

July 17, 2007  
BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
SPECIAL MEETING AGENDA  
July 17, 2007  
6:15 P.M.

- I. CALL TO ORDER:
- II. CONVENE OPEN SESSION:
  - A. ROLL CALL
  - B. PLEDGE OF ALLEGIANCE
  - C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC
- III. OPPORTUNITY FOR PUBLIC COMMENT:
  - A. WRITTEN
  - B. PUBLIC COMMENT
- IV. CLOSED SESSION:
  - A. CONFERENCE WITH LEGAL COUNSEL -EXISTING LITIGATION  
(Government Code Section 54956.9 (a))

City of Benicia v. Liebert Cassidy Whitmore

- V. RECONVENE OPEN SESSION:
- VI. INFORMATIONAL ITEM:
  - A. [Update on Top Twelve Priority Projects.](#) (City Manager)

This update on priority projects covers the "Top Twelve" list of City Priority Projects for 2007-08 and 2008-09. The Council identified these projects as the City's top priorities for the upcoming fiscal period as a result of the City's Strategic Plan Update process. This list replaces the previous "Top Ten" list of priority projects that were identified for the 2006-07 fiscal period. Staff will brief Council on the progress of each of the projects. Staff will focus their comments on changes, significant project delivery issues, and estimated completion dates. Recommendation: Informational report only, no action necessary.

- VII. ADJOURNMENT:

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BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
REGULAR MEETING AGENDA  
July 17, 2007  
7:00 P.M.

- I. CALL TO ORDER:
  - II. CLOSED SESSION:
- TO BE HELD PRIOR TO THE REGULAR MEETING AT 6:15 P.M.
- III. CONVENE OPEN SESSION:
    - A. ROLL CALL
    - B. PLEDGE OF ALLEGIANCE
    - C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC
  - IV. ANNOUNCEMENTS/APPOINTMENTS  
PRESENTATIONS/PROCLAMATIONS:

**A. ANNOUNCEMENTS:**

1. Announcement of action taken at Closed Session, if any.
2. Openings on Boards and Commissions:

Civil Service Commission:

-One full term to August 30, 2010

Planning Commission:

-Three full terms to September 30, 2011

**B. APPOINTMENTS:**

**C. PRESENTATIONS:**

1. Recognition of the City of Benicia's Risk Management efforts  
-Marcus Beverly, Association of Bay Area Governments

li>Progress report by the City's independent advisor on the Valero Refinery's Reliability Assessment follow-up recommendations

-Dr. Ivor John, MRS

**D. PROCLAMATIONS:**

[National Night Out - August 7, 2007](#)

**V. ADOPTION OF AGENDA:**

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

- A. WRITTEN
- B. PUBLIC COMMENT

**VII. CONSENT CALENDAR:**

- A. Approval of Minutes of [June 19, 2007](#), (City Clerk)
- B. [Request for consolidation of elections and for the services of the County Registrar of Voters.](#) (City Clerk)

The attached resolution will accomplish the legally required steps to consolidate a Consolidated Districts Election with the other statewide elections held in the City of Benicia and to request the services of the County Registrar of Voters to conduct a Consolidated Districts Election in Benicia on November 6, 2007. The cost of the Consolidated Districts Election for the November 6, 2007 election is budgeted at \$30,500 in the 2007-09 City Budget. Recommendation: Adopt the resolution requesting consolidation of elections, and requesting the services of the County Registrar of Voters.

- C. [Second reading and adoption of an ordinance to regulate campaign financing of City candidate elections by adding Chapter 1.40 \(Campaign Disclosure in Candidate Elections\) to Title 1 \(General Provisions\) of the Benicia Municipal Code.](#) (City Attorney)

The proposed ordinance imposes greater campaign financing reporting requirements than State law provides. There is no fiscal impact from these changes.

Recommendation: Adopt the proposed ordinance regulating campaign financing for City candidates by adding a new Chapter 1.40 (Campaign Disclosure in Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code.

- D. [Approval of a Contract with Benicia Main Street.](#) (City Manager)

Benicia Main Street proposes revising and renewing its contract for services with the City to support and enhance downtown's economic vitality. The new contract covers a scope of work previously handled in two agreements, one for the Downtown Asset Management Program

and one for downtown events. The contract's value is \$114,000 annually, and the funding is included in the 2007-09 Budget.

