

**BENICIA CITY COUNCIL
REGULAR MEETING AGENDA**

**City Council Chambers
July 20, 2010
7:00 PM**

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

I. CALL TO ORDER (7:00 PM):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS:

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

2. Openings on Boards and Commissions:

Finance Audit and Budget Committee
1 unexpired term

3. Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

B. APPOINTMENTS:

- 1. Appointment of Ronna Leon as the New Poet Laureate.**
- 2. Reappointment of Mike Radesky to the Library Board for a full term to July 31, 2013.**
- 3. Reappointment of Mary Eichbauer to the Library Board of Trustees for a full term to July 31, 2013.**
- 4. Reappointment of Sharon Anderson to the Benicia Housing Authority Board of Commissioners for a full term ending July 31, 2014.**
- 5. Reappointment of Phyllis McKeever to the Benicia Housing Authority Board of Commissioners for a full term to July 31, 2014.**
- 6. Appointment of Larry Fullington to the Open Government Commission for a full term to January 31, 2014.**
- 7. Appointment of John McGuire to the Parks, Recreation and Cemetery Commission for a full term to July 31, 2014.**
- 8. Appointment of Christina Strawbridge to the Economic Development Board for a full term to July 31, 2014.**
- 9. Appointment of Duane Oliveira to the Economic Development Board for a full term to July 31, 2014.**
- 10. Appointment of Nancy Lund to the Solano Transportation Authority-Bicycle Advisory Committee for a full term to July 30, 2013.**

11. Appointment of Vice Mayor Alan Schwartzman to the City Council Appointment Sub Committee for a one-year term ending June 30, 2011.

12. Appointment of Mike Ioakimedes to the Youth Action Coalition.

C. PRESENTATIONS:

1. Update on the removal of ships from the Suisun Bay Recovery Fleet - Henry Ryan - Ship Operation and Maintenance Officer

2. BERT Hukilau in September - 09/11/2010

D. PROCLAMATIONS:

1. In Recognition of Jay Garibaldi for more than 30 years of Fire Department Volunteer Service

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 (7:40 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 Minutes May 25, 2010, June 7, 2010, June 22, 2010, June 29, 2010, July 6, 2010. (City Clerk)

B. INTRODUCTION OF AN ORDINANCE INTO THE BENICIA MUNICIPAL CODE PROHIBITING THE SALE OF SALVIA DIVINORUM TO INDIVIDUALS OVER 18 YEARS OF AGE. (City Attorney)

This ordinance would extend the ban on the sale of Salvia Divinorum to include individuals over the age of 18. Currently, it is a crime in the state of California to sell Salvia to minors. Adoption of the proposed ordinance would place a complete prohibition on the sale of Salvia to any individual, regardless of age, within the City of Benicia.

Recommendation: Introduce the ordinance amending Title 8 of the Benicia Municipal Code (“Health and Safety”) to add Chapter 8.58 that would enable the City to prohibit the sale of Salvia Divinorum to those over 18 years of age.

C. SETTING 2010-11 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 a slight increase in Assessed Valuation, the rate for each homeowner will have a minimal decrease from .01727 to .01713 per hundred dollars of assessed valuation. The total amount to be collected is \$755,567 and will be used to pay interest and principal on the G.O. Sewer Bonds.

Recommendation: Adopt the resolution setting the 2010-11 bonded indebtedness secured tax rate for the 1997 Sewer Bonds (Series A and B).

D. SECOND READING OF AN ORDINANCE ADDING NEW SECTIONS 1.24.020 (CITY SEAL) AND 1.24.030 (OFFICIAL FLAG) TO CHAPTER 1.24 (MISCELLANEOUS PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE. (City Attorney)

On July 6, 2010, City Council introduced an ordinance regarding the City Seal and City Flag, which are used in authentication of official documents and in the conduct of official City business. Currently, there are no regulations or restrictions on (1) what the seal and flag should consist of, (2) their proper display, nor (3) the use of such.

Recommendation: Adopt the ordinance adding new sections 1.24.020 (City Seal) and 1.24.030 (Official Flag) to Chapter 1.24 (Miscellaneous Provisions) of Title 1 (General Provisions) of the Benicia Municipal Code.

E. PRESERVATION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS. (Public Works and Community Development Director)

On July 6, 2010, the Federal Housing Finance Agency (FHFA) directed Fannie Mae, Freddie Mac and the Federal Home Loan Banks to no longer allow PACE loans to hold senior lien positions. The result of this action is effectively to halt programs that allow homeowners to finance renewable energy and conservation improvements through parcel assessments rather than direct purchase of solar arrays, wind turbines, on-demand water heaters and other systems. Municipalities across the country are calling on legislators to request FHFA to restore the senior lien allowance so that these valuable programs can continue.

Recommendation: Direct staff to prepare a letter for the Mayor's signature requesting that State and federal legislators require the Federal Housing Finance Agency to restore the practice of allowing Property Assessed Clean Energy (PACE) loans to acquire a priority lien over existing mortgages.

F. STORM WATER INSPECTION FEE. (Public Works and Community Development Director)

In September 2007, Council approved a \$100 Storm Water Inspection fee in the 2007-2009 Master Fee Schedule. The fee has not yet been collected primarily due to the need for staff training. In April 2010, staff recommended modifying the fee to range from \$25 to \$100 based on the cost of a development activity. The need to collect the fee corresponds to issuance by the State Water Resources Control Board of a new Construction General Permit for the City effective July 1, 2010. With the new permit, the City is responsible for enforcing our storm water ordinance, which requires Best Management Practices to protect water quality and the storm drain system from construction debris, erosion and sedimentation (as detailed in the City's Storm Water Pollution Prevention Plan provided to developers and contractors doing work in Benicia).

Recommendation: Modify the existing but as yet uncollected \$100 fee for storm water inspection services to a graduated fee of \$25-100 depending on type of land use activity, as presented to Council as part of the most recent Master Fee Schedule update in April 2010.

G. APPOINTMENT OF AN INTERIM CITY MANAGER. (City Attorney)

Due to the retirement of City Manager Jim Erickson on July 15, 2010, arrangements for temporary city manager services are required until a new city manager is hired. This agreement allows Jim Erickson to continue to provide city manager services until September 15, 2010.

Recommendation: Adopt the resolution approving an agreement with Jim Erickson for interim city manager services.

H. REVISING THE PROCESS FOR APPOINTMENT TO THE CITY COUNCIL APPOINTMENT SUB-COMMITTEE. (City Attorney)

In 2008, the City Council adopted a procedure to incorporate a City Council Sub-committee to make recommendations to the Mayor on appointments to boards, commissions and committees. While this process has worked well, an adjustment needs to be made to ensure that there is adequate rotation and overlap on the Sub-committee.

Recommendation: Adopt the resolution clarifying the appointment process for City Council Members to be appointed to the Appointment Sub-committee.

I. INFORMATIONAL REPORT ON VALERO INCIDENTS OCCURRING ON JUNE 17, 2010. (Fire Chief)

On June 17, 2010, the Valero Refinery had two vapor releases. The second one, occurring at 8:51 PM resulted in activation of the Community Alert and Notification (CAN) System. The activation of the CAN System identified some problems that have been evaluated and corrected. Based on information received from the Bay Area Air Quality Management District, fine carbon particulates were present downwind of the refinery as a result of these incidents. This information was gathered by the use of fallout plates, which were placed downwind of the refinery. Based on information received from the Solano County Department of Resource Management Environmental Health Division, ground level monitors in the area did not show any readings and the release of the carbon particulates did not constitute a significant health risk. Don Gamiles, PhD, of Argos Scientific also evaluated information gathered by the UV Hound (air quality monitoring device). He found levels reading far below any current health standards for the gases in question, and these levels are consistent with what are typically seen in urban environments.

RECOMMENDATION: Receive report as information and provide any direction to staff that may be appropriate.

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

VIII. PUBLIC HEARINGS (8:00 PM):

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

- A. **INTRODUCTION AND FIRST READING OF ORDINANCE AMENDING CHAPTER 13.50 PRETREATMENT AND SOURCE CONTROL OF WASTE DISPOSAL OR DISCHARGE AND ADOPTION OF THE REVISED ENFORCEMENT RESPONSE PLAN. (Public Works and Community Development Director)**

To comply with revised federal regulations pertaining to the City's program governing nonresidential discharges to the wastewater treatment plant, the City has drafted an update to its current pretreatment ordinance. As also required, the City has drafted an update to the Pretreatment Enforcement Response Plan. The Plan outlines noncompliant situations and subsequent enforcement actions. The ordinance affects industrial, commercial, and institutional customers that use water in any process of their business that results in a wastewater discharge. If a business uses water only in bathrooms, employee kitchens, or landscaping, this ordinance does not apply.

Recommendation: Hold a public hearing and introduce the proposed ordinance amending Title 13 (Public Services) of the Benicia Municipal Code by amending Chapter 13.50 (Pretreatment and Source Control of Waste Disposal or Discharge) and adopt the revised Pretreatment Enforcement Response Plan.

