of the City's Cal-Card Purchasing Card Program Manual discusses the timeliness of cardholders submittal of claim forms to the Finance Department for prompt payment of invoices. This has been the practice since the program's origination in 2009. The City receives rebates on a quarterly basis.

Finding 3

The use of cards for travel expenses simplifies travel arrangements and reduces cost while keeping accurate purchasing records.

Recommendation 3

Continue the use of cards for travel.

City's Response to Finding 3

The City concurs with the finding. We have, since 2009, and will continue to use the cards for travel purposes and each card holder maintain a travel expense report, as needed, which is submitted to the Finance Department for review and approval.

Finding 4

Not all cities are using a card with a rebate program.

Recommendation 4

All cities utilize cards with a rebate program.

City's Response to Finding 4

Since 2009, the City has utilized purchasing cards that have a rebate program, and receives rebates on a quarterly basis.

Finding 5

All seven cities now have cards usage policies and security measures to prevent improper or fraudulent use of cards.

Recommendation 5

Cities continue their current methods for security, and determine if other measures may be available that may enhance cards security.

City's Response to Finding 5

The City has implemented a Cal-Card Purchasing Card policy since the inception of the cards in 2009. Each cardholder receives the manual and acknowledges receipt of card, manual and purchasing card guide.

Penal Code Section 933.05 requires a formal response to the Grand Jury's report. The City is required to submit a response to the Grand Jury by August 24, 2015. This response requires the City to state whether it agrees, disagrees wholly, or disagrees partially with the findings. Further, the response should report what actions the City has or will take in response to the Grand Jury's recommendations. The attached response letter will be sent to the Presiding Judge of the Superior Court on behalf of the City Council.

Attachments:

- Cover Letter Conveying the Grand Jury Report to the City of Benicia
- Report on To Charge or Not to Charge by the 2014-2015 Solano County Grand Jury
- Proposed Response Letter from the City

GRAND JURY



Hall of Justice
600 Union Ave
Fairfield, California 94533
(707) 435-2575
Fax: (707) 435-2566

cdclower@solano.courts.ca.gov

May 21, 2015

Sent via email

Brad Kilger, Benicia City Manager
Jim Lindley, Dixon City Manager
David White, Fairfield City Manager
Tim Chapa, Rio Vista City Manager

Suzanne Bragdon, Suisun City Manager
Laura Kuhn, Vacaville City Manager
Daniel Keen, Vallejo City Manager

RE: 2014-2015 Grand Jury Report Entitled: **To Charge or Not to Charge**

Enclosed please find a copy of the above named report by the 2014-2015 Solano County Grand Jury. This report is provided to you **in advance of public release** as provided for in Penal Code §933.05(f). Please note that Penal Code §933.05(f) specifically prohibits any disclosure of the contents of this report by a public agency, its departments, officers or governing body prior to its release to the public, which will occur on **Tuesday, May 26, 2015**.

You are required to respond in writing to the Presiding Judge and to provide an electronic copy in pdf form to the Grand Jury regarding the Findings and Recommendations contained in the report pursuant to Penal Code §933.05. This section of the Penal Code is very specific as to the format of the responses. The Penal Code is also specific about the deadline for responses. You are required to submit your response to the Grand Jury by **Monday, August 24, 2015** on signed letterhead.

The electronic copy should be sent to the Grand Jury office at cdclower@solano.courts.ca.gov.

Responses are public records. Should you have any questions, please contact Cheryl Clower, Administrative Assistant to the Grand Jury at (707)435-2575.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terry L. Riddle', is written over a horizontal line.

Terry L. Riddle, Foreman
2014-2015 Solano County Grand Jury

TLR/cdc

VII.F.5



**SOLANO COUNTY GRAND JURY
2014 - 2015**

TO CHARGE OR NOT TO CHARGE

To Charge or Not to Charge

2014-2015 Solano County Grand Jury

Summary

Previous Grand Jury investigations and reports, and independent investigators had discovered cases of misuse and criminally fraudulent use of city issued credit/purchasing cards. The 2014-2015 Solano County Grand Jury investigated the current policies governing the use of credit cards/purchasing cards (cards) by the seven cities in Solano County. Previous reports show that some cities had poorly written, or non-existent card usage policies. The Grand Jury recognized that poorly written, poorly explained and un-enforced policies of card usage could cause a misuse of cards resulting in a loss of city funds.

The 2014-2015 Solano County Grand Jury also investigated the use of cards' policies of the seven cities in Solano County. The cards are issued to employees to purchase goods and services needed to conduct city business in the course of their employment. The Grand Jury found that the use of cards has several major benefits, some of which are:

- Increases employee efficiency by reducing down time securing parts and services
- Reduces the necessity of return trips to job sites from headquarters or corporate yards thus improving service to the community
- Saves money eliminating the cost of processing purchase orders
- Simplifies the process of procuring travel arrangements for employees conducting city business

While there are many benefits to card use, the improper use of cards can lead to significant problems as stated above.

II. Introduction/Background

Before the use of cards the process of obtaining goods or services was expensive and time consuming. For example: an employee needs an item that is not in stock; the employee will fill out a request for the item with all the required information then forward it to a supervisor who forwards it to the department head for approval; the request will then go to Purchasing Department; Purchasing Department will check if the item is in stock, if not, they will check with local vendors for availability; if available then a voucher will be prepared for the item. In addition, the employee will have to go back to complete the job. The time and expense of this procedure is cumbersome and wasteful. The use of cards has streamlined the procurement process.

III. Methodology

Interviewed:

- City Managers
- Financial Managers

Reviewed:

- Each of the seven city's purchasing card policies and procedures
- One month's total cards' statements from each city
- Previous Grand Jury reports concerning credit card usage

IV. Statement of Facts

Card policies now exist in all seven cities in Solano County (Benicia, City of Suisun, Dixon, Fairfield, Rio Vista, Vacaville, Vallejo).

Since card policies have been instituted universally, there has been only one known instance of an employee exceeding the policy rules. In this case, the immediacy of necessary action and expediency caused the card holder to purchase a \$30 seat upgrade. Upon returning to his office, he immediately wrote a personal check for \$30 and attached it, with a note, to the receipt. That action was acceptable in his city and was approved.

Cities have agreements with various financial institutions for card services. Each card is identified by a unique number and is issued to individuals by name allowing for easier tracking of purchases. Each card has a set limitation which is dependent upon the rules and regulations and the approval of management and requirements of the agency. These limits cannot be exceeded without getting authorization. Daily and monthly monetary limits are established for each card. The financial institutions enforce the limits.

Each city has its' own method of assigning cards. The number of cards issued varies from as little as five cards to over two hundred cards depending on the policies of the city. Cards can be used only for city business and may not be used for the purchase of alcoholic beverages, medicines or firearms.

Some cities have arranged for a cash rebate on card purchases. These rebates return the fees to the city's general fund. Only two cities did not participate in rebate programs at the time of the Grand Jury investigation.

Each City has its' own method of ensuring that all charges on the statement were purchased by the employee for the use of conducting city business. Methods vary by city but in general require a receipt to match each item on the statement. The statement is then reviewed by a

supervisor. If the card belongs to the City Manager, the statement is reviewed by an individual who doesn't directly report to the City Manager. The use of purchasing cards to purchase gasoline for city owned vehicles varies by city; some cities have corporate yards with gasoline pumps while other cities have agreements with local service stations. Each purchase requires a card and unique code in order to obtain gasoline from the pump.

Use of cards increases employee efficiency and reduces down time.

On time payment to the card issuer may earn cash rebates.

Card usage aids the card holder with travel arrangements.

Some gasoline is dispensed into portable gasoline containers, rather than vehicles. Gasoline used for power equipment such as lawn mowers filled from a portable gas container, is difficult to track.

V. FINDINGS AND RECOMMENDATIONS

Finding 1

Card usage saves time and money by not having to process purchase orders and wait for the arrival of ordered goods.

Recommendation 1

Continue the use of cards.

Finding 2

The use of cards has a transaction fee which is passed on to the consumer. On time remittance of payment for card statements earn cash rebates which offset transaction fees.

Recommendation 2

All cities should seek to use financial institutions which offer cash rebates and pay all invoices on time to qualify for rebates.

Finding 3

The use of cards for travel expenses simplifies travel arrangements and reduces cost while keeping accurate purchasing records.

Recommendation 3

Continue the use of cards for travel.

Finding 4

Not all cities are using a card with a rebate program.

Recommendation 4

All cities utilize cards with a rebate program.

Finding 5

All seven cities now have cards usage policies and security measures to prevent improper or fraudulent use of cards.

Recommendation 5

Cities continue their current methods for security, and determine if other measures may be available that may enhance cards security.

Comments

The use of reward cards is a sound business practice for controlling accountability and using rebates for offsetting administrative fees when card issuer invoices are paid on time.

Required Responses

City Managers of:

- Benicia (All Findings)
- Dixon (All Findings)
- Fairfield (All Findings))
- Rio Vista (All Findings)
- City of Suisun City (All Findings)
- Vacaville (All Findings)
- Vallejo (All Findings)

Courtesy Copies

Clerk, Solano County Board of Supervisors

July 7, 2015

Honorable E. Bradley Nelson
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Avenue
Fairfield, CA 94533

RE: 2014-2015 Grand Jury Report Entitled: To Charge or Not to Charge

Dear Honorable Presiding Judge Nelson:

Pursuant to the provisions of Section 933.05 of the California Penal Code, the governing body of any public agency subject to the Grand Jury's review authority must respond to recommendations and findings pertaining to matters under their control. Therefore, the purpose of this letter is to comply with the aforementioned law and to advise you that after review of the 2014-2015 Solano County Grand Jury Report, the Council of the City of Benicia accepts the Report.

Finding 1

Card usage saves time and money by not having to process purchase orders and wait for the arrival of ordered goods.

Recommendation 1

Continue the use of cards.

City's Response to Finding 1 and Recommendation 1

The City agrees with the finding, as stated in the Purpose of the City's Cal-Card Purchasing Card Program Manual, which has been utilized since 2009. The recommendation has been implemented. The City continues to use the cards.

Finding 2

The use of cards has a transaction fee which is passed on to the consumer. On time remittance of payment for card statements earn cash rebates which offset transaction fees.

Recommendation 2

All cities should seek to use financial institutions which offer cash rebates and pay all invoices on time to qualify for rebates.

City's Response to Finding 2 and Recommendation 2

The City agrees with the finding. The Statement Review and Approval Procedures section of the City's Cal-Card Purchasing Card Program Manual discusses the timeliness of card holders submittal of claim forms to the Finance Department for prompt payment of invoices. The recommendation has been implemented and has been the City's practice since the program's initiation in 2009. The City receives rebates on a quarterly basis.

Finding 3

The use of cards for travel expenses simplifies travel arrangements and reduces cost while keeping accurate purchasing records.

Recommendation 3

Continue the use of cards for travel.

City's Response to Finding 3 and Recommendation 3

The City agrees with the finding. The recommendation has been implemented. We have, since 2009, and will continue to use the cards for travel purposes and each card holder maintain a travel expense report, as needed, which is submitted to the Finance Department for review and approval.

Finding 4

Not all cities are using a card with a rebate program.

Recommendation 4

All cities utilize cards with a rebate program.

City's Response to Finding 4

The City agrees with the finding. The recommendation has been implemented. Since 2009, the City has utilized purchasing cards that have a rebate program, and receives rebates on a quarterly basis.

Finding 5

All seven cities now have cards usage policies and security measures to prevent improper or fraudulent use of cards.

Recommendation 5

Cities continue their current methods for security, and determine if other measures may be available that may enhance cards security.

Honorable E. Bradley Nelson

July 8, 2015

Page 3

City's Response to Finding 5 and Recommendation 5

The City agrees with the finding. The recommendation has been implemented. The City has implemented a Cal-Card Purchasing Card policy since the inception of the cards in 2009. Each cardholder receives the manual and acknowledges receipt of card, manual and purchasing card guide.

This response was drafted by City staff and approved by the City Council at their meeting on July 7, 2015. If you have any further questions, please let me know.

Respectfully submitted,

Anne Cardwell
Assistant City Manager

cc: City Council
City Attorney
City Manager
Grand Jury

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 19, 2015

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF AMENDMENT TO AGREEMENT WITH SIEMENS
INDUSTRY FOR ADDITIONAL STREET LIGHT REPAIR WORK**

RECOMMENDATION:

Adopt a resolution approving an Amendment to Agreement with Siemens Industry for additional street light repair work in the amount of \$29,635.60 and authorizing the City Manager to sign the Amendment to Agreement on behalf of the City.

EXECUTIVE SUMMARY:

City staff does not have the expertise or capacity to perform this work in-house. The Amendment to Agreement is necessary because more work needs to be completed within Fiscal Year 2014/15 than originally anticipated.

BUDGET INFORMATION:

Sufficient funds are available to cover the proposed amendment, in the amount of \$29,635.60, in Account No. 017-8705-8100 (Gas Tax Contracted Services.)

GENERAL PLAN:

Relevant General Plan Goals:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issues:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategic Issue #4: Preserving and Enhancing Infrastructure

BACKGROUND:

The City and Siemens Industry entered into an Agreement for Contract Services on March 24, 2014 for maintenance and repairs of City-owned street lights and traffic signals. The original contract amount of \$40,000 was estimated based on past expenditures. Over the course of the past several months, additional work has become necessary to maintain the city owned street lights. The

amendment to agreement with Siemens Industry, in the amount of \$29,635.60, includes the following tasks:

1. Street light knockdown repairs caused by vehicle accidents or deterioration due to age.
2. Inoperable induction parts requiring replacement.
3. Significant underground power issues discovered within the City requiring repair.

Siemens Industry has demonstrated the expertise necessary for these types of projects. Their work quality has proven to be professional and they have shown responsiveness throughout previous work for the Public Works Department. City staff does not have the expertise or capacity to perform this work in-house.

Staff, therefore, recommends that Council approve the amendment to agreement with Siemens Industry for additional street light repair work in the amount of \$29,635.60.

Attachments:

- Proposed Resolution
- Amendment to Agreement

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO AGREEMENT WITH SIEMENS INDUSTRY FOR ADDITIONAL STREET LIGHT REPAIR WORK IN THE AMOUNT OF \$29,635.60 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT TO AGREEMENT ON BEHALF OF THE CITY

WHEREAS, the City and Siemens Industry entered into an Agreement for Contract Services on March 24, 2014 for maintenance and repairs of City-owned street lights and traffic signals in the amount of \$40,000; and

WHEREAS, staff recommends an amendment to agreement in the amount of \$29,635.60 to expand the services provided by Siemens Industry because more work became necessary during the course of work with Fiscal Year 2014/15; and

WHEREAS, Siemens Industry has demonstrated the expertise necessary for these types of projects. Their work quality has proven to be professional and they have shown responsiveness throughout previous work for the Public Works Department; and

WHEREAS, City staff does not have the expertise or capacity to perform this work in-house.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves an Amendment to Agreement with Siemens Industry for additional street light repair work the amount of \$29,635.60 (from Acct No. 017-8705-8100 – Gas Tax Contract Services) and authorizes the City Manager to sign the Amendment to Agreement on behalf of the City, subject to approval by the City Attorney.

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 7th day of July, 2015, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

AMENDMENT TO AGREEMENT

This Amendment of the Agreement, entered into this ____ day of _____, 2015, by and between the City of Benicia, a municipal corporation (hereinafter "CITY") and Siemens Industry, Inc. (hereinafter "CONSULTANT"), is made with reference to the following:

RECITALS:

A. On March 24, 2014, an agreement was entered into by and between CITY and Siemens Industry Inc. ("Agreement").

B. CITY and CONSULTANT desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. Paragraph 2 (Scope of Services) of the Agreement is modified to include: Additional street light repair work primarily due to street light knock-downs caused by vehicle accidents, inoperable induction lights that required replacement, and significant underground power issues discovered within the City (see attached spreadsheet).
2. Paragraph 3 (Compensation) of the agreement is modified to: Add an additional \$29,635.60.
3. Paragraph 18 (Insurance) is replaced in its entirety with the following:

INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and employer's liability insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
Workers' Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto))	Bodily Injury/Property Damage \$1,000,000 each accident
(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply

separately to this Project/
location, the general
aggregate limit shall be twice
the required occurrence limit

(iv) Errors and Omissions/
Professional's Liability, errors and
omissions liability insurance appropriate
to the CONSULTANT's profession.

Generally \$1,000,000 per claim and
annual aggregate

(b) Deductibles and Self-Insured Retentions. All self-insured retentions (SIR) must be disclosed to the CITY's Risk Management for approval and shall not reduce the limits of liability. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self insurance retention as respects the CITY, its officers, officials, agents, employees and volunteers; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Policies containing any self-insured (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the CITY. The CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) For any claims related to this Project, the Additional Insured coverage under CONSULTANT'S insurance policy shall be primary and non-contributory as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT'S insurance and shall not contribute with it and shall be at least as broad as CG 20 01 04 13;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and

obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

It shall be a requirement under this contract that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the broader coverage and maximum limits specified in this contract; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

The limits of insurance required in the contract may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non contributory basis for the benefit of the City before the City's own insurance or self insurance shall be called upon to protect it as a named insured.

4. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed on the day and year first above written.

Siemens Industry, Inc.

City of Benicia, a Municipal Corporation

By _____

By _____

Brad Kilger
City Manager

RECOMMENDED FOR APPROVAL:

Department Head

APPROVED AS TO FORM:



City Attorney

SIEMENS

1.	Military West/Drolette vehicle knockdown	\$7,395.00
2.	Warwick underground power line restoration	\$5,712.87
3.	Warwick troubleshoot line location for line restoration	\$517.50
4.	Relocation of pedestrian push poll button post @ 1st & Military	\$3,732.00
5.	April S/L charges	\$4,428.29
6.	May S/L charges	\$1,209.97
7.	Deteriorated 30 ft wood street light @ 319 Warwick fell in citizens front yard	\$6,225.97
8.	USA Street light @ 915 First Street	\$414.00
		\$29,635.60

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
CONSENT CALENDAR

DATE : June 29, 2015

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **APPROVE AN AGREEMENT BETWEEN CITY OF BENICIA AND WOLF COMMUNICATIONS TO PERFORM TOURISM AND MARKETING SERVICES**

RECOMMENDATION:

Adopt the resolution approving an agreement through June 30, 2016 for tourism marketing services provided by Wolf Communications at a contractual value not to exceed \$60,000.

EXECUTIVE SUMMARY:

In an effort to continue to promote a tourism program, prioritized by the City Council and reaffirmed with the adoption of the Business Development Action Plan, staff is recommending the continued partnership with Wolf Communications to provide marketing and public relations services.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

Strategic Issue 3: Strengthening Economic and Fiscal Conditions

- Strategy #1: Implement Tourism Plan
- Strategy #3: Retain and Attract Business

BUDGET INFORMATION:

The contract funding is included in the 2015-2017 adopted budget, Account No. 010-2605-8256. The contract is valued at a not to exceed amount of \$60,000.

BACKGROUND:

In 2009 the City of Benicia initiated the development and deployment of a comprehensive and professional managed tourism program (2009-2011). Following the conclusion of the initial \$280,000 investment, the City Council reaffirmed its desire to continue with a tourism program with their adoption of successive budgets from 2011-2017.

To meet the City Council objectives, staff recommends the continuation of an outside professional marketing and public relations firm. City staff does not possess the expertise nor time to perform the tasks necessary to meet our tourism program objectives. Furthermore, the knowledge of Benicia's unique tourism infrastructure and professional relationships Wolf Communications has courted on Benicia's behalf, make Wolf Communications the best and most responsible firm to continue Benicia's tourism effort. To that end, staff is recommending the City continue that relationship with a new contract, valued at a not to exceed amount of \$60,000.

The new contract parameters mirror much of what Wolf Communications performed under the most recent agreement. Based on feedback from the Economic Development Board (EDB) and Tourism Committee, this Agreement has an enhancement for additional time for media relations, particularly to host another familiarization tour ("Fam Tour") for which Benicia successfully hosted for the first time in May. Additionally, to buttress these efforts, staff has reduced the frequency of the quarterly reports from four to three. Under the terms of the new Agreement Wolf Communications will make two presentations to the EDB and one to the City Council.

The Agreement also envisions the possibility of program expansion, should additional revenue be gained by the Office of Economic Development. Within the scope of work staff and Jack Wolf have created a "menu" of add alternates that include, among other things, the development a small business marketing grant program mirrored after a program developed in Pleasant Hill. The concept would be to provide funding to sales-tax producing businesses for marketing materials/efforts coordinated and professionally developed by Wolf Communications. Also included within the add alternates options are video production for both the visitbenicia.org and Beniciabusiness.com web sites, additional ad buys, more assistance for web content and increased time for media relations. As noted above, additional revenue would need to be generated and the services approved, but nonetheless, thought to develop such services is already underway.

Recognizing the value and success of our tourism efforts and the need to continue the momentum that has been gained over the last three years staff is recommending a one year contract with Wolf Communications valued at a not to exceed amount of \$60,000. Staff requests that City Council to adopt the proposed resolution and approve the one year contract with Wolf Communications.

Attachments:

- Proposed Resolution
- 2015 - 2016 Proposed Contract With Wolf Communications

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AWARDING THE TOURISM MARKETING CONSULTANT CONTRACT TO WOLF COMMUNICATIONS OF SANTA ROSA, CALIFORNIA IN THE AMOUNT NOT TO EXCEED \$60,000 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, the City of Benicia has recognized that tourism is a key element of our economic development strategy; and

WHEREAS, Wolf Communications was retained last year as the City's tourism and marketing consulting firm; and

WHEREAS, Wolf Communications performed admirably and to the satisfaction of City staff and tourism stakeholders the duties and obligations of all prior contracts; and

WHEREAS, the City desires to continue a professionally concerted tourism and marketing campaign; and

WHEREAS, Wolf Communications, having worked on behalf of the City since 2008, has acquired an understanding of Benicia's unique market and developed marketing relationships, is the best equipped and most responsible firm to continue on with Benicia's tourism effort; and

WHEREAS, Wolf Communications and principal Jack Wolf have over 20 years of experience in public relations and marketing, and a current and former client list including the Calistoga Chamber of Commerce, City of Santa Rosa, and Sonoma County Convention and Visitors Bureau; and

WHEREAS, the adopted Business Development Action Plan endorses the continued partnership with Wolf Communications to provide marketing services.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia awards the consultant contract to Wolf Communications in the amount not to exceed \$60,000 and authorizes the City Manager to sign the contract on behalf of the City, subject to approval by the City Attorney.

BE IT FURTHER RESOLVED THAT the City Manager or his designee is authorized to review and approve all expenditures related to the delivery of goods and services outlined in the contract.

BE IT FURTHER RESOLVED THAT funds sufficient to cover the consultant contract of \$60,000 exist in the tourism program account 010-2605-8256.

On motion of Council Member _____, and 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 7th day of July, 2015, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into July 1, 2015 is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and Wolf Communications, a California sole proprietor with its primary office located at 2245 Sunlit Ann Drive, Santa Rosa, California, 95403 (hereinafter "CONSULTANT") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain professional services for tourism marketing. The scope of work for said service (hereinafter "Project") is attached hereto as Exhibit A and is hereby incorporated by reference; and

WHEREAS, CONSULTANT is specially trained, experienced and competent to perform the services required by this agreement; and

WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICES.

(a) Services to be Furnished. Subject to such policy direction and approvals as CITY through its staff may determine from time to time, CONSULTANT shall perform the services set forth in the Scope of Work labeled Exhibit A, which is attached hereto and incorporated herein by reference. CONSULTANT and CITY, through the project manager, may mutually agree to adjust the Scope of Work to respond to market conditions.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A according to the completion schedule included in Exhibit B and as expeditiously as is consistent with generally accepted standards of professional skill and care, and the orderly progress of work.

(i) CONSULTANT and CITY agree that the completion schedule in Exhibit B represents the best estimate of the schedule. CONSULTANT shall comply with completion dates noted in Exhibit B unless the CITY's project manager grants a written waiver.

(ii) CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, and such delays shall extend the times for performance of the work by CONSULTANT. Such delays will be identified in writing by CONSULTANT to CITY; if accepted by CITY, a written waiver to the completion dates will be granted pursuant to Section 2(b)(i) above.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise. CONSULTANT shall function as a technical advisor to CITY, and all of CONSULTANT'S activities under this Agreement shall be performed to the full satisfaction and approval of the City Manager or his designee.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for CONSULTANT to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a City of Benicia business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CITY. CITY is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph.

3. COMPENSATION.

(a) Schedule of Payment. The compensation to be paid by CITY to CONSULTANT for the services rendered hereunder shall be on a time and materials basis based upon the rate schedule in Exhibit B attached hereto and hereby incorporated by reference. The rate schedule in Exhibit B itemizes those standard and expected expenses for which CONSULTANT shall receive compensation.

(b) Additional Services. CITY shall make no payment to CONSULTANT for any additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7.

(i) CONSULTANT shall not commence any work or services exceeding the Scope of Services in Section 2 without prior written authorization from CITY in accordance with Section 7. CONSULTANT'S failure to obtain a formal amendment to this Agreement authorizing additional services shall constitute a waiver of any and all right to compensation for such work or services.

(ii) If CONSULTANT believes that any work CITY has directed CONSULTANT to perform is beyond the scope of this Agreement and constitutes additional services, CONSULTANT shall promptly notify CITY of this fact before commencing the work. CITY shall make a determination as to whether such work is

beyond the scope of this Agreement and constitutes additional services. If CITY finds that such work does constitute additional services, CITY and CONSULTANT shall execute a formal amendment to this Agreement, in accordance with Section 7, authorizing the additional services and stating the amount of any additional compensation to be paid.

(c) Invoicing and Payment. CONSULTANT shall submit monthly invoices for the services performed under this Agreement during the preceding period. Invoices or billings must indicate the hours actually worked dedicated to each item in Exhibit A's Scope of Work, as well as all other directly related costs by line item in accordance with Exhibits A and B. CITY shall approve or disapprove said invoice or billing within thirty (30) days following receipt thereof and shall pay all approved invoices and billings within thirty (30) days. Interest at the rate of one and one-half (1.5) percent per month will be charged on all past due amounts starting thirty (30) days after the invoice date, unless not permitted by law, in which case interest will be charged at the highest amount permitted by law. Payments will be credited first to interest, and then to principal.

Total Compensation. The total amount of compensation to be paid under this contract shall not exceed sixty-thousand (\$60,000) dollars, without written authorization of the City Manager. The total compensation amount is derived from the primary scope of work as described in Exhibit A, valued at fifty-thousand dollars (\$50,000) and ten-thousand (\$10,000) worth of work described as additional alternatives to be designated by the City Manager or his designee.

(d) Deliverables. Payments are tied to the successful completion of the deliverables identified in Exhibit B.

4. PRODUCT REVIEW AND COMMENT. Unless otherwise specified, CONSULTANT shall provide CITY with at least one (1) copy of each work product described in Exhibit B. Upon the completion of each product, CONSULTANT shall be available to meet with CITY. If CITY requires additional review and/or revision, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective from July 1, 2015 through June 30, 2016, unless it is amended pursuant to Section 7 or terminated pursuant to Section 6.

6. TERMINATION:

(a) CITY shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon CONSULTANT written notice of termination. The Agreement shall terminate three (3) business days after notice of termination is given. The notice shall be deemed given on the date it is deposited in the U.S. mail, certified, postage prepaid, addressed to CONSULTANT at the address indicated in Section 11.

(b) If CITY issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement, the term "writings" shall include, but not be limited to, handwriting, typewriting, computer and website files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof;

(iii) CITY shall pay CONSULTANT for work actually performed up to the effective date of the notice of termination, subject to the limitations prescribed by Section 3 of this Agreement, less any compensation to CITY for damages suffered as a result of CONSULTANT'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit B. However, if this Agreement is terminated for fault of CONSULTANT, CITY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services that are of benefit to CITY.

7. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both Parties.

8. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. CONSULTANT shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the work of CITY without the prior written consent of CITY.

9. INSPECTION. CITY representatives shall, with reasonable notice, have access to the work and work records, including time records, for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement. Inspections by CITY do not in any way relieve or minimize the responsibility of CONSULTANT to comply with this Agreement and all applicable laws.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONSULTANT is an independent contractor and is not an agent or employee of CITY. CONSULTANT, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CITY to any decision or course of action, and shall not represent to any person or business that they have such power. CONSULTANT has and shall retain the right to exercise full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONSULTANT in the performance of said service hereunder. CONSULTANT shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

11. NOTICE. Any notices or other communications to be given to either party pursuant to this Agreement shall be in writing and delivered personally or by certified U.S. mail, postage prepaid, addressed to the party at the address set forth below. Either party may change its address for notices by complying with the notice procedures in this Section. Notice so mailed shall be deemed delivered three (3) business days after deposit in the U.S. mail. Nothing shall

preclude the giving of notice by electronic mail provided, however, that notice by electronic mail shall be followed by notice deposited in the U.S. mail as discussed above. CITY's project manager is the Economic Development Manager.