**Recommendation:** Approve the contract with Benicia Main Street for downtown business support in 2007-2009, and authorize the City Manager to execute it.

E. [Award of Contract for West K Street Overlay Project](#) - (Public Works Director)

This project will resurface West K Street from West 9th Street to West 14th Street. This work is funded in part by a \$323,115 federal-aid grant, while a local match from the Gas Tax Street Resurfacing Account covers the remainder of \$41,860, which is included in the 2007-09 Budget. Bids were received from six paving contractors and staff is recommending award of the construction contract to Evans Grading and Paving of Foresthill, California.

**Recommendation:** Adopt a resolution accepting bids for the West K Street Overlay Project, awarding the construction contract to Evans Grading and Paving in the amount of \$299,974.75, approving Contract Change Order No. 1, and authorizing the City Manager to sign the contract on behalf of the City.

F. [Approval of funding allocation request for State Park Road Bike/Pedestrian Bridge and Pathway Project](#). (Public Works Director)

The City is a recipient of a \$124,500 Transportation Development Act grant for the preliminary design of the State Park Road Bike and Pedestrian Bridge and Pathway project. To receive the \$100,000 reimbursement for fiscal year 2006/2007 expenditures, it is necessary to request the Metropolitan Transportation Commission allocate funding to the City. The total project cost is expected to be \$3.8 million. The \$124,500 Transportation Development Act (TDA) Article 3 claim is for preliminary engineering and permitting activities connected with the project. No local matches are required to receive these funds. The balance of the funding required for construction may be from a combination of future federal and state grants and local transportation funding sources.

**Recommendation:** Adopt a resolution submitting a request to the Metropolitan Transportation Commission to allocate Transportation Development Act Article 3 pedestrian/bicycle funding for the State Park Road Bike/Pedestrian Bridge project for fiscal year 2006/2007.

G. [Approval of an architectural services contract for the design of the library basement completion project](#). (Library Director)

A request for proposal (RFP) for professional services was sent to multiple qualified architectural and design firms, in accordance with City policy. No firms responded by the closure date. As a result, staff approached various firms to request informal quotes. Three proposals were received and evaluated. Mark Thieme Architects was ranked as the most qualified based on their experience and cost quote of \$37,340. The City Council approved use of \$412,000 in the Library Basement Project Account (050-3450-9261) in the 2007-09 Budget to fund this project.

**Recommendation:** Adopt the resolution approving the consultant agreement in the amount of \$37,340 with Mark Thieme Architects (MTA) for professional design of the basement improvements for Benicia Public Library Basement Completion Project and authorizing the City Manager to execute the agreement on behalf of the City.

H. [Approval of the Federal Transit Administration Funding Agreement for the City's Transit Operations](#). (Finance Director)

The purpose of this resolution is to authorize the City Manager to sign, submit and execute all applications, agreements and related documents required to receive FTA funding for transit operations and maintenance. There is no budgetary impact from this resolution.

Recommendation: Adopt the resolution authorizing the City Manager to sign, submit and execute all applications, agreements and related documents required to receive Federal Transit Administration (FTA) funding.

I. [Establishment of the annual appropriations limit pursuant to Article XIIB of the California State Constitution for Fiscal Year 2007-08.](#) (Finance Director)

Article XIIB of the State Constitution requires cities to limit their growth in appropriations to a formula with options based upon the increase in their city or county population and the increase in non-residential construction or California per capita income. The resolution establishes the formula options and appropriation limit for Fiscal Year 2007-08. There is no budget impact to the City by adopting the resolution.

Recommendation: Adopt the resolution establishing the maximum allowable appropriations limit for Fiscal Year 2007-08 in the amount of \$66,402,811.

J. [Set 2007-08 secured tax rates for bonded indebtedness for the 1997 General Obligation Sewer Bonds.](#) (Finance Director)

Each year at this time, the City is required to adopt the attached Resolution that sets the bonded indebtedness secured tax rates for the new fiscal year. This Resolution is forwarded to the County Tax Assessor's office for inclusion in property owners' property taxes within the City of Benicia. Due to the large increase in Assessed Valuation last year, the rate for each homeowner will drop from .01701 to .01572 per hundred dollars of assessed valuation. The total amount to be collected is \$749,888 and will be used to pay interest and principal on the G.O. Sewer Bonds. There is no budget impact for the City.