- B. **CONDUCT A NOTICED PUBLIC HEARING TO CONSIDER APPROVING THE SECOND AMENDMENT TO THE COUNTYWIDE NON-DISPOSAL FACILITY ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN. (Public Works and Community Development Director)**

In 1994, the cities and county of Solano each prepared their own original Non-Disposal Facility Element (NDFE) of the Countywide Integrated Waste Management Plan (CIWMP) that was approved by the former California Integrated Waste Management Board (CIWMB), now CalRecycle. In 1998, Solano County Unincorporated was the only Solano County jurisdiction to amend its original NDFE and that first amendment included updates on all non-

disposal facilities utilized by the cities and county of Solano.

In 2009, Solano County's Local Task Force for Integrated Waste Management directed the update of the CIWMP elements beginning with the NDFE. On behalf of its cities, Solano County led the preparation of the second amendment to the NDFE and determined that the shared use of non-disposal facilities justified a single, multi-jurisdictional NDFE to be recognized as the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan when submitted to the respective governing authorities for adoption and approval.

Recommendation: Conduct a noticed public hearing and consider approval of the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan.

IX. ACTION ITEMS (8:45 PM):

**A. REDUCTION IN COMPENSATION PACKAGE FOR THE CITY COUNCIL.
(City Manager)**

Not unlike most jurisdictions in California, the City of Benicia has identified a structural deficit due to the unprecedented economic downturn of the economy. The City has identified a structural deficit that is anticipated to continue for the next five years. At the last Council meeting, the direction was given to staff to return with a resolution decreasing the City Council's salaries, similar to the action taken for the City Manager and City Attorney. Given constraints in state law regarding decreasing council salaries, adoption of the attached resolution would encourage the City Council to voluntarily agree to a 3.0% reduction in their salaries due to the immediate financial challenges facing the City.

Recommendation: Adopt the attached resolution which:

- 1) Encourages the City Council to voluntarily agree to a 3.0% reduction in base salary effective July 1, 2010.**
- 2) Eliminates the automatic increase in the City's contribution toward medical premiums and instead freeze the City's contribution towards medical as a flat rate based on the City's (7/1/10) current contribution to ensure that future increases by the City are considered by the Council based on the City's ability to pay and not an automatic increase.**
- 3) Directs the City Manager to return to Council with recommendations on how the 3% base salary reduction listed in one above can be converted to an ongoing permanent reduction in pension or medical reform no later than January 15, 2011.**

X. INFORMATIONAL ITEMS (9:15 PM):

A. City Manager Reports:

1. SB 435 (PAVELY) CLEAR AIR QUALITY ACT. (City Manager)

SB 435 would declare the Legislature's intent to enact legislation to increase enforcement, including, but not limited to, increasing penalties for tampering with pollution control devices on motorcycles with regard to all relevant anti-tampering laws that apply to motorcycles. Specifically, it would require motorcycles manufactured in the 2011 model year and later to be inspected biennially, and upon change of ownership, under the smog check program beginning January 1, 2012, and require exhaust labeling which is already set forth in Federal law. The bill would apply to the most common type of motorcycles on the road, Class III motorcycles. While the bill is endorsed by the California Highway Patrol (CHP), it is opposed by the American Motorcycle Association (AMA) due to a number of issues associated with enforcement.

Recommendation: Informational report; no action requested. Staff does not currently recommend endorsement of the bill based on the information available at this time.

B. Council Member Committee Reports:

(Council Member 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 the Council Members are made only by exception.)

1. Mayor's Committee Meeting.

(Mayor Patterson)

Next Meeting Date: July 21, 2010

2. Association of Bay Area Governments (ABAG).

(Mayor Patterson and Council Member Ioakimedes)

Next Meeting Date: Fall General Assembly - October 21, 2010

3. Finance, Audit and Budget Committee.

(Vice Mayor Schwartzman and Council Member Campbell)

Next Meeting Date: July 23, 2010

4. League of California Cities.

(Mayor Patterson and Vice Mayor Schwartzman)

Next Meeting Date: July 29, 2010

5. **School Liaison Committee.**
(Council Members Ioakimedes and Hughes)
Next Meeting Date: TBD
6. **Sky Valley Open Space Committee.**
(Council Members Campbell and Hughes)
Next Meeting Date: August 4, 2010
7. **Solano EDC Board of Directors.**
(Mayor Patterson and Council Member Campbell)
Next Meeting Date: July 22, 2010
8. **Solano Transportation Authority (STA).**
(Mayor Patterson and Council Member Ioakimedes)
Next Meeting Date: September 8, 2010
9. **Solano Water Authority-Solano County Water Agency and Delta Committee.**
(Mayor Patterson and Vice Mayor Schwartzman)
Next Meeting Date: August 12, 2010
10. **Traffic, Pedestrian and Bicycle Safety Committee.**
(Council Members Hughes and Ioakimedes)
Next Meeting Date: October 21, 2010
11. **Tri-City and County Regional Parks and Open Space.**
(Council Members Campbell and Hughes)
Next Meeting Date: TBD
12. **Valero Community Advisory Panel (CAP).**
(Council Member Hughes)
Next Meeting Date: TBD
13. **Youth Action Coalition.**
(Vice Mayor Schwartzman and Council Member Campbell)
Next Meeting Date: August 25, 2010
14. **ABAG-CAL FED Task Force-Bay Area Water Forum.**
(Mayor Patterson)
Next Meeting Date: September 27, 2010

XI. Council Member Reports:

- A. **Request to agendaize review of Comcast service and franchise agreement.**
(Mayor Patterson)

XII. ADJOURNMENT (10:00 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

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.

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 Clerks Office.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AFFIRMING THE POET LAUREATE COMMITTEE'S RECOMMENDED
APPOINTMENT OF RONNA LEON AS THE NEW POET LAUREATE**

WHEREAS, on November 1, 2005 the City Council established the honorary office of Poet Laureate in the City of Benicia; and

WHEREAS, Resolution No. 05-169 states that the Benicia Public Library Board of Trustees shall administer and oversee the selection of the Poet laureate; and

WHEREAS, the term of the first Poet Laureate has ended and applications were accepted for a replacement Poet Laureate; and

WHEREAS, the Poet Laureate Committee has met to review the applications received and held interviews with applicants.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Benicia that the recommendation of the Poet Laureate Committee that Ronna Leon be appointed as the next Poet Laureate for the City of Benicia is hereby confirmed for a full term expiring on June 30, 2010.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF MIKE RADESKY TO THE
LIBRARY BOARD OF TRUSTEES FOR A FULL TERM ENDING JULY 31, 2013**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Mike Radesky to the Library Board of Trustees by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

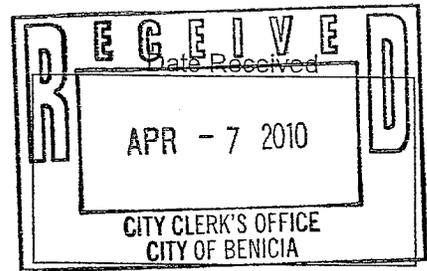
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Michael C. Radesky

Address: [REDACTED]

Phone: (Work) 373-1537 (Home) 746-1027

(Cell) same Fax: _____

Email: mikeradesky@comcast.net Years as Benicia resident: 27

Occupation/Employer: Part aide / California State Parks

Please note your most recent community or civic volunteer experience: Benicia

Board of Library Trustees (Current); Ben. Library Foundation; Friends of Library

Please describe any applicable experience/training: Lifetime salesman. of Library

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Michael C. Radesky Date: 4/7/10



Board of Library Trustees Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Do you frequently use the Benicia Public Library? *I have been a Board member for about 3 years. For the past 2 years-plus we have been working towards a basement expansion; I would like to continue that work. In the library 4 times a week*
2. Participation on this Board involves supporting the Library in a number of venues. These sometimes include: attending monthly Board of Library Trustees' meetings, taking trips to Sacramento, appearing at City Council meetings, and attending programs and events. Do you feel you have the time and commitment to be a viable member of this Board?
Currently I work only weekends, so I have the time.
3. Are there any particular segments of library services that interest you more than others? *Basement expansion; community outreach, promotion of library as cultural center for Benicia*
4. The Benicia Public Library contributes to the success of our diverse community by being a vital center of learning, communication, culture and enjoyment. Why do you think library services need to play a lead role in enhancing the quality of life in Benicia? Do you see an area of library services that needs to be expanded at this point?
In the current economic climate, our library has become the "go-to" place for culture, job search, entertainment in a safe environment. It's critical that the library remains open and accessible for the people of Benicia.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF MARY EICHBAUER TO
THE LIBRARY BOARD OF TRUSTEES FOR A FULL TERM ENDING JULY 31, 2013**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Mary Eichbauer to the Library Board of Trustees by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

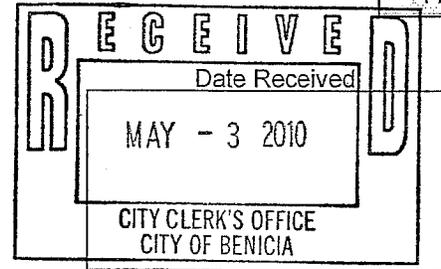
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

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Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees - *re-application*
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Mary Eichbauer

Address: [REDACTED]

Phone: (Work) _____ (Home) 707-747-1946

(Cell) 707-319-3779

Fax: _____

Email: gg-mee@ix.netcom.com

Years as Benicia resident: 22

Occupation/Employer: Solano Community Symphony

Please note your most recent community or civic volunteer experience:

I have served on the Library Board since 2000, and have been Board President for several years. I serve on the Friends of the Library Board and the Vallejo Symphony Board. I belong to the local chapter of the A.A.W.V.