If to CITY: Mario Giuliani, Economic Development Manager
City of Benicia
250 East L Street
Benicia, California 94510

If to CONSULTANT: Jack Wolf
Wolf Communications
2245 Sunlit Ann Drive
Santa Rosa, California 95403

12. OWNERSHIP OF MATERIALS. CITY is the owner of everything created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CITY, CONSULTANT shall deliver to CITY all writings, files, records, and information created or maintained pursuant to this Agreement. In addition, CONSULTANT shall not use any of the writing, records, or information generated for the Project under this Agreement for any other work without CITY's consent.

13. EMPLOYEES; ASSIGNMENT; SUBCONTRACTING.

(a) Employees. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services required by this Agreement. CONSULTANT shall not engage the services of any person(s) now employed by CITY without CITY's prior express written consent. CITY reserves the right to request substitution of employees.

(b) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CITY. Any attempted assignment without such approval shall be void and, at CITY's option, shall terminate this Agreement and any license or privilege granted herein.

(c) Subcontracting. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior express written consent of CITY. If CITY consents to CONSULTANT'S hiring of subcontractors, CONSULTANT shall provide to CITY copies of each and every subcontract prior to its execution. All subcontractors are deemed to be employees of CONSULTANT, and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. CITY reserves the right to request substitution of subcontractors.

14. BINDING AGREEMENT. This Agreement shall bind the successors in interest, legal representatives, and permitted assigns of CITY and CONSULTANT in the same manner as if they were expressly named herein.

15. WAIVER.

(a) Effect of Waiver. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. NONDISCRIMINATION.

(a) CONSULTANT shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

(b) Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, CONSULTANT agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONSULTANT or CONSULTANT'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONSULTANT specifically agrees to indemnify, defend, and hold harmless CITY, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, arising out of or in any way connected with the performance of this Agreement, however caused, regardless of any negligence of the CITY, whether active or passive, excepting only such injury or death as may be caused by the sole negligence or willful misconduct of the CITY. The CONSULTANT shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

18. INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and employer's liability insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
(i) Workers' Compensation	Statutory
(ii) Comprehensive Automobile	Bodily Injury/Property Damage

Insurance Services Office,
form #CA 0001 (Ed 1/87
covering auto liability code 1
(any auto)

\$1,000,000 each accident

(iii) General Liability Insurance
Services Office Commercial
General Liability coverage
on an occurrence basis
(occurrence form CG 0001)

\$1,000,000 per occurrence. If
Commercial General Liability
Insurance or other form with a
general aggregate limit shall
apply separately to this Project/
location, the general aggregate
limit shall be twice the required
occurrence limit

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CITY.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) For any claims related to this Project, the CONSULTANT'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT'S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by

CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement. CITY or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with CITY'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment or engage in any consulting work that creates a conflict of interest with CITY or in any way compromises the services to be performed under this Agreement. CITY and CONSULTANT shall immediately notify each other of any and all violations of this Section upon becoming aware of such violation, and CONSULTANT must immediately correct the conflict upon such notice.

22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.

23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County.

25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

26. INTEGRATION. This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

Executed by CITY and CONSULTANT on the date shown next to their respective signatures. The effective date of this Agreement shall be the date of execution by the CITY as shown below.

WOLF COMMUNICATIONS

CITY OF BENICIA

BY: _____
JACK WOLF

BY: _____
BRAD KILGER, CITY MANAGER

DATED:

DATED:

RECOMMENDED FOR APPROVAL:

MARIO GIULIANI, ECONOMIC DEVELOPMENT
MANAGER

APPROVED AS TO FORM:

HEATHER C. MC LAUGHLIN, CITY ATTORNEY

EXHIBIT A

EXHIBIT A
Scope of Work: 2015-2016

Budget of \$50,000: Proposed Yearly Activities

Activity	Description	Frequency/no.	Total Hours for Year	Approx. cost
Web maintenance	Installing platform updates, resolution of technical issues, minor content updates	As needed	12	\$900.00
Press materials (releases, advisories, updates, etc.)	Researching, writing, media list creation, release layout, distribution and follow up	8x per year	48	\$6,000.00
Blog	Creating and posting blogs (some posts will be video blogs)	2x a month	56	\$6,000.00
Newsletter	Writing and distribution	4x per year	24	\$3,000.00
Media relations and familiarization tours	Phone pitching journalists, and responding to requests. Individual and possibly group familiarization tours	As needed, up to limit of monthly hours	127	\$17,000.00
Advertising content	Provide City staff with ad specifications. City staff will approve final develop ad copy.	N/A	2	\$300.00
Ad buying	Negotiating rates and placement location	N/A	6	\$900.00
Ad insertion	Cost charged by media outlet for publication. Options may include Sunset Magazine, VIA Magazine, a Sacramento Bee campaign, and online advertising such as Google AdWords and Facebook.	N/A	N/A	\$8,500.00
Photo Shoot	Produce outdoor photo shoot	As budget allows	7	\$1,200.00
Reporting	7 to 10 page summary of campaign results, and a media hits spreadsheet	Semi-annual	16	\$2,000.00

Presentations	City Council, Economic Development Board	1 each: City Council, EDB, Tourism Committee	14	\$2,100.00
Expenses	Travel/copy/subscription Costs	N/A	N/A	\$1,500.00
Contingency/ Miscellaneous	Funds to cover additional work, and/or ad buy	N/A	N/A	\$600.00
TOTAL				\$50,000.00

Additional Alternates:

Activity	Description	Frequency/no	Total Hours for Year	Approx. cost
Social media	A recent survey shows that 49% of California travelers use social media in their trip planning. Benicia's presence on Facebook and Twitter is excellent, but expanding to other popular channels would be very beneficial. The budget above provides one hour per month, which limits how much can be done. This supplement would allow one hour per week.	As needed	TBD	\$5,000.00
Ad insertion	Additional budget for advertising	N/A	N/A	\$2,500.00
Advertising content	Additional assistance to City staff for developing ad copy	N/A	2	\$300.00
Ad buying	Additional budget for negotiating rates and ad placement	N/A	5	\$700.00
Video production	Additional video work, possibly to hire a videographer to capture more footage throughout Benicia with high-end equipment			\$1,500.00
TOTAL				\$10,000.00

EXHIBIT B

EXHIBIT B
SCHEDULE, MEASUREMENT METRICS, DELIVERABLES, AND RATES

Newsletters (6):

Deliverable based on events and activities

Semi-Annual Report:

First Report Due: July 6, 2015

Second Report Due: January 15, 2016

Presentation to City Council

October 6, 2015 @ 7:00 p.m.

Presentation to EDB

February 17, 2016 @ 5:30 p.m.

Presentation to Tourism Committee

February 18, 2016 @ 9:00 a.m.

Regular Reports to Cover:

Evaluation of key message delivery and brand positioning in media coverage

Website hits, significant changes, and user/subscriber counts

Online/social media work

Advertising placed and evaluation of its effectiveness

Media Hits (stories placed)

Newsletter distribution, open rates, and click-throughs

Hourly Rates:

Jack Wolf: \$150

Christy Gentry: \$105

Jeff Braunstein (approved subcontractor): \$95

Associates: \$60

Other Subcontractors TBD

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
BUSINESS ITEMS

DATE : June 23, 2015

TO : City Manager

FROM : Public Works Director

SUBJECT : **PUBLIC HEARING FOR CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FOR FISCAL YEAR 2015-15**

RECOMMENDATION:

1. Conduct a public hearing to receive oral statements and written comments concerning the City of Benicia Landscape and Lighting Assessment District for the 2015-16 fiscal year.

At the conclusion of the public hearing,

2. Adopt the resolution ordering the maintenance of existing improvements in all five zones of the District, confirming the Assessment Diagram, approving the Engineer's Report and ordering the levy and collection of certain assessments for the City of Benicia Landscape and Lighting District for Fiscal Year 2015-16.

EXECUTIVE SUMMARY:

The items scheduled for consideration at this meeting will complete the process for levying assessments for Fiscal Year 2015-16 through the Solano County Auditor-Controller's Office for collection of the assessments with the property tax bills. Should the City Council conclude, after receiving comments from interested persons during the public hearing, that any assessment should be amended, no action should be taken on the resolution ordering the maintenance of existing improvements. Staff would then modify the report as directed and bring the matter back for final approval on July 21, 2015. However, this matter must be concluded by August 1, 2015 to meet the filing deadline with the Solano County Auditor-Controller's Office.

BUDGET INFORMATION:

The total budget costs for Fiscal Year 2015-16 for all five zones of the District is \$608,426. After the Reserve Fund credits and interest earnings are applied to the budgets, the balance to levy is \$427,662. It is projected that at the end of fiscal year 2015-2016 each of the zones will continue to maintain a positive fund balance except Zone 1 Residential, which will require an estimated \$110,108 transfer from the General Fund.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #3: Strengthening Economic and Fiscal Conditions
 - Strategy #4: Manage City finances prudently

BACKGROUND:

The City of Benicia Landscaping and Lighting District was formed in the late 1970's. The City Council annually levies assessments on the parcels of land within the District to maintain the improvements that provide special benefits to properties within the District. The City of Benicia Landscaping and Lighting District consists of five separate zones with the largest being the residential zone. The other four zones are smaller commercial/industrial areas. Private properties within each zone are assessed annually to pay the cost to maintain landscaping along street rights of way, maintenance of open space areas and maintenance and energy costs of streetlights on a zone-by-zone basis.

The City Council, on June 16, 2015, initiated the annual process for levying assessments within the Landscaping and Lighting Assessment District. The Council adopted three resolutions which initiated proceedings for the levy and collection of assessments, gave preliminary approval to the Engineer's Report as required by the State of California Streets and Highways Code and finally set a public hearing for July 7, 2015 for consideration of a resolution to order the levy and collection of assessments for Fiscal Year 2015-2016. Conducting the public hearing and adoption of the resolution ordering the levy and collection of assessments for Fiscal Year 2015-2016 will complete the process for the coming fiscal year.

No increases to the assessment rates are proposed for fiscal year 2015-16 at this time. Therefore, the Zone 1 residential rate is recommended to remain at \$136.56 per parcel. The assessment rates for Zones 2 through 5 vary based upon parcel size, but remain unchanged from prior years. While the revenue from the assessments in each of the zones are no longer sufficient to fund the annual costs, each zone is projected to have a fund balance by the end of the fiscal year except Zone 1, which will need a \$110,108 transfer from the General Fund. Staff is currently evaluating options for a comprehensive funding strategy that will ensure the City's future financial sustainability.

Attachments:

- Proposed Resolution ordering Levy and Collection of Assessments
- Resolution Nos. 15-63, 15-64, 15-65
- Engineer's Report

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ORDERING THE MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF THE DISTRICT, CONFIRMING THE ASSESSMENT DIAGRAM, APPROVING THE ENGINEER'S REPORT AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2015-16

WHEREAS, on the 16th day of June, 2015, the City Council adopted its Resolution No. 15-63, Describing Improvements and Directing Preparation of Engineer's Report for Fiscal Year 2015-16 for the City of Benicia Landscaping and Lighting District ("District") pursuant to the Landscaping and Lighting Act of 1972, and directed the Engineer of Work to prepare and file with the Clerk of this City a written report called for under said Act and by said Resolution No. 15-64; and

WHEREAS, said report was duly made and filed with the Clerk of said City, whereupon said Clerk presented it to the City Council for its consideration; and

WHEREAS, said Council thereupon duly considered said report and each and every part thereof and found that it contained all the matters and things called for by the provisions of said Act and said Resolution No. 15-65, including (1) plans and specifications of the existing improvements; (2) estimate of costs for maintenance and servicing said improvements for Fiscal Year 2015-16; (3) diagram of the District; and (4) an assessment according to benefits; all of which were done in the form and manner required by said Act; and

WHEREAS, the City Council found that said report and each and every part thereof was sufficient in every particular and determined that it should stand as the report for all subsequent proceedings under said Act, whereupon the City Council, pursuant to the requirements of said Act, appointed Tuesday, the 7th day of July, 2015, at 7:00 p.m. of said day in the regular meeting place of said Council, City Hall, 250 East "L" Street, Benicia, California, as the time and place for hearing comments in relation to any proposed assessment upon an assessable lot or parcel of land within the District for maintenance or servicing of existing improvements for Fiscal Year 2015-16, and directing said Clerk to give notice of said hearing as required by said Act; and

WHEREAS, notices of said hearing were duly and regularly published and posted in the time, form and manner required by said Act, as evidenced by the Affidavits and Certificates on file with said Clerk, whereupon said hearing was duly and regularly held at the time and place stated in said notice; and

WHEREAS, persons interested in commenting on any proposed assessment upon an assessable lot or parcel of land within District filed written protests with the Clerk of said City at or before the conclusion of said hearing, and all interested persons desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the levy and collection of the assessments for the maintenance or servicing of said improvements were fully heard and considered by the City Council.

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

1. That protests against the proposed assessment upon any assessable lot or parcel of land within District for Fiscal Year 2015-16 be, and each of them, are hereby overruled.
2. That the public interest, convenience and necessity require and the City Council does hereby order the levy and collection of assessments pursuant to said Act, for the maintenance or servicing of improvements, more particularly described in said Engineer's Report and made a part hereof by reference thereto.
3. That the City of Benicia Landscaping and Lighting District and the properties thereof benefited and to be assessed for said costs for the maintenance and servicing of existing improvements are situated in Benicia, California, and are more particularly described by reference to a map thereof on file in the office of the Director of Public Works and Community Development of said City. Said map indicates by a boundary line the extent of the territory included in District and of any zone thereof and the general location of District.
4. That the public interest and convenience require, and the City Council does hereby order the improvements to be serviced and maintained as described in and in accordance with said Engineer's Report, reference to which is hereby made for a more particular description of said improvements.
5. That the diagram showing the exterior boundaries of District and described in said Resolution No. 15-64, and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which it applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, finally approved and confirmed.
6. That the assessment of the total amount of the costs and expenses for the maintenance or servicing of existing improvements upon the several lots or parcels of land in District in proportion to the estimated benefits to be received by such lots or parcels, and of the expenses incidental thereto contained in said report be, and the same is hereby, finally approved and confirmed.

7. That said Engineer's Report for Fiscal Year 2015-16, be, and the same is hereby, finally adopted and approved as revised to reflect the actual expenditures for prior years, as a whole.

8. Immediately upon the adoption of this Resolution, the Engineer shall file the assessment and a certified copy of this resolution with the Auditor of the County of Solano. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment. The assessment shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the City.

9. That the order for the levy and collection of assessments for the improvements and the final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in said Report, as hereinabove determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by the City Council.

* * * * *

On motion of Council Member _____, and 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 7th day of July 2015, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 15- 63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2015-2016

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

1. Previously, the City Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15, of the Streets and Highways Code of the State of California, conduct the proceedings for and did form the City of Benicia Landscaping and Lighting District ("District").

2. The public interest, convenience and necessity require, and it is the intention of this City Council to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in said District, for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for Fiscal Year 2015-16.

3. The improvements to be constructed or installed, including the maintenance or servicing, or both, thereof, are:

a) The maintenance or servicing of public landscaping including, but not limited to, trees, shrubs, grass, or other vegetation in curbed median islands of public streets, in landscaped strips or areas along and adjacent to public street areas, in public open space areas retained in their natural state, or in areas developed as public parks.

b) The maintenance or servicing, or both, thereof public lighting facilities and improvements including, but not limited to, standards, poles and luminaries and the cost of electric current or energy.

4. The costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said District, the exterior boundaries of which District are the composite and consolidated area as more particularly shown on a map thereof on file in the office of the Public Works Director of the City of Benicia to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in said District and of any zone thereof and shall govern for all details as to the extent of the assessment district.

5. The Engineer of Work shall be Harris & Associates and is hereby directed to prepare and file with the City Clerk a report, in writing, referring to the assessment district by its distinctive designation, specifying the fiscal year to which the report applies, and, with respect to that year, presenting the following:

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

On motion of Council Member **Schwartzman**, seconded by Council Member **Strawbridge**, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 16th day of June, 2015 and adopted by the following vote:

Ayes: **Council Members Campbell, Schwartzman, Strawbridge, and Vice Mayor Hughes**

Noes: **None**

Absent: **Mayor Patterson**

Attest:


Mark Hughes, Vice Mayor


Lisa Wolfe, City Clerk

6-23-15
Date

RESOLUTION NO. 15- 64

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY
OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR
2015-16**

WHEREAS, by previous Resolution, the City Council did adopt the Resolution describing improvements and directing preparation of Engineer's Report for Fiscal Year 2015-2016 pursuant to the Landscaping and Lighting Act of 1972 for the City of Benicia Landscaping and Lighting District ("District") in said City and did refer the proposed improvements to the Engineer of Work, and did therein direct said Engineer of Work to prepare and file with the Clerk of said City a report, in writing, all as therein more particularly described, under and pursuant to the Landscaping and Lighting Act of 1972; and

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

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

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

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

On motion of Council Member **Schwartzman**, seconded by Council Member **Strawbridge**, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 16th day of June, 2015 and adopted by the following vote:

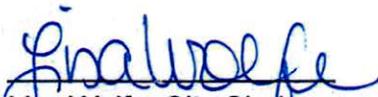
Ayes: **Council Members Campbell, Schwartzman, Strawbridge, and Vice Mayor Hughes**

Noes: **None**

Absent: **Mayor Patterson**

Attest:


Mark Hughes, Vice Mayor


Lisa Wolfe, City Clerk

6-23-15
Date

RESOLUTION NO. 15- 65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THEREFORE SETTING A PUBLIC HEARING ON JULY 7, 2015 TO CONSIDER THE FISCAL YEAR 2015-16 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT

WHEREAS, pursuant to the previous Resolution, describing improvements and directing preparation of Engineer's Report for Fiscal Year 2015-2016 for City of Benicia Landscaping and Lighting District ("District"), adopted on June 16, 2015, by the City Council of said City pursuant to the Landscaping and Lighting Act of 1972, the City Engineer of said City has prepared and filed with the Clerk of this City the written report called for under said Act and by previous Resolution, which said report has been submitted and preliminarily approved by this City Council in accordance with said Act.

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

1. In its opinion the public interest and convenience require, and it is the intention of the City Council to order, the levy and collection of assessments for fiscal year 2015-2016 pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15, of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are:

a) The maintenance or servicing of public landscaping including, but not limited to, trees, shrubs, grass, or other vegetation in curbed median islands of public streets, in landscaped strips or areas along and adjacent to public street areas, in public open space areas retained in their natural state, or in areas developed as public parks.

b) The maintenance or servicing, or both, thereof public lighting facilities and improvements including, but not limited to, standards, poles and luminaries and the cost of electric current or energy.

2. The cost and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the District, the exterior boundaries of which District are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Director of Public Works of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the district and of any zone thereof and the general location of said District.

3. Said Engineer's Report prepared by the City Engineer of said City, preliminarily approved by the City Council by previous Resolution and on file with the Clerk of this City, is hereby referred to for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within District.

4. Notice is hereby given that Tuesday, the 7th day of July, 2015, at 6:00 p.m. in the regular meeting place of the City Council, City Hall, 250 East "L" Street, Benicia, California, be and the same is hereby appointed and fixed as the time and place for a hearing by the City Council on the question of the levy and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written comments made or filed by any interested person at or before the conclusion of said hearing against any proposed assessment upon an assessable lot or parcel of land within the District, and when and where it will consider and finally act upon the Engineer's Report.

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

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

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

On motion of Council Member **Schwartzman**, seconded by Council Member **Strawbridge**, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 16th day of June, 2015 and adopted by the following vote:

Ayes: **Council Members Campbell, Schwartzman, Strawbridge, and Vice Mayor Hughes**

Noes: **None**

Absent: **Mayor Patterson**

Attest:


Mark Hughes, Vice Mayor


Lisa Wolfe, City Clerk

6-23-15
Date



ENGINEER'S REPORT

for

City of Benicia

Landscaping and Lighting Assessment District

Fiscal Year 2015 – 16

for the

City of Benicia

Solano County, California

June 9, 2015



Harris & Associates

VIII.A.15

Table of Contents

1	OVERVIEW.....	2
1.1	INTRODUCTION.....	2
	General Description of the District.....	2
	Compliance with the California Constitution.....	3
	Summary of Proposed Assessment and Expenditures.....	3
2	PLANS AND SPECIFICATIONS.....	5
2.1	Level of Maintenance Services Provided.....	6
3	BUDGET.....	9
4	METHOD OF APPORTIONMENT.....	15
4.1	GENERAL.....	15
4.2	BENEFIT ANALYSIS.....	15
	General Benefits.....	15
	Special Benefits.....	15
	Non-Assessable Properties.....	16
4.3	ASSESSMENT METHODOLOGY.....	16
4.4	Special Cases.....	17
5	DISTRICT DIAGRAM.....	18
6	ASSESSMENT ROLL.....	20
	APPENDIX B.....	21

**ENGINEER'S REPORT
CITY OF BENICIA
LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT**

The undersigned respectfully submits the enclosed report as directed by the City Council. The undersigned certifies that he is a Professional Engineer, registered in the State of California.



DATED: June 9, 2015

BY: K. Dennis Klingelhofer
Assessment Engineer
R.C.E. No. 50255

1 OVERVIEW

1.1 INTRODUCTION

The City of Benicia ("City") levies and collects special assessments on parcels within the City of Benicia Landscaping and Lighting District ("District") in order to maintain the improvements within those areas. The District was initially formed in the late 1970's to provide a dedicated source of funding for the ongoing maintenance of lighting and landscape improvements within the Southhampton area. Over the years, other areas have been annexed into the original benefit zone, and additional benefit zones have also been created. The assessments and methods of apportionment described in this Report utilize commonly accepted assessment engineering practices and have been calculated and proportionately spread to each parcel based on the special benefits received as approved by the City Council at the time the District was formed.

General Description of the District

The District consists of five (5) Benefit Zones as described below. Only parcels within each of those zones receive an assessment.

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

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

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

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

Zone 5 – Columbus Parkway ("Zone 5") is comprised of both commercial parcels, residential parcels and privately owned open space parcels. There are five assessed commercial parcels totaling 9.28 acres; there are 188 residential condominiums at the Cambridge Apartments and there are 50 units on



Assessment Parcel #1327. Also within the boundaries of Zone 5 are parcels identified as privately owned open space parcels that are deemed to be not assessable.

Compliance with the California Constitution

Assessments are levied annually pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code ("1972 Act"). All assessments described in this Report and approved by the City Council are prepared in accordance with the 1972 Act and are in compliance with the provisions of the California Constitution Article XIID ("Article XIID"), which was enacted with the passage of Proposition 218 in November 1996. Pursuant to Article XIID Section 5, certain existing assessments are exempt from the substantive and procedural requirements of Article XIID Section 4. Specifically, Article XIID Section 5(b) exempted:

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

The City has determined that all improvements and the annual assessments originally established for the District were part of the conditions of property development and approved by the original property owner (developer at the time of the District formation late 1970's). As such, pursuant to Article XIID Section 5(b), all the property owners approved the existing District assessments at the time the assessments were created (originally imposed pursuant to a 100% landowner petition). Therefore, the pre-existing assessment amount has been exempt from the procedural requirements of Article XIID Section 4 since the amount of the assessment has not increased since the passage of Proposition 218.

Any future increase in the assessment rate or substantial changes in the services provided would require that the District be brought into compliance with all of the requirements of Article XIID and would require the approval of the property owners subject to the assessment based upon a mailed ballot which would be sent to each property owner.

Summary of Proposed Assessment and Expenditures

A summary of the assessments to be levied in each Benefit Zone is shown in the table below. Based upon the estimated expenditures, the transfer which will be needed from the Zones projected fund balance is also shown for fiscal year 2015-16, and as well as the projected fund balance as of June 90, 2015. Overall, each of the five zones is structurally underfunded with expenditures outpacing revenue; however the level of annual deficit varies significantly among the zones. Zones 1 & 2 have the largest imbalances, in fact Zone 1 is projected to begin FY 2015-16 without a fund balance and an approximately \$96,420 General Fund transfer the maintain the current level of service. Zone 2 begins the year with a healthy fund balance, yet nearly half of that balance will be required to continue current service levels. Zones 3 – 5 deficits which are measureable, yet these zones possess enough fund balance to finance the deficits through the analysis period. Long-term, these fiscal realities are not sustainable and will require either growing General Fund subsidies, or reductions in service levels, or a Proposition 28 ballot measure.



CITY OF BENICIA
 LANDSCAPE AND LIGHTING DISTRICT FY 2015-16
 SUMMARY OF EXPENSES AND REVENUES

	Zone 1 Residential	Zone 2 Fleetside Ind. Park	Zone 3 Goodyear Road	Zone 4 E. Second Street	Zone 5 Columbus Parkway	Total
DIRECT COST						
Maintenance and Servicing	\$ 246,808	\$ 88,006	\$ 4,440	\$ 18,072	\$ 16,230	\$ 373,556
Utilities	\$ 81,515	\$ 14,145	\$ 1,165	\$ 15,640	\$ 3,335	\$ 115,800
Capital Outlay	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cost Allocation	\$ 73,170	\$ 23,140	\$ 1,640	\$ 4,935	\$ 3,835	\$ 106,720
District Administration	\$ 8,500	\$ 2,200	\$ 150	\$ 1,000	\$ 500	\$ 12,350
TOTAL DIRECT COST	\$ 409,993	\$ 127,491	\$ 7,395	\$ 39,647	\$ 23,900	\$ 608,426
Estimated Fund Balance 7/1	\$ -	\$ 98,084	\$ 37,514	\$ 37,261	\$ 101,616	\$ 274,475
Estimated Contribution/(Transfer)	\$ -	\$ (47,514)	\$ (3,395)	\$ (11,647)	\$ (8,100)	\$ (70,656)
Estimated Interest Income	\$ -	\$ 1,470	\$ 560	\$ 370	\$ 1,020	\$ 3,420
Projected Fund Balance 6/30	\$ -	\$ 52,040	\$ 34,679	\$ 25,984	\$ 94,536	\$ 207,239
ASSESSMENT REVENUES	\$ 299,885	\$ 79,977	\$ 4,000	\$ 28,000	\$ 15,800	\$ 427,662
Assessment per Benefit Unit	\$ 136.56	\$ 644.77	\$ -	\$ -	\$ 645.00	
Assessment Needed to Fully Fund	\$ 186.70	\$ 1,027.82	\$ -	\$ -	\$ 974.60	
Assessment per Acre	\$ -	\$ -	\$ 108.08	\$ 101.32	\$ 40.00	
Assessment Needed to Fully Fund	\$ -	\$ -	\$ 199.81	\$ 143.46	\$ 60.51	

2 PLANS AND SPECIFICATIONS

The District provides for the continued installation, maintenance and servicing of landscaping within public parks, street landscaping and lighting improvements within the public right-of-ways which provide special benefit to parcels and properties in each of the five (5) Benefit Zones

As generally defined in the 1972 Act, maintenance and servicing of the improvements may include one or any combination of the following:

- 1) The installation or planting of landscaping.
- 2) The installation or construction of statuary, fountains, and other ornamental structures and facilities.
- 3) The installation or construction of public lighting facilities, including, but not limited to streetlights and traffic signals.
- 4) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof; including but not limited to, grading, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.
- 5) The installation of park or recreational improvements including, but not limited to the following:
 - a) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.
 - b) Lights, playground equipment, play courts and public restrooms.
- 6) The maintenance or servicing, or both, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including, but not limited to:
 - a) Repair, removal, or replacement of all or any part of any improvements;
 - b) Grading, clearing, removal of debris, the installation, repair or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;
 - c) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
 - d) The removal of trimmings, rubbish, debris, and other solid waste;
 - e) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.
 - f) Electric current or energy, gas, or other agent for the lighting or operation of any other improvements.
 - g) Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- 7) The acquisition of land for park, recreational or open-space purposes, or the acquisition of any existing improvement otherwise authorized by the 1972 Act.
- 8) Incidental expenses associated with the improvements including, but not limited to:
 - a) The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;
 - b) The costs of printing, advertising, and the publishing, posting and mailing of notices;
 - c) Compensation payable to the County for collection of assessments;

- d) Compensation of any engineer or attorney employed to render services;
- e) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements; and,
- f) Costs associated with any elections held for the approval of a new or increased assessment.

2.1 Level of Maintenance Services Provided

The City has defined the desired level of maintenance services which should be provided to maintain the appearance and health of vegetation and landscaped area, and to maintain recreation areas in a safe and attractive manner to serve the surrounding property. At the time of formation of the Landscape and Lighting District in the late 1970's, assessment revenues were sufficient to provide maintenance service at the approximate frequency shown under the "Desired Level of Maintenance" in the table below.

However, over the years the frequency of maintenance services which the District has been able to provide has gradually been reduced. The primary reason for the gradual reduction in maintenance levels is that although the cost of labor, materials, utilities and other services have continued to increase annually, the assessment revenues have not increased. As a result, the current frequency of maintenance services which the District is able to provide is shown in the table on the following page under "Current Maintenance Level".

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

Zone 1 – Residential

The Zone 1 improvements shall consist of: 1) maintenance and servicing of open space areas including disking, mowing and trash removal; 2) within public park sites with established landscaping, maintenance and servicing improvements including trimming, pruning, weeding, fertilizing, irrigation, trash removal, mechanical sprinkler repair, plant replacement, and other necessary maintenance programs; and 3) the servicing of electrical power for 304 streetlights for this zone.