Recommendation: Adopt the resolution setting the 2007-08 bonded indebtedness secured tax rate for the 1997 Sewer Bonds (Series A and B).

K. [Approval of purchase of two new replacement fire engines.](#)(Fire Chief)

In accordance with the City's Equipment Replacement Schedule included in the 2007-08 Budget, the Fire Department's two first out fire engines (one from each station) are due for replacement. Purchased in 1991 and 1992, they are both at the end of their projected service life as first response vehicles. It is recommended that the City take advantage of a bid process used by the City of Orange, CA to purchase the vehicles.

Recommendation: Adopt the resolution approving the purchase of two new replacement fire engines from Seagrave Fire Apparatus, LLC for the amount of \$870,812 (taxes included).

L. [Denial of the claim against the City by Michelle Colombini and referral to insurance carrier.](#) (City Attorney)

This claim involves damage to a vehicle tire due to a pothole. The claim was tendered to the subcontractor responsible who paid the claimant directly for the loss. A signed release indemnifying both the subcontractor and the city has been received.

Recommendation: Deny the claims against the City by Michelle Colombini.

M. [Denial of the claim against the City by Ann Demerin and referral to insurance carrier.](#) (City Attorney)

This claim involves damage to a vehicle tire due to a pothole. The claim was tendered to the subcontractor responsible who paid the claimant directly for the loss. A signed release indemnifying both the subcontractor and the city has been received.

Recommendation: Deny the claims against the City by Ann Demerin.

- N. [Denial of the claim against the City by Andrea McLarty and referral to insurance carrier.](#) (City Attorney)

This claim involves damage to a vehicle tire due to a pothole. The claim was tendered to the subcontractor responsible who paid the claimant directly for the loss. A signed release indemnifying both the subcontractor and the city has been received.

Recommendation: Deny the claims against the City by Andrea McLarty.

- O. [Denial of the claim against the City by Joseph Perry and referral to insurance carrier.](#) (City Attorney)

This claim involves damage to a vehicle tire due to a pothole. The claim was tendered to the subcontractor responsible who paid the claimant directly for the loss. A signed release indemnifying both the subcontractor and the city has been received.

Recommendation: Deny the claims against the City by Joseph Perry.

- P. [Denial of the claims against the City by Baron, Corcoran, Hardesty, Lindley, Linn, Lutz, Mele, Oswald, Ramos, Rudy/Brooks, and Trommer, and referral to insurance carrier.](#) (City Attorney)

These claims involve homeowners and boat owners who submitted claims for damage to their property as a result of work a subcontractor did on the marina storm drain project. The staging area for the subcontractor installing the marina storm drain was the parking lot at the Benicia marina. The city received eleven claims for damage because of the dust caused by work done. These claims were forwarded to the subcontractor for processing. The subcontractor's insurance investigated the claims and did not authorize payment. The work done appears to have complied with all dust regulations.

Recommendation: Deny the claims against the City by Baron, Corcoran, Hardesty, Lindley, Linn, Lutz, Mele, Oswald, Ramos, Rudy/Brooks, and Trommer.

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

#### VIII. PUBLIC HEARINGS:

- A. [Consideration of an appeal of a Planning Commission decision to deny a sign height variance.](#) (Community Development Director)

At their regular meeting on May 10, 2007, the Planning Commission denied a sign height variance request submitted by Ahern Rentals on a 3-3 vote. The applicant has appealed this decision to the City Council for further review and consideration.

Recommendation: Consider the decision of the Planning Commission and determine whether or not to approve the variance request by adoption of the proposed resolution.

- B. [Adopt changes to the Master Fee Schedule that includes service charges and development related fees and charges.](#)(Finance Director)

The Master Fee Schedule will be presented to the City Council for consideration on August 7, 2007.

Recommendation: Open the public hearing, accept public testimony and continue the public hearing to August 7, 2007

**IX. ACTION ITEMS:**

- A. [Placing amendments to the communication users tax before the voters at the November 2007 election, submitting arguments for the measure and requesting services of the County.](#) (City Attorney)**

The City Council directed a ballot measure be prepared to amend the communication users tax to update definitions to comply with changes in law and in technology, to reduce the tax rate to account for any increase in the tax base as a result of the definition changes, and to adopt provisions to protect the senior discount on the communication users tax.