Please describe any applicable experience/training: _____

I have a PH.D. in Comparative Literature and have worked as a writer and researcher.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Mary Eichbauer

Date: 4/28/2010



Board of Library Trustees Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Do you frequently use the Benicia Public Library?

These days, people need all the community resources they can get for education, job hunting, entertainment, and social networking. The library provides all those things. I am fascinated by the way the library adapts and changes to fit the changing needs of the populace, and I enjoy being a part of that.

When my son was young I was in the library almost every day. Now I more often use the on-line resources provided by the library. I attend library events as often as I can.

2. Participation on this Board involves supporting the Library in a number of venues. These sometimes include: attending monthly Board of Library Trustees' meetings, taking trips to Sacramento, appearing at City Council meetings, and attending programs and events. Do you feel you have the time and commitment to be a viable member of this Board?

Yes. My job is part-time, and has mostly flexible hours. I have not had a problem meeting my commitments to the Library so far.

3. Are there any particular segments of library services that interest you more than others?

I am interested in the evolving technology that helps improve library service. Self-check machines are one example of technology that has revolutionized library service, freeing librarians for other duties. We also have on-line reference help and free wireless internet, which help patrons access the world from the library, and access the library from the outside world.

4. The Benicia Public Library contributes to the success of our diverse community by being a vital center of learning, communication, culture and enjoyment. Why do you think library services need to play a lead role in enhancing the quality of life in Benicia? Do you see an area of library services that needs to be expanded at this point?

The library provides kinds and combinations of services that no other entity, public or private, can provide. We are set up to help children with their homework, or independent scholars with private projects. We have education exhibits, art exhibits, concerts, story times, summer reading programs, a variety of teen activities, wireless internet, computer terminals and printers, classes, and other job-hunting resources. All of it is available for free. The library is both a personal resource center and a community hub. Right now, we need to restore some of the cuts made when the city budget was reduced. Some of the after-school activities were cut (e.g. Friday movie). We also desperately need more public meeting rooms to serve as gathering places for our citizens, and as event venues.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF SHARON ANDERSON TO
THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A
FULL TERM ENDING JULY 31, 2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Sharon Anderson to the Benicia Housing Authority Board of Commissioners by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

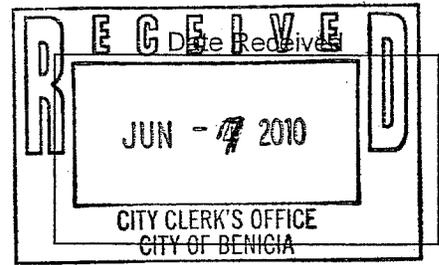
Noes:

Absent:

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reappt.)

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Sharon Anderson

Address: [REDACTED]

Phone: (Work) 925-335-1800 (Home) 707-746-7409

(Cell) _____ Fax: _____

Email: Sande@CC.CCCounty.ca.us Years as Benicia resident: 20

Occupation/Employer: Contra Costa County Counsel

Please note your most recent community or civic volunteer experience: _____

Housing Authority Board of Commissioners

Please describe any applicable experience/training: Legal advisor

to public agencies including Contra Costa Housing

All applications are considered public records and will be retained in an active file Auth. for at least one year from date of receipt.

Signature: [Handwritten Signature] Date: 6/3/10



Housing Authority Board of Commissioners Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

It is a valuable asset to the citizens of Benicia & a way of giving a hand to people who are in need

2. What are your expectations for this Board and how do you see your role on the Board?

I have been on the Board of Commissioners since 1995. My role on the Board is to direct policy & to support & oversee the work of the Executive Director.

3. This Board meets on the 4th Wednesday of the month. Currently the meetings begin at 6:00 pm. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain. NO

4. What has your experience been with the Housing Authority, if any?

See # 2 above

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF PHYLLIS MCKEEVER TO
THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A
FULL TERM ENDING JULY 31, 2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Phyllis McKeever to the Benicia Housing Authority Board of Commissioners by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

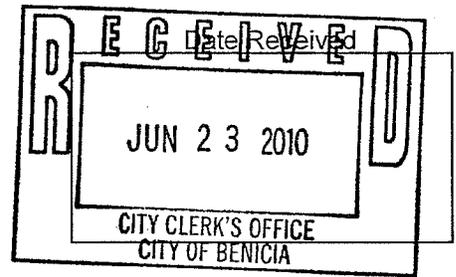
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Phyllis McKeever

Address: [Redacted] Benicia CA

Phone: (Work) 707-747-8317 (Home) 745-8749

(Cell) 707-332-7893 Fax: _____

Email: plmckeever@comcast.net Years as Benicia resident: 42

Occupation/Employer: C.D.U. Preschool Teacher, B.U.S.D.

Please note your most recent community or civic volunteer experience: _____

Benicia Housing Authority
Robert Semple school garden and composting project

Please describe any applicable experience/training: City of Benicia Computerized Ethics training and test, Nat. Ass. of Housing + Redevelopment S.F. Commissioner's training, D.C. Legislators conference and Palm Springs budget and voucher training.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Phyllis McKeever Date: 6/23/2010



Housing Authority Board of Commissioners Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board? *It's a matter of giving back to BHA. We raised our 3 boys in Capital Heights from 1968-1981. We moved out, rented and in 1984 bought our home. The BHA served us well. I understand its valuable part of Benicia. BHA gives families and people in need quality, low cost housing. I teach preschool at Robert Semple. Some of our families live in Capital Heights and students go to Robert Semple. Parents go to training or Solano College.*
2. What are your expectations for this Board and how do you see your role on the Board?
 - *Continue to maintain a balanced budget to learn*
 - *Continue the self-sufficiency program which helps residents, personal budgeting and establish an escrow account to purchase a house.*
 - *I, as a board member, set policies for the executive director to carry out and maintain BHA 7 quality housing programs.*
3. This Board meets on the 4th Wednesday of the month. Currently the meetings begin at 6:00 pm. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain. *This is no problem. I work 7:00 AM-3:00 I'm available all other times.*
4. What has your experience been with the Housing Authority, if any?
 - *20 years on The Board of Commissioners.*
 - *Chairperson 2 or 3 years.*
 - *Served several years on The budget Committee.*
 - *Served on The policy and personnel committees.*
 - *Spoke at The grand opening of Burgess Point on behalf of BHA.*
 - *While Chairperson, recruited a new Executive Director and on the selection committee for 2 new directors.*
 - *Chair person during 2 years of remodeling Capital Heights.*
 - *Approved The plan for Riverhill Park.*

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF LARRY FULLINGTON TO THE
OPEN GOVERNMENT COMMISSION FOR A FULL TERM ENDING JANUARY 31,
2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Larry Fullington to the Open Government Commission by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

Noes:

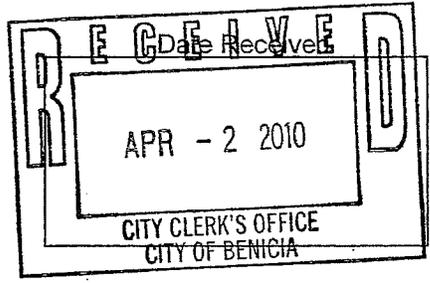
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

New



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: LARRY FULLINGTON

Address: [REDACTED]

Phone: (Work) — (Home) 746-1480

(Cell) 853-6478 Fax: —

Email: LFULLINGTO@SBCGLOBAL^{NET} Years as Benicia resident: 25 YRS

Occupation/Employer: RETIRED (CHEVRON-36 YRS)

Please note your most recent community or civic volunteer experience: _____

ECONOMIC DEVEL. BD 2008, (4 YRS), AUDIT + FINANCE CMMTE 2004 (8 YRS)

Please describe any applicable experience/training: _____

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Larry Fullington Date: 4-1-10



Open Government Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Opening Government Commission?

TRANSPARANCY IN GOVT. IS VITAL
TO CITIZEN VIEW OF ELECTED OFFICIALS
AND LEGISLATION

2. What are your expectations for this Commission and how do you see your role on the Commission?

ASSURE FULL DISCLOSURE IS MADE AVAILABLE
TO ALL, AND PROMPTLY ADDRESS ANY
CITIZEN'S CONCERNS IN THIS AREA.