Zone 2 – Fleetside Industrial Park

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

Summary of Maintenance Activities and Frequencies

Activity	Desired Frequency	Budgeted Frequency
Turf Maintenance		
Mowing, edging & trimming	Weekly	Weekly
Fertilization	Four times per year	Once per year
Control and/or eradication of pest and weeds	Four times per year	Twice per year
Landscape Maintenance		
Re-mulch landscape areas	Annually	NB*
Color Plantings	Semi-annually	NB*
Plant Replacement	As-needed	NB*
Fertilize shrubs and ground cover	Annually	NB*
Fertilize trees	Annually	NB*
Control and/or eradication of pest and weeds	Four times per year	Twice per year
Trash and Debris Removal		
Turf/Landscape areas	Daily	Daily
Hardscape areas	Daily	Daily
Picnic/Play Areas	Daily	Daily
Restrooms	Daily	Daily
Pruning and Trimming		
Shrubs	Four times per year	Twice per year
Trees	3-5 Year Cycle	Limited to emergency pruning and removal
Irrigation Maintenance		
Monitor, test and inspect irrigation system	Weekly	Twice per month
Street Light Maintenance		
Re-lamping	2-3 Year Cycle	2-3 Year Cycle
Hardscape Maintenance		
Repair of damaged sidewalks	Annual contract	Limited to emergency repairs to correct safety hazards
Repair/Replacement of playground equipment	Planned replacement program	NB*

* NB = Not within Budget

Zone 3 – Goodyear Road

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

Zone 4 – East 2nd Street

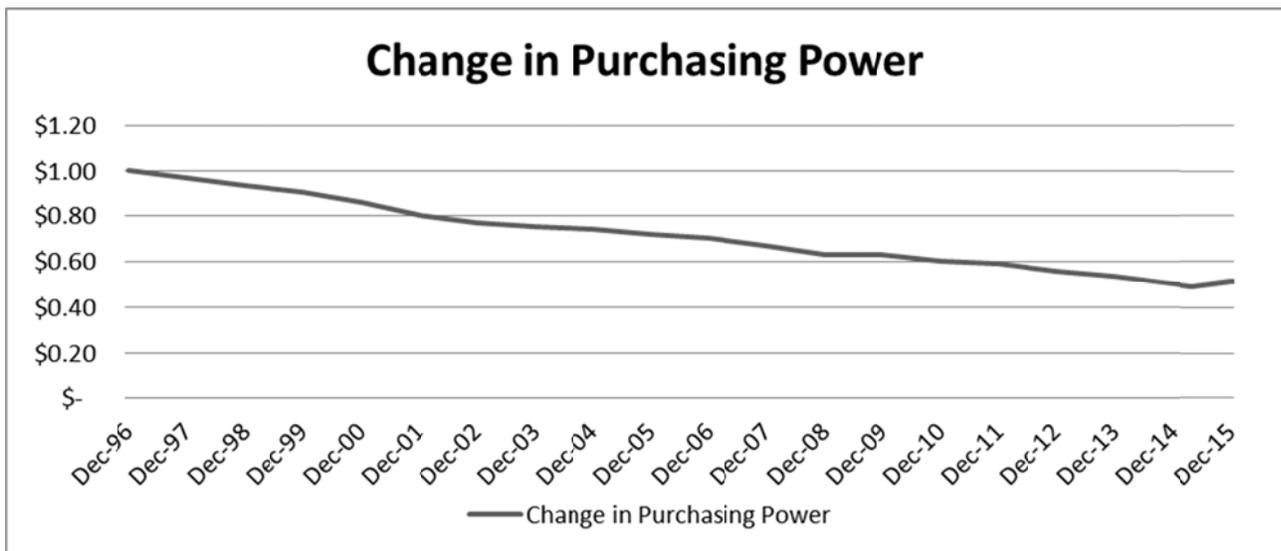
The Zone 4 improvements shall consist of: 1) the maintenance and servicing of landscaped median areas in Rose Drive from East 2nd Street to 1,800 feet (0.34 miles), more or less, northwesterly of East 2nd Street, and in East 2nd Street from 4,800 feet (0.91 miles), more or less, southerly of Rose Drive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

Zone 5 – Columbus Parkway

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

3 BUDGET

All improvements within the District are maintained and serviced on a regular basis. Based upon the available revenues generated by the assessment, City staff determines the frequency and specific maintenance operations which can be provided in a given year. Since the assessment rate has not been increased since the passage of Proposition 218 in 1996, the City has had to gradually reduce service levels as costs have increased while the assessment rate has remained fixed. The table below shows the change in purchasing power since the passage of Proposition 218 based upon the annual change in the Consumer Price Index for the San Francisco Bay Area as published by the U.S. Department of Labor.



The proposed budget for each Zone is shown on the following pages. This includes an estimate of the costs of utilities, operations, services, administration and maintenance associated with the improvements within the each Zone, including all labor, personnel, equipment, materials and administrative expenses. The budget summary for each zone also shows the estimated fund balance for the zone, and the projected contribution/ (transfer) that will be required from the fund balance based upon the estimated expenditures and assessment revenue. As seen in the budget tables, a General Fund transfer will be needed to maintain service levels in Zone 1, given that the zone is forecast to begin FY 2015-16 without a fund balance and a structural budgeting deficit of more than \$110,000. In Zones 2 – 5 a contribution will be required from the fund balance in each Zone for Fiscal Year 2015-16. Based upon current projected maintenance costs in future years, the existing fund balance in most of the zones will be impacted by this fiscal imbalance. Methods to address this issue include escalating General Fund subsidies (or contributions from other sources), reductions in service levels, or a Proposition 218 ballot measure to adjust assessment rates to fully fund each zone's expenditures. In each table, the costs of maintenance are greater than the revenue generated by the current assessment; additionally, each budget illustrates the estimated assessment rate required to fully fund maintenance activities.

CITY OF BENICIA LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT ZONE 1 - RESIDENTIAL						
	Actual Expenditure 2012-13	Actual Expenditure 2013-14	Adopted Budget 2014-15 (1)	Projected Budget 2015-16	Projected Budget 2016-17	Projected Budget 2017-18
EXPENDITURES						
Maintenance and Servicing						
Personnel Cost	\$ 217,498	\$ 224,228	\$ 235,205	\$ 230,158	\$ 226,038	\$ 230,559
Contractor Services	\$ 11,720	\$ 4,416	\$ 12,000	\$ 9,150	\$ 9,150	\$ 9,333
Materials and Supplies	\$ 8,247	\$ 4,500	\$ 22,500	\$ 7,500	\$ 7,500	\$ 7,650
Subtotal	\$ 237,465	\$ 233,144	\$ 269,705	\$ 246,808	\$ 242,688	\$ 247,542
Utilities	\$ 87,072	\$ 77,761	\$ 94,000	\$ 81,515	\$ 81,515	\$ 84,776
Capital Outlay	\$ -	\$ -	\$ 1,000	\$ -	\$ -	\$ -
Cost Allocation	\$ -	\$ -	\$ -	\$ 73,170	\$ 73,170	\$ 74,633
District Administration	\$ 6,431	\$ 8,474	\$ 9,570	\$ 8,500	\$ 8,500	\$ 8,670
TOTAL EXPENDITURES	\$ 330,968	\$ 319,379	\$ 374,275	\$ 409,993	\$ 405,873	\$ 415,621
REVENUES						
Use of Money and Property	\$ 386	\$ -	\$ -	\$ -	\$ -	\$ -
Transfer From General Fund	\$ -	\$ -	\$ 26,821	\$ 110,108	\$ 105,988	\$ 115,736
Transfer From Fund Balance	\$ 30,697	\$ 19,493	\$ 47,569	\$ -	\$ -	\$ -
Total Adjustments	\$ 31,083	\$ 19,493	\$ 74,390	\$ 110,108	\$ 105,988	\$ 115,736
Assessments Levied	\$ 299,885	\$ 299,886	\$ 299,885	\$ 299,885	\$ 299,885	\$ 299,885
FUND BALANCE						
Estimated Balance 7/1	\$ 97,759	\$ 67,062	\$ 47,569	\$ -	\$ -	\$ -
Estimated Collection/(Transfer)	\$ (30,697)	\$ (19,493)	\$ (47,569)	\$ -	\$ -	\$ -
Estimated Interest Income	\$ 1,470	\$ -	\$ -	\$ -	\$ -	\$ -
Projected Balance 6/30	\$ 67,062	\$ 47,569	\$ -	\$ -	\$ -	\$ -
ANNUAL LEVY SUMMARY						
Total Parcels Levied	2,196	2,196	2,196	2,196	2,196	2,196
Assessment per Benefit Unit	\$ 136.56	\$ 136.56	\$ 136.56	\$ 136.56	\$ 136.56	\$ 136.56
Assessment Needed to Fully Fund	\$ 150.71	\$ 145.44	\$ 170.43	\$ 186.70	\$ 184.82	\$ 189.26

Notes:

(1) FY 2014-15 includes adopted expenditure and revenue, and estimated fund balance and transfer amounts based on FY 2013-14 actuals

CITY OF BENICIA LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT ZONE 2 - FLEETSIDE INDUSTRIAL PARK						
	Actual Expenditure 2012-13	Actual Expenditure 2013-14	Adopted Budget 2014-15 (1)	Projected Budget 2015-16	Projected Budget 2016-17	Projected Budget 2017-18
EXPENDITURES						
Maintenance and Servicing						
Personnel Cost	\$ 72,278	\$ 68,903	\$ 80,560	\$ 79,006	\$ 76,726	\$ 78,261
Contractor Services	\$ 5,000	\$ 5,862	\$ 2,000	\$ 4,500	\$ 4,500	\$ 4,590
Materials and Supplies	\$ 2,199	\$ 2,500	\$ 15,500	\$ 4,500	\$ 4,500	\$ 4,590
Subtotal	\$ 79,477	\$ 77,265	\$ 98,060	\$ 88,006	\$ 85,726	\$ 87,441
Utilities	\$ 13,731	\$ 14,541	\$ 15,600	\$ 14,145	\$ 14,145	\$ 14,711
Capital Outlay	\$ -	\$ -	\$ 4,000	\$ -	\$ -	\$ -
Cost Allocation				\$ 23,140	\$ 23,140	\$ 23,603
District Administration	\$ -	\$ 2,199	\$ 3,045	\$ 2,200	\$ 2,200	\$ 2,244
TOTAL EXPENDITURES	\$ 93,208	\$ 94,005	\$ 120,705	\$ 127,491	\$ 125,211	\$ 127,999
REVENUES						
Use of Money and Property	\$ 382	\$ 1,325	\$ 118	\$ 1,470	\$ 780	\$ 110
Transfer From General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40,326
Transfer From Fund Balance	\$ 12,849	\$ 12,703	\$ 40,610	\$ 46,044	\$ 44,454	\$ 7,586
Total Adjustments	\$ 13,231	\$ 14,028	\$ 40,728	\$ 47,514	\$ 45,234	\$ 48,022
Assessments Levied	\$ 79,977	\$ 79,977	\$ 79,977	\$ 79,977	\$ 79,977	\$ 79,977
FUND BALANCE						
Estimated Balance 7/1	\$ 162,314	\$ 149,465	\$ 136,762	\$ 98,084	\$ 52,040	\$ 7,586
Estimated Collection/(Transfer)	\$ (12,849)	\$ (14,028)	\$ (40,728)	\$ (47,514)	\$ (45,234)	\$ (48,022)
Estimated Interest Income	\$ 382	\$ 1,325	\$ 2,050	\$ 1,470	\$ 780	\$ 110
Projected Balance 6/30	\$ 149,847	\$ 136,762	\$ 98,084	\$ 52,040	\$ 7,586	\$ (40,326)
ANNUAL LEVY SUMMARY						
Total Acreage Levied	124	124	124	124	124	124
Assessment per Benefit Unit	\$ 644.77	\$ 644.77	\$ 644.77	\$ 644.77	\$ 644.77	\$ 644.77
Assessment Needed to Fully Fund	\$ 751.44	\$ 757.86	\$ 973.11	\$ 1,027.82	\$ 1,009.44	\$ 1,031.92

Notes:

(1) FY 2014-15 includes adopted expenditure and revenue, and estimated fund balance and transfer amounts based on FY 2013-14 actuals

CITY OF BENICIA LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT ZONE 3 - GOODYEAR ROAD						
	Actual Expenditure 2012-13	Actual Expenditure 2013-14	Adopted Budget 2014-15 (1)	Projected Budget 2015-16	Projected Budget 2016-17	Projected Budget 2017-18
EXPENDITURES						
Maintenance and Servicing						
Personnel Cost	\$ 3,690	\$ 3,904	\$ 5,132	\$ 3,740	\$ 3,780	\$ 3,860
Contractor Services	\$ 500	\$ 193	\$ 1,000	\$ 200	\$ 200	\$ 200
Materials and Supplies	\$ 110	\$ -	\$ 100	\$ 500	\$ 500	\$ 510
Subtotal	\$ 4,300	\$ 4,097	\$ 6,232	\$ 4,440	\$ 4,480	\$ 4,570
Utilities	\$ 629	\$ 617	\$ 1,200	\$ 1,165	\$ 1,165	\$ 1,190
Capital Outlay	\$ -	\$ -	\$ 500	\$ -	\$ -	\$ -
Cost Allocation	\$ -	\$ -	\$ -	\$ 1,640	\$ 1,640	\$ 1,670
District Administration	\$ -	\$ 110	\$ 145	\$ 150	\$ 150	\$ 153
TOTAL EXPENDITURES	\$ 4,929	\$ 4,824	\$ 8,077	\$ 7,395	\$ 7,435	\$ 7,583
REVENUES						
Use of Money and Property	\$ -	\$ 157	\$ 610	\$ 560	\$ 520	\$ 480
Transfer From General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfer From Fund Balance	\$ 929	\$ 667	\$ 3,467	\$ 2,835	\$ 2,915	\$ 3,103
Total Adjustments	\$ 929	\$ 824	\$ 4,077	\$ 3,395	\$ 3,435	\$ 3,583
Assessments Levied	\$ 4,000.06	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000
FUND BALANCE						
Estimated Balance 7/1	\$ 42,221	\$ 41,648	\$ 40,981	\$ 37,514	\$ 34,679	\$ 31,764
Estimated Collection/(Transfer)	\$ (573)	\$ (824)	\$ (4,077)	\$ (3,395)	\$ (3,435)	\$ (3,583)
Estimated Interest Income	\$ -	\$ 157	\$ 610	\$ 560	\$ 520	\$ 480
Projected Balance 6/30	\$ 41,648	\$ 40,981	\$ 37,514	\$ 34,679	\$ 31,764	\$ 28,661
ANNUAL LEVY SUMMARY						
Total Acreage Levied	37	37	37	37	37	37
Assessment per Benefit Unit	\$ 108.08	\$ 108.08	\$ 108.08	\$ 108.08	\$ 108.08	\$ 108.08
Assessment Needed to Fully Fund	\$ 133.18	\$ 130.34	\$ 218.24	\$ 199.81	\$ 200.89	\$ 204.89

Notes:

(1) FY 2014-15 includes adopted expenditure and revenue, and estimated fund balance and transfer amounts based on FY 2013-14 actuals

CITY OF BENICIA LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT ZONE 4 - EAST 2ND STREET						
	Actual Expenditure 2012-13	Actual Expenditure 2013-14	Adopted Budget 2014-15 (1)	Projected Budget 2015-16	Projected Budget 2016-17	Projected Budget 2017-18
EXPENDITURES						
Maintenance and Servicing						
Personnel Cost	\$ 12,744	\$ 11,652	\$ 14,495	\$ 14,172	\$ 13,922	\$ 14,200
Contractor Services	\$ 2,500	\$ 1,367	\$ 3,750	\$ 1,400	\$ 1,400	\$ 1,428
Materials and Supplies	\$ 800	\$ -	\$ 2,000	\$ 2,500	\$ 2,500	\$ 2,550
Subtotal	\$ 16,044	\$ 13,019	\$ 20,245	\$ 18,072	\$ 17,822	\$ 18,178
Utilities	\$ 9,225	\$ 9,097	\$ 15,500	\$ 15,640	\$ 15,640	\$ 15,953
Capital Outlay	\$ -	\$ -	\$ 500	\$ -	\$ -	\$ -
Cost Allocation	\$ -	\$ -	\$ -	\$ 4,935	\$ 4,935	\$ 5,030
District Administration	\$ -	\$ 770	\$ 1,015	\$ 1,000	\$ 1,000	\$ 1,020
TOTAL EXPENDITURES	\$ 25,269	\$ 22,886	\$ 37,260	\$ 39,647	\$ 39,397	\$ 40,181
REVENUES						
Use of Money and Property	\$ 288	\$ 199	\$ 460	\$ 370	\$ 260	\$ 150
Transfer From General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfer From Fund Balance	\$ (3,019)	\$ (5,313)	\$ 8,800	\$ 11,277	\$ 11,137	\$ 12,031
Total Adjustments	\$ (2,731)	\$ (5,114)	\$ 9,260	\$ 11,647	\$ 11,397	\$ 12,181
Assessments Levied	\$ 28,001	\$ 28,000	\$ 28,000	\$ 28,000	\$ 28,000	\$ 28,000
FUND BALANCE						
Estimated Balance 7/1	\$ 37,729	\$ 40,748	\$ 46,061	\$ 37,261	\$ 25,984	\$ 14,847
Estimated Collection/(Transfer)	\$ 2,732	\$ 5,114	\$ (9,260)	\$ (11,647)	\$ (11,397)	\$ (12,181)
Estimated Interest Income	\$ 287	\$ 199	\$ 460	\$ 370	\$ 260	\$ 150
Projected Balance 6/30	\$ 40,748	\$ 46,061	\$ 37,261	\$ 25,984	\$ 14,847	\$ 2,816
ANNUAL LEVY SUMMARY						
Total Acreage Levied	276	276	276	276	276	276
Assessment per Benefit Unit	\$ 101.32	\$ 101.32	\$ 101.32	\$ 101.32	\$ 101.32	\$ 101.32
Assessment Needed to Fully Fund	\$ 91.44	\$ 82.81	\$ 134.82	\$ 143.46	\$ 142.56	\$ 145.39

Notes:

(1) FY 2014-15 includes adopted expenditure and revenue, and estimated fund balance and transfer amounts based on FY 2013-14 actuals

CITY OF BENICIA LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT ZONE 5 - COLUMBUS PARKWAY						
	Actual Expenditure 2012-13	Actual Expenditure 2013-14	Adopted Budget 2014-15 (1)	Projected Budget 2015-16	Projected Budget 2016-17	Projected Budget 2017-18
EXPENDITURES						
Maintenance and Servicing						
Personnel Cost	\$ 10,171	\$ 9,320	\$ 12,685	\$ 12,455	\$ 12,256	\$ 12,501
Contractor Services	\$ 4,866	\$ 770	\$ 8,000	\$ 775	\$ 775	\$ 791
Materials and Supplies	\$ 434	\$ -	\$ 1,000	\$ 3,000	\$ 1,500	\$ 1,530
Subtotal	\$ 15,471	\$ 10,090	\$ 21,685	\$ 16,230	\$ 14,531	\$ 14,822
Utilities	\$ 942	\$ 926	\$ 3,500	\$ 3,335	\$ 3,335	\$ 3,786
Capital Outlay	\$ -	\$ -	\$ 500	\$ -	\$ -	\$ -
Cost Allocation	\$ -	\$ -	\$ -	\$ 3,835	\$ 3,835	\$ 3,910
District Administration	\$ -	\$ 434	\$ 725	\$ 500	\$ 500	\$ 510
TOTAL EXPENDITURES	\$ 16,413	\$ 11,450	\$ 26,410	\$ 23,900	\$ 22,201	\$ 23,028
REVENUES						
Use of Money and Property	\$ 287	\$ 1,044	\$ 947	\$ 1,020	\$ 950	\$ 890
Transfer From General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfer From Fund Balance	\$ 613	\$ (4,350)	\$ 10,610	\$ 8,100	\$ 6,401	\$ 7,228
Total Adjustments	\$ 900	\$ (3,306)	\$ 11,557	\$ 9,120	\$ 7,351	\$ 8,118
Assessments Levied	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800	\$ 15,800
FUND BALANCE						
Estimated Balance 7/1	\$ 106,212	\$ 105,885	\$ 111,279	\$ 101,616	\$ 94,536	\$ 89,085
Estimated Collection/(Transfer)	\$ (614)	\$ 4,350	\$ (10,610)	\$ (8,100)	\$ (6,401)	\$ (7,228)
Estimated Interest Income	\$ 287	\$ 1,044	\$ 947	\$ 1,020	\$ 950	\$ 890
Projected Balance 6/30	\$ 105,885	\$ 111,279	\$ 101,616	\$ 94,536	\$ 89,085	\$ 82,747
ANNUAL LEVY SUMMARY						
Revenue from Commercial (52.4%)	\$ 8,279	\$ 8,279	\$ 8,279	\$ 8,279	\$ 8,279	\$ 8,279
Total Acreage Levied	12.85	12.85	12.85	12.85	12.85	12.85
Assessment per Benefit Unit	\$ 645.00	\$ 645.00	\$ 645.00	\$ 645.00	\$ 645.00	\$ 645.00
Assessment Needed to Fully Fund	\$ 669.29	\$ 466.91	\$ 1,076.95	\$ 974.60	\$ 905.32	\$ 939.04
Revenue from Residential (47.6%)	\$ 7,521	\$ 7,521	\$ 7,521	\$ 7,521	\$ 7,521	\$ 7,521
Total Units Assessed	188.00	188.00	188.00	188.00	188.00	188.00
Assessment per Benefit Unit	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
Assessment Needed to Fully Fund	\$ 41.56	\$ 28.99	\$ 66.87	\$ 60.51	\$ 56.21	\$ 58.30

Notes:

(1) FY 2014-15 includes adopted expenditure and revenue, and estimated fund balance and transfer amounts based on FY 2013-14 actuals

4 METHOD OF APPORTIONMENT

4.1 GENERAL

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

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

The formula used for calculating assessments in the District therefore reflects the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on estimated benefit to each parcel. In addition, pursuant to Article XIID Section 4:

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

4.2 BENEFIT ANALYSIS

Each of the improvements have been carefully reviewed by the City and the corresponding assessments have been proportionately spread to each parcel based on special benefits received from the improvements as determined at the time the District was established.

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

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

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

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties within the Zones providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, and dust and debris control.
- Increased sense of pride in ownership of property within the District resulting from well-maintained improvements associated with the properties.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the District through well-maintained surroundings and amenities including abatement of graffiti.
- Enhanced environmental quality of the parcels within the Zones by moderating temperatures, providing oxygenation and attenuating noise. The special benefits of street lighting are the convenience, safety, and security of property, improvements, and goods. Specifically:
 - Enhanced deterrence of crime and the aid to police protection.
 - Increased nighttime safety on roads and highways.
 - Improved ability of pedestrians and motorists to see.
 - Improved ingress and egress to property.
 - Reduced vandalism and other criminal acts and damage to improvements or property.
 - Improved traffic circulation and reduced nighttime accidents and personal property loss.
 - Increased promotion of business during nighttime hours in the case of commercial properties.

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

Non-Assessable Properties — Within the boundaries of Zones 1, 2, 4 and 5, there are several types of properties that are considered to receive no special benefit from the District improvements and are therefore not assessed. These parcels include:

- 1) Publicly owned parcels that are reserved as Public Open Space or are developed as City Parks for active recreation and are maintained and serviced by the District;
- 2) Publicly owned wetland parcels;
- 3) Certain Public Utility parcels;
- 4) Privately owned open space parcels; and
- 5) Privately owned "sliver" parcels that have resulted from a lot line adjustment with an adjacent larger parcel. The adjacent larger parcel, of which these "sliver" parcels are a part, are assessed at the Residential Zone rate.

4.3 ASSESSMENT METHODOLOGY

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

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

**Single Family Residence One (1.0) Benefit Unit per Unit
Commercial Use One (1.0) Benefit Unit per Acre**

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

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

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

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

4.4 Special Cases

Since the assessments must be levied in proportion to the special benefit received by a parcel, the City has identified the following parcels as receiving no special benefit from the improvements based upon their current land use.

Zone 1 – Residential

Assessor Parcel Number 0083-152-070 (District Assessment No. 214) is owned by AT&T and is used for telephone switching facilities. This parcel is considered to receive no special benefit and is not assessed.

Zone 2 – Fleetside Industrial Park

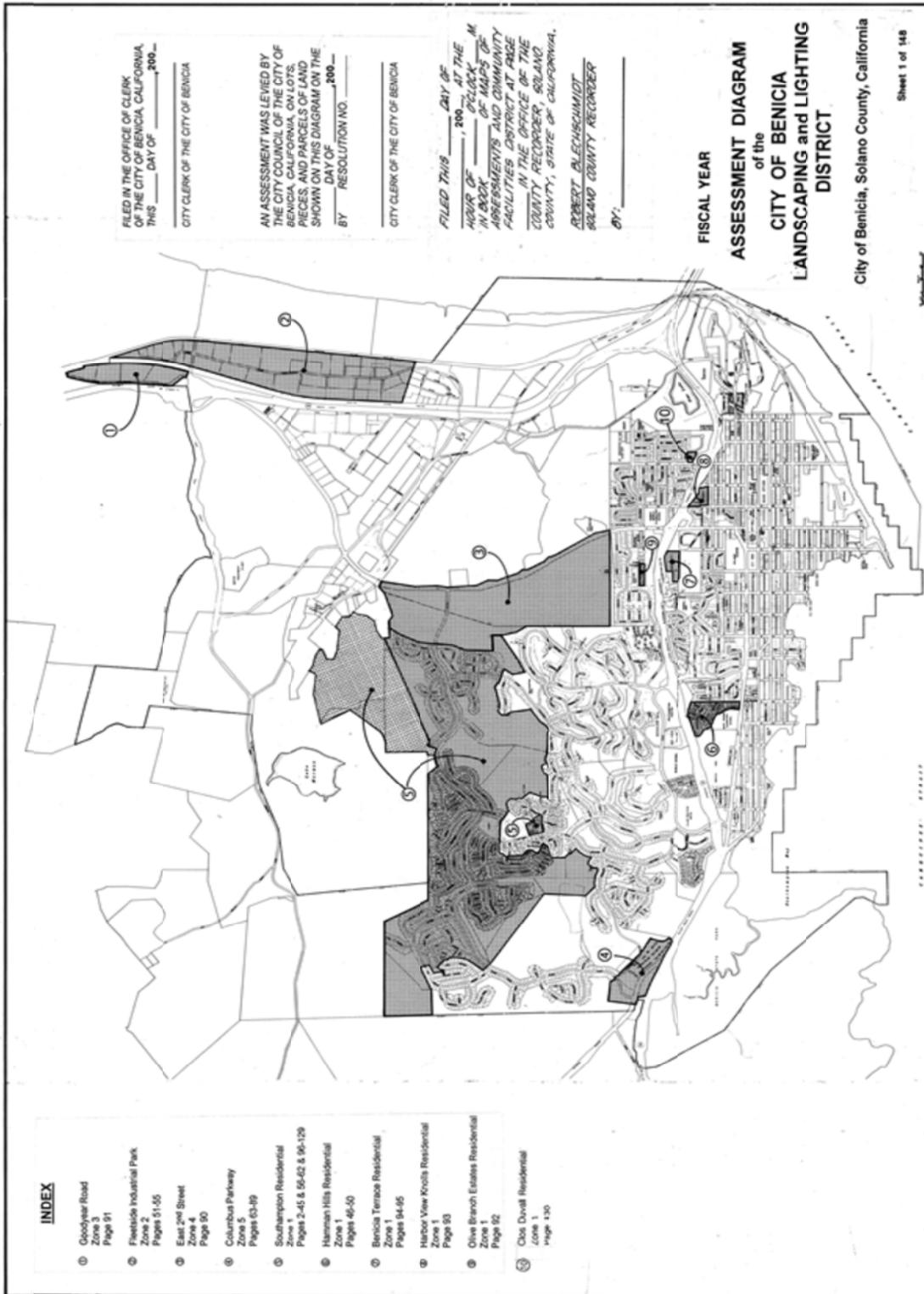
As of Fiscal Year 2009/10, Caltrans met their agreement with the City and is no longer required to pay assessments on parcels 80-292-040, 050, 060, 070, 080, 120 and 130.

Zone 5 – Columbus Parkway

Since the residential units also pay annual costs for maintenance of privately owned open space and for on-site lighting, costs were allocated at 47.6% for residential parcels and 52.4% for commercial parcels. Assessor Parcel Number's 0079-020-590, 0079-020-600 and 0079-020-610 (District Assessment Nos. 1329A, 1329B and 1329C) totaling 3.67 acres are governed by Conditions, Covenants and Restrictions (CC&R's). Individual assessments were apportioned by allocating a portion of the total assessment for the total area of the three parcels.

5 DISTRICT DIAGRAM

The following page depicts an overview diagram of the District and the five zones. The full set of detailed assessment diagram pages are included here by reference and are available for review in the Office of the City Clerk.