Recommendation:

1. Adopt a resolution submitting the amendments to the communication users tax ordinance to the voters at the November 6, 2007 election, requesting the services of the Solano County Registrar of Voters to conduct the election and directing the City Attorney to prepare the impartial analysis for the measure.
  2. Determine if the City Council will either author the ballot argument as a whole body or delegate the drafting to a subcommittee and authorize the remaining Council Members to sign the ballot argument.
- B. [Introduction and first reading of an ordinance amending Title 6 pertaining to animal regulation and adopting a comprehensive animal control program.](#) (City Attorney)**

The last comprehensive review of the City's animal control regulations occurred in 1987. This proposed ordinance brings our regulations current with changes in State law. A related agenda item is the Parks Recreation and Cemetery Commission recommendation to allow dogs in certain parks.

Recommendation: Introduce the ordinance to amend the animal control provisions of the Benicia Municipal Code.

- C. [Permanent access for dogs in public places.](#) (Director of Parks and Community Services)**

In 2001 a trial program was initiated to allow dogs temporary access to certain public places. Based on the success of the trial program, the Parks, Recreation and Cemetery Commission is recommending the adoption of a resolution which provides permanent access for dogs in three public places. The costs for continued maintenance would be absorbed in the operational budget of the Parks and Community Services Department.

Recommendation: Adopt the resolution authorizing the permanent access for dogs in the specified locations.

- D. [Designation of League of California Cities voting delegates and alternates.](#) (City Manager)**

The League of California Cities' 2007 Conference will be held September 5-8 in Sacramento. The Annual Business Meeting at the conference will be September 8; in order to vote at that meeting, the City Council must designate a voting delegate. The City may appoint up to two alternate voting delegates in the event that the designee is unable to serve in that capacity. The voting delegate must be present at the meeting in order to cast a vote. The League membership considers and acts on resolutions that establish League policy at the meeting.

The City's current League appointed representatives are Mayor Messina and Vice Mayor Schwartzman (alternate).

**Recommendation:** Approve by minute order the designation of one voting delegate and up to two alternates to represent the City of Benicia at the League of California Cities Annual Business Meeting.

E. [Adoption of Code of Conduct and Best Practices.](#) (City Manager)

The City Council will consider adoption of a Code of Conduct identifying guidelines and best practices for Council Members that promote ethical, accountable and effective government.

**Recommendation:** Adopt, by motion, a Code of Conduct and Best Practices for members of the City Council, commissions, Boards, and Committees.

X. **INFORMATIONAL ITEMS:**

A. Reports from City Manager.

B. [Council Member Committee Reports.](#)

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

1. **Mayors' Committee Meeting (Mayor Messina)**  
Next Meeting Date: July 18, 2007
2. **Association of Bay Area Governments (ABAG) (Mayor Messina)**  
Next Meeting Date: October 26, 2007
3. **Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes)**  
Next Meeting Date: August 10, 2007
4. **League of California Cities (Mayor Messina)**  
Next Meeting Date: July 25-27, 2007
5. **School District Liaison (Council Members Whitney and Hughes)**  
Next Meeting Date: August 9, 2007
6. **Sky Valley Area Open Space (Council Members Patterson and Whitney)**  
Next Meeting Date: July 11, 2007, then August 1, 2007
7. **Solano EDC Board of Directors (Mayor Messina)**  
Next Meeting Date: July 26, 2007
8. **Solano Transportation Authority (STA) (Mayor Messina)**  
Next Meeting Date: August 8, 2007
9. **Solano Water Authority/Solano County Water Agency (Mayor Messina)**  
Next Meeting Date: August 9, 2007
10. **Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes)**  
Next Meeting Date: August 16, 2007
11. **Tri-City and County Regional Parks and Open Space (Council Member Whitney)**  
Next Meeting Date: August 15, 1007
12. **Valero Community Advisory Panel (CAP) (Council Member Hughes)**  
Next Meeting Date: TBD

13. Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney)  
Next Meeting Date: August 24, 2007
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson)  
Next Meeting Date: July 23, 2007

XI. COMMENTS FROM COUNCIL MEMBERS:

XII. ADJOURNMENT:

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### Public Participation

The Benicia City Council welcomes public participation.

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

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

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

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### Disabled Access

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

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### Meeting Procedures

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