3. This Board meets quarterly, typically on a Tuesday evening. Currently the meetings begin at 5:00 pm. In addition, there may be several special meetings of the commission and/or subcommittees during the year. Do you feel you have the time and commitment to be a viable member of this Commission?

YES

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF JOHN MCGUIRE TO THE
PARKS, RECREATION AND CEMETERY COMMISSION FOR A FULL TERM
ENDING JULY 31, 2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of John McGuire to the Parks, Recreation and Cemetery Commission by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

Noes:

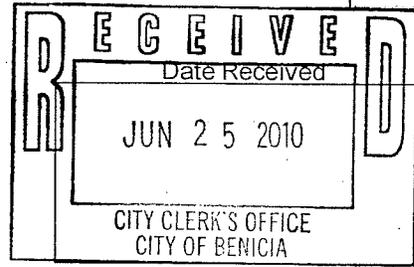
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

rec'd



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services & Arts Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: John P. McGuire

Address: [REDACTED]

Phone: (Work) 925-288-2220 (Home) 707-746-5183

(Cell) 707-246-5399 Fax: NA

Email: armydad54@comcast.net Years as Benicia resident: 24

Occupation/Employer: Shaw Environmental Inc

Please note your most recent community or civic volunteer experience: _____

Member of the PRC for the past 5 years.

Please describe any applicable experience/training: _____

I was president of the Benicia High School Athletic Boosters for 10 years, until 2008.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: [Handwritten Signature] Date: 6/25/10



Parks, Recreation, and Cemetery Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. The Parks, Recreation, and Cemetery Commission is responsible for working closely with the Parks and Community Services Department to direct the City as effectively as possible on behalf of parks, cemeteries and recreational activities. What interests you about serving on the Parks, Recreation, and Cemetery Commission and participating in the work of the commission? Please describe your familiarity with the Commission.

I have served on the PRC for the past 5 years. I was Chairman of the Commission for 2.5 years, through December 2009. I have been a member representing the Commission on the Joint Use Agreement and with the various sports leagues in town. I have learned a lot over this period and would like to continue to serve the community.

2. Please list current and past volunteer positions.

Current member of PRC. President of the Benicia High School Athletic Boosters for 10 years 1998 to 2008. I was also a member of the Youth Action Task Force, now Youth Action Coalition, for 3 years. I also served on the WASC Leadership Accreditation team for BUSD and BHS in 2007.

3. Responsibilities of being a Board member includes attending monthly Parks, Recreation, and Cemetery meetings, attending special events, and occasionally appearing at City Council meetings. Further, there are often subcommittees of the commission that will require additional meetings during the month. Do you feel you have the time and commitment to be able to consistently attend these meetings and events?

I do not believe I have missed a PRC meeting in 5 the years I have been on the Commission. I have attended every subcommittee meeting as required. I have also attended all the City budget planning workshops and city provided training since being appointed to the PRC. I will continue to be committed to attend all meetings and events.

4. If you could achieve one goal during your term as a Parks, Recreation, and Cemetery Commissioner, what would it be?

To see the completion of the Benicia Community Center and to try to help the City work through their current budget issues by helping to prioritize the needs of the PRC.

5. Is there anything else you would like to share with us regarding your qualifications and/or interests?

I have the time and ability to continue to serve on the PRC and would appreciate the opportunity to continue. In my 5 years we have accomplished many things, opening the X Park, re-establishing Willow Glen as a community park, opening of Bocce courts, and many other items. I enjoy this work and would like to continue to offer my services.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF CHRISTINA STRAWBRIDGE
TO THE ECONOMIC DEVELOPMENT BOARD FOR A FULL TERM ENDING JULY
31, 2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Christina Strawbridge to the Economic Development Board by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

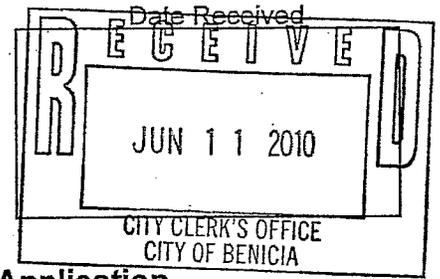
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Christina E. Strawbridge

Address: [REDACTED]

Phone: (Work) 707-751-0100 (Home) 707-748-0675

(Cell) 707-486-2499 Fax: 707-751-0100

Email: flashfun@aol.com Years as Benicia resident: 25

Occupation/Employer: Self - CHRISTINA S

Please note your most recent community or civic volunteer experience: _____

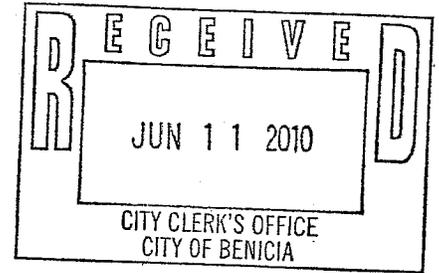
Economic Development Board,

Please describe any applicable experience/training: Retail - over 40 years

Event Coordinator - Benicia Main Street 1992-2003

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: [Handwritten Signature] Date: 6/2/10



Economic Development Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a meeting within the last six months?

see letter attached

2. Participation on the Board involves monthly meetings on the 4th Wednesday at 5:30 at City Hall, as well as reading the packet distributed in advance. Do you have any concerns with this commitment?
3. Are you the employee or owner of a Benicia business? If so, please describe the business and your role?
4. Given the adopted economic development goals in the City's General Plan (available online at the Community Development Department webpage on www.ci.benicia.ca.us), and Economic Development Strategy (available online at www.BeniciaBusiness.com) which do you feel the EDB should focus on, and why?

Christina Strawbridge

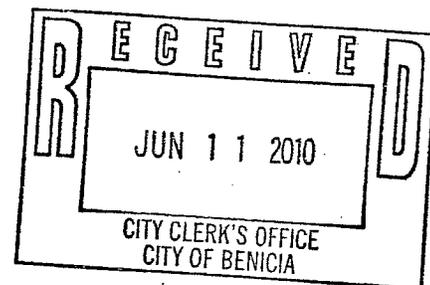
Christina S
[REDACTED]

Benicia, CA 94510

745-5125 Phone

751-0200 FAX

fashfun@aol.com



June 2, 2010

Mayor Elizabeth Patterson
City of Benicia
250 East L Street
Benicia, CA 94510

Dear Elizabeth,

I am submitting my application to be reappointed to the Economic Development Board. I would like to continue serving on this board because of my interest in the overall economic vision of Benicia.

In the last four years the EDB has worked to implement a comprehensive tourism program and with the City Council's approval was able to fund tourism marketing and other visitor related projects. I currently serve as the Vice-Chair of the Board and represented the EDB on the Tourism Stakeholder's Committee who proposed the plan of implementation. As the marketing gets underway we are now starting to look at funding sources to partner with the City's investment. I am looking forward to helping with this phase of the tourism plan.

I am also interested in seeing the City invest more in economic growth and business recruitment throughout Benicia. As you know I own a business in the Downtown. I have been involved with First Street as a business owner and Benicia Main Street since 1988 and have seen major changes in its development the last 22 years.

Based on my background in retail and my knowledge of Benicia I am looking forward to continuing the steps needed to make our beautiful City economically sound.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Christina".

Christina Strawbridge

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF DUANE OLIVEIRA TO THE
ECONOMIC DEVELOPMENT BOARD FOR A FULL TERM ENDING JULY 31, 2014**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Duane Oliveira to the Economic Development Board by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

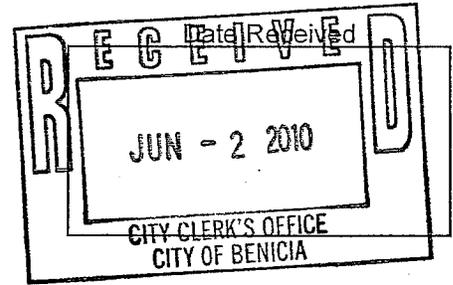
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

Name: Duane S. Oliveira

Address: [REDACTED] Benicia

Phone: (Work) (707) 751-1426 (Home) (707) 751-0478

(Cell) (707) 853-7141 Fax: (707) 748-0921

Email: duane@theoliveiralawfirm.com Years as Benicia resident: 5 yrs 10 1/2 mos.

Occupation/Employer: Attorney / Oliveira Law Firm

Please note your most recent community or civic volunteer experience: Benicia EDB
Benicia Rotary Club Facilitator - Benicia Tourism Stakeholders Comm.

Please describe any applicable experience/training: attorney; founder & member of
Yuba-Sutter Economic Development Corporation Benicia EDB - 4 years

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Duane S. Oliveira Date: 5/29/10



Economic Development Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a meeting within the last six months?

Been a member the last 4 years

2. Participation on the Board involves monthly meetings on the 4th Wednesday at 5:30 at City Hall, as well as reading the packet distributed in advance. Do you have any concerns with this commitment?