6 ASSESSMENT ROLL

The proposed assessment and the amount of the assessment apportioned to each lot or parcel, as shown on the latest roll at the Assessor's Office, is shown in Appendix B. The description of each lot or parcel is part of the records of the Assessor of the County of Solano and those records are, by reference, made part of this report. The assessments shown will be submitted to the County Auditor/Controller, and included on the property tax roll for each parcel shown in the assessment roll for FY 2015-16.

APPENDIX B

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
BUSINESS ITEMS

DATE : June 17, 2015

TO : City Council

FROM : Community Development Director

SUBJECT : **INTRODUCTION AND FIRST READING OF AN AMENDMENT TO TITLE 8 HEALTH AND SAFETY TO REDUCE THE PERMITTED HOURS OF CONSTRUCTION IN SOME AREAS OF THE CITY OF BENICIA, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA**

RECOMMENDATION:

Conduct a first reading of an amendment to the Benicia Municipal Code Title 8, after a determination that the text amendment is exempt from CEQA.

EXECUTIVE SUMMARY:

The proposed amendment to Title 8 of the Benicia Municipal Code (Health and Safety) is intended to reduce the hours of construction in Benicia for residential zones, downtown mixed-use districts, and properties within 500 feet of a residential zone or downtown mixed-use district. Construction, as specified in BMC 8.20.150, would be permitted from 7:00 a.m. to 7:00 p.m. on weekdays and 8:00 a.m. to 7:00 p.m. on weekends.

BUDGET INFORMATION:

There are no direct impacts to the budget associated with this project.

ENVIRONMENTAL ANALYSIS:

The proposed amendments are exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the “general rule” exemption, which states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The proposed amendments reduce the permitted hours of construction within areas currently regulated by the Benicia Municipal Code (Chapter 8.20 Noise Regulations), in order to reduce disturbance of residential neighborhoods at times when they can reasonably expect to be free from loud construction noises.

GENERAL PLAN:

- GOAL 4.23: Reduce or eliminate the effects of excessive noise.
 - Policy 4.23.6 Attempt to reduce noise in areas already highly impacted by excessive noise.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #1: Protecting Community Health and Safety
 - 4. Promote community preservation and prevent nuisances through increased code enforcement, environmental strategies and community education.

BACKGROUND:

The discussion about construction hours was initially raised as a concern of neighbors during the October 28, 2014 Zoning Administrator hearing for the tentative parcel map at 1035 West K Street. During the hearing, adjacent residents expressed concern about noise impacts from the construction of new homes that could continue for several years, depending on when lots were sold and developed. The neighbors indicated that noise in the early morning and evening hours, especially until 10:00 PM and on weekends, would significantly disturb their peace and well-being. The Benicia Municipal Code (BMC) Section 8.20.150 currently allows construction throughout the City from 7:00 a.m. to 10:00 p.m., seven days per week.

On January 20, 2015, the City Council considered an appeal of the tentative parcel map at 1035 West K Street and once again, the concerns of the neighbors regarding construction hours were expressed.

At the City Council meeting of March 3, 2015, Council directed staff to proceed with drafting an ordinance to amend the City's regulations regarding hours of construction. The draft ordinance proposes to amend Section 8.20.150 of the Benicia Municipal Code to reduce permitted construction hours in residential zones, downtown mixed-use districts, and properties within 500 feet of a residential zone or downtown mixed-use district as follows:

Weekdays 7:00 a.m. to 7:00 p.m.
Weekends 8:00 a.m. to 7:00 p.m.

Information and notice of the pending Code changes has been widely distributed through media release, newspaper advertisement, City Manager's Report, City web resources and social media; as well as directly to contractors and residents through direct mail and email and flyers available at the

Community Development Department public counter. Additionally, a flyer has been stapled to each job card issued for building permit since April 20, 2015.

Prior to the Planning Commission hearing, staff received one written comment in support of the proposed ordinance revision (attached) and no comments in opposition. No public comment was received at the Planning Commission hearing. Following the Planning Commission hearing on the proposed amendment, a member of the Benicia Industrial Park Association contacted staff to verbally express concern about the impact of construction hour limitations after 7:00 p.m.

Planning Commission Review/Recommendation

On June 11, 2015, the Planning Commission conducted a public hearing to review the draft ordinance. There was no public comment on the proposed amendments to the ordinance.

During the public hearing, Commissioners discussed the applicability of the proposed ordinance to the Arsenal and Benicia Industrial Park. Staff responded that the ordinance, as written and proposed, applies to residential zones and areas within 500 feet of a residential zone; therefore, the ordinance would not apply to a live-work unit in a commercial district unless it is within 500 feet of a residential zone. Staff further clarified that most industrial areas are excluded because they are located more than 500 feet from residential districts and the ordinance is applicable only to construction activities that would cause "discomfort or annoyance" to a "reasonable person of normal sensitiveness".

After some discussion, the Planning Commission recommended approval of the proposed amendment with the recommendation that weekend construction be permitted during the hours of 8:00 a.m. to 7:00 p.m. (the original staff recommendation was to permit weekend construction from 8:00 a.m. to 6:00 p.m.). The Planning Commission's recommendation is incorporated into the draft amendment.

SUMMARY:

Construction hours are governed by BMC Section 8.20.150 of Chapter 8.20 which regulates noise:

It is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day in such a manner that a reasonable person of

normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020.

A review of noise ordinances for cities in Solano County and Contra Costa County reveals that Benicia's permitted construction hours are similar to those in Fairfield and Suisun, but more liberal than many other nearby communities. In general, construction is permitted generally from 7:00 a.m. until 6:00 or 7:00 p.m. on weekdays; and 8:00 or 9:00 a.m. until 5:00 or 6:00 p.m. on weekends.

An amendment to the Benicia Noise Ordinance is recommended that would authorize construction from 7:00 a.m. to 7:00 p.m. on weekdays, and 8:00 a.m. to 7:00 p.m. on weekends, in residential zones, downtown mixed-use districts, and within 500 feet of either a residential zone or downtown district.

The proposed changes to the hours of construction are consistent with hours generally permitted in the region, which are appropriate to minimize noise disturbances during periods when occupants of residential areas (including the mixed-use districts of the downtown) have a reasonable expectation for quiet enjoyment of their property.

Types of Construction Regulated

As presently drafted, BMC 8.20.150 regulates outside construction or repair work on buildings, structures, projects or operation of any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device, to the extent that "a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance". In light of the City Council's discussion and direction at their March 3, 2015 meeting, staff reviewed the applicability of the regulations to various types of construction activity and finds that they are adequate. The regulations address the most impactful construction noise sources and activities, while providing flexibility to complete interior and low-noise exterior work according to the property owner's schedule.

Applicability to Benicia Industrial Park and Benicia Arsenal

As currently written, the BMC does not establish limitations on construction hours for areas more than 500 feet from residences. The proposed amendments would not affect the noise regulations for outlying industrial and commercial areas and would apply to only those areas within 500 feet of a residential zone or downtown mixed-use district. The 500-foot standard is an existing regulation that would not be modified in the proposed amendment.

Most areas of the Benicia Industrial Park are located at least 500 feet from a residential zone, and therefore are not subject to the provisions of BMC 8.20.150 relating to construction hours. However, there are some exceptions including a

large parcel located on the west side of West Second Street that is owned by Valero and restricted for open space use; as well as number of parcels along West Channel Road in the vicinity of the open space buffer between the Industrial Park and the Water's End subdivision.

In the Arsenal, areas zoned for General Industrial, Limited Industrial and Waterfront Industrial use directly abut residential zones. These areas, within 500 feet of the residential zones, are subject to the construction hours specified in BMC 8.20.150. Similarly, some properties zoned for commercial use in the Lower Arsenal are located within 500 feet of residential zones in the Main Gate, Clocktower Grove, and Officer's Row areas.

Attachments:

- Draft Ordinance (clean copy)
- Draft Ordinance (mark-up format)
- Correspondence from Susan C. Bavlish, April 22, 2015
- Planning Commission Agenda Item, June 11, 2015
- Excerpt of Draft Minutes of the Planning Commission hearing, June 11, 2015
- Planning Commission Resolution No. 15-7

CITY OF BENICIA

ORDINANCE NO. 15-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 8.20.150 (CONSTRUCTION OF BUILDINGS AND PROJECTS) OF CHAPTER 8.20 (NOISE REGULATIONS) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE TO REDUCE THE HOURS OF CONSTRUCTION FOR RESIDENTIAL DISTRICTS, DOWNTOWN MIXED-USE DISTRICTS, AND AREAS WITHIN 500 FEET OF A RESIDENTIAL ZONE OR DOWNTOWN MIXED-USE DISTRICT

Section 1. Section 8.20.150 (Construction of Buildings and Projects) of Chapter 8.20 (Noise Regulations) of Title 8 (Health and Safety) of the Benicia Municipal Code is amended to read as follows:

8.20.150 Construction of Buildings and Projects. It is unlawful for any person within
 (1) a residential zone,
 (2) a district within the Downtown Mixed Use Master Plan, or
 (3) a radius of 500 feet from a residential zone or downtown mixed use district
to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device, prior to 7:00 a.m. or after 7:00 p.m. on Monday through Friday, or prior to 8:00 a.m. or after 7:00 p.m. on Saturdays and Sundays, in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 7th day of July, 2015, and adopted at a regular meeting of the Council held on the ___ day of _____, 2015, by the following vote:

Ayes:

Noes:

Absent:

Attest:

Elizabeth Patterson, Mayor

Lisa Wolfe, City Clerk

Date

CITY OF BENICIA

ORDINANCE NO. 15-Redline

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 8.20.150 (CONSTRUCTION OF BUILDINGS AND PROJECTS) OF CHAPTER 8.20 (NOISE REGULATIONS) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE TO REDUCE THE HOURS OF CONSTRUCTION FOR RESIDENTIAL DISTRICTS, DOWNTOWN MIXED-USE DISTRICTS, AND AREAS WITHIN 500 FEET OF A RESIDENTIAL ZONE OR DOWNTOWN MIXED-USE DISTRICT

Section 1. Section 8.20.150 (Construction of Buildings and Projects) of Chapter 8.20 (Noise Regulations) of Title 8 (Health and Safety) of the Benicia Municipal Code is amended to read as follows:

Section 8.20.150 Construction of Buildings and Projects. It is unlawful for any person within

- (1) a residential zone,
- (2) a district within the Downtown Mixed Use Master Plan, or
- (3) ~~or within~~ a radius of 500 feet ~~therefrom~~ from a residential zone or downtown mixed use district

to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device, prior to 7:00 a.m. or after 7:00 p.m. on Monday through Friday, or prior to 8:00 a.m. or after 7:00 p.m. on Saturdays and Sundays, ~~between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day~~ in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member _____, seconded by
Council Member _____, the foregoing ordinance was
introduced at a regular meeting of the City Council on the 7th day of July, 2015, and
adopted at a regular meeting of the Council held on the ____ day of _____,
2015, by the following vote:

Ayes:

Noes:

Absent:

Attest:

Elizabeth Patterson, Mayor

Lisa Wolfe, City Clerk

Date

Suzanne Thorsen

From: Susan C Bavlish <daisymew@sbcglobal.net>
Sent: Wednesday, April 22, 2015 12:42 PM
To: Suzanne Thorsen
Subject: construction

This is regards to the article in todays Benicia paper concerning changing the time that construction can be performed in residential areas.
As a Benicia resident for over 25 years this is way overdo. I don't know of another city that allows residential construction at 7:00am. Throughout the years I've witnessed many jobs starting as early as 6:00 am. I always attributed this allowance to the fact that the builders were key as they were helping filling our coffers. Let's hope that since we are pretty much built out, that this will change and allow the citizens to get some sleep...Who on earth likes to hear banging, breaking up concrete or loud personnel anyway and especially at 6-7 am???

Let's be practical and choose new hours wisely. How's about 9:00 am to 6:00pm...

Thank you,
Susan Bavlish

**AGENDA ITEM
PLANNING COMMISSION MEETING: JUNE 11, 2015
REGULAR AGENDA ITEMS**

DATE : June 1, 2015

TO : Planning Commission

FROM : Suzanne Thorsen, Senior Planner

SUBJECT : **AMENDMENT TO SECTION 8.20.150 OF THE BENICIA MUNICIPAL CODE TO REDUCE THE PERMITTED HOURS OF CONSTRUCTION IN THE CITY OF BENICIA, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA**

RECOMMENDATION:

Review the proposed amendments to Section 8.20.150 of the Benicia Municipal Code and adopt a resolution recommending the City Council introduce and adopt an ordinance reducing hours of construction in Benicia, after determining that the project is exempt from CEQA.

EXECUTIVE SUMMARY:

At the City Council meeting of March 3, 2015, Council directed staff to proceed with drafting an ordinance amending the City's regulations regarding hours of construction noise. The draft ordinance proposes to amend Section 8.20.150 of the Benicia Municipal Code to reduce permitted construction hours in residential zones, downtown mixed-use districts, and properties within 500 feet of a residential zone or downtown mixed-use district as follows:

Weekdays 7:00 a.m. to 7:00 p.m.
Weekends 8:00 a.m. to 6:00 p.m.

Planning Commission's action will be in the form of a recommendation to the City Council.

ENVIRONMENTAL ANALYSIS:

The proposed amendments are exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption, which states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The proposed amendments reduce the permitted hours of construction within areas currently regulated by the Benicia Municipal Code (Chapter 8.20 Noise Regulations), in order to reduce disturbance of residential neighborhoods at times when they can reasonably expect to be free from loud construction noises.

BACKGROUND:

The Community Development Department routinely receives inquiries about the allowable construction hours. While there is no precise tally of such inquiries, staff from the Building Division estimates that they receive 1-2 calls per week from neighbors calling to inquire about the City's allowable construction hours or complain about construction noise. At the time of permit issuance, contractors and property owners are informed of construction hours and encouraged to talk with neighbors in advance of construction work.

The most recent discussion about construction hours was initially raised as a concern of neighbors during the October 28, 2014 Zoning Administrator hearing for the tentative parcel map at 1035 West K Street. During the hearing, adjacent neighbors expressed concern about noise impacts from the construction of new homes that could continue for several years, depending on when lots were sold and developed. The neighbors indicated that noise in the early morning and evening hours, especially until 10:00 PM and on weekends, would significantly disturb their peace and well-being. The Benicia Municipal Code (BMC) Section 8.20.150 currently allows construction throughout the City from 7:00 a.m. to 10:00 p.m., seven days per week.

On January 20, 2015, the City Council considered an appeal of the tentative parcel map at 1035 West K Street and once again, the concerns of the neighbors regarding construction hours were expressed. On March 3, 2015, the City Council initiated an amendment to the BMC related to construction hours. Construction hours are governed by BMC Chapter 8.20 which regulates noise:

It is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-301).

Following the City Council's initiation of the proposed amendment, City Staff prepared a notice of the pending Code changes, which was widely distributed through media release, newspaper advertisement, City Manager's Report, City web resources and social media; as well as directly to contractors and residents

through direct mail and email and flyers available at the Community Development Department public counter. This outreach began on April 20, 2015. To date, staff has received one comment in support of the proposed ordinance revision (attached). No comments were submitted in opposition.

SUMMARY:

A review of noise ordinances for cities in Solano County and Contra Costa County reveals that Benicia's permitted construction hours are similar to those in Fairfield and Suisun, but more liberal than many other nearby communities, generally summarized below:

City	Permitted Construction Hours
<i>Solano County</i>	
Dixon	Amendment currently under review to establish hours: 7:00 a.m. to 7:00 p.m., Monday-Saturday, excl. holidays
Fairfield	7:00 a.m. to 10:00 p.m.
Rio Vista	7:00 a.m. to 7:00 p.m., Monday – Saturday
Suisun	7:00 a.m. to 10:00 p.m., Monday – Saturday 8:00 a.m. to 10:00 p.m., Sunday
Vacaville	7:00 a.m. to dusk (1/2 hour after sunset), Monday-Saturday
Vallejo	7:00 a.m. to 6:00 p.m. Monday – Saturday, excl. holidays
<i>Contra Costa County</i>	
Concord	7:30 a.m. to 6:00 p.m., Monday – Friday 8:00 a.m. to 5:00 p.m., Saturday
Martinez	7:00 a.m. to 7:00 p.m., Monday - Friday 9:00 a.m. to 5:00 p.m., Saturday-Sunday, holidays
Pleasant Hill	7:30 a.m. to 7:00 p.m., Monday – Friday 9:00 a.m. to 6:00 pm., Saturday-Sunday
Walnut Creek	7:00 a.m. to 6:00 p.m., Monday – Friday excl. holidays

The existing requirements related to the nature of construction activity regulated by Section 8.20.150 were reviewed and found to be adequate. Therefore, the proposed amendment specifically addresses the concerns articulated through recent public hearings, which relate to the hours of construction only.

The proposed amendments to Benicia's noise ordinance to reduce construction areas are as follows:

8.20.150 Construction of buildings and projects.

It is unlawful for any person within

- (1) a residential zone*
- (2) a district within the Downtown Mixed Use Master Plan*
- (3) a radius of 500 feet from a residential zone or downtown mixed use*

~~district therefrom,~~
to operate equipment or perform any outside construction or repair work on buildings, structures, or projects; or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device, prior to 7:00 a.m. or after 7:00 p.m. on Monday through Friday, or prior to 8:00 a.m. or after 6:00 p.m. on Saturdays and Sundays, ~~between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day~~ in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-301).

The proposed changes to the hours of construction are consistent with hours generally permitted in the region, which are appropriate to minimize noise disturbances during periods when occupants of residential areas (including the mixed-use districts of the downtown) have a reasonable expectation for peaceful enjoyment of their property. As currently written, the BMC does not establish limitations on construction hours for areas more than 500 feet from residences (e.g., the Benicia Industrial Park). The proposed amendments would not affect the noise regulations for outlying industrial and commercial areas and would apply to only those areas within 500 feet of a residential district or downtown mixed-use district.

FURTHER ACTION:

Planning Commission action will be a recommendation to the City Council.

Attachments:

- Draft Resolution
- Correspondence from Susan C. Bavlish, April 22, 2015
- City Council Agenda Item, March 3, 2015
- Excerpt of Minutes of the City Council, March 3, 2015

DRAFT RESOLUTION

RESOLUTION NO. 15- (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AN AMENDMENT TO SECTION 8.20.150 (CONSTRUCTION OF BUILDINGS AND PROJECTS) TO REDUCE THE HOURS OF CONSTRUCTION FOR RESIDENTIAL DISTRICTS, DOWNTOWN-MIXED-USE DISTRICTS, AND AREAS WITHIN 500 FEET OF A RESIDENTIAL ZONE OR DOWNTOWN MIXED-USE DISTRICT

WHEREAS, the purpose of the Noise Ordinance, Chapter 8.20 Benicia Municipal Code (BMC) is to prohibit unnecessary, excessive and annoying noises; and

WHEREAS, it is in the interest of orderly development and peaceful enjoyment of property to maintain regulations for the permitted hours of outdoor construction activity as well as the operation of pile drivers, power shovels, pneumatic hammers, derricks, power hoists, or any other construction type devices within a residential or downtown mixed-use district and within 500 feet of a residential or downtown mixed-use district; and

WHEREAS, Section 8.20.150 of the BMC presently permits construction activities as described herein from 7:00 a.m. to 10:00 p.m., seven days a week; and

WHEREAS, in the course of recent public hearings for development applications in the RS Districts, residents have expressed concern about the impact of ongoing and future construction activity during early morning and late evening hours on their peace and well-being; and

WHEREAS, at a regular meeting on March 3, 2015, City Council directed staff to prepare an amendment to the BMC related to hours of construction; and

WHEREAS, public notification of the proposed amendment was widely distributed through media release, newspaper advertisement, City Manager's Report, City web resources and social media; as well as directly to contractors and residents through direct mail and email and flyers available at the Community Development Department as well as in accordance with the California Government Code Section 65091; and

WHEREAS, at a regular meeting on June 11, 2015, the Planning Commission conducted a hearing, considered public comment and reviewed the proposed changes and found them to be consistent with the California Government Code and the City's General Plan;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council adopt an Ordinance amending the BMC relating to hours of construction within a residential or downtown mixed-use district and within 500 feet of a residential or downtown mixed-use district.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that the proposed amendments to Title 8 of the BMC are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment as they reduce the permitted hours of construction within areas currently regulated by BMC Chapter 8.20 Noise Regulations, in order to reduce disturbance of residential neighborhoods at times when they can reasonably expect to be free from loud construction noises.

On a motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 11TH day of June, 2015, and adopted by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

Donald Dean
Planning Commission Chair

**CORRESPONDENCE FROM SUSAN C. BAVLISH
APRIL 22, 2015**

Suzanne Thorsen

From: Susan C Bavlish <daisymew@sbcglobal.net>
Sent: Wednesday, April 22, 2015 12:42 PM
To: Suzanne Thorsen
Subject: construction

This is regards to the article in todays Benicia paper concerning changing the time that construction can be performed in residential areas.

As a Benicia resident for over 25 years this is way overdo. I don't know of another city that allows residential construction at 7:00am. Throughout the years I've witnessed many jobs starting as early as 6:00 am. I always attributed this allowance to the fact that the builders were key as they were helping filling our coffers. Let's hope that since we are pretty much built out, that this will change and allow the citizens to get some sleep...Who on earth likes to hear banging, breaking up concrete or loud personnel anyway and especially at 6-7 am???

Let's be practical and choose new hours wisely. How's about 9:00 am to 6:00pm...

Thank you,
Susan Bavlish

CITY COUNCIL AGENDA ITEM – MARCH 3, 2015

AGENDA ITEM
CITY COUNCIL MEETING DATE - MARCH 3, 2015
BUSINESS ITEMS

DATE : February 20, 2015

TO : City Manager

FROM : Interim Community Development Director

SUBJECT : **REVIEW OF BENICIA MUNICIPAL CODE REGULATIONS GOVERNING PERMITTED HOURS OF CONSTRUCTION (BENICIA MUNICIPAL CODE SECTION 8.20.150)**

RECOMMENDATION:

Discuss Benicia Municipal Code (BMC) Section 8.20.150 related to hours of construction to address residential neighbor concerns with the current extended hours of construction and determine whether or not to direct staff to initiate an amendment to the current regulations.

EXECUTIVE SUMMARY:

BMC Section 8.20.150 currently allows construction throughout the City from 7 AM to 10 PM seven days per week. These are unusually long hours compared to most cities and can lead to disturbance of residential neighbors at times when they can reasonably expect to be free from loud construction noises. Should the Council direct staff to initiate consideration of modification of the current permitted hours, staff would engage with stakeholders and recommend modified hours for construction within and in close proximity to residentially zoned areas of the City.

BUDGET INFORMATION:

Staff anticipates that the community engagement and modification process would require roughly 80 hours of staff time over approximately three months, depending on other priorities and current planning activity.

GENERAL PLAN:

Relevant General Plan Goal:

- GOAL 4.23: Reduce or eliminate the effects of excessive noise.

STRATEGIC PLAN:

There are no issues, strategies or actions related to construction noise or noise impacts in general.

BACKGROUND:

At the City Council meeting of February 17, 2015, at the request of Council Member Campbell, the Council agendaized for March 3, 2015 the topic of construction hours for discussion to determine whether a text amendment should be initiated.

Construction hours are governed by Benicia Municipal Code (BMC) section 8.20 which regulates noise. Section 8.20.150, permits construction activities from 7:00 a.m. to 10:00 p.m., seven days per week:

It is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC 8.20.020. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-301).

The Community Development Department routinely receives inquiries about the allowable construction hours. While there is no precise tally of such inquiries, staff from the Building Division estimates that they receive 1-2 calls per week from neighbors calling to complain or to understand the allowable construction hours. At the time of permit issuance, contractors and property owners are informed of construction hours, but also encouraged to talk with neighbors in advance of construction work.

The topic of construction hours was raised most recently as a concern of neighbors during the October 28, 2014 Zoning Administrator hearing for the tentative parcel map at 1035 West K Street. During the hearing, adjacent neighbors expressed concern about noise impacts from the construction of new homes that could continue for several years, depending on when lots were sold and developed. The neighbors indicated that noise in the early morning and evening hours, especially until 10:00 PM, and on weekends would significantly disturb their peace and well-being.

Analysis

A cursory review of noise ordinances for nearby jurisdictions in Solano County and Contra Costa County reveals that Benicia's permitted construction hours are similar to those in Fairfield and Suisun, but more liberal than many other nearby communities, generally summarized below*:

Jurisdiction	Permitted Construction Hours
Fairfield	7:00 a.m. to 10:00 p.m.
Suisun	7:00 a.m. to 10:00 p.m., Monday – Saturday 8:00 a.m. to 10:00 p.m., Sunday
Vacaville	7:00 a.m. to dusk (1/2 hour after sunset), Monday-Saturday
Vallejo	7:00 a.m. to 6:00 p.m. Monday – Saturday, excl. holidays
Concord	7:30 a.m. to 6:00 p.m., Monday – Friday 8:00 a.m. to 5:00 p.m., Saturday
Martinez	7:00 a.m. to 7:00 p.m., Monday - Friday 9:00 a.m. to 5:00 p.m., Saturday-Sunday, holidays
Pleasant Hill	7:30 a.m. to 7:00 p.m., Monday – Friday 9:00 a.m. to 6:00 pm., Saturday-Sunday
Walnut Creek	7:00 a.m. to 6:00 p.m., Monday – Friday excl. holidays

*some jurisdictions have additional detail in the ordinance relating to emergency work, grading, homeowner repair/construction, distance from occupied residences.

Should the City Council initiate an amendment to Section 8.20.150, staff expects that modification to the ordinance would entail some outreach to the contractor community as well as other stakeholders. The issues that would need to be addressed would include:

- Should hours vary by zoning district. For example, staff anticipates that construction hours in the industrial areas would remain as currently written, while being modified for construction activity within some reasonable distance of existing residential zones.
- What are appropriate construction activity hours that balance the interests of property owners to make reasonably expeditious improvements to their property, with the rights of neighbors for the peaceful enjoyment of their property.
- What is the appropriate mechanism to allow for modification of construction hours to address unusual circumstances.
- Should hours be modified for weekends? As noted above, most jurisdictions have different hours for weekends.

As Section 8 of the BMC is not part of the Zoning Ordinance, modifications to the ordinance are not technically under the purview of the Planning Commission. Nevertheless, as this issue relates to development in the City, staff recommends that should the Council direct preparation of modifications to the code, those revisions be brought to the Planning Commission for a public hearing and recommendation prior to bringing them before the City Council.

**EXCERPT OF MINUTES OF CITY COUNCIL –
MARCH 3, 2015**

EXCERPT MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
March 03, 2015

VIII. BUSINESS ITEMS:

B. REVIEW OF BENICIA MUNICIPAL CODE REGULATIONS GOVERNING PERMITTED HOURS OF CONSTRUCTION (BENICIA MUNICIPAL CODE SECTION 8.20.150)

Dan Marks, Interim Community Development Director, reviewed the staff report and Staff's recommendation.

Mayor Patterson and Staff discussed what the solution would be if there was residential housing within 500 feet of the construction.

Council Member Schwartzman discussed cutting the construction hours in residential areas - possibly 7:00 a.m. to 7:00 p.m. during the week and 8:00 a.m. to 7:00 p.m. on Saturdays. He and Staff discussed outdoor/indoor construction and residential/commercial construction.

Vice Mayor Hughes discussed the need to review the hours (too long), looking at what other cities are doing, and the issue of homeowner vs. contractor construction work.

Staff discussed the possibility of looking at the hours issue rather than the entire code.

Council Member Campbell and Staff discussed the need to give reasonable parameters before it is sent to the Planning Commission.

Mayor Patterson discussed having the Planning Commission hold a study session and invite the stakeholders so they could weigh in.

Vice Mayor Hughes preferred to leave it up to Staff to decide what method they feel would be best.

Council gave direction to Staff to consider a couple of approaches for going forward with a construction noise ordinance.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council gave direction to Staff to consider a couple of approaches for going forward with a construction noise ordinance, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)



DRAFT

**BENICIA PLANNING COMMISSION
REGULAR MEETING MINUTES EXCERPT**

**City Hall Council Chambers
Thursday, June 11, 2015
7:00 P.M.**

* * *

V. REGULAR AGENDA ITEMS

**A. AMENDMENT TO SECTION 8.20.150 OF THE BENICIA MUNICIPAL CODE TO
REDUCE THE PERMITTED HOURS OF CONSTRUCTION IN THE CITY OF BENICIA,
AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA**

Ms. Thorsen provided a presentation of the amendment.

Commissioners inquired about holiday construction hours and applicability to leaf blowers and painting.

Commissioners Radtke and Young inquired about the relation of the proposed amendment to live-work units in the Arsenal and the Benicia Industrial Park. Staff responded that the ordinance, as written and proposed, applies to residential zones and areas within 500 feet of a residential zone; therefore, the ordinance would not apply to a live-work unit in a commercial district unless it is within 500 feet of a residential zone. Staff further clarified that most industrial areas are excluded because they are located more than 500 feet from residential districts.

No members of the public provided testimony.