None whatsoever - missed probably < 5 meetings in 4 years

3. Are you the employee or owner of a Benicia business? If so, please describe the business and your role?

Yes - owner of the Oliveira Law Firm in the Arsenal

4. Given the adopted economic development goals in the City's General Plan (available online at the Community Development Department webpage on www.ci.benicia.ca.us), and Economic Development Strategy (available online at www.BeniciaBusiness.com) which do you feel the EDB should focus on, and why?

1. Continue marketing of tourism - need to increase sales tax & support local merchants and other businesses benefitting from tourism
2. Improve bus. recruitment - the amt. in city budget for this (\$3K) is a joke need to increase - need to increase efforts to bring Trader Joe's & Peet's coffee to town.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF NANCY LUND TO THE
SOLANO TRANSPORTATION AUTHORITY BICYCLE ADVISORY COMMITTEE
FOR A FULL TERM ENDING JULY 31, 2013**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment Nancy Lund to the Solano Transportation Authority-Bicycle Advisory Committee by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

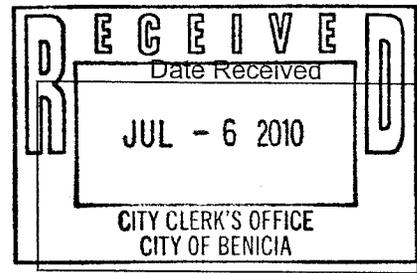
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- Arts and Culture Commission
- Benicia Housing Authority Board of Commissioners
- Board of Library Trustees
- Civil Service Commission
- Economic Development Board
- Finance, Audit & Budget Committee
- Historic Preservation Review Commission
- Human Services Board
- Open Government Commission
- Parks, Recreation & Cemetery Commission
- Planning Commission
- Sustainability Commission
- Sky Valley Open Space Committee
- Uniform Code Board of Appeals

✓ STA Bicycle Advisory Committee

Name: NANCY LUND

Address: [REDACTED]

Phone: (Work) (Home) 707 748 0155

(Cell) 925 597 2433 Fax:

Email: nslund@earthlink.net Years as Benicia resident: 16 yrs

Occupation/Employer: RETIRED

Please note your most recent community or civic volunteer experience:

League of Women Voters, Benicia Bicycle Club

Please describe any applicable experience/training: have worked with

volunteers in many organizations as leader, trainer, organizer

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Nancy S. Lund Date: July 2010

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF VICE MAYOR SCHWARTZMAN
TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE FOR A ONE-YEAR TERM
ENDING JUNE 30, 2011**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Vice Mayor Schwartzman to a City Council Appointment Subcommittee by Mayor Patterson is hereby confirmed.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

RESOLUTION 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING MAYOR'S APPOINTMENTS OF MEMBERS OF THE CITY COUNCIL
TO STANDING, AD HOC AND OUTSIDE AGENCY COMMITTEES**

COMMITTEES

<u>OUTSIDE AGENCY COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
ABAG	Elizabeth Patterson	Mike Ioakimedes (Alternate)
LEAGUE OF CALIFORNIA CITIES	Elizabeth Patterson	Alan Schwartzman (Alternate)
SOLANO EDC BOARD OF DIRECTORS	Elizabeth Patterson	Tom Campbell (Alternate)
SOLANO TRANSPORTATION AUTHORITY	Elizabeth Patterson	Mike Ioakimedes (Alternate)
SOLANO WATER AUTHORITY/SOLANO COUNTY WATER AGENCY	Elizabeth Patterson	Alan Schwartzman (Alternate)
TRI-CITY & COUNTY REGIONAL PARKS & OPEN SPACE	Tom Campbell	Mark Hughes (Alternate)

<u>STANDING COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
AUDIT & FINANCE COMMITTEE	Alan Schwartzman	Tom Campbell
SCHOOL DISTRICT LIAISON	Mike Ioakimedes	Mark Hughes
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY COMMITTEE	Mark Hughes	Mike Ioakimedes
YOUTH ACTION TASK FORCE	Alan Schwartzman	Mike Ioakimedes

<u>AD HOC COMMITTEES</u>	<u>COUNCIL APPOINTEES</u>	
SKY VALLEY AREA OPEN SPACE	Tom Campbell	Mark Hughes
VALERO CITIZENS ADVISORY COMMITTEE (CAP)	Mark Hughes	

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby confirms the above Committee appointments and any resolutions inconsistent with this resolution are superceded.

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 20th day of July 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk



PROCLAMATION

IN RECOGNITION OF Jay Garibaldi for more than 30 years of Volunteer Service

WHEREAS, Jay Garibaldi has responded to hundreds if not over a thousand emergency calls at all hours of the day or night; and

WHEREAS, he was recognized two times as Benicia Volunteer Firefighter of the Year; and

WHEREAS, Jay Garibaldi has driven and operated fire engines and fire trucks to and at emergency scenes; and

WHEREAS, he has devoted hundreds of hours to community events providing first aid and safety services to citizens and visitor of the City of Benicia; and

WHEREAS, Jay Garibaldi has helped organize and participated in "Fire Musters" in Benicia as well as a representative in other cities Musters; and

WHEREAS, he expended many hours of his talent and expertise repairing and maintaining antique fire apparatus at the Benicia Fire Museum for the benefit of the Public; and

WHEREAS, Jay Garibaldi has responded to mutual aid calls within the county rendering firefighting to adjoining cities; and

WHEREAS, he has served as an officer for the Benicia Volunteer Firemen, Inc for over 15 years; and

WHEREAS, Jay Garibaldi continues to unselfishly contribute and participate in the Benicia Volunteer Firemen, Inc for the benefit of the citizens of Benicia.

THEREFORE, BE IT RESOLVED, THAT I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, recognize Jay Garibaldi for more than 30 years of volunteer service to the citizens of Benicia.

Elizabeth Patterson, Mayor
July 20, 2010



MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
May 25, 2010

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 meeting to order at 4:32 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL:

Council Member Campbell arrived after the meeting began.

B. PLEDGE OF ALLEGIANCE:

Mayor Patterson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT:

B. PUBLIC COMMENT:

The following citizens spoke about the city manager recruitment process: Rick Ernst, Marilyn Bardet, Carol Day, and Bill Simpkins.

IV. ACTION ITEMS:

A. City Manager Recruitment:

Council, Staff, and Bobbie Peckham, Peckham and McKenney, discussed various aspects of the city manager recruitment process.

V. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:00 p.m.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
June 07, 2010

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 meeting to order at 6:00 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL:

B. PLEDGE OF ALLEGIANCE:

Mayor Patterson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

None

IV. CLOSED SESSION:

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)**

Titles: City Attorney
City Manager

V. ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:03 p.m.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
June 22, 2010

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

I. CALL TO ORDER:

Vice Mayor Schwartzman called the meeting to order at 6:00 p.m.

A. ROLL CALL:

Mayor Patterson arrived after roll call (6:03 p.m.).

B. PLEDGE OF ALLEGIANCE:

Vice Mayor Schwartzman led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT:

B. PUBLIC COMMENT:

None

IV. CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Government Code Section 54957)

Title: City Manager

B. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: Benicia Senior Management Group, Benicia

Middle Management Group, Local 1, Benicia Public Service

Employees' Association (BPSEA), Police Officers Association

(BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers

Association (BDA), Police Management, Unrepresented.

V. **ADJOURNMENT:**

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

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
June 29, 2010

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 meeting to order at 6:00 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL:

B. PLEDGE OF ALLEGIANCE:

Heather McLaughlin led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT:

B. PUBLIC COMMENT:

None

IV. CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)
Title: City Manager**

V. ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:03 p.m.

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
July 06, 2010

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 meeting to order at 6:00 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Mayor Patterson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. CLOSED SESSION:

Ms. McLaughlin read the announcement of Closed Session.

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

Mayor Patterson reconvened the meeting to Open Session at 6:40 p.m.

**A. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)**

Name of case: Maricich, et al. v. City of Benicia

**B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)**

Name of case: Amatrone v. City of Benicia

IV. ADOPTION OF AGENDA:

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes,

Council approved the agenda as presented, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

V. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Various handouts were provided by Solano Transportation Authority (copies on file).

B. PUBLIC COMMENT

None

VI. INFORMATIONAL ITEMS:

Mr. Erickson reviewed the staff report.

Darryl Halls, STA, reviewed a PowerPoint presentation (copy on file).

Council and Staff discussed the public outreach that had taken place thus far.

Council Member Campbell and Mr. Halls discussed the issue of the start -up costs and annual operating costs.

Council Member Hughes, Staff, and Mr. Halls discussed attendance at the public meetings, the need to get the information out to the public, and the guiding principles.

Vice Mayor Schwartzman and Mr. Halls discussed the approximate JPA start date (April 2011).

Council Member loakimedes discussed the positive aspects of the consolidated transit services.

Public Comment:

Nora Gonsier - Ms. Gonsier discussed her disabilities and how she depends on public transit. Transit has focused on accommodating senior citizens, but not so much on ADA.

A. City Manager Reports

- 1. Special report on the proposed consolidation of Benicia Breeze and Vallejo Transit Services**

Mr. Erickson reviewed the staff report.

Darryl Halls, STA, reviewed a PowerPoint presentation (copy on file).

Council and Staff discussed the public outreach that had taken place thus far.

Council Member Campbell and Mr. Halls discussed the issue of the start -up costs and annual operating costs.

Council Member Hughes, Staff, and Mr. Halls discussed attendance at the public meetings, the need to get the information out to the public, and the guiding principles.

Vice Mayor Schwartzman and Mr. Halls discussed the approximate JPA start date (April 2011).

Council Member loakimedes discussed the positive aspects of the consolidated transit services.

Public Comment:

Nora Gonsier - Ms. Gonsier discussed her disabilities and how she depends on public transit. Transit has focused on accommodating senior citizens, but not so much on ADA.

VII. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 7:28 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
July 06, 2010

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 meeting to order at 7:30 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Lisa Wolfe led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

Mayor Patterson expressed Council's concern and well wishes for Lacey Wilson, who was hit by a car last week. A fund was being set up for Lacey to assist with her medical costs. She thanked Staff and the public for their efforts and concerns.

Mayor Patterson stated that Council had been meeting in closed session to discuss the retirement of Mr. Erickson. They have been discussing how the interim position would be staffed. Mr. Erickson has agreed to stay on as an interim city manager until 9/15/10 to complete the four tasks identified by Council. Council would keep the public informed on the evolving process for hiring a new city manager.

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

Ms. McLaughlin reported that Council gave direction to Staff on both items.

2. Openings on Boards and Commissions:

Open Government Commission:
One full term to January 31, 2014

Finance, Audit and Budget Committee:
One unexpired term to January 31, 2013

Benicia Housing Authority Board of Commissioners: Two full terms to July 31, 2014

Human Services Board: Three full terms to July 31, 2014

Parks, Recreation and Cemetery Commission: One full term to July 31, 2014

Economic Development Board: Three full terms to July 31, 2014

Library Board of Trustees: Two full terms to July 31, 2013

3. Mayor's Office Hours:

B. APPOINTMENTS

1. Appointment of Mike Ioakimedes to a City Council Appointment Subcommittee for a two-year term.

Council Member Ioakimedes discussed his busy schedule, and wondered if another Council Member would be able to fill the appointment to the subcommittee. Mayor Patterson asked if the subcommittee could discuss it and make a recommendation on appointments.

Mayor Patterson requested the subcommittee make a recommendation on the appointment.

Council Member Hughes stated Vice Mayor Schwartzman had not served on the subcommittee yet. He was the only one who had not yet served. He discussed the rotation schedule.

Vice Mayor Schwartzman and Mayor Patterson discussed the appointment, and his desire to serve on the subcommittee. They discussed the rotation schedule.

The appointment was continued to the 7/20/10 Council meeting.

C. PRESENTATIONS

D. PROCLAMATIONS

1. In Recognition of Drowning Prevention Month

V. ADOPTION OF AGENDA:

On motion of Council Member Hughes, seconded by Council Member loakimedes, Council approved the agenda as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

Mr. Erickson suggested IX-C be moved up to follow item IX-A. Item IX-A and IX-C are similar items and Darryl Halls, STA, was present and available for both items. He suggested continuing IX-C to a future meeting.

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

Elaine Estrada, President, Benicia Tree Foundation - Ms. Estrada discussed the Benicia Tree Foundation. The foundation had become a 501(c)(3). She introduced Mr. Wolfram Alderson, the new Executive Director of the Benicia Tree Foundation.

Mr. Alderson discussed the goals and action plan of the foundation.

Council Member Campbell and Staff discussed how the funds for the foundation would be administered.

Scott Silverman - Mr. Silverman discussed the problem with litter and garbage along First Street after special events. He would like to have a protocol that would address cleanup in place prior to the issuance of permits for special events. Two days after the parade on 7/3/09, there was still trash along First Street.

Mr. Erickson discussed the current protocol. Benicia Main Street was responsible for the cleanup. Their crews were working to clean up the trash after the parade.

Jon Van Landschoot - Mr. Van Landschoot discussed 'The Spirit of Jack London' event being hosted by the Benicia Historical Society.

VII. CONSENT CALENDAR:

Council pulled items VII-B and VII-E for discussion.

On motion of Council Member Hughes, seconded by Council Member loakimedes, Council approved the Consent Calendar as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. Approval of Minutes for June 15, 2010

B. 2010-11 STREET RESURFACING PROJECTS

RESOLUTION 10-82 - A RESOLUTION CONFIRMING NON-GENERAL FUND BUDGETING (GAS TAX AND TRAFFIC MITIGATION FUNDS) FOR FY 2010-11 PRIORITY STREET RESURFACING PROJECTS AND DIRECTING STAFF TO DECLINE THE RECOVERY ZONE ECONOMIC DEVELOPMENT BOND ALLOCATION

Vice Mayor Schwartzman and Staff discussed the funding, and Staff's recommendation to decline the bond RZEDB bond allocation.

Council Member Hughes and Staff discussed how the projects were prioritized.

Public Comment:

None

Vice Mayor Schwartzman made a motion to approve the resolution, with the amendment to defer the request to decline the RZEDB bond allocation to a future Council meeting, when the budget was clearer.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the Resolution as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. ESTABLISHMENT OF THE ANNUAL APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR FISCAL YEAR 2010-11

RESOLUTION 10-78 - A RESOLUTION ESTABLISHING AN APPROPRIATIONS LIMIT PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA STATE CONSTITUTION FOR FISCAL YEAR 2010-11

D. AUTHORIZATION TO APPLY FOR FEDERAL FUNDING FOR STREET RESURFACING

RESOLUTION 10-79 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO FILE AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) FUNDING AND COMMITTING THE NECESSARY NON-FEDERAL MATCH AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

E. INTRODUCTION OF AN ORDINANCE ADDING NEW SECTIONS 1.24.020 (CITY SEAL) AND 1.24.030 (OFFICIAL FLAG) TO CHAPTER 1.24 (MISCELLANEOUS PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 10- - AN ORDINANCE ADDING SECTIONS 1.24.020 (OFFICIAL SEAL) AND 1.24.030 (OFFICIAL FLAG) OF CHAPTER 1.24 (MISCELLANEOUS PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

Council Member loakimedes and Staff discussed what the City does to protect the tourism logo and other City logos. Staff would bring other items forward for discussion in the future.

On motion of Council Member loakimedes, seconded by Vice Mayor Schwartzman, Council approved the Introduction and First Reading of an ordinance, on roll call by the following vote:

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

F. SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT

RESOLUTION 10-80 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2010/2011 AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN DOCUMENTS

G. DESIGNATION OF LEAGUE OF CALIFORNIA CITIES VOTING DELEGATES AND ALTERNATES

H. AUTHORIZATION TO SUBMIT A GRANT APPLICATION FOR THE CALRECYCLE USED OIL PAYMENT PROGRAM

RESOLUTION 10- 81- A RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION FOR CALRECYCLE FUND CYCLE 16 OIL PAYMENT PROGRAM FOR FY 2010/11 WHICH PROVIDES FUNDING FOR

ACTIVITIES THAT REDUCE THE AMOUNT OF ILLEGALLY DISPOSED USED OIL, RECYCLE USED OIL/USED OIL FILTERS, AND RECLAIM USED OIL

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

VIII. PUBLIC HEARINGS:

A. PUBLIC HEARING FOR CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FISCAL YEAR 2010-11

RESOLUTION 10- 83- A 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 LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2010-11

Rob Sousa, Finance Director, reviewed the staff report.

Council Member Campbell and Staff discussed the Fleetside District funds.

Council Member Hughes and Staff discussed the need to increase the assessments in the next year or so. It is important the City educate the community about the status.

Public Comment:

None

Mayor Patterson discussed her wish this had started in 2004. The City needs to reach out the to the community sooner than later. She would like to see meetings in the Southampton schools so the citizens in the area could attend.

On motion of Council Member Hughes, seconded by Council Member loakimedes, Council approved the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

IX. ACTION ITEMS:

- A. **Discussion of Countywide Ballot Measure to collect up to \$10 in Vehicle Registration fees to sponsor projects benefiting or mitigating the effects of the automobile.**

Rob Sousa, Finance Director, introduced the agenda item.

Mr. Darryl Halls and Mr. Bill Gray, Solano Transportation Authority (STA), reviewed a PowerPoint presentation (copy on file).

Mayor Patterson and Mr. Gray discussed the issue of a gas tax.

Council Member Campbell and Mr. Gray discussed the ballot measure (which has yet to be written).

Council Member Hughes and Mr. Halls discussed who might be opposing the measure, and how the proposed measure would be communicated to the public. They discussed the fees and what they could be used for.

Council Member Campbell and Mr. Halls discussed whether the State could use the money for other transportation (most likely not - it would be very difficult).