Commissioners discussed holiday and weekend construction hours, extension of construction hours, code enforcement, outreach, and feedback from contractors to the proposed amendment. After some discussion, the Commission determined that it is not necessary to establish special construction hours for holidays. The commission discussed a recommendation that weekend construction hours be 8:00 a.m. to 7:00 p.m.

RESOLUTION NO. 15- OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AN AMENDMENT TO SECTION 8.20.150 (CONSTRUCTION OF BUILDINGS AND PROJECTS) TO REDUCE THE HOURS OF CONSTRUCTION FOR RESIDENTIAL DISTRICTS, DOWNTOWN-MIXED-USE DISTRICTS, AND AREAS WITHIN 500 FEET OF A RESIDENTIAL ZONE OR DOWNTOWN MIXED-USE DISTRICT

On motion of Commissioner Young, seconded by Commissioner Oakes, the above resolution was approved, as amended to include the recommended construction hours in the language of the resolution and to recommend that weekend construction hours be changed to 8:00 a.m. to 7:00 p.m., by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Radtke, Young and Chair Dean
Noes: None
Absent: Commissioners Birdseye and Sherry
Abstain: None

RESOLUTION NO. 15-7 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AN AMENDMENT TO SECTION 8.20.150 (CONSTRUCTION OF BUILDINGS AND PROJECTS) TO REDUCE THE HOURS OF CONSTRUCTION FOR RESIDENTIAL DISTRICTS, DOWNTOWN-MIXED-USE DISTRICTS, AND AREAS WITHIN 500 FEET OF A RESIDENTIAL ZONE OR DOWNTOWN MIXED-USE DISTRICT

WHEREAS, the purpose of the Noise Ordinance, Chapter 8.20 Benicia Municipal Code (BMC) is to prohibit unnecessary, excessive and annoying noises; and

WHEREAS, it is in the interest of orderly development and peaceful enjoyment of property to maintain regulations for the permitted hours of outdoor construction activity as well as the operation of pile drivers, power shovels, pneumatic hammers, derricks, power hoists, or any other construction type devices within a residential or downtown mixed-use district and within 500 feet of a residential or downtown mixed-use district; and

WHEREAS, Section 8.20.150 of the BMC presently permits construction activities as described herein from 7:00 a.m. to 10:00 p.m., seven days a week; and

WHEREAS, in the course of recent public hearings for development applications in the RS Districts, residents have expressed concern about the impact of ongoing and future construction activity during early morning and late evening hours on their peace and well-being; and

WHEREAS, at a regular meeting on March 3, 2015, the City Council directed staff to prepare an amendment to the BMC related to hours of construction; and

WHEREAS, public notification of the proposed amendment was widely distributed through media release, newspaper advertisement, City Manager's Report, City web resources and social media; as well as directly to contractors and residents through direct mail and email and flyers available at the Community Development Department as well as in accordance with the California Government Code Section 65091; and

WHEREAS, at a regular meeting on June 11, 2015, the Planning Commission conducted a hearing, considered public comment and reviewed the proposed changes and found them to be consistent with the California Government Code and the City's General Plan;

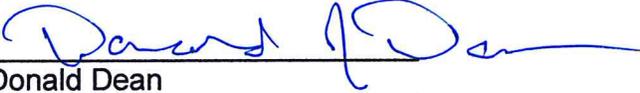
NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council adopt an Ordinance amending the BMC relating to hours of construction within a residential or downtown mixed-use district and within 500 feet of a residential or downtown mixed-use district. Construction, as

specified in BMC 8.20.150, should be permitted from 7:00 a.m. to 7:00 p.m. on weekdays and 8:00 a.m. to 7:00 p.m. on weekends.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that the proposed amendments to Title 8 of the BMC are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment as they reduce the permitted hours of construction within areas currently regulated by BMC Chapter 8.20 Noise Regulations, in order to reduce disturbance of residential neighborhoods at times when they can reasonably expect to be free from loud construction noises.

On a motion of Commissioner Young, seconded by Commissioner Oakes, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 11TH day of June, 2015, and adopted by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Radtke, Young and Chair Dean
Noes: None
Absent: Commissioners Birdseye and Sherry
Abstain: None



Donald Dean
Planning Commission Chair

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
BUSINESS ITEMS

DATE : May 22, 2015

TO : City Council

FROM : City Manager

SUBJECT : **INTRODUCTION AND FIRST READING OF AN AMENDMENT TO CHAPTER 6.32 (ANIMAL KEEPING) OF THE BENICIA MUNICIPAL CODE TO ALLOW BEEKEEPING IN THE CITY OF BENICIA, AFTER A DETERMINATION THAT THE TEXT AMENDMENT IS EXEMPT FROM CEQA**

RECOMMENDATION:

Conduct a first reading of the draft ordinance to amend Benicia Municipal Code Chapter 6.32 (Animal Keeping) to allow beekeeping the City of Benicia, after determining that the project is exempt from CEQA.

EXECUTIVE SUMMARY:

In response to Council direction, staff prepared a draft amendment to the Municipal Code that would allow beekeeping. At their April 9, 2015 meeting, the Planning Commission took public comment, reviewed the draft ordinance, and recommended that the City Council adopt the draft ordinance to allow beekeeping with an over-the-counter permit. Given the Council's direction of a simple process, staff did not include in the draft ordinance the public notification component recommended by the Planning Commission. The recommended draft ordinance proposes to repeal Section 6.32.060 (Beekeeping) and add Section 6.33 (Beekeeping) of the Benicia Municipal Code which is administered by the Benicia Police Department.

BUDGET INFORMATION:

The Police Department does not anticipate any significant budgetary impacts for processing an administrative beekeeping permit. It is anticipated that the process and Police Department staff time would be similar to the Bingo Permit. A Bingo Permit is subject to a fee of \$50 for minimal permit review and administrative processing. Accordingly, the proposed Police Department fee for a beekeeping permit is \$50.

ENVIRONMENTAL ANALYSIS:

The proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that

states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. City staff has determined that neither of the draft amendments to the Benicia Municipal Code will have an impact on the environment and therefore is exempt from CEQA under the general rule.

GENERAL PLAN:

The text amendment supports one of the overarching goals of the General Plan, which is Sustainability.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
- Strategy Issue #3: Pursue and adopt sustainable practices.

BACKGROUND:

Benicia Community Gardens, as well as various individuals, (collectively, “BCG”) requested that the Benicia City Council revise the Benicia Municipal Code to allow urban beekeeping in residential areas. On January 20, 2015, the City Council directed staff to draft a simplified ordinance that would set standards for urban beekeeping within the City. While not part of the overall direction, some councilmembers thought some form of permit process would be desirable. Staff decided to bring two draft ordinances to the Planning Commission, one not requiring a permit, but requiring minimum standards and best beekeeping practices; the other requiring a beekeeping permit process to address the minimum standards and best beekeeping practices.

Planning Commission Review/Recommendation

On April 9, 2015, the Planning Commission held a public hearing and reviewed both ordinances. There were five members of the public that provided comments at the Commission meeting. Three people spoke in support of requiring a permit process, one recommended not requiring a permit, and one gave information only.

The Commission expressed general support for beekeeping in the City and considered the possible permit requirements including neighborhood notification and enforcement. The Commission’s discussion was focused on finding a balance between requiring a formal permit process and the permit process placing too much of a burden on the beekeeper. Ultimately, the Commission voted in support of a simplified over-the-counter permit. The Commission’s recommendation was to allow beekeeping with the following requirements:

1. An over-the-counter permit process with minimal fee;
2. Allowed in all zoning districts with the best practices as provided in the draft ordinance;
3. The applicant to notify the adjacent neighbors;
4. Limit beekeeping in multifamily complexes and mobile home parks as provided in the draft ordinance; and
5. Limit the number of hives as stated in the draft ordinance.

In addition, the Commission recommended that the City revisit this issue one year after adoption of the ordinance to evaluate the number of permits, issues and any complaints.

While drafting the ordinance, staff reviewed the January 20, 2015 Council meeting minutes, which directed staff to prepare the simplified ordinance. It was clear that the Council wanted a simplified process to permit beekeeping within Benicia under accepted standards and best beekeeping practices. Staff believes that adding a public notification component to the process is not in keeping with the wishes of the Council to create a simplified process.

Staff also looked to Chapter 6.44 of the BMC (Animal Keeper Permit), which does not require any public notification. Given the Council's direction of a simple process, and in keeping with the established procedure for an animal keeper permit in Benicia, staff did not include the public notification component in the attached draft ordinance.

Beekeeping Permit

Based on the Planning Commission's recommendation, staff created a draft Beekeeping Permit to reflect the requirements of the ordinance. The application was modeled after the City of St. Helena's Beekeeping Permit (the model ordinance incorporating best beekeeping practices and recommended by BCG), as well as the City of Benicia's Animal Keeper Permit. The permit application requires that the applicant provide the size of the parcel, the number of beehives on the property, a sketch or site plan of where the beehives are to be located to confirm compliance with the setback requirements and required screening. The permit states all the requirements of beekeeping in the City and requires the signature of both the applicant and the property owner.

The permit process will require that the applicant submit the Beekeeping Permit to the Police Department and it would be reviewed by the animal control officer or designee.

Attachments:

- Draft Ordinance
- Draft Beekeeping Application
- Planning Commission Resolution No. 15-4
- Planning Commission April 9, 2015 Agenda Packet Item
- Planning Commission Draft Minutes April 9, 2015 (Partial)

CITY OF BENICIA

ORDINANCE NO. 15- (With Permit)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING SECTION 6.32.060 (BEE KEEPING) AND ADDING CHAPTER 6.33 (BEEKEEPING) OF TITLE 6 (ANIMAL KEEPING) OF THE BENICIA MUNIICIPAL CODE ESTABLISHING STANDARDS AND PERMIT REQUIREMENTS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICA HEREBY ORDAINS AS FOLLOWS:

Section 1.

Section 6.32.060 of the Benicia Municipal Code is hereby repealed in its entirety.

Section 2.

Chapter 6.33 (Beekeeping) is hereby added to the Benicia Municipal Code to read as follows:

Chapter 6.33
BEEKEEPING

- 6.33.010 Permit required
- 6.33.020 Application
- 6.33.030 Standards
- 6.33.040 Permit Fee
- 6.33.050 Right of Entry for Enforcement.
- 6.33.060 Notice of noncompliance.
- 6.33.070 Revocation of Permit.
- 6.33.090 Public Nuisance and Abatement
- 6.33.100 Non-transferability.

6.33.010 Permit required

A. No person shall keep, maintain or allow any hive of bees on any lot or parcel of land within any zoning district within the City without first obtaining a Beekeeping Permit in accordance with this Chapter. Notwithstanding the foregoing, beekeeping shall not be permitted at any apartment complex, mobile home park, condominium or other common interest development not consisting of single family homes.

B. Persons maintaining apiaries as of the effective date of this Chapter shall, within one hundred and eighty days of such date, either: (i) apply for and obtain approval of a Beekeeping Permit from the City; or (ii) remove such apiaries from the City.

C. The Director shall issue a Beekeeping Permit for the keeping of bees as specified in such Permit and this Chapter when the Director determines that such use: (i) meets the standards set forth in BMC 6.33. Such Permit shall be personal to the applicant and shall not run with the land.

6.33.020 Application.

Applications for Beekeeping Permit required under the Chapter shall be initiated by submitting the following materials to the Director of Animal Control (hereinafter, "Director"):

A. A completed application form signed by an owner and, if applicable, any lawful tenant of the property, lot or parcel of land for which the application is submitted, and shall be accompanied by a fee established by resolution of the City Council.

B. A map showing the location of the proposed apiary(ies) on the parcel; and

6.33.030 Standards

An applicant for a Beekeeping Permit shall declare under penalty of perjury that the apiary(ies) for which a Beekeeping Permit is sought shall, at all times, comply the requirements of such Permit and this Chapter. The criteria set forth below shall be conditions of approval of any Beekeeping Permit issued hereunder, whether or not such criteria are specified or referred to in such Permit. Failure to adhere to such standards or other conditions of approval set forth in the Beekeeping Permit or this Chapter shall be a violation of such Permit and this Chapter.

A. No more than the maximum number of colonies of bees as shown in Table 1 shall be maintained on any property, lot or parcel of land.

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 43,560 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

B. No apiary shall be kept or maintained within ten feet of any rear or side property line when the adjoining property is occupied or within forty feet of the front property line, which property line for purposes of this subsection shall be defined as the sidewalk boundary line furthest from the street.

C. The Permittee shall also register the apiaries with the Solano County Agriculture Commissioner as required by Food and Agriculture Code section 29040.

D. It shall be the duty of the Permittee owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.

E. It shall be the responsibility of the Permittee to provide adequate water for the bees to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.

F. Apiaries shall consist of moveable comb hives in sound and useable condition. Failure to properly maintain or to abandon apiaries shall be cause for revocation of the permit, abatement or other enforcement proceedings.

G. Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.

6.33.040 Permit Fee

The fee for a beekeeper permit shall be set by resolution of the city council and shall be paid to the city before a permit is issued.

6.33.050 Right of Entry for Enforcement.

City enforcement officers shall be empowered to enter upon any premises where honey bees are kept, or upon which there is reason to believe that bees are kept, in order to carry into effect the provisions of this Chapter, in accordance with BMC 6.08.040.

6.33.060 Notice of noncompliance.

The Director may issue a notice of noncompliance to the holder of a Beekeeping Permit should such holder:

- A. Fail to comply with the terms and conditions of the Permit; the provisions of this Chapter, or any state or local law, rule, ordinance or regulation pertaining to the keeping of bees; or

Such notice shall direct the holder to comply with the Permit, this Chapter, or such law, rule, ordinance or regulation or to abate the nuisance within a reasonable period of time. Such notice of noncompliance shall be in writing and shall be given or delivered by personal service, United States mail, or other reliable means of service to the Permit holder at the address shown in the Permit or such other address as the holder may, from time to time, provide in writing to the Director.

6.33.070 Revocation of Permit

- A. Upon reaching the determination that a specific violation of this chapter and/or applicable statute, rule, code, regulation or permit condition warrants suspension, modification or revocation of a beekeeper permit, the director or his or her

designee shall prepare and serve a written notice of action recommendation upon the subject permittee.

- B. The notice of action recommendation should include all of the following information:
1. The name and business address of the subject permittee;
 2. A description of the code section(s) violated and/or the actions or conditions which warrant suspension, modification or revocation of the subject permit;
 3. The action proposed (i.e., suspension, modification or revocation of the subject permit or license);
 4. A description of any prior action taken by the director or the department to gain compliance with regards to the subject violation(s);
 5. A description of the procedures involved in taking the proposed action, including the permittee's right to attend an administrative hearing on the proposed action; and
 6. The name, title and telephone number of the director.
- B. The director or his or her designee shall cause a copy of the notice of action recommendation to be provided to the subject permittee by causing a copy of the notice to be delivered to the permittee personally or by causing a copy of the notice to be delivered to the permittee via certified mail, postage prepaid, return receipt requested, and addressed to permittee at the address shown on the permit.
- C. Proof of service of the notice of action recommendation shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the notice and retained by the director or his or her designee.
- D. As soon as practicable after service of the notice of action recommendation, the director or his or her designee shall submit a copy of the notice of action recommendation to the city clerk, who, as soon as practicable after receiving said notice, shall fix a date, time and place for the hearing to consider suspension, modification or revocation of the subject permit or license. Such date shall be not less than 10 calendar days and not more than 30 calendar days from the date the notice was submitted to the city clerk.
- E. A hearing on the notice of action recommendation shall thereafter be noticed and conducted in accordance with the procedures set forth at Chapter 1.44 BMC.

- F. The director or his or her designee shall prepare an administrative hearing packet for the hearing officer to review prior to the hearing. The packet shall include a copy of the notice of action recommendation and a staff report, which should include a description of the violations and any actions taken by the subject permittee subsequent to the service of the notice, a record of conversations or correspondence between the director, the department and the permittee concerning the violations and/or the notice of action recommendation.
- G. If a beekeeper permit is revoked for cause, the director shall not accept a new application by the same person for the same activity at the same location less than one year after such denial or revocation. On revocation of a permit, no part of the fee is refundable.

6.33.090 Public Nuisance and Abatement

The provisions of this Chapter, shall not authorize the keeping of honey bees in a manner constituting a public nuisance as defined in BMC 1.08.040. The City shall retain the right to abate any common law nuisance, or any nuisance as defined under California Civil Code Sections 3479 through 3480 and BMC 8.04.010 et seq.

6.33.100 Non-transferability.

A Permit issued hereunder may not be transferred or assigned.



BEEKEEPING PERMIT

Purpose: The purpose of the beekeeping regulations is to allow beekeeping in a manner that is respectful of the safety of persons that may be in close proximity to the apiary. Beekeeping can contribute to pollination and better harvests in gardens. By contributing to pollination, urban beekeeping is an important complement to urban food production and to the City's Sustainability goals.

Questions regarding the application process can be addressed to the Animal Control Office, Police Department at (707) 746-3412.

Procedure: The permittee shall submit an application for a beekeeping permit to the Police Department at 200 East L Street. (1) The permittee shall submit plans indicating the location of the apiary(ies) and a signed statement showing and agreeing to compliance with all obligations imposed by Section 6.33.030 and holding the City harmless if said owner does not so comply. (3) If the applicant wishes to receive notification of pesticide applications, register the Apiary with the County of Solano Agricultural Commissioner, pursuant to Section 29101 of the California Food & Agricultural Code.

APIARY REGISTRATION

Applicant (Permittee): _____

Address: _____

Telephone & Email: _____

Contact Name (if different from applicant): _____

Contact Telephone & Email: _____

Number of Beehives on property: _____

BEEKEEPING STANDARDS (BMC Section 6.34.030)

A. No more than the maximum number of colonies of bees as shown in Table 1 shall be maintained on any property, lot or parcel of land.

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 21,780 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

B. No apiary shall be kept or maintained within ten feet of any rear or side property line when the adjoining property is occupied or within forty feet of the front property line, which property line for purposes of this subsection shall be defined as the sidewalk boundary line furthest from the street.

C. The Permittee shall also register the apiaries with the Solano County Agriculture Commissioner as required by Food and Agriculture Code section 29040.

D. It shall be the duty of the Permittee owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.

E. It shall be the responsibility of the Permittee to provide adequate water for the bees to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.

F. Apiaries shall consist of moveable comb hives in sound and useable condition. Failure to properly maintain or to abandon apiaries shall be cause for revocation of the permit, abatement or other enforcement proceedings.

G. Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.

Please sketch or attach a Site Plan of the location of the proposed apiary(ies) on the parcel.

In the event the City is required to take legal action to enforce any of the terms of this permit application, Applicant and Property Owner agree to pay to City reasonable attorney fees and costs incurred in such action.

We, the owner and the applicant, will defend, indemnify and hold the City, its agents, officers, and employees harmless from any claim, action or proceeding to attack, set aside, void or annul an approval of the City concerning the project, as long as the City promptly notifies the applicant of any such claim, action or proceedings and the City cooperates fully in the defense.

We, the owner and the applicant, hereby verify under penalty of perjury that all adjacent owners and tenants of record adjoining the site, as shown on the last equalized property tax assessment roll have been informed of the intent to conduct beekeeping on the subject property.

Date: _____ Applicant's Signature: _____

Date: _____ Property Owner's Signature: _____

RESOLUTION NO. 15-4 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO REPEAL SECTION 6.32.060 (BEE KEEPING) AND ADD CHAPTER 6.33 (BEEKEEPING) OF TITLE 6 (ANIMAL KEEPING) OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

WHEREAS, honeybees not only produce honey, but play a vital role in the balance of nature, especially the pollination of agricultural crops, horticultural crops and the house garden. Pollination is important for the viability of many pastoral enterprises, market gardens, orchards and seed industries;

WHEREAS, beekeeping is also regulated by the Staff of California Food and Agricultural Code and the Solano County Agricultural Department;

WHEREAS, beekeepers are required to register their apiaries (location of apiaries and number of hives in each apiary) with the County Agricultural Commissioner's office by January 31st of each year or within 30 days of arrival (per California Food and Agriculture Code Sections 29040, 29042 and 29043);

WHEREAS, local beekeepers' associations such as the Napa County Beekeepers' Association maintains a list of best management practices and helps to educate local beekeepers about these practices;

WHEREAS, the intent of the ordinance is to regulate the keeping of bees within the City of Benicia in order to advance the public health, safety, and welfare while recognizing the value of bees to the agriculture industry of Solano County; and

WHEREAS, the Planning Commission at a regular meeting on April 9, 2015, conducted a hearing, heard public comment and reviewed the draft ordinances.

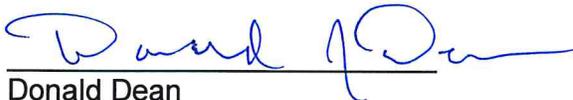
NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council approve by Ordinance, an amendment to the Benicia Municipal Code to allow beekeeping with a permit with the following requirements:

1. Beekeeping is allowed in all zoning districts;
2. Best practices as listed in the draft ordinance;
3. Requirement that adjacent neighbors are notified by the permittee;
4. An over-the-counter permit with minimal application fee;
5. The City shall revisit the regulations in 1 year to determine number of permits, complaints, and issues;
6. Limit beekeeping in multifamily and trailer parks as stated in the draft ordinance; and
7. Limit the number of hives as stated in the draft ordinance.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the draft amendments to the Benicia Municipal Code will not have an impact on the environment and therefore is exempt from CEQA under the general rule.

On a motion of Commissioner Young, seconded by Commissioner Sherry, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 9TH day of April 2015, and adopted by the following vote:

Ayes: Commissioners Birdseye, Cohen-Grossman, Oakes, Sherry, Sprague, Young
and Chair Dean
Noes: None
Absent: None
Abstain: None



Donald Dean
Planning Commission Chair

AGENDA ITEM
PLANNING COMMISSION MEETING: APRIL 9, 2015
REGULAR AGENDA ITEMS

DATE : March 30, 2015

TO : Planning Commission

FROM : Mark Boehme, Special Counsel

SUBJECT : **AMENDMENT TO SECTION 6.32.030 OF THE BENICIA MUNICIPAL CODE TO PERMIT URBAN BEEKEEPING WITHIN THE CITY, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA**

RECOMMENDATION:

Review the two draft ordinances and adopt a resolution recommending the City Council introduce and adopt draft ordinance 15-Without Permit after determining that the ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061 (b)(3).

EXECUTIVE SUMMARY:

At the City Council meeting of January 20, 2015 the Council directed staff to draft a proposed ordinance allowing urban beekeeping. In response, staff has drafted two ordinances, one without the requirement of a permit, the other with such a requirement. The draft ordinances propose to amend Section 6.32.030 (Beekeeping) of the Benicia Municipal Code which is administered by the Benicia Police Department. To ensure sufficient community input, staff has provided a draft to Benicia Community Gardens, as representative stakeholders, and also determined that the Planning Commission should also review and make its recommendation to the City Council on the draft ordinance(s).

BUDGET INFORMATION:

The Police Department does not anticipate any budgetary impacts, however, if a permit is required, additional analysis will need to be done to determine impacts to staff time and an appropriate fee would need to be established.

ENVIRONMENTAL ANALYSIS:

The proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the draft

amendments to the Benicia Municipal Code will not have an impact on the environment and therefore is exempt from CEQA under the general rule.

GENERAL PLAN:

The text amendment supports one of the overarching goals of the General Plan, which is Sustainability.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment

- Strategy Issue #3: Pursue and adopt sustainable practices.

BACKGROUND:

In December 2007, the City of Benicia adopted Ordinance No. 07-72, which updated Chapter 6.32 Animal Keeping of the Benicia Municipal Code (BMC). This ordinance included an update to Section 6.32.060 Beekeeping, and restricted beekeeping to be allowed in the Open Space (OS) zoning district only. Recently, Benicia Community Gardens, as well as various individuals, (collectively, "BCG") have requested City Council to revise the BMC to allow urban beekeeping in residential areas.

On January 20, 2015, the City Council directed staff to draft a simplified ordinance that would set standards for urban beekeeping within the City. While not part of the overall direction, some councilmembers thought some form of permit process would be desirable. Staff decided to draft two ordinances, one not requiring a permit but requiring minimum standards and best beekeeping practices. The other ordinance implements a beekeeping permit process. Staff recommends the Planning Commission recommend to the City Council that it adopt an ordinance that does not require permit. Staffing constraints would make administration of a permit system burdensome, add additional costs to the City as well to the beekeeping community.

SUMMARY/ANALYSIS

The City's existing regulations for beekeeping are provided in BMC Section 6.32.060 of Chapter 6.32 (Animal Keeping). As provided below, the City current allows beekeeping in the OS zoning district only.

6.32.060 Bee keeping.

A. It shall be unlawful for any person to have, keep, or maintain any apiary within the city in any zone district except the O-S district. The provisions of this section shall not apply to the keeping of bees within an educational institution for study or observation or within a physician's office or

laboratory for medical research, treatment, or other scientific purposes, provided the bees are not permitted to fly at large.

B. All colonies and hives located within the city shall be registered with the county and properly maintained in accordance with state law.

C. No more than three colonies of bees may be maintained on a single lot or parcel in a permitted zone. Said apiary(ies) shall be located within ten feet of any rear or side property line when the adjoining property is occupied or within forty feet of the front property line, which property line for purposes of this subsection shall be defined as the sidewalk boundary line furthest from the street. (Ord. 07-72 § 4).

Beekeepers are required to register their apiaries (location of apiaries and number of hives in each apiary) with the County Agricultural Commissioner's office by January 31st or within 30 days of arrival (per California Food and Agriculture Code (CFAC) Sections 29040, 29042 and 29043. The CFAC provides minimum requirements as to where hives may be located and how they must be identified. According the Solano County Agriculture Department, there are a few nuisance issues that arise related to urban beekeeping that the County's codes do not address; such as: number of hives on the property, access to water, neighbor concerns (i.e. animals and allergies), and occasional aggression. Another potential issue the County identified where they have limited enforcement authority are abandoned and/or poorly maintained hives. Therefore, it is recommended that when the local jurisdiction is drafting an ordinance on beekeeping that they consider addressing those issues.

The closest organized beekeeping association to the City of Benicia is in Napa County. In September 2012, the Napa County Beekeepers' Association has published *Best Management Practices for Beekeeping in Napa County* which is consistent with other best management practices (BMPs) across the country. The draft ordinances incorporates much of the intent and some of the language of the Napa County Beekeepers' Association BMPs.

Common Provisions of Both Ordinances

Beekeeping would be allowed in all zoning districts of the City but in no case would beekeeping be permitted at any apartment complex, mobilehome park, condominium or other common interest development not consisting of single family homes.

The maximum number of hives is set forth in Table 1 below:

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 21,780 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

Other common standards include:

- The duty of every person owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.
- The responsibility of the person owning, controlling or maintaining an apiary to provide adequate water for the bees to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.
- Apiaries shall consist of moveable comb hives in sound and useable condition.
- Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.
- Apiaries shall be registered with the Solano Agricultural Commissioner as required by state law.
- The ordinance is to be administered by the City's Animal Control Director and Code Enforcement officers.

Ordinance with Permit

The primary difference between the two ordinances is the permit requirement. Any one desiring to engage in urban beekeeping is required to apply for a beekeeping permit. No permit is required in the Open Space District (OS) if stated criteria are met. An applicant files the application with the Director of Animal Services (Director). For the City of Benicia, the Director is the Police Chief

or designee. Notice of the application is given within a 500 feet of the boundaries of the site. The Director will issue a permit if the applicant meets the standards set forth in the ordinance and will otherwise not be detrimental to the public health, safety and welfare. A permit is personal to the applicant and does not run with the land.

A permit holder not maintaining the standards for beekeeping or its beekeeping operation constitutes a public nuisance, is subject to permit review and modification or revocation by the Director. The Director shall give the permit holder notice of the violation and intent to revoke or modify the permit. A hearing is provided and the Director shall take evidence and issue a decision on the matter. If the Director revokes the permit, the decision is final with no further right of appeal.

BCG has reviewed both ordinances, provided comments and expressed support of the draft ordinance "without permit" version. They had some general questions regarding beekeeping in the OS district. Under the "without permit" version, beekeeping is permitted in all City districts that meet the ordinance standards. In the "with permit" version, no permit is required in the OS district if the standards stated therein are met. Questions regarding registration procedure with the County Agricultural Commissioner were responded to. No proposed revisions to either ordinance was requested.