Public Comment:

None

Mayor Patterson summarized the recommendation from Council: there would be a \$75,000 minimum distribution to the jurisdictions, there would be dedicated funds to the three categories (with more flexibility among those categories), that there be a poison pill provision, and that there be some continuous polling throughout the process to see if the potential conflict with the State Park initiative.

B. Status of Benicia Business Park Application

Mr. Erickson discussed the letter Staff received from the applicant stating they wanted to withdrawal their application (copy on file). He suggested Council take some time (approximately 60 days) to see what the City's options were for the property.

Public Comment:

Carl Stoops - Mr. Stoops expressed his support for Mayor Patterson. He did not feel the City could trust the applicant.

Marilyn Bardet - Ms. Bardet thanked Council for its deliberations on this issue. She was shocked by the accusations of the developer.

Council Member Campbell discussed the developer's continued past behavior.

Council Member Hughes discussed the loss of the project. The comments in the

letter by the developer were uncalled for. He looked forward to developing a project at the site in the future.

Vice Mayor Schwartzman discussed the letter written by the developer. The likelihood of having a development there in the near future was probably gone. He discussed the need for economic development in the City.

Mayor Patterson was excited about the vision that was created by the community planning. When thinking about the next steps, it is important that everyone think about the future. She has not given up on this. She believed the vision would come about.

The item was continued for approximately 60 days.

C. BENICIA INTERMODAL FACILITIES (PARK-AND-RIDE) PROJECT

Mayor Patterson recused herself due to a conflict of interest. Vice Mayor Schwartzman would chair the discussion on this item.

Mayor Patterson called for a 5-minute break at 9:04 p.m.

The meeting resumed at 9:10 p.m.

Charlie Knox, Public Works & Community Development Director, reviewed the staff report.

Council Member Campbell and Staff discussed concerns regarding the money that would be spent on the West Military roundabout, using the E street lot (and the additional times for routes).

Council Member Hughes and Staff discussed whether there was a demand for the proposed intermodal facilities, and concerns regarding parking.

Council Member Campbell and Staff discussed the issue of parking, and other possible locations for the Park & Ride lot.

Vice Mayor Schwartzman and Staff discussed the planned development areas that were being looked at and how it could be integrated into this, transit oriented developments, and citizen's concerns regarding having a Park & Ride lot at City Park.

Council Member Hughes and Staff discussed the sense of urgency. He clarified that Staff was asking Council to move forward with a facilitated workshop.

Council Member Campbell and Mr. Halls discussed RM2 funding.

Public Comment:

Vice Mayor Schwartzman read a comment submitted by Ms. Leslie Keating, who was opposed to a Park & Ride lot at City Park.

Karen Burns - Ms. Burns spoke in opposition to having a Park & Ride lot at City Park. She does not want anything to affect the City Park.

Carl Lunsted - Mr. Lunsted discussed concern regarding roundabouts. He spoke in opposition to having a Park & Ride lot at City Park. He suggested the City use its property on East Second Street (across from the corp yard).

Belinda Smith - Ms. Smith clarified that she was in favor of a public workshop, but was not in favor of using the City Park as a Park & Ride. She suggested finding a location that is 5 minutes or so away from the spot for parking. She wondered if this was an all or nothing proposition.

Tony Haughey - Ms. Haughey read a letter from Ms. Pricilla Whitehead regarding concerns about using the City Park as a Park & Ride lot.

Marilyn Bardet - Ms. Bardet discussed concerns regarding using the City Park as a Park & Ride lot. She was in favor of intermodal concepts. She suggested parking alternatives on Military West.

Jackie Klare - Ms. Klare spoke in support of the concept, but against using the City Park as a Park & Ride lot.

Jon Van Landschoot - Mr. Van Landschoot spoke in opposition to using the City Park as Park & Ride lot.

Chip Rowland - Mr. Rowland spoke in opposition to using the City Park as a Park & Ride lot. He wondered if there could be one lot as opposed to two lots. He discussed concerns regarding the noise generated by busses decelerating.

Marlene Dean - Ms. Dean spoke in opposition to using the City Park as a Park & Ride lot.

Tony Haughey - Ms. Haughey spoke in opposition to using the City Park as a Park & Ride lot. She has ideas on where an alternate site could be. She would like to discuss them at a future workshop.

John Aberley - Mr. Aberley questioned whether there was a big enough demand for the proposed lot.

Vice Mayor Schwartzman and Staff discussed whether the funds could be split in half and be used for one lot as opposed to two. Staff would look into the issue.

Mr. Erickson discussed Staff's desire to create alternatives for single occupant vehicles. He would like to move forward with a workshop.

Council Member Campbell suggested using East E Street and changing the bus schedules to accommodate the stop.

Council Member Hughes suggested Staff schedule a workshop and contact MTC to see what the City's options were.

Council Member loakimedes discussed concerns regarding walking away from \$3 million in funding. He would like to have a public workshop.

Vice Mayor Schwartzman discussed the need for a public workshop. Staff should contact MTC to see what the City's alternatives were.

Council Member Campbell suggested pulling the City Park off the list of possible sites for a parking lot.

Vice Mayor Schwartzman directed Staff to move forward with scheduling a workshop, and to contact MTC to see what the City's options were.

D. Reduction in compensation package for City Manager, City Attorney and City Council

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the Resolution, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

RESOLUTION 10-84 - A RESOLUTION APPROVING A REDUCTION IN THE COMPENSATION PACKAGE FOR CITY MANAGER, CITY ATTORNEY, AND CITY COUNCIL

Jim Erickson, City Manager, reviewed the staff report.

Ms. McLaughlin clarified that the resolution and staff report should reflect an effective date of 7/1/10 (one lists a date and the other lists the term 'immediately').

Council Member Campbell thanked Staff for their efforts.

Mayor Patterson questioned whether Council Members could drop medical coverage all together if they were covered under another policy. Staff would look

into the issue for future negotiations.

Public Comment:

None

X. INFORMATIONAL ITEMS:

A. City Manager Reports

1. Informational report on Valero incidents occurring on June 17, 2010

Mayor Patterson noted the item was very important, and there was no public present. Because of the late hour, Council should continue this item to the 7/20/10 Council meeting (earlier on the agenda).

XI. COUNCIL MEMBERS REPORTS:

XII. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:03 p.m.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR**

DATE : June 24, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **INTRODUCTION OF AN ORDINANCE INTO THE BENICIA MUNICIPAL CODE PROHIBITING THE SALE OF SALVIA DIVINORUM TO INDIVIDUALS OVER 18 YEARS OF AGE**

RECOMMENDATION:

Introduce the ordinance amending Title 8 of the Benicia Municipal Code (“Health and Safety”) to add Chapter 8.58 that would enable the City to prohibit the sale of Salvia Divinorum to those over 18 years of age.

EXECUTIVE SUMMARY:

This ordinance would extend the ban on the sale of Salvia Divinorum to include individuals over the age of 18. Currently, it is a crime in the state of California to sell Salvia to minors. Adoption of the proposed ordinance would place a complete prohibition on the sale of Salvia to any individual, regardless of age, within the City of Benicia.

BUDGET INFORMATION:

There will be no effect on the budget.

BACKGROUND:

On April 20, 2010, National City (located in San Diego County) amended its Municipal Code by enacting an ordinance prohibiting the sale of Salvia to individuals over 18 years of age. National City, the Institute of Public Strategies, and the National City Police Department were all in favor of passing the ordinance. All three entities referenced the harmful effects of Salvia as the basis for their support of the ordinance. The noted effects include the long term potential for brain damage, as well as the substantial risk of injury or death as a result of impaired judgment due to disruptions of sensory and cognitive functions. The main ingredient is Salvia divinorum is a psychotropic molecule, Salvinorin A. Specifically, Salvinorin A is a hallucinogenic compound that creates the psychedelic, dissociative and hallucinogenic effects that one experiences when taking Salvia divinorum. Multiple medical experts describe the power of Salvia to be equivalent to other banned substances such as LSD, PCP, and hallucinogenic mushrooms. It has become a prime concern that Salvia has turned into the “drug du jour” among teens and young adults given its easy accessibility.

National City passed the ordinance and cited CA Penal Code § 379, as well as the city’s police powers as their authority for enacting such a prohibition. Specifically, National City states that the

passage of the ordinance is in the best interest of the health, safety, and welfare of their citizens. Passing the proposed ordinance would result in a complete prohibition on the sale of Salvia to any individual in Benicia, not just to those under 18 years of age as it is codified in the CA Penal Code. This action is consistent with several local municipalities in California that are seeking to restrain or criminalize the purchase of Salvia.

Pursuant to California Penal Code § 379, "Every person who sells, dispenses, distributes, furnishes, administers, gives, or offers to sell, dispense, distribute, furnish, administer, or give Salvia divinorum or Salvinorin A, to any person who is less than 18 years of age, is guilty of a misdemeanor punishable by imprisonment not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both. . . ." Similarly, any individual who fails to comply with the proposed ordinance will be guilty of a misdemeanor offense and will be subject to punishment by imprisonment in the county jail for a period not to exceed six months, or by a \$1,000 fine, or by both fine and imprisonment.

The proposed ordinance will amend Title 8 of the Benicia Municipal Code by adding Chapter 8.58 pertaining to the sale or distribution of Salvia Divinorum to people over 18 years of age. Title 8 addresses regulations concerning the "Health and Safety" concerns of the city. Recently, Chief of Police Sandra Spagnoli contacted Mrs. Bhagabati Shertha, owner of "Cigarettes 4 Less" to inquire into the availability of Salvia. Mrs. Shertha informed Ms. Spagnoli that while her outlet store did not currently carry Salvia, she expressed a desire to carry the substance in the future.

Attachments:

- ❑ Proposed Ordinance
- ❑ National City Ordinance
- ❑ Salvia Purchase Memo

CITY OF BENICIA

ORDINANCE NO. 10-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA
ADDING A NEW CHAPTER 8.58 (SALE OR DISTRIBUTION OF SALVIA
DIVINORUM OR SALVINORIN A TO PEOPLE OVER 18 YEARS OF
AGE) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA
MUNICIPAL CODE**

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

Section 1.

Title 8 (Health and Safety) of the Benicia Municipal Code is amended by adding a new chapter 8 (Sale or distribution of salvia divinorum or salvinorin A to people over 18 years of age) to read as follows:

CHAPTER 8.58

SALE OR DISTRIBUTION OF SALVIA DIVINORUM
OR SALVINORIN A TO PEOPLE OVER 18 YEARS OF AGE

Sections:

<u>8.58.010</u>	Declaration of policy.
<u>8.58.020</u>	Definitions.
<u>8.58.030</u>	Prohibitions.
<u>8.58.040</u>	Exceptions
<u>8.58.050</u>	Violations.

8.58.010 Declaration of Policy. It is declared to be the policy of the city to prohibit the sale and distribution of “Salvia Divinorum” or “Salvinorin A” to any individual over 18 years of age, subject to its police power. The plant contains hallucinogenic ingredients, and it is established that the harmful effects of consumption are detrimental to the health and welfare of the citizenry, and in the public interest, shall be proscribed.

8.58.020 Definitions. As used in this chapter, unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

“Salvia Divinorum” is a species of the sage family of plants and contains hallucinogenic ingredients.

“Salvinorin A”, also referred to as Divinorin A, has been identified to be the active constituent of Salvia Divinorum that is responsible for the hallucinogenic effects of the herb.

8.58.030 Prohibitions. Every person who sells, dispenses, distributes, furnishes, administers, gives, or offers to sell, dispense, distribute, furnish, administer, or give Salvia Divinorum or Salvinorin A, or any substance or material containing Salvia Divinorum or Salvinorin A, to any person over 18 years of age, is guilty of a misdemeanor.

8.58.040 Exceptions.

This section shall not prohibit possessing, planting, cultivating, growing or harvesting the plant Salvia devinorum for aesthetic, landscaping or decorative purposes. Also, this section shall not apply to any dosage form of Salvinorin A which is legally obtainable from a retail establishment without a prescription and is recognized by the federal Food and Drug Administration as a homeopathic drug.

8.58.040 Violations.

A violation of any provision of this Chapter or a failure to comply with any mandatory requirements of this Chapter is subject to prosecution, and this may be enforced through injunctive relief or other relief available by law. Such violation is punishable by imprisonment in the county jail for a time-period not to exceed six months, or by a \$1,000 fine, or by both such fine and imprisonment.

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 clauses thereof irrespective of the fact that any one or more sections, subsections, phrases 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 20th day of July, 2010, and adopted at a regular meeting of the Council held
on the _____ day of _____ 2010, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

ORDINANCE NO. 2010 – 2337

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY
AMENDING TITLE 9 OF THE NATIONAL CITY MUNICIPAL CODE BY
ADDING CHAPTER 9.39 PERTAINING TO THE SALE OR DISTRIBUTION OF
SALVIA DIVINORUM OR SALVINORIN A TO PEOPLE OVER 18 YEARS OF AGE

BE IT ORDAINED by the City Council of the City of National City as follows:

Section 1. Title 9 of the National City Municipal Code is hereby amended by adding Chapter 9.39 to read as follows:

Chapter 9.39

SALE OR DISTRIBUTION OF SALVIA DIVINORUM
OR SALVINORIN A TO PEOPLE OVER 18 YEARS OF AGE

Sections:

9.39.010 Definitions.
9.39.020 Prohibited.
9.39.030 Violations.

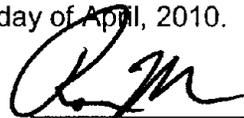
9.39.010 Definitions.

“Salvia Divinorum” is a species of the sage family of plants and contains hallucinogenic ingredients. “Salvinorin A”, also called Divinorin A, has been identified to be the active constituent of Salvia Divinorum that is responsible for the hallucinogenic effects of the herb.

9.39.020 Prohibited. Every person who sells, dispenses, distributes, furnishes, administers, gives, or offers to sell, dispense, distribute, furnish, administer, or give Salvia Divinorum or Salvinorin A, or any substance or material containing Salvia Divinorum or Salvinorin A, to any person over 18 years of age, is guilty of a misdemeanor.

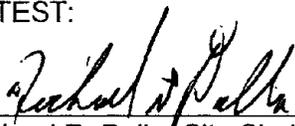
9.39.030 Violations. A violation of any provision of this Chapter or a failure to comply with any mandatory requirements of this Chapter is subject to prosecution in accordance with Title 1 of this Code, and may be enforced through injunctive relief or other relief available by law. Such violation is punishable by imprisonment in the county jail for not to exceed six months, or by a \$1,000 fine, or by both such fine and imprisonment.

PASSED and ADOPTED this 20th day of April, 2010.



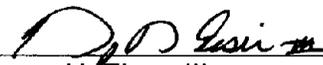
Ron Morrison, Mayor

ATTEST:



Michael R. Dalla, City Clerk

APPROVED AS TO FORM:



George H. Eiser, III
City Attorney

Passed and adopted by the Council of the City of National City, California, on April 20, 2010 by the following vote, to-wit:

Ayes: Councilmembers Morrison, Sotelo-Solis, Van Deventer, Zarate.

Nays: None.

Absent: None.

Abstain: None.

AUTHENTICATED BY:

RON MORRISON

Mayor of the City of National City, California



Richard J. Gallo

City Clerk of the City of National City, California

By: _____

Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally adopted until seven calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on April 6, 2010 and on April 20, 2010.

I FURTHER CERTIFY THAT said ordinance was read in full prior to its final passage or that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

I FURTHER CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. 2010-2337 of the City Council of the City of National City, passed and adopted by the Council of said City on April 20, 2010.

City Clerk of the City of National City, California

By: _____

Deputy



City Attorney's Office
MEMORANDUM

Date: June 1, 2010
To: Heather C. Mc Laughlin, City Attorney; Sandra Spagnoli, Chief of Police
From: Ian Fuentecilla, Law Clerk
Re: **How to Obtain Salvia Divinorum**

Given its easy accessibility, Salvia Divinorum ("Salvia") has become a commonly used drug among high school students and young adults. There are multiple outlets that one can turn to in order to obtain the substance. Typically, individuals seeking to obtain Salvia purchase it from either smoke shops (also called head shops) or online websites. There are several smoke shops in the Bay Area that have Salvia available for purchase. Also, there are a multitude of online websites where one may purchase Salvia and have it shipped to their home. However, given the recent efforts by states to regulate the sale and purchase of Salvia, it has become increasingly popular for people to grow their own Salvia. A quick-search of the Internet revealed several how-to-guide's providing instructions in how to properly grow and maintain Salvia plants.

Although there are two local cigarette outlet/smoke paraphernalia shops located in the City of Benicia, neither location has Salvia available for purchase. Recently, Chief of Police Sandra Spagnoli contacted Mrs. Bhagabati Shertha, owner of "Cigarettes 4 Less" to inquire into the availability of Salvia. Chief Spagnoli was informed that although the outlet store (located at 191 Military East) does not currently carry Salvia, Mrs. Shertha expressed her desire to carry the substance in the future. Although the substance is not available for purchase in Benicia, several smoke-shops in Vallejo (and throughout Solano County) have the substance available for sale. So long as an individual is over the age of 18, they are entitled to purchase Salvia. Recently, a new smoke-shop, entitled "Smoke-Shop" established its business in the Southampton Shopping Center at 866 Southampton Road. However, like "Cigarettes 4 Less", "Smoke-Shop" has not made Salvia available for customers to purchase.

Even if an individual is under the age of 18, any Benicia resident seeking to obtain Salvia can easily gain access to the substance. Just as cigarettes end up in the hands of minors, the same can be said for Salvia. Minors would merely have to solicit an individual over 18 years of age to purchase the substance for them. Passage of the proposed ordinance would prohibit any establishment in the City of Benicia to sell Salvia to any individual, regardless of age.

Please let me know if you have any questions.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR**

DATE : July 1, 2010

TO : City Manager

FROM