Attachments

- Draft Resolution
- Draft Ordinance 15-Without Permit
- Draft Ordinance 15-With Permit
- Best Management Practices for Beekeeping in Napa County

DRAFT RESOLUTION

RESOLUTION NO. 15- (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO SECTION 6.32.060 OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

WHEREAS, honeybees not only produce honey, but play a vital role in the balance of nature, especially the pollination of agricultural crops, horticultural crops and the house garden. Pollination is important for the viability of many pastoral enterprises, market gardens, orchards and seed industries;

WHEREAS, beekeeping is also regulated by the Staff of California Food and Agricultural Code and the Solano County Agricultural Department;

WHEREAS, beekeepers are required to register their apiaries (location of apiaries and number of hives in each apiary) with the County Agricultural Commissioner's office by January 31st or within 30 days of arrival (per California Food and Agriculture Code Sections 29040, 29042 and 29043);

WHEREAS, the Napa County Beekeepers' Association maintains a list of best management practices and helps to educate local beekeepers about these practices;

WHEREAS, the intent of the ordinance is to regulate the keeping of bees within the City of Benicia in order to advance the public health, safety, and welfare while recognizing the value of bees to the agriculture industry of Solano County; and

WHEREAS, the Planning Commission at a regular meeting on April 9, 2015, conducted a hearing, heard public comment and reviewed the draft ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia hereby recommends the City Council approve by Ordinance, an amendment to the Benicia Municipal Code Section 6.32.060 Beekeeping to allow beekeeping without a permit.

BE IT FURTHER RESOLVED THAT the Planning Commission of the City of Benicia finds that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the "general rule" exemption that states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA. The City has determined that the draft amendments to the Benicia Municipal Code will not have an impact on the environment and therefore is exempt from CEQA under the general rule.

On a motion of Commissioner _____, seconded by Commissioner _____, the above Resolution was adopted by the Planning Commission of the City of Benicia at the regular meeting of said Commission held on the 9TH day of April 2015, and adopted by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

Donald Dean
Planning Commission Chair

DRAFT ORDINANCE 15-WITHOUT PERMIT

CITY OF BENICIA

ORDINANCE NO. 15- (Without Permit)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 6.32.060 (BEE KEEPING) OF CHAPTER 6.32 (ANIMAL KEEPING) OF TITLE 6 (ANIMAL REGULATIONS) OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICA HEREBY ORDAINS AS FOLLOWS:

Section 1.

Section 6.32.060 of the Benicia Municipal Code is hereby amended to read as follows:

6.32.060 Beekeeping.

A.Purpose. To provide for beekeeping as an accessory use in all zones within the city while minimizing impacts to surrounding properties and respecting the safety of persons that may be in close proximity to apiaries, beehives and bee colonies. Beekeeping can contribute to pollination, and better harvests in gardens, and by contributing to pollination urban beekeeping is an important complement to urban food production.

B.Applicability. Beekeeping shall only be allowed as specifically permitted within the land use regulations pertaining to the established zoning districts provided the regulations in this section are met:

- 1. No more than the maximum number of colonies of bees as shown in Table 1 below may be maintained on a single lot or parcel in a permitted zone. Said apiary(ies) shall not be located within ten feet of any rear or side property line when the adjoining property is occupied or within forty feet of the front property line or corner side property line. Notwithstanding the foregoing, beekeeping shall not be permitted at any apartment complex, mobilehome park, condominium or other common interest development not consisting of single family homes.

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 21,780 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

2. It shall be the duty of every person owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.
 3. It shall be the responsibility of the person owning, controlling or maintaining an apiary to provide adequate water for the bees to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.
 4. Apiaries shall consist of moveable comb hives in sound and useable condition. Failure to properly maintain or to abandon apiaries shall be a violation of this chapter and be grounds for abatement or other enforcement proceedings.
 5. Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.
 6. The provisions of this section, however, shall not authorize the keeping of honey bees in a manner constituting a public nuisance as defined in BMC 1.08.040. The City shall retain the right to abate any common law nuisance, or any nuisance as defined under California Civil Code Sections 3479 through 3480 and BMC 8.04.010 et seq.
- C. Right of Entry for Enforcement. City enforcement officers shall be empowered to enter upon any premises where honey bees are kept, or upon which there is reason to believe that bees are kept, in order to carry into effect the provisions of this chapter, in accordance with BMC 6.08.040.
- D. Beekeeping Registration. Any person owning, controlling or maintaining an apiary shall also register the apiary as required by California Food and Agriculture Code Section 29040 with the County of Solano Agricultural Commissioner prior to establishment of an apiary to ensure that notification of pesticide applications is received, pursuant to Section 29101 of the California Food and Agricultural Code.
- E. Violation—Remedies. In addition to remedies otherwise provided by law, a violation of this chapter may be enforced in any manner set forth under Chapter 1.08 BMC.
- F. Compliance with State Law. Nothing in this chapter shall excuse compliance with state law applicable to apiaries.

DRAFT ORDINANCE 15-WITH PERMIT

CITY OF BENICIA

ORDINANCE NO. 15- (With Permit)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING SECTION 6.32.060 (BEE KEEPING) AND ADDING CHAPTER 6.33 (BEEKEEPING) OF TITLE 6 (ANIMAL KEEPING) OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS AND PERMIT REQUIREMENTS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA HEREBY ORDAINS AS FOLLOWS:

Section 1.

Section 6.32.060 of the Benicia Municipal Code is hereby repealed in its entirety.

Section 2.

Chapter 6.33 (Beekeeping) is hereby added to the Benicia Municipal Code to read as follows:

6.33.010 Beekeeping. Permit required; Exemptions.

A. No person shall keep, maintain or allow any hive of bees on any lot or parcel of land within any zoning district within the City without first obtaining a Beekeeping Permit in accordance with this Chapter. Notwithstanding the foregoing, beekeeping shall not be permitted at any apartment complex, mobilehome park, condominium or other common interest development not consisting of single family homes.

B. Subject to the requirements set forth in BMC 6.33.020 below, apiaries may be kept, maintained or allowed without the issuance of a Beekeeping Permit on lots or parcels of land located within an Open Space District provided such bee hives are situated more than one hundred fifty feet from any existing dwelling or any proposed dwelling for which a building permit has been issued, excluding dwellings on the lot or parcel of land whereon such hives are situated and not less than one hundred feet from any public highway, street, roadway, or alley.

C. Persons maintaining apiaries as of the effective date of this Chapter shall, within one hundred and eighty days of such date, either: (i) apply for and obtain approval of a Beekeeping Permit from the City; or (ii) remove such apiaries from the City.

6.33.020 Beekeeping permit – Application.

Applications for Beekeeping Permit required under the Chapter shall be initiated by submitting the following materials to the Director of Animal Control (hereinafter, "Director"):

A. A completed application form signed by an owner and, if applicable, any lawful

tenant of the property, lot or parcel of land for which the application is submitted, and shall be accompanied by a fee established by resolution of the City Council.

B. A map showing the location and street address of the development site and all lots within 500 feet of the boundaries of the site; and

C. A list, drawn from the last equalized property tax assessment roll, showing the names and addresses of the tenants and the owners of record of each lot within 500 feet of the boundaries of the site. This list shall be keyed to the map required in subsection (B) of this section.

6.33.030 Beekeeping permit – Criteria for approval.

An applicant for a Beekeeping Permit shall declare under penalty of perjury that the apiary(ies) for which a Beekeeping Permit is sought shall, at all times, comply the requirements of such Permit and this Chapter. The criteria set forth below shall be conditions of approval of any Beekeeping Permit issued hereunder, whether or not such criteria are specified or referred to in such Permit. Failure to adhere to such criteria or other conditions of approval set forth in the Beekeeping Permit or this Chapter shall be a violation of such Permit and this Chapter.

A. No more than the maximum number of colonies of bees as shown in Table 1 shall be maintained on any property, lot or parcel of land.

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 21,780 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

B. No apiary shall be kept or maintained within ten feet of any rear or side property line when the adjoining property is occupied or within forty feet of the front property line, which property line for purposes of this subsection shall be defined as the sidewalk boundary line furthest from the street.

C. The owner's name, address, and location of all such apiaries shall be registered with the Director. The Permittee shall also register the apiaries with the Solano County Agriculture Commissioner as required by Food and Agriculture Code section 29040.

D. It shall be the duty of the Permittee owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.

E. It shall be the responsibility of the Permittee to provide adequate water for the bees

to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.

F. Apiaries shall consist of moveable comb hives in sound and useable condition. Failure to properly maintain or to abandon apiaries shall be cause for revocation of the permit, abatement or other enforcement proceedings.

G. Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.

H. Prior to considering an application for a Beekeeping Permit, the Director will provide notice of the application to all owners and tenants of property located within a five hundred-foot radius of the property, lot or parcel of land where the hive(s) are to be located, measured from the property line of such property, lot, or parcel of land.

6.33.040 Beekeeping permit.

The Director shall issue a Beekeeping Permit for the keeping of bees as specified in such Permit and this Chapter when the Director determines that such use: (i) meets the criteria set forth in BMC 6.33.030, and (ii) will not unreasonably disturb the health, safety, peace, or comfort of residents occupying properties, lots or parcels of land adjoining the property, lot or parcel of land for which such Permit is issued. Such Permit shall be personal to the applicant and shall not run with the land.

6.33.050 Denial of the permit.

The Director shall not approve an application for a Beekeeping Permit if the Director reasonably determines that the applicant cannot comply with the criteria set forth in BMC 6.33.030.

6.33.060 Notification of Action.

A. The Director shall notify the applicant and all property owners and tenants receiving notice of the application of the Director's decision to either approve or deny the application.

B. In cases where the Director approves the application for a Beekeeping Permit, the notification shall include or specify the conditions of approval of such Permit.

C. In cases where the Director denies the application for a Beekeeping Permit, the notification shall include or specify the grounds or reasons for such denial.

6.33.070 Right of Entry for Enforcement.

City enforcement officers shall be empowered to enter upon any premises where honey bees are kept, or upon which there is reason to believe that bees are kept, in order to carry into effect the provisions of this Chapter, in accordance with BMC 6.08.040 .

6.33.080 Notice of noncompliance.

The Director may issue a notice of noncompliance to the holder of a Beekeeping Permit should such holder:

A. Fail to comply with the terms and conditions of the Permit; the provisions of this Chapter, or any state or local law, rule, ordinance or regulation pertaining to the keeping of bees; or

B. Conducts its beekeeping operation in a manner that creates a public or private nuisance or that adversely affects the public peace, health, safety, or welfare.

Such notice shall direct the holder to comply with the Permit, this Chapter, or such law, rule, ordinance or regulation or to abate the nuisance within a reasonable period of time. Such notice of noncompliance shall be in writing and shall be given or delivered by personal service, United States mail, or other reliable means of service to the Permit holder at the address shown in the Permit or such other address as the holder may, from time to time, provide in writing to the Director.

6.33.090 Notice of revocation hearing.

A. When the Director issues a notice of noncompliance to the holder of a Beekeeping Permit and such holder fails to comply with the direction specified in the notice within the time period prescribed by the notice, the Director may set the matter for hearing to determine whether such Permit should be revoked or modified.

B. The notice of hearing shall be in writing and shall be given or delivered by personal service, United States mail, or other reliable means of service to the Permit holder at the address shown in the Permit or such other address as the holder may, from time to time, provide in writing to the Director.

C. The notice of hearing shall specify the time, place and date of the hearing and shall set forth a general description of the matter to be considered at such hearing. The notice shall further specify that the Permit Holder shall have the opportunity to present evidence as to why the Permit should not be revoked or modified.

D. The notice of hearing shall be served not less than ten days prior to the date of the hearing, unless the Director determines that the public health, safety, or welfare requires more immediate action, in which case the hearing may be sooner, provided the Permit holder is given prior verbal or written notice of the hearing.

6.33.100 Hearing for revocation.

A. The Director shall conduct the hearing in an informal manner and shall afford the Permit Holder an opportunity to present evidence as to why the Permit should not be revoked or modified. The hearing shall be open to the public but the public shall not be

permitted to provide testimony or comment during the hearing unless called as a witness.

B. The formal rules of evidence shall not apply. The Director may admit into evidence all evidence deemed relevant by the Director.

C. The Director may exclude witnesses from the hearing when not testifying, exclude disorderly or disruptive persons from the hearing, and make other orders deemed necessary to ensure the fair and orderly conduct of the hearing.

D. The proceedings of the hearing may be recorded if ordered by the Director or requested by the Permit Holder. A copy of the recording shall be made available for review by the Director or the Permit Holder.

E. If the Permit Holder fails to attend the hearing after receiving notice of the hearing, the Director may proceed with the hearing in the Permit Holder's absence.

F. After considering the evidence presented, the Director shall determine whether there is good cause and sufficient grounds to revoke or modify the Beekeeping Permit and shall render his or her decision in writing, stating the reasons therefor. The Director's decisions shall be final.

G. If the Director's decision is to revoke the Permit, the Permit Holder shall have ten days from the date of the Director's decision to remove all hives from the premises and discontinue the keeping of bees thereon.

H. The Director's decision shall be final and there shall be no right to appeal said decision.

6.33.110. Public Nuisance and Abatement

The provisions of this Chapter, shall not authorize the keeping of honey bees in a manner constituting a public nuisance as defined in BMC 1.08.040. The City shall retain the right to abate any common law nuisance, or any nuisance as defined under California Civil Code Sections 3479 through 3480 and BMC 8.04.010 et seq.

6.33.110 Non-transferability.

A permit issued hereunder may not be transferred or assigned.

**BEST MANAGEMENT PRACTICES FOR
BEEKEEPING IN NAPA COUNTY**

Best Management Practices for Beekeeping in Napa County

Napa County Beekeepers' Association

September 27, 2012

Purpose

The purpose of this document is to establish a reference and standard for honeybee management in Napa County.

AREAS OF BEEKEEPING MANAGEMENT OF PUBLIC CONCERN

- **Hive Density, Quantities**
- **Siting, Screening, Barriers, Fencing and Flyways**
- **Colony Temperament and Behavior**
- **Considerate Hive Management**
- **Swarming**
- **Provision of water**
- **Disease Control**
- **Our Values**

Hive Densities, Quantities

The following hive densities are established to minimize potential conflict between people, honeybees and their keepers.

Suggested maximum number of hives in relation to lot size:

Lot /Acreage	Number of Colonies
Up to 1/4 acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than 1/4 acre, less than 1/2 acre (1/2 acre = 21,780 sq. ft.)	5 colonies
More than 1/2 acre, less than 1 acre (1 acre = 43,560 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

Some locales may not support the maximum hives allowed. Hive densities are ultimately limited by available forage and by interaction with neighbors and the public.

Siting

Hive placement is one of the most important decisions a beekeeper will make. The amount of sun and shade a hive will receive throughout the day, availability of water, availability of screening, and the proximity to neighbors and/or public areas are major factors to consider. Hives should be placed as far away from occupied, developed neighboring areas as practical to prevent nuisance.

Screenings, Barriers, Fencing and Flyways

Special attention must be exercised to redirect the bees' flight path to avoid neighbors and the public. Locate screenings, foliage, shrubs, trees, fencing and barriers that will help to minimize human and animal contact. Screening should be of sufficient density and length to establish bee flyways above head height (6 feet) in all directions.

Colony Temperament and Behavior

- Bees that are consistently defensive should be relocated or re-queened.

Considerate Hive Management

Beekeepers should perform hive manipulations as quickly as possible with minimum disturbance to the bees following these guidelines:

- Work hives when forager activity is satisfactory, when calm, warm and foragers are out.
- Avoid working hives when neighbors are nearby or the bees are defensive.
- Robbing leads to defensive behavior, avoid working hives when robbing is a risk.

Swarming

Honeybee colonies should be managed to minimize swarming.

- Beekeepers who learn of a nearby swarm should take reasonable measures to see that swarms from their hives are retrieved to prevent it becoming a nuisance.

Provision of Water

- Beekeepers need to provide a suitable source of continuously available water for their bees.

Disease Control

It is incumbent on beekeepers to monitor and manage disease and pests to ensure colony health.

- Beekeepers should take remedial action to prevent spread of disease.

Our Values

The Napa County Beekeepers' Association encourages sustainable beekeeping, benefiting bees, their keepers and the environment through methods in tune with nature. We recognize that through natural selection bees become better adapted to our local climate, forage and disease risks. We foster better genetic fitness in our locally adapting bees through propagation of the healthiest productive local stocks.

We advocate protection of the bees' habitat and the planting of pollinator friendly flowers, trees, shrubs and cover crops to provide pollen and nectar for our bees and native pollinators.

We are mindful that use of many pesticides, chemicals, and treatments should be avoided as they are detrimental to bee health and long term species sustainability.

Our association inspires, provides camaraderie and helps to educate interested individuals on how to best steward this precious insect and resource that is in a precarious period of change.

Together we learn, nurture and maintain the adapted genetic diversity of our regional bee populations so crucial for pollination and the continuance of life as we know it.

For more information on the Napa County Beekeepers' Association, join our yahoo group at:
<http://pets.groups.yahoo.com/group/beekeepersofnapavalley/>

DRAFT



**BENICIA PLANNING COMMISSION
REGULAR MEETING MINUTES - PARTIAL**

**City Hall Council Chambers
Thursday, April 9, 2015
7:00 P.M.**

VII. REGULAR AGENDA ITEMS

B. AMENDMENT TO SECTION 6.32.030 OF THE BENICIA MUNICIPAL CODE TO PERMIT URBAN BEEKEEPING WITHIN THE CITY, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA

Mr. Boehme gave a presentation on the proposed text amendment.

Commissioners asked questions regarding the hives, screening, registration, locations, enforcement, and permitting.

The public hearing was opened.

Laurie Cannon, resident, spoke about colony clasp disorder. She questioned how many people in Benicia are allergic to bees. She commented on the screening of hives.

Charles Maddux, 126 East D Street – He recommends having a bee expert in attendance. He would like to see a permit required so that the public can have input. He stated he is allergic to bees.

Sue Kibbey, resident – She would like to see a permit for liability issues. She provided copies of a St. Helena Bee Keeping permit.

Claudia Claverie, 441 York Drive – She supports bee keeping. She would like to see a no-fee permit for this.

Elena Karoulina, Benicia Community Gardens – She would like to see food production and permaculture. She commented that the City of Napa and County of Napa have separate ordinances. She noted that barriers

need to be solid. She has offered to bring experts to the City meetings to educate the public. She stated that people are concerned with charging a fee for a permit.

The public hearing was closed.

Commissioners expressed interest in additional information from Napa or St. Helena regarding permit requirements, bee-hives, and neighborhood input. They would like an expert present at the meetings. City liability was discussed.

It was noted that the Police Department prefers the no-permit option. It was suggested that this could be removed after a period of time to see if there are issues.

Christina Ratcliffe noted that there are processes for other types of permits that only require notification of adjacent property owners. This could be done.

Commissioner Young moved to recommend allowing beekeeping with a permit in all zoning districts with best practices as listed, with requirement that adjacent neighbors are notified by the permittee, an over-the-counter permit process with minimal fee, revisit in 1 year (to determine number of permits, complaints, etc...), and limit the use in multifamily and trailer parks, and the number of hives as stated in the draft ordinances.

RESOLUTION NO. 15-4 OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO SECTION 6.32.060 OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

On motion of Commissioner Young, seconded by Commissioner Sherry, the above Resolution was approved, as amended, by the following vote:

Ayes:	Commissioners Birdseye, Cohen-Grossman, Oakes, Sherry, Sprague, Young and Chair Dean
Noes:	None
Absent:	None
Abstain:	None

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
BUSINESS ITEMS

DATE : June 30, 2015

TO : City Manager

FROM : Finance Director

SUBJECT : **AWARD OF CONTRACT TO TYLER MUNIS FOR ENTERPRISE RESOURCE PLANNING SOFTWARE**

RECOMMENDATION:

Accept, by motion, the proposal from Tyler Munis to provide Enterprise Resource Planning (ERP) software and authorize staff to execute an agreement.

EXECUTIVE SUMMARY:

The City of Benicia has prepared and released the Enterprise Resource Planning (ERP) Request for Proposal (RFP). Staff recommends acceptance of the proposal from Tyler Munis for the replacement of the City financial software. The contract with Tyler will replace three existing contracts currently supporting multiple, incompatible financial modules, Sunguard/Bi-Tech (accounting and payroll), Harris (utility billing), and Accela (permitting and licensing). The City is seeking a hosted environment where City will lease the software from Tyler. In return, Tyler is responsible for maintenance and execution of software, purchasing and housing hardware (servers), storage and retrieval of all data, and carrying out regular updates for compliance with legal and financial reporting changes. Direct access via the internet will allow ease of accessing and transferring information from remote City facilities.

BUDGET INFORMATION:

The City Council has committed \$800,000 for the ERP software and conversion costs. Of this appropriation, the Tyler contract will utilize \$300,000 to pay for conversion and implementation services for the ERP. In addition, the City has an annual budget for the existing maintenance agreements, approximately \$182,000 annually that will be allocated to the new agreement. If the Tyler Munis proposal is accepted and staff is authorized by the Council to proceed with an agreement, this will initiate the first phase of procuring the software and conversion costs. To the extent the proposed agreement is modified significantly in terms of the anticipated costs, staff will return to the Council for approval.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
 - Strategy #4: Manage City finances prudently

BACKGROUND:

Staff prepared the Enterprise Resource Planning (ERP) Request for Proposal (RFP). Based upon two prior analysis done by outside entities, Government Finance Officer Association (GFOA) and NexLevel, the City is seeking a single, comprehensive software that will be utilized throughout the organization. The City's goal is to purchase a multi-suite product where the various accounting and reporting modules are fully integrated throughout the ERP.

The City selected Tyler Munis as the best-fit vendor for several reasons. First, Tyler Munis has over 50 municipalities in California, including several in the Bay Area. This provides confidence that Tyler will be responsive to both national and regional accounting reporting requirements, such as CalPERs reporting specific to California. Secondly, Tyler encourages a culture of networking and cross training. Tyler has developed strong online and regional training programs; promoting opportunities for City employees to enhance their skills and knowledge of the ERP's applications.

In addition, the City was looking for a hosted environment that would allow the City's remote sites to easily and efficiently reach, retrieve, and update financial data through the ERP. A hosted environment provides confidence that the system is being regularly maintained and updated. It will meet auditing standards for document storage and recovery. Another enhancement in this environment is it will reduce hardware and energy costs for the City, because the City will not be purchasing, maintaining, and replacing servers. A hosted environment also results in less impact on the City's IT staff, which is already stretched to capacity.

Attached, please find an overview of the Service as an Agreement (SaaS) environment and a white paper prepared by Tyler, which notes several of the significant advantages of Tyler's Munis SaaS offering, including information and "frequently asked questions" regarding data security and other topics. Indeed, Tyler utilizes some of the highest security measures available within its Munis Data Center, including advanced intrusion detection controls. A third of Tyler's Munis clients have selected the SaaS environment including three California cities: Tracy, Richmond, and Covina.

ANALYSIS:

The City is looking to convert general ledger (accounts payable, accounts

receivable, and payroll), utility billing, and permitting applications into one comprehensive software, or ERP. The City financial records are currently housed in three incompatible software applications, as well as multiple other supporting applications. The mere fact that the City hosts multiple applications in order to record and report financial information leads to inefficiencies. Another observation noted about current practices by both the NexLevel and GFOA reviews is duplication of effort. For example, Finance must maintain two different types of cashiering software, one for utility billing and one for licensing and permitting. These data points are not compatible with the General Ledger and must be reentered into a third system. In addition, the software application currently in use have not been regularly updated, leaving staff to extract the data and manually manipulate the data to make it compliant with modern reporting requirements.

The proposal from Tyler will allow the City to use one fully integrated system that will provide greater efficiency and improved reporting. The replacement of the system will limit duplicative efforts, effectively manage data input and output, and improve business processes. The compatibility of applications and modernization of processes will decrease paper processes and approvals, expedite payments, and mitigate manual input errors and redundancies. The City will also take this opportunity to evaluate workflow and desk procedures to meet best practice standards and improve internal controls throughout the City.

The City will be moving off of three separate software companies and replacing them with one software that hosts multiple software applications. The current annual costs of these three major software agreements is approximately \$182,000; whereas, Tyler's Munis proposed annual leasing and maintenance agreement is approximately \$173,000. (The software pricing is fixed for the modules agreed upon within this proposal and could vary over time if modules are dropped or enhanced, per the City's discretion.) Calculated out eight years, this is approximately a \$1.4 million agreement; calculated out 15 years the leasing and maintenance agreement is approximately \$3 million. By leasing the software through the SaaS environment, the City has no upfront software purchases. Instead, the City is able to shift the budget appropriations that currently are in place with the SunGard, Harris, and Accela and utilize them for the annual leasing/maintenance costs of Tyler Munis.

**Illustration: 1 year costs approximately \$173,000 in leasing/maintenance costs
and 8 year costs approximately \$1.4 million**

	<i>Annual</i>	<i>Eight Year</i>
SunGard	105,000	840,000
Harris	53,000	424,000
Accela	24,000	192,000
	<hr/>	<hr/>
Total Maintenance Contracts to be replaced	<u>182,000</u>	<u>1,456,000</u>
Tyler Munis proposal (SaaS)	173,000	1,384,000

During the budget process, staff requested a one-time commitment of \$800,000 for the replacement of the ERP system. The original appropriations were assumed to cover the purchase of the software, as well as the implementation and conversion services provided by the vendor. The estimates were based on a survey of local agencies' costs for similar ERPs. Staff anticipated additional costs would likely be necessary for internal project management and auditing/compliant related services. It was uncertain if the vendor proposals would allow for these additional costs, or if the City would need to either identify additional funds and/or expand the timeline for implementation. Given that the City is leasing the software, rather than purchasing, the estimated purchase amount can now be allocated to these other implementation needs.

Below staff has outlined three major cost areas that will be addressed with these funds.

Tyler Training and Conversion Costs:

First, staff has budgeted \$300,000 for Tyler on-site training and conversion costs related to the replacement of the ERP. The recommended professional services agreement with Tyler Technologies includes the following:

- Software installation and configuration (see pricing sheet)
- Implementation consulting
- Training
- Data Conversion
- Documentation

- Project Management
- Software maintenance and support

One of the most complex steps is data conversion. Tyler will work with the City to convert data from numerous existing software platforms before inputting the data into the ERP. The process will include verification by Tyler that all data was accurately transferred prior to going live. This is critical to the success of the ERP.

Onsite Project Management and Internal Control Auditing and Testing:

Staff has also identified \$300,000 in other costs related to the ERP, specifically a project manager and other temporary help hired by the City to facilitate the implementation, as well as to closely review and refine work flows to create an effective and efficient environment for the end-users. Throughout this process, in order to ensure the integrity of the system, various internal control audits will be conducted by a third-party to assure procedures meet best practice standards.

Other Purchases:

Other equipment purchases estimated at \$150,000 are anticipated in order to ensure effective resources are available for end-users. Examples of such purchases are tablets for use by employees in the field and enhancements to the City’s existing internet services.

Summary of One Time Start Up Costs

ERP appropriations	800,000
Tyler Training and Conversion costs	(300,000)
Other City Costs	(450,000)
<ul style="list-style-type: none"> • Onsite Project Management • Internal control auditing and testing • Other equipment purchases 	
Potential savings	50,000

At this time, the project may come in under budget; however, the savings are less than 10% and should be retained for project contingencies that may arise. As previously noted, at this time staff is requesting authorization to proceed with an agreement with Tyler Munis for the training and conversion costs. Staff will return with more details and approval, as needed, on the other anticipated start-up costs.

Note that the analysis presented in this staff report does not calculate known duplicative efforts that staff anticipates will be eliminated due to enhanced efficiencies inherent in this project. Instead, it is assumed that the time efficiencies will allow employees to respond to projects that otherwise have been delayed or not undertaken, because of current time constraints. It is believed that workload improvements will allow employees to work smarter with the given technology; and therefore, be more responsive to constituents' needs.

The proposed schedule as outlined in the RFP:

- | | |
|--|------------------|
| • City Council approval of contract | July 7, 2015 |
| • Tyler Citywide demonstration | July 16, 2015 |
| • Award of contract and contract execution | July 2015 |
| • Project start | August 1, 2015 |
| • Go Live with core financials | October 1, 2015 |
| • Go Live with payroll and HR | December 1, 2015 |
| • Go Live with Utility Billing | Spring 2016 |
| • Go Live with licensing, permitting | Summer 2016 |
| • Go Live with customer applications | Summer 2016 |

Staff will continue to provide updates to the Finance Committee and Council on ERP related costs and implementation.

Attachments:

- Tyler Munis proposal Enterprise Resource Planning
- Appendix A: List of current technology applications in use at the City of Benicia.
- Munis SaaS Overview-Benicia
- Munis SaaS Whitepaper



Quoted By: Kyle Johnson
 Date: 5/5/2015
 Quote Expiration: 10/27/2015
 Quote Name: City of Benicia-ERP-Munis
 Quote Number: 2015-12652
 Quote Description: Benicia RFP Revised (SaaS) Investment Summary (v.3)

Sales Quotation For

City of Benicia
 250 East L Street
 Benicia, California 94510
 Phone (707) 746-4200

SaaS

Description	Annual Fee Net	# Years	Total SaaS Fee	Impl. Days
Financials:				
Accounting/GL/BG/AP	\$22,543.00	7	\$157,801.00	17
Cash Management	\$3,367.00	7	\$23,569.00	2
Contract Management	\$2,995.00	7	\$20,965.00	2
Fixed Assets	\$6,019.00	7	\$42,133.00	4
Project & Grant Accounting	\$4,993.00	7	\$34,951.00	3
Purchasing	\$9,401.00	7	\$65,807.00	7
Work Orders, Fleet & Facilities Management	\$9,518.00	7	\$66,626.00	11
Payroll/HR:				
Applicant Tracking	\$2,081.00	7	\$14,567.00	2
HR Management	\$5,674.00	7	\$39,718.00	5
Payroll w/ESS	\$16,273.00	7	\$113,911.00	13
Revenue:				
Accounts Receivable	\$5,556.00	7	\$38,892.00	7
Annual License	\$3,531.00	7	\$24,717.00	2

VIII.D.7

Business License	\$6,713.00	7	\$46,991.00	7
Central Property File	\$1,670.00	7	\$11,690.00	1
General Billing	\$2,479.00	7	\$17,353.00	3
Link GIS Integration	\$3,112.00	7	\$21,784.00	1
Permits & Code Enforcement	\$13,437.00	7	\$94,059.00	15
Tyler Cashiering	\$7,305.00	7	\$51,135.00	4
UB Interface	\$3,024.00	7	\$21,168.00	2
Utility Billing CIS	\$15,284.00	7	\$106,988.00	16
Productivity:				
Citizen Self Service	\$4,026.00	7	\$28,182.00	1
Munis Analytics & Reporting (SaaS)	\$12,397.00	7	\$86,779.00	8
Tyler Content Manager SE	\$9,018.00	7	\$63,126.00	4
Tyler Forms Processing	\$4,439.00	7	\$31,073.00	0
Other:				
Tyler Incident Management	\$4,132.00	7	\$28,924.00	5
TOTAL:	\$178,987.00		\$1,252,909.00	142

Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
POS Cash Installation (Up to 3)	1	\$1,000.00	\$0.00	\$1,000.00
Project Planning Services	1	\$5,000.00	\$0.00	\$5,000.00
Tyler Forms Library - Business License	1	\$1,200.00	\$0.00	\$1,200.00
Tyler Forms Library - Financial	1	\$1,600.00	\$0.00	\$1,600.00
Tyler Forms Library - General Billing	1	\$1,500.00	\$0.00	\$1,500.00
Tyler Forms Library - Payroll	1	\$1,200.00	\$0.00	\$1,200.00
Tyler Forms Library - Permits	1	\$2,000.00	\$0.00	\$2,000.00
Tyler Forms Library - Personnel Action	1	\$1,000.00	\$0.00	\$1,000.00
Tyler Forms Processing Configuration	1	\$1,500.00	\$0.00	\$1,500.00
Tyler Forms Library - Utility Billing	1	\$3,500.00	\$0.00	\$3,500.00

Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
Tyler Forms Work Order/Pick Ticket Library - 4 Forms	1	\$2,000.00	\$0.00	\$2,000.00
VPN Device	1	\$4,000.00	\$0.00	\$4,000.00
TOTAL:				\$25,500.00

3rd Party Hardware, Software and Services

Description	Quantity	Unit Price	Unit Discount	Total Price	Unit Maintenance	Unit Maintenance Discount	Total Year One Maintenance
Cash Drawer	1	\$230.00	\$0.00	\$230.00	\$0.00	\$0.00	\$0.00
Hand Held Scanner - Model 1900GSR	1	\$385.00	\$0.00	\$385.00	\$0.00	\$0.00	\$0.00
Hand Held Scanner Stand	1	\$25.00	\$0.00	\$25.00	\$0.00	\$0.00	\$0.00
ID Tech MiniMag USB Reader	1	\$62.00	\$0.00	\$62.00	\$0.00	\$0.00	\$0.00
Power Supply	1	\$40.00	\$0.00	\$40.00	\$0.00	\$0.00	\$0.00
Printer (TM-S9000)	1	\$1,600.00	\$0.00	\$1,600.00	\$0.00	\$0.00	\$0.00
Tyler Secure Signature System with 2 Keys	1	\$1,650.00	\$0.00	\$1,650.00	\$0.00	\$0.00	\$0.00
<i>3rd Party Hardware Sub-Total:</i>			<i>\$0.00</i>	<i>\$3,992.00</i>			<i>\$0.00</i>
TOTAL:				\$3,992.00			\$0.00

Summary

	One Time Fees	Recurring Fees
Total SaaS	\$0.00	\$178,987.00
Total Tyler Software	\$0.00	\$0.00
Total Tyler Services	\$25,500.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$3,992.00	\$0.00
Summary Total	\$29,492.00	\$178,987.00
Contract Total	\$1,282,401.00	
(Excluding Estimated Travel Expenses)		
Estimated Travel Expenses	\$64,390.00	

ailed Breakdown of Conversions (included in Contract Total)

Description	Unit Price	Unit Discount	Extended Price
Accounting Opt 1 - Actuals	\$0.00	\$0.00	\$0.00
Accounting Opt 2 - Budgets	\$0.00	\$0.00	\$0.00
Accounting Standard COA	\$0.00	\$0.00	\$0.00
Accounts Payable Opt 1 - Checks	\$0.00	\$0.00	\$0.00
Accounts Payable Opt 2 - Invoice	\$0.00	\$0.00	\$0.00
Accounts Payable Standard Master	\$0.00	\$0.00	\$0.00
Animal License Opt 1 - Bills	\$0.00	\$0.00	\$0.00
Animal License Std Master	\$0.00	\$0.00	\$0.00
Business License Opt 1 - Bills	\$0.00	\$0.00	\$0.00
Business License Std Master	\$0.00	\$0.00	\$0.00
Contracts	\$0.00	\$0.00	\$0.00
Fixed Assets Opt 1 - History	\$0.00	\$0.00	\$0.00
Fixed Assets Std Master	\$0.00	\$0.00	\$0.00
Payroll - Option 10 Certifications	\$0.00	\$0.00	\$0.00
Payroll - Option 11 Education	\$0.00	\$0.00	\$0.00
Payroll - Option 1 Deductions	\$0.00	\$0.00	\$0.00
Payroll - Option 2 Accrual Balances	\$0.00	\$0.00	\$0.00
Payroll - Option 3 Accumulators	\$0.00	\$0.00	\$0.00
Payroll - Option 4 Check History	\$0.00	\$0.00	\$0.00
Payroll - Option 5 Earning/Deduction Hist	\$0.00	\$0.00	\$0.00
Payroll - Option 6 Applicant Tracking	\$0.00	\$0.00	\$0.00
Payroll - Option 7 PM Action History	\$0.00	\$0.00	\$0.00
Payroll - Option 8 Position Control	\$0.00	\$0.00	\$0.00
Payroll - Option 9 State Retirement Tables	\$0.00	\$0.00	\$0.00
Payroll - Standard	\$0.00	\$0.00	\$0.00
Permits and Code Enforcement - Option 1	\$0.00	\$0.00	\$0.00
Permits and Code Enforcement - Option 2	\$0.00	\$0.00	\$0.00

Detailed Breakdown of Conversions (included in Contract Total)

Description	Unit Price	Unit Discount	Extended Price
Permits and Code Enforcement - Option 3	\$0.00	\$0.00	\$0.00
Permits and Code Enforcement - Standard	\$0.00	\$0.00	\$0.00
Project Grant Accounting Opt 1 - Actuals	\$0.00	\$0.00	\$0.00
Project Grant Accounting Opt 2 - Budgets	\$0.00	\$0.00	\$0.00
Project Grant Accounting Standard	\$0.00	\$0.00	\$0.00
Purchasing - Purchase Orders - Standard	\$0.00	\$0.00	\$0.00
Utility Billing - Option 1 Services	\$0.00	\$0.00	\$0.00
Utility Billing - Option 2 Assessments	\$0.00	\$0.00	\$0.00
Utility Billing - Option 3 Consumption History	\$0.00	\$0.00	\$0.00
Utility Billing - Option 4 Balance Forward AR	\$0.00	\$0.00	\$0.00
Utility Billing - Option 5 Service Orders	\$0.00	\$0.00	\$0.00
Utility Billing - Option 6 Backflow	\$0.00	\$0.00	\$0.00
Utility Billing - Standard	\$0.00	\$0.00	\$0.00
Work Order Opt 1 - Work Order Asset	\$0.00	\$0.00	\$0.00
Work Order Opt 2 - Closed Work Order History No Cost Data	\$0.00	\$0.00	\$0.00
Work Order Opt 3 - Work Order History With Cost Data	\$0.00	\$0.00	\$0.00
TOTAL:			\$0.00

Optional SaaS

Description	Annual Fee Net	# Years	Total SaaS Fee	Impl. Days
Financial:				
Bid Management	\$2,395.00	7	\$16,765.00	2
BMI Asset Track Interface	\$1,767.00	7	\$12,369.00	2
BMI CollectIT Interface	\$1,767.00	7	\$12,369.00	2
Employee Expense Reimbursement	\$3,050.00	7	\$21,350.00	3
Inventory	\$5,753.00	7	\$40,271.00	4
Productivity:				
eProcurement	\$3,112.00	7	\$21,784.00	1
Postal XPress (Lorton) Annual Subscription	\$1,495.00	7	\$10,465.00	0
Other:				
CAFR Statement Builder	\$6,835.00	7	\$47,845.00	3
TOTAL:	\$26,174.00		\$183,218.00	17

Optional Other Services

Description	Quantity	Unit Price	Discount	Extended Price
Additional Post Go-Live/ End User training (Optional Services)	1	\$1,275.00	\$0.00	\$1,275.00
AP/PR Check Recon Import	1	\$1,000.00	\$0.00	\$1,000.00
AP Positive Pay Export Format	1	\$3,000.00	\$0.00	\$3,000.00
Configuration Postal Xpress (Lorton)	1	\$1,175.00	\$0.00	\$1,175.00
P-Card Import Format W/Encumbrances	1	\$15,000.00	\$0.00	\$15,000.00
P-Card Import Format W/O Encumbrances	1	\$7,500.00	\$0.00	\$7,500.00
PR Positive Pay Export Format	1	\$3,000.00	\$0.00	\$3,000.00
TOTAL:				\$31,950.00

Optional Conversion Details (Prices Reflected Above)

Description	Unit Price	Unit Discount	Extended Price
Inventory Opt 1 - Commodity Codes	\$0.00	\$0.00	\$0.00
Inventory Std Master	\$0.00	\$0.00	\$0.00
TOTAL:			\$0.00

Unless otherwise indicated in the contract or Amendment thereto, pricing for optional items will be held for Six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____
 Print Name: _____ P.O. #: _____

All primary values quoted in US Dollars

ments

er recommends the use of a 128-bit SSL Security Certificate for any Internet Web Applications, such as the MUNIS Web Client and the MUNIS Self Service applications if used by the Client. This certificate is required to encrypt the highly sensitive payroll and financial information as it travels across the public internet. There are various vendors who sell SSL Certificates, with all ranges of prices.

Version prices are based on a single occurrence of the database. If additional databases need to be converted, these will need to be quoted.

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the size and scope of your project. The actual amount of services depends on such factors as your level of involvement in the project and the speed of knowledge transfer.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting.

In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

In the event Client acquires from Tyler any edition of Tyler Content Manager software other than Enterprise Edition, the license for Content Manager is restricted to use with Tyler applications only. If Client wishes to use Tyler Content Manager software with non-Tyler applications, Client must purchase or upgrade to Tyler Content Manager Enterprise Edition.

Tyler's form library prices are based on delivering the specific form quantities listed below. Additional formats of forms listed below are extra. Custom forms are extra. Please note that Tyler Forms requires the use of approved printers only. Contact Tyler support for the list of approved printers.

Financial library includes: 1 A/P check, 1 EFT/ACH, 1 Purchase order, 1 Contract, 1099M, 1099INT, 1099S, and 1099G.

General Billing library includes: 1 invoice, 1 statement, 1 general billing receipt and 1 miscellaneous receipt.

Utility billing library includes: 1 Utility bill, 1 assessment, 1 UB receipt, 1 Lien letter, 1 UB delinquent notice, 1 door hanger and 1 final utility bill.

Permits library includes: 1 Building permit, 1 Trades permit, 1 Zoning permit and 1 certificate of occupancy/completion.

Business license library includes: 1 business license and 1 renewal application.

Programming for check reconciliation import and positive pay export assumes one bank format each. Multiple bank formats are extra.

Includes digitizing two signatures, additional charges will apply for additional signatures.

Project Management includes project planning, kickoff meeting, status calls, task monitoring, verification and transition to support.

Comments

Tyler Forms Payroll Core library includes: 1 PR check, 1 direct deposit, 1 vendor from payroll check, 1 vendor from payroll direct deposit, W2, W2c, and 1099 R.

Personnel Actions Forms Library includes: 1 Personnel Action form - New and 1 Personnel Action Form - Change.

Work Order & Pick Ticket Library includes: 1 Work Order - Services, 1 Work Order - Inventory, 1 Pick Ticket and 1 Delivery Ticket.

Tyler's cost is based on all of the proposed products and services being obtained from Tyler. Should significant portions of the products or services be deleted, Tyler reserves the right to adjust prices accordingly.

TCM SE includes up to 50GB of storage. Should additional storage be needed it may be purchased as needed at an annual fee of \$1,000 per 100GB with a total cap of storage at 750GB.

The MUNIS Accounts Payable module utilizes a label printer for batch-scanned document indexing. This printer is to be provided by the client and must support multi-page Adobe PDF files, such as the Brother QL-700.

The SaaS fees are based on 32 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

The Tyler Software Product Tyler Forms Processing must be used in conjunction with a Hewlett Packard printer supported by Tyler for printing checks.

Appendix A

Application	Functionality	Considering replacement as part of ERP
SunGard BiTech IFAS 7.6	Financial System, General Ledger, Account Receivables, Accounts Payable, Payroll	Yes
Disclmage	Document Management	Yes
Custom Access Database	HR	Yes
Acella	Permitting & Business Licenses	Yes
SAGE	Fixed Assets	Yes
RTA	Fleet Management	Yes
Telestaff	Scheduling, Time Keeping (Fire Only)	Yes
PlanIT	CIP planning	Yes
Harris Northstar	Utility Billing	Yes
GovPartner ReqeustPartner	Citizen service request system	Yes
GovPartner GovDelivery	Citizen notification system	Yes
GovPartner GovOffice	City website	No
NeoGov	New hire applicant tracking software	No
Itron MVRS	Water Data collection	No
Carl.X	Library Automation System	No
Class	Recreation Scheduling	No

Tyler's Software as a Service (SaaS) For the City of Benicia, C A

As you begin to consider the value proposition of administering your Munis ERP solution, it makes sense to consider how the Munis SaaS solution will help the City meet your goals. For instance, moving to Munis SaaS will:

- **Free up your IT staff** to focus on more value-added tasks;
- **Manage time-consuming backups** of your database, ensuring data integrity and eliminating the potential for performance degradation;
- **Provide secure remote access** to your end users, thereby eliminating virus threats and the associated negative impacts; and
- **Eliminate downtime and provide backup** in case of a natural disaster.

Munis SaaS operations are fully staffed with experienced Munis personnel, dedicated solely to Munis SaaS. They are trained and focused on *your* operations, running state-of-the-art equipment that enjoys significant reinvestment annually—reinvestment that is typically cost prohibitive when shouldered by a single organization such as the City of Benicia.

Overall Munis SaaS saves the City of Benicia in both hard and soft costs. In other words, Munis SaaS offers our clients the peace of mind that their data and programs are **fully protected**—and operations remain **up and running**—without requiring you to invest significant dollars in on-site hardware, software and associated staff to maintain it. In fact the Munis SaaS solution will provide the City of Benicia with all the service and functional benefits the City has enjoyed as a self-administered organization, without the headaches—instead, your IT staff will enjoy more time to perform the value-added tasks they were hired to do, with the added security that your data is always safe and available.

At the end of the day, our SaaS clients agree: *Munis SaaS is just good business.*

What is SaaS?

Also known as Cloud Computing, SaaS is not a new concept. In short, our SaaS solution allows organizations to utilize Munis ERP software that is hosted and administered by Tyler Technologies at a remote data center—over an Internet connection via a dedicated Virtual Private Network or VPN device. This connection is used to transmit data between the client workstation and the application or database servers. According to Sharon Metz of Gartner, a leading IT research firm, “After more than a decade of use, adoption of SaaS continues to grow and evolve. Increasing familiarity with the SaaS model, continued oversight on IT budgets...and interest in cloud computing are driving adoption forward.”¹ SaaS clients are offered a number of services, including application and database administration, server hardware and operating systems, and integration support—all for one price. Hardware and technical expertise provided by SaaS is spread over multiple clients, and often provides a **higher level of quality** that cannot be cost-justified by any one client.

The SaaS model is unique and powerful in its ability to meet a variety of end-user needs. For instance, clients using the SaaS service experience benefits such as shortened implementation periods, and cost savings from off-site IT services. In fact, the overall lowered cost of ownership sets the SaaS solution

widely apart from traditional client-managed operations. **The typical organization's cost-of-business overhead to run, maintain, and upgrade its own software and hardware is eliminated**—thus enabling the organization to meet their application needs with minimal associated operating and capital expenditures.

The result: each SaaS client enjoys all the service and functional benefits of a self-administered organization—with reduced risk and the added value of Tyler experts handling the maintenance and management of your ERP solution.

¹ www.gartner.com/newsroom/Gartner March 27, 2012

What Will We See For Benefits?

The SaaS benefits are considerable, from operating costs and hardware expense, to maintaining the latest technology and IT training to keep your staff current. Additionally you'll benefit from:

- Multi-year, fixed rate contract = **no hidden costs.**
- Multiple layers of redundancy to ensure no single point of failure.
 - Power systems
 - Highly available database infrastructure
 - Backup replication
 - Redundant network layers
 - SAN storage
 - Multiple cooling systems
- Off-site back up: Full built-in Disaster Recovery Services (including backup and storage of all system, data and image files in a secure off site location) so no need to worry about hardware failure, botched backup, natural disaster, etc. **This benefit, alone, ensures your Munis operations stay up and running, maximizing efficiency and staff productivity. To duplicate these Disaster Recovery services in house would cost the City of Benicia approximately twice the cost of your 5-year investment in Munis SaaS.**
- Insulates you from technology changes: DB, hardware, licensing =
 - No depreciation of hardware; as technology and ERP requirements become more complex with additional features, **we maintain your environment.**
 - Always **up to date with the application and technology**, no need to worry about future hardware purchases and maintenance, no future database upgrades/conversions.
 - No need to retrain your staff as technology advances; **built-in OSDBA Services.**
- We perform all hardware and software maintenance and upgrades but you decide when, based on your schedule.

- SaaS frees up your IT resources to focus on other projects.
 - Energy costs are reduced.
 - No repair, upgrade or maintenance responsibilities.
-
- SaaS allows users to work from any internet access point with unlimited SSL VPN connections.
 - You receive disaster recovery testing to ensure success.
 - We help troubleshoot network, communication, or ISP issues.
 - The Data Center is audited for compliance and data security.
 - The Data Center is maintained to meet 99% uptime as part of contracted Service Level Agreement (SLA) 24 hours a day, 7 days a week, and 365 days a year.
 - Who best to maintain your financial information than the people who develop and support it? The Munis SaaS operations team collectively has more than 100 years of Munis system administration experience.
 - In the event that we need to run your Payroll, print bills, and so forth we also will store your paper stock here at the data center— just ask Biloxi, Mississippi.

“In the aftermath of Hurricane Katrina, the Tyler Disaster Recovery Services proved its worth to the City. The Tyler team had already reconstituted Biloxi’s database on their servers, anticipating that Biloxi would need to use the Disaster Recovery Service. A base payroll was discussed with a follow-up call planned for the next day. When the follow-up call was made, Tyler had already processed the payroll. With no package delivery or postal service available in Biloxi, Tyler found a UPS store in Mobile, Alabama that would accept delivery and hold the package for pickup. The payroll department was able to verify checks and do an early payroll distribution.”

T.R., City of Biloxi, MS

Munis SaaS = Disaster Avoidance = Peace of Mind



Who Else is Part of the Munis SaaS Community?

You'll be in good company with 486 current Munis SaaS clients across the US – Of course all of these sites are local governments.

Benicia will get all the pluses of the Munis Data Center **without having to invest large amounts of money purchasing and maintaining hardware, software and other infrastructure.** With SaaS you can shift the daily support to us, and **free up your IT staff to focus on more value-add tasks**—thereby lending increased value to your bottom line.

Benicia would join these other like-size client sites in the Munis SaaS community:

- City of Tracy, CA
- City of New Haven, CT
- City of Covina, CA
- City of Richmond, CA
- City of Boulder City, NV
- Flowing Wells Unified School District, AZ
- Wayne County Airport Authority, MI

Where Will Benicia's Data Be Maintained?

Tyler Technologies designed and built the original Munis Data Center in 2000 from the ground up, and our Yarmouth facility is the latest **Tyler-owned** data center to come online. This **state-of-the-art facility incorporates the latest technology**, and continues to be **maintained 100% by Tyler's in-house team** of SaaS experts including analysts, engineers, Webmaster, System Administrator and Database Administrator. These are professionals who work for Tyler, and understand Munis, the technology, SaaS and Disaster Recovery practices and procedures, and our clients' needs and requirements.

What's more, Tyler invests more than \$5 million annually in hardware, software and personnel to keep operations running optimally for our SaaS clients.

Overview of the Yarmouth, Maine Munis Data Center:

- PCI and SSAE 16 audits in 2012
- 160TB IBM XIV primary DB storage
- Brocade 5300 80 port, 4G SAN switches
- VMware vSphere V5.1 Enterprise Plus
- VMware vCenter Server
- Cisco Unified Computing System (Cisco UCS)
 - 20 - B230 M2 Blades (20 core, 512G RAM per blade)



- 2 - Cisco 6140 Fabric Interconnects with Fiber Port modules
- 5— chassis with 10G I/O modules
- Windows 2008 R2 and SQL Server 2008 R2 database foundation
- eVault Tapeless Backup Solution
- Redundant backup center in Dallas TX as well as emergency services on-call with RackSpace
- Dallas center located at DataBank, a Tier-1 data center
- VPN Device: Industry-leading network equipment from Cisco Checkpoint at both locations

What Will Benicia's Transition to SaaS Look Like?

Once Benicia and Tyler execute the SaaS contract, the City will be assigned a Project Manager (PM) who will work with you during your transition. It's at this point that your PM will:

- Obtain the City's IP and printer information;
- Configure and send the VPN hardware to your site;
- Fully assist you as you connect it to your network; and
- Acquire a copy of your data (via FTP) and install your site-specific programs.

Once your data is loaded in Tyler's Data Center, we will work with your staff to perform a test of Benicia's user logins, printers, critical processes, and full data verification. When everyone has given this test the green light, Tyler will work with Benicia to schedule your Go-LIVE date. This process, from start to Go-LIVE, typically takes approximately 2-3 months. From this point forward, the City will be assigned a technical support resource to help you manage any support items that may arise.

What About...? (FAQs)

- Are the SaaS fees in addition to my current maintenance fees?
 - § No. The SaaS fees replace all your current ERP fees (support maintenance, licensing, OSDBA, Disaster Recovery, etc.)

- What is the necessary bandwidth required to be a Munis SaaS client?
 - § Benicia will be required to have 25kbs per concurrent user. Most of our clients now have backup ISP's—this is ideal, but not necessary.

- Will my users need training once we go live with SaaS?
 - § Not at all. Your users will continue to run Munis just like they do today. The look and feel of the system does not change when Benicia moves from self-hosting to Munis SaaS.

- Will Benicia be forced to be on the latest version of the software at all times?
 - § No. You still determine which version of the software you want to be on, and when you want to upgrade. The difference: Tyler's Munis SaaS staff will "do the heavy lifting" for you now.

- Is the Data Center audited?
 - § Yes. And because Tyler's payroll also is run through the Munis Data Center, we are required by the Sarbanes-Oxley Act to do a full annual audit.

- What happens after our contract term expires?
 - § Prior to expiration, your Munis sales representative will discuss with you the option to renew your site for another term.

Tyler and Benicia: A SaaS partnership that makes sense.



Table of Contents

Overview of SaaS Page 1

The History 1-2

Tyler’s Munis SaaS Offering 2

Client Centered 2

Data Center Equipment 2

Operational Tasks 2

Data Security 2

Redundancy 3

Tyler’s Responses to Typical SaaS

Questions 3

Current SaaS Clients 3

Cost Comparison Worksheet 4

Overview of Software

Software as a Service, or SaaS, is not a new concept. In short, a SaaS solution allows organizations to utilize software that is hosted and administered by a third party at a remote data center, typically over an Internet connection, on a subscription rather than a license basis. This connection is used to transmit data between the client workstation and the application or database servers. According to Gartner, a leading IT research firm, the annual cost to own and manage software applications can be up to four times the cost of the initial purchase. SaaS providers offer varying degrees of services, including application and database administration, all server hardware and operating systems, and integration support. Hardware and technical expertise provided by an SaaS is spread over multiple clients, and often provides a higher level of quality that can be cost-justified by any one client.

Sometimes referred to as Application Service Provider (ASP), this purely Web-based subscription service model is unique and powerful in its ability to meet a variety of end-user needs. For instance, clients using the SaaS service experience benefits such as shortened implementation periods, and cost savings from off-site IT services. In fact, the overall lowered cost of ownership sets the SaaS solution widely apart from traditional client-managed operations. The typical organization’s cost-of-business overhead to run, maintain and upgrade its own software and hardware is eliminated—thus enabling the organization to meet their application needs with minimal associated operating and capital expenditures. The result: each SaaS client enjoys all the service and functional benefits of a self-administered organization, due to the large investment made by SaaS—but at a fraction of the cost.

The History

The current SaaS function is very similar to the service bureau offerings of the 1960s and ’70s. Service bureaus emerged as computer processing gained in popularity and became more widespread, but few small- and medium-sized companies could afford mid-range and mainframe systems. Companies who did invest in these systems often had excess capacity, and were willing to rent out the use of the systems during off-peak time. Service bureaus emerged from this concept, often running a host of programs such as accounting and payroll for smaller organizations. It’s in just this way that Tyler’s Munis division had its start, running as a service bureau in the early 1960s.

During the late 1970s and ’80s the cost of hardware dramatically decreased, and local and wide-area networks emerged. This allowed companies to bring processing back in-house and move to a real-time environment, rather than batch process their jobs off-site through the service bureau model. With the additional emergence of the Internet, data centers were able to provide an inexpensive high-speed data transfer, located virtually anywhere in the world with no impact to users or application performance.



It's easy to see that the driving factor for service bureaus was the cost and availability of hardware. For the SaaS model, the overriding benefit to clients is the information technology staff ability to manage and administer the expensive and complex computing environments used today.

Tyler's Munis SaaS Offering

Although SaaS has become a common industry term, each provider defines it differently. Some are simply hosting companies that will host your application in their data center without administrative support, and with little-to-no application expertise. Others are merely middlemen who arrange for companies to host common applications and then sell access to those applications. Additionally, some are built out of a series of vendor relationships, whereby a software vendor will ally themselves with a hosting company—and occasionally a contractor with some administrative capacity—and then market this arrangement as a SaaS offering.

Client Centered

Tyler's Munis SaaS offering is unlike any of the previous scenarios. It's a full-service SaaS, meaning we host, administer and support all Munis applications. True to our full-service commitment, Tyler doesn't rely on sub-contractors; we have invested over \$1M in our Data Center and have staffed it with experienced personnel dedicated solely to SaaS operations and the Munis solution.

The Munis SaaS Data Center is a client-centric service, currently hosting multiple clients on various release versions. Each client's Munis database is unique, meaning they are not tied to any other SaaS client. As a result, Tyler Munis SaaS Data Center currently is host to individual users.

Data Center Equipment

The Munis SaaS Data Center is operated under a continuous improvement model whereby the hardware, software, and technical infrastructure are constantly being reviewed and optimized for performance and stability. New client acquisition, utilization, and advancements in technology all influence changes in the Data Center configuration, which is currently equipped with the following:

Server: IBM P550

Storage Sub System: IBM SHARK—Enterprise Storage Server

Tape: Digital Linear Tape Library Magstar Tape Subsystem

UPS: Liebert Nfinity

Diesel Generator: Caterpillar Olympian

Bandwidth: Multiple Ts lines from multiple ISPs

Routers: Cisco 7200

Firewall: Nokia hardware using CheckPoint OS

VPN: Nokia CryptoCluster and Nortel Contivity

Operational Tasks

Tyler's Munis SaaS Operations team is dedicated solely to our SaaS and Munis Online services. The team performs a number of ongoing proactive steps to ensure best performance and stability—many of which are unique to our configuration, and highly technical. The Operations team also performs routine maintenance and administration to the system. The tasks include, but are not limited to:

- Adding and changing user IDs
- Adding and changing printers
- Backing up and restoring data
- Migrating data to test environment
- Updating operating system, database, and application software
- Configuring and maintaining integration to third-party products
- Monitoring Internet and VPN traffic
- SaaS operations client support
- Operating system and database performance tuning

Data Security

Within the Munis Data Center, Tyler utilizes some of the highest security measures available. All data traffic runs through a Virtual Private Network (VPN) tunnel between the Munis Data Center and each of our clients' networks. Two VPN devices manage this VPN tunnel. Our engineers install one at each client location, while the other is in place at the Munis Data Center. All traffic between the two devices is encrypted using 3DES cryptographic standards—the same level of data encryption used by banks and credit card processing companies. The Nokia VPN incorporates a built-in Certification Authority (CA), which allows compliance with IETF standards for the safe creation and distribution of security policy to other gateways and remote clients.

Redundancy

Virtually every potential point of failure has been addressed by Tyler's Munis SIS SaaS service. Each hardware device has a failover component that will take over in the event of a failure. In addition to our Tyler-owned Data Center, we have contracted for a "hot site" in Boston, MA that replicates the entire system for use in the unlikely event of a total facility failure. Tyler utilizes multiple Internet Service Providers (ISPs) with routes coming from different Internet hub locations. An Uninterruptible Power Supply (UPS), as well as a diesel generator, provide alternative power and the disk sub-system uses fully-redundant drive arrays that prevent downtime due to a failed disk drive. All nightly back-up tapes are stored off-site in fire proof storage, and monitoring software constantly monitors the performance of the system and alerts operations staff of any irregularities.

A recent audit of the Munis SaaS Data Center, sponsored by one of Tyler's SaaS clients, was performed by IBM Global Services. The audit was conducted to formally document the redundancy and fault tolerance capabilities of the Data Center and its operational procedures. The following is an excerpt from that audit:

" The...Corporation facility and Data Center are well maintained. Single points of failure have been eliminated. The facility has dual telecommunications feeds with separate entry points into the building. Backups are performed nightly and backup tapes are sent off-site to a secured, environmentally controlled vault..."

It's clear—Tyler takes its SaaS services very seriously. Our professional staff is trained and knowledgeable in all aspects of SaaS administration, our facility is state-of-the-art, and our attention to our clients is unrivalled.

Tyler's Responses to Typical SaaS Questions

Q. How does your data center utilize multiple ISPs to prevent telecommunications outages in the event your primary ISP goes down?

A. Tyler's Munis Data Center not only utilizes multiple ISPs, but also has its bandwidth drawn from different hub locations. Multiple ISPs and multiple hub sources mitigate the risk of a Munis Data Center Internet outage.

Q. What security measures do you have in place?

A. The Munis SaaS Data Center is equipped with battery back-ups in the event of a power loss. During a sustained outage a diesel generator dedicated solely to the SaaS Data Center will supply power. Additionally, Tyler stores all back-up tapes at an off-site fireproof storage facility, and Munis Data Center is always locked, requiring key card access only by authorized personnel.

Q. Do you rely on any sub-contractors or third parties to administer the SaaS application and database servers?

A. No, Tyler recognizes the importance and value of having experienced staff support and administer the Munis Data Center environment.

Q. Does your company own and have complete control of the data center that hosts the SaaS servers?

A. Yes, Tyler does not rely on hosting companies or other third parties to provide the Munis Data Center. Tyler has invested over \$1M in its Munis Data Center and has a capacity model in place with planned expansion as required.

Q. Redundancy and fault tolerance are important to us. Please list all single points of failure that remain in your SaaS solution. Include all hardware, network, and Internet components.

A. Tyler's Munis Data Center has eliminated virtually every single point of failure detected. Redundant systems include: ISPs, DASD, processor, power supply, electrical power, staff, and facilities.

Q. Does Tyler provide a Service Level Agreement (SLA)?

A. Yes, Tyler provides a comprehensive SLA that includes operational performance and technical support response times.

Current SaaS Clients

Tyler historically has added approximately ten new clients each year to the Munis SaaS Data Center. Our current clients number in excess of eighty, and range in size from just a few to well over 1,000 users. Current SaaS clients include: City of Eau Claire, WI • City of Richmond, CA • Town of Greenwich, CT • Village of Schaumburg, IL • York, ME Water District • Beaufort County, NC.

Cost Comparison Worksheet

SOFTWARE AS A SERVICE SOLUTION					
	Initial Cost		Recurring Annual Cost		
	Year 1		Year 2	Year 3	
Installation	_____	+	n/a	+	n/a = \$ _____
Configuration	_____	+	n/a	+	n/a = \$ _____
Annual Fee	_____	+	_____	+	_____ = \$ _____
					Add the totals above
SAAS SOLUTION 3-YEAR COST					\$ _____

SELF HOSTED					
	Initial Cost		Recurring Annual Cost		
	Year 1		Year 2	Year 3	
Software License	_____	+	n/a	+	n/a = \$ _____
Consulting & Training Services	_____	+	n/a	+	n/a = \$ _____
Server Hardware	_____	+	n/a	+	n/a = \$ _____
Server OS	_____	+	n/a	+	n/a = \$ _____
Server DB	_____	+	n/a	+	n/a = \$ _____
Other Software (e.g. Client Licence, OS, DB, etc)	_____	+	_____	+	_____ = \$ _____
Software Maintenance	_____	+	_____	+	_____ = \$ _____
Server Hardware Maintenance	_____	+	_____	+	_____ = \$ _____
Disaster Recovery	_____	+	_____	+	_____ = \$ _____
OS/DB Support	_____	+	_____	+	_____ = \$ _____
Technical Support Administration	_____	+	_____	+	_____ = \$ _____
					Add the totals above
SELF HOSTED 3-YEAR COST					\$ _____

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 7, 2015
BUSINESS ITEMS

DATE : July 1, 2015
TO : City Council
FROM : City Manager
SUBJECT : **MAYOR PATTERSON'S REQUEST TO AGENDIZE DISCUSSION
REGARDING LETTER FROM DONALD BASSO**

RECOMMENDATION:

Consider Mayor Patterson's request to agendize discussion of the request by Donald Basso regarding "adopting a resolution to close a loop hole in the law established by Proposition 13".

EXECUTIVE SUMMARY:

Mayor Patterson would like the City Council to consider discussion of a request by Donald Basso regarding supporting proposed changes to Proposition 13.

Attachments:

- Mayor Patterson's Agenda Item Form
- Letter from Donald Basso

APPENDIX A: COUNCIL MEMBER REQUESTED AGENDA ITEM

Requested by: Mayor Patterson

Desired Initial Council Meeting Date: July 7, 2015

Desired Date for Second Step or Policy Calendar Review: Next available Council meeting

Deadline for Action, if any: No deadline indicated in request.

Problem/Issue/Idea Name: Request by Donald Basso "Adoption of a resolution in support of closing a loop hole in the law established by Proposition 13."

Description of Problem/Issue/Idea: See attached request from Mr. Basso

COUNCIL DIRECTION

- α No Further Action
- α Schedule for Second Step on _____
- α Schedule for Policy Calendar Review on _____
- α Refer to: Staff _____
- Commission _____
- Board _____
- Committee _____

Date Due: _____

Donald Basso
1144 Dominic Court
Benicia, California 94510
707 747 9337

June 2, 2015

Honorable Members of the
Benicia City Council

Dear Council Members,

Thank you for allowing me to present to the Council a request for the Benicia City Council to place on the Council's agenda the adoption of a resolution in support of, closing a loop hole in the law established by Proposition 13, passed by voters in 1978.

This section of the law has allowed purchasers of commercial property, in certain circumstances, to avoid reassessment when the ownership changes hands. This has resulted in a large shift of property tax to the owners of residential property. Enclosed is information which will give you an example of why there is a need in amending the law as it currently stands.

Without amendments to the law, the practice of acquiring commercial property with no reassessment, will unfairly continue to increase the ratio of taxes paid by residential property owners, and continue the lack of financial support for our schools and other government services. This ratio is currently at 75% for residential and 25% for commercial properties.

Should you wish more information, I would invite you to visit the web site of Evolve, an organization of concerned citizens who are seeking legislation at the State level to amend this one portion of the current law. www.evolve-ca.org.

Once again, thank you for the Board's consideration of this request.

Sincerely,
Donald Basso



VIII.E.5

Resolution to Close the Commercial Loophole

WHEREAS, voters in the State of California approved Proposition 13 in 1978; and

WHEREAS, Proposition 13 created limits on the property taxes paid by residential and commercial properties; and

WHEREAS, residential and commercial property values in California are reassessed upon change of ownership; and

WHEREAS, on average California residential property changes hands every 10 years while change of ownership for commercial property is far more complicated and therefore generates reassessments less often; and

WHEREAS, commercial property owners are able to avoid reassessment of their property by limiting the portion of ownership that changes hands to ensure that no single party owns more than 50 percent; and

WHEREAS, property taxes are a stable source of funding for public schools; and

WHEREAS, since the passage of Proposition 13, the State of California has assumed a greater role in the funding of public schools; and

WHEREAS, since the State of California has assumed a greater role in the funding of public schools, per pupil support has declined from the top 10 in the nation to the bottom 10; and

WHEREAS, Proposition 13 is anti-competitive in that new entrepreneurs and businesses must pay fair market value for property, while commercial property owners who have owned their property for a longer time pay disproportionately lower property tax rates; and

WHEREAS, public schools in California face challenges in providing an equitable and fair education for a student population with vast differences in language, poverty, parental education level and other social, educational and economic factors; and

WHEREAS, regularly reassessing non-residential property would, according to an analysis of data provided by the California Board of Equalization, generate at least \$6 billion in additional revenue for public schools and other services; therefore

BE IT RESOLVED, that the Benicia Unified School District governing board supports efforts to modify how the value of commercial properties in California are reassessed to allow for more regular and fair commercial property value reassessment while maintaining Proposition 13 protections for residential properties and small businesses;

BE IT FURTHER RESOLVED, that tax revenues generated by modernizing how commercial property is reassessed benefit local schools and not accrue to the State of California as General Fund savings, and

BE IT FURTHER RESOLVED, that City Council of Benicia supports this effort and will communicate this position to local elected officials including members of Solano County Board of Supervisors, state Senator Lois Wolk, and Assembly member Susan Bonilla.

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About Us

Evolve was founded in the spring of 2011 by a group of Bay Area activists looking for a way to get beyond the current political mess. From Washington, D.C.'s failure on healthcare reform, to perennial budget problems in Sacramento, to ideological battles at City Hall, all levels of government and public life are suffering from the same problem. Politicians, the media, and many activists are too concerned about winning the next election or the horseshoe of politics. As this goes on, real problems go unsolved: 50 million Americans lack access to affordable healthcare, and our public education system is being dismantled.

Evolve was founded on the belief that there's a better way. Most of the significant problems we face have effective solutions that are not being implemented because of political infighting or the power of special interests. The answer is clear: we need to hold politicians accountable to real results that actually move our society forward. And that's what Evolve does. Through effective, smart organizing and grassroots issue advocacy, we know we can make a difference, and ultimately, leave our world a better place than we found it. Together, we can rekindle the promise that made California a golden state.

Mission Statement

Evolve organizes high-impact grassroots campaigns to benefit all Californians.

Latest Victory!

100 Local Elected Bodies for Prop. 13 Reform!

2014 was a tremendously successful year for our campaign to finally reform Prop. 13 and make large commercial properties pay their fair share. We reached our goal of getting 100 school boards and city councils across California to pass our resolution calling for Prop. 13 reform. With the support of elected officials throughout the state, we've demonstrated that Prop. 13 is no longer the third rail of California politics. Through the power of grassroots organizing, we've shown that people are ready to take a stand for tax

Arcata School District -- 1/13/2014
 Eureka City School District -- 1/16/2014
 Garfield School District -- 1/08/2014
 Trinidad Union High School -- 1/8/2015

Santa Barbara County
 EVOLVE
 Goleta Union School District -- 10/29/2014
 Solvang School District -- 12/10/2013
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Meadows Union School District -- 12/10/2013

Los Angeles County

Alhambra Unified -- 10/29/2013
 Baldwin Park Unified -- 12/10/2013
 Bassett Unified -- 12/12/2013
 East Whittier City Schools -- 11/12/2013
 El Monte Union -- 1/08/2014
 Garvey School District -- 4/3/2014
 Los Angeles City Council -- 8/26/2014
 Los Angeles Unified School District -- 5/12/2015
 Lynwood Unified -- 11/12/2013
 Malibu City Council -- 8/11/2014
 Rio Hondo Community College -- 6/11/2014
 San Fernando City Council -- 9/15/2014
 San Gabriel Unified -- 3/25/2014
 Santa Monica City Council -- 5/14/2013
 Santa Monica-Malibu School District -- 11/07/2013
 West Hollywood City Council -- 2/2/2015
 Wiseburn School District -- 3/13/2014

Marin County

Fairfax Town Council -- 1/15/2014
 Marin Community College District -- 11/19/2013
 Novato Unified -- 12/17/2013
 San Rafael City Schools -- 10/13/2014

Mendocino County

Manchester Union Elementary School District -- 10/14/2014

Monterey County

Big Sur Unified -- 2/3/2014
 Carmel Unified -- 11/26/2013
 Lagunita School District -- 3/25/2014
 Salinas City Elementary School -- 12/9/2013

Orange County

Coast Community College District -- 11/20/2013

Santa Clara County

Berryessa Union -- 9/10/2013
 Cambrian School District -- 10/16/2014
 Campbell Union High School -- 1/16/2014
 East Side Union H.S. (San Jose) -- 8/22/2013
 Foothill-De Anza Community College District -- 8/4/2014
 Franklin-McKinley (San Jose) School District -- 10/22/2013
 Gilroy Unified -- 3/6/2014
 Los Altos School District -- 3/10/2014
 Mountain View City Council -- 12/16/2014
 Palo Alto City Council -- 5/12/2014
 Saratoga Union School District -- 6/24/2014
 Sunnyvale School District -- 2/6/2014

Santa Cruz County

Bonny Doon Elementary School -- 11/13/2013
 Santa Cruz City Schools -- 10/22/2014
 Santa Cruz County Board of Education -- 2/19/2015

Solano County

Solano Community College District -- 5/21/2014

Sonoma County

Bennett Valley Union School District -- 8/13/2014
 Dunham Elementary School District -- 10/14/2014
 Old Adobe Union School District -- 9/11/2014
 Sebastopol City Council -- 5/6/2014
 Sebastopol Union School District -- 9/18/2014
 Twin Hills Union School District -- 8/14/2014
 West Sonoma Union HS District -- 9/11/2013
 Windsor Unified School District -- 10/7/2014

Ventura County

Moorpark Unified School District -- 5/15/2014

Evolve, A Community Organization
 2017 Mission St., 2nd Floor
 San Francisco, CA 94110
 415-800-1155 | campaign@evolve-ca.org



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PROP. 13 FACTS OUR PLAN ELECTED OFFICIALS LIST PASSED RESOLUTIONS IN THE NEWS

Passed Resolutions

Below is the list of over 100 local elected bodies from across California that have adopted our resolution calling for Prop. 13 reform by closing the commercial property loophole. These school boards and city councils recognize that it is finally time for common sense reform in order to bring back funding to our schools and public services. If you would like to introduce our resolution to your local elected body, click here to access our Close the Loophole Resolution Packet!

Alameda County

Alameda Unified -- 4/8/2014
 Albany City Council -- 10/21/2013
 Albany Unified -- 8/13/2013
 Chabot-Las Positas Community College District -- 7/15/2014
 Berkeley City Council -- 12/3/2013
 Berkeley Unified -- 6/12/2013
 Emeryville City Council -- 2/4/2014
 Fremont Unified -- 9/25/2013
 Hayward Unified -- 2/12/2014
 Livermore Valley -- 9/3/2013
 Oakland City Council -- 3/4/2014
 Oakland Unified -- 10/9/2013
 Ohlone Community College District -- 9/10/2014
 Peralta Community College District -- 2/25/2014
 Piedmont Unified -- 6/26/2013
 Pleasanton Unified -- 9/24/2013
 San Leandro City Council -- 3/17/2014
 San Leandro Unified -- 3/11/2014
 Sunol Glen Unified -- 1/13/2015
 Alameda Labor Council -- 7/15/2014

Contra Costa County

Brentwood Union -- 8/14/2013
 Canyon Elementary School -- 7/9/2013
 Contra Costa Central Labor Council -- 4/16/2014
 Lafayette School District -- 6/25/2014
 Moraga School District -- 2/10/2015
 Pittsburg Unified -- 8/28/2013
 Richmond City Council -- 5/21/2013
 Walnut Creek School District -- 9/9/2013
 West Contra Costa Unified -- 10/2/2013

Humboldt County

Riverside County

Nuview Union School District -- 9/9/2014
 Perris Union High School -- 3/19/2014

San Benito County

Willow Grove Union -- 12/9/2013

San Diego County

Borrego Springs Unified -- 1/22/2014
 San Diego Unified -- 11/19/2013
 Solana Beach School District -- 3/13/2014

San Francisco

San Francisco Board of Supervisors -- 6/3/2014
 San Francisco Unified -- 10/8/2013

San Mateo County

Belmont-Redwood Shores School District -- 4/17/2014
 Brisbane City Council -- 3/17/2014
 Brisbane School District -- 9/17/2014
 Burlingame School District -- 9/10/2013
 East Palo Alto City Council -- 11/5/2014
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 Jefferson Union High School District -- 12/2/2014
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 Portola Valley School District -- 8/21/2013
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Los Angeles Times

Corporations get big edge in Prop. 13 quirk

May 05, 2013 -- Jason Felch and Jack Dolan

In 2006, billionaire computer magnate Michael Dell, one of the world's richest men, agreed to pay \$200 million for the Fairmont Miramar Hotel, a beachfront landmark in Santa Monica that long has been a retreat for Hollywood starlets and U.S. presidents.

A few months later, Dell tore up the contract. He still wanted the hotel. But his attorneys had found a simple way to reshuffle the deal to avoid a legal change in ownership.

The maneuver saved about \$1 million a year in property taxes -- an option available only to businesses, not homeowners, under the arcane rules governing Proposition 13.

The Miramar deal illustrates how businesses can easily -- and legally -- avoid property tax hikes under the California ballot initiative passed in 1978. As a result, the state loses tens of millions of dollars in revenue each year, officials estimate.

Voters overwhelmingly approved Proposition 13 out of a concern that homeowners, particularly the elderly, would be forced from their houses by rising tax bills during a real estate boom. The law ensured that property taxes were pegged at 1% of purchase price, assessed value could rise no more than 2% per year, and property was reassessed to full market value only when sold.

But large corporate property owners have been among the law's biggest beneficiaries, thanks in part to loopholes such as the one Dell used.

Essentially, the law allows businesses to sidestep reassessment if no one acquires a majority stake in a company that owns the property. Dell did that by bringing in his wife and two of his investment advisors as partners -- with no one taking more than 49% control of the hotel company. With no change in ownership, it continued to be taxed based on the 1999 property value of \$86 million.

Los Angeles County assessors concluded it was a blatant tax dodge and raised taxes on the property.

A Superior Court judge disagreed, finding last December that the deal met the letter of the law. The county has filed an appeal.

Dell declined to comment. If he prevails, he will save more than \$1 million a year, and taxpayers will probably also owe him more than \$2 million in tax refunds and legal fees.

Christopher Thornberg, founder of research firm Beacon Economics and a former economist at UCLA Anderson Forecast, says the state has only itself to blame: "He didn't do anything wrong. He's saying to California: Look, idiots, I just robbed you blind, and it's your own fault."

Shifting tax burden

Passed 35 years ago by more than 65% of voters, Proposition 13 remains highly popular among property owners.

But during that period, the tax burden has steadily shifted from businesses to homeowners. In Los Angeles County, for instance, homeowners have gone from paying a 40% share of the total in 1975 to 57% today.

That shift is fueling efforts by some Democrats to tinker with Proposition 13. Eight separate measures were introduced this session. One, intended to close the loophole used by Dell, was recently tabled amid complaints by businesses that it was "a job killer." The others remain long shots.

Public support is growing, however, for a more sweeping change. A December poll by the Public Policy Institute of California found that 58% of likely voters favor a so-called split roll, in which commercial properties would be reassessed periodically regardless of their ownership.

The change would require a popular vote to amend Proposition 13, which is enshrined in the state Constitution, and would probably meet a wall of opposition from business owners, who complain they are overtaxed in California as it is.

For now, state and local officials are bound by rules that even some architects of Proposition 13 warned were ripe for abuse.

A year after Proposition 13 passed, state leaders began to grapple with the meaning of three words in the initiative: "change of ownership."

In the case of a single-family home, the change is obvious: A new deed is filed with the county recorder, triggering a reassessment. The property is then taxed based on its current market value.

But the transfer of business properties is more complex. What changes hands often is not the property but control of the legal entity -- a corporation, limited liability company or limited partnership -- that owns the real estate. In those cases, no new deed is filed.

A legislative task force searched for a bright line signaling a transfer and concluded that there were only two choices.

One was to require reassessment when a new company bought the property outright. The limitation of that was that it would capture too few transactions. The other method would require it when a single person or entity took control of more than 50% of a company that owned the property -- the majority-ownership rule.

Adopting the majority-ownership rule would lead to "monumental" enforcement problems, the task force warned: "No one, no matter how skilled and imaginative, can foresee ... every possible form of real property transfer."

But the Legislature adopted it anyway, concluding it was the better of two imperfect solutions.

Today, the Board of Equalization relies on businesses to accurately disclose changes in majority ownership. Assessors sometimes scan newspapers for big deals the board might have missed.

Often, buyers take majority ownership because other business advantages outweigh the tax benefit.

But the Miramar deal is not the only instance in which a wealthy buyer has used the majority-ownership loophole to save millions.

In 2002, E&J Gallo, the world's biggest winemaker, purchased Louis M. Martini, which owned more than 1,000 acres of prime Napa and Sonoma County vineyards. None of the property was reassessed because Martini was divided among 12 Gallo family members, none of whom acquired more than 50%.

Some of that property today is worth more than \$150,000 an acre but continues to be taxed based on its 1975 value of a few thousand dollars an acre, according to Napa County assessor John Tuteur.

In 1998, a Canadian skiing conglomerate bought 58% of Mammoth Mountain resort, which had been family-owned for years.

The new owner, Intrawest Corp., argued that the property should not be reassessed because the deal did not give it a majority of the voting rights in the company.

The county assessor concluded that challenging the ski resort in court would be too costly.

In 2005, it changed hands again. This time, the buyer bought majority control and paid for it in property taxes: The assessed value almost doubled, bringing in an additional \$1 million in annual revenue for Mono County.

Texas tax fight

At the time Dell bid for the Miramar hotel with its 10-story tower and poolside bungalows, Forbes listed him as the 12th-wealthiest person in the world. His fortune was estimated at \$17 billion.

He had never been a fan of property taxes. In the 1990s, Dell had a protracted fight with the city of Austin over the value of his 22,000-square-foot mansion.

The county appraised its value at \$22.5 million, but Dell appealed, arguing it was worth \$6 million at most. Eventually the two sides settled upon a value of \$12 million.

In 2006, Dell reduced the annual tax bill on his Texas ranch from \$580,000 to \$1,300 by qualifying for a wildlife exemption, which required him to feed wild turkeys and hunt white-tailed deer on the 1,700-acre property outside Austin.

He bid that same year for the Santa Monica hotel.

After discarding the first contract, Dell arranged for three partners to buy Ocean Avenue LLC, the holding company that owned the hotel. A firm owned by Dell acquired 42.5%. His wife Susan's trust acquired 49%. And a company set up by two of Dell's investment managers acquired the remaining 8.5%.

Dell reported to state tax officials that there had been no change in ownership. The Los Angeles County assessor's office learned of the deal after reading about it in *The Times*.

Staff members asked a lawyer at the Board of Equalization whether they could consider the deal a change in ownership. When the answer was no, the county decided to reassess anyway and raised the hotel's taxes.

In a hearing before the Assessment Appeals board, county counsel Albert Ramseyer argued that the Dells plainly took control of the property from the seller. He urged the board to "use common sense."

Dell lawyer Christopher Matarese responded that common sense is not the standard. He pointed to Revenue and Taxation Code section 462.180(d)(s), which says that a husband and wife can acquire 100% control of a property with no change of ownership as long as they split it 50-50.

"This court should not undo almost 40 years of change in ownership legislation because the assessor thinks the law is 'too good to be true,'" argued Matarese.

In December 2010, the Assessment Appeals Board ruled for the county, concluding Dell retained "ultimate control" of the hotel and had concocted the partnership to avoid reassessment.

Dell took the county to Superior Court. Five months ago, Judge Joanne B. O'Donnell struck down each of the assessor's arguments and ordered the county to refund his taxes and pay Dell's legal fees.

As Los Angeles County pursues its appeal, Dell's team has announced new plans for the Miramar: a massive remodel that would add a 21-story tower, making it Santa Monica's second-tallest building.

Local activists flooded a recent City Council meeting to object, saying it would turn Santa Monica into Miami Beach.

To bring neighbors around, Dell's team has touted the economic benefits of the plan, saying it would "generate important new revenue for Santa Monica ... money that will support our police, fire, schools and parks."

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Santa Monica Council Could Lobby to Change Tax Law

By Jason Islas
Staff Writer

May 9, 2013 -- The Santa Monica City Council will weigh-in Tuesday on whether the State should close a tax loophole that is saving the Fairmont Miramar \$1 million a year in property taxes.

The move comes as the Miramar, partly owned by computer mogul Michael Dell, prepares to embark on a \$255 million redevelopment project that would replace two buildings on the site with three new buildings and as many as 120 condos.

"At a time when schools are hurting, and cities like ours have lost redevelopment revenue, economic fairness in the application of Prop. 13 becomes increasingly urgent," said Council member Kevin McKeown, one of the three council members who placed the item on Tuesday's agenda.

When it was passed in 1978, Proposition 13 limited the amount that property taxes could be assessed to a two percent annual increase, unless the property changed hands.

However, written into Proposition 13 is a loophole for commercial properties: as long as less than 50 percent of the entity that owns the property is being transferred to any one individual or interest, "a transfer has not taken place," according to County Assessor officials.

When Dell and his wife bought Ocean Avenue LLC, the company that owns the Miramar for \$204 million in 2006, they split the purchase with a third party. As a result, no single investor owned a majority of the company.

As a result, the property itself did not undergo a change of ownership, keeping it exempt from being reassessed under Proposition 13. Therefore, Dell and his partners were paying property taxes on the five-acre parcel based on the \$86 million value assessed in 1999.

The L.A. County Assessor's Office, however, does not agree that the property is exempt under Proposition 13. It contends that the investors are "still controlled by Mr. Dell," said Jeff Prang, a public affairs official with the L.A. County Assessor.

Last December, a California Superior Court judge ruled that Dell and his partners were operating within the law and that the taxable property value couldn't be legally reassessed under Proposition 13.

The L.A. County Assessor plans to appeal the decision, Prang said.

Prang noted that if the City approves a Development Agreement (DA) for the Miramar that includes new buildings on the site, it could lead to reassessments of at least part of the property.

"The difference between new construction and replacement is that replacement is not a re-assessable event," said Prang.

The current plans include a 21-story tower on the site of the current 10-story tower and two new smaller buildings. Prang said he could not speculate on exactly how that would impact property value assessments.

Santa Monica receives 15 percent of the revenue from assessed property taxes.

Miramar representatives note that Santa Monica currently receives \$4.7 million a year in taxes and fees from the hotel, an amount that could reach nearly \$10 million a year after the redevelopment.

Since news about the Miramar property broke Sunday, Jon Coupal of the Howard Jarvis Taxpayers Association -- the organization that was the driving force behind Proposition 13 -- has acknowledged that some change to the law should be made.

State Assembly Member Richard Bloom, whose assembly district includes Santa Monica, agrees.

"It's not surprising that some very creative folks have found ways to save a lot of money by not triggering a reassessment situation," said Bloom, who served on the Santa Monica City Council for 13 years. "It's a situation that cries out to be fixed."

Bloom was mayor when the Council voted 6-to-1 to negotiate a DA with Ocean Avenue LLC to redevelop the Miramar.

Change won't come easy, Bloom said. Since Proposition 13 was a State constitutional amendment put on the ballot and passed by voters, "the ability of the legislature to affect change could be very, very limited."

Currently, the Assembly is looking at AB 188, a bill which would get more taxes from commercial property transfers by getting rid of the 50 percent threshold.

Some Monica Council members want their legislators to push for more dramatic change.

Tuesday's item calls for legislators to go further than AB 188 and push for "commercial properties to be reassessed regularly" while maintaining the protections from tax hikes Proposition 13 affords residential owners.

"I'm asking that Santa Monica support action in Sacramento to make business properties pay their equitable share of property taxes, while continuing to protect homeowners who have otherwise had to pick up the tab for unfair business exemptions," McKeown said.

McKeown's sentiments closely echoes an official resolution adopted by the State's Democratic Party at its April convention.

"Regularly reassessing non-residential property would, according to an analysis of data provided by the California Board of Equalization, generate at least \$6 billion in additional revenue for California," the resolution reads.

It also would "shift the tax burden from homeowners, renters, and working families to corporations and commercial landholders."

While opponents of closing the loophole agree it could generate \$6 billion in taxes a year, they point to a report released by Californians Against Higher Property Taxes that claims limiting the business exemptions would slash the state's economic output by \$71.8 billion over five years.

Authors of the study said it would place the greatest burden on small businesses, not large corporations.

Council member Bob Holbrook notes that the problem is with the law and not with the business people who use the loophole to their advantage.

"If I were a businessman, I would do the same thing," he said. "If I could do a deal and save money on taxes, I would."

But Holbrook says it is time to make some changes. "Given the times we live in, we need the finances," he said.

Said Bloom, "If we can fix it, we should."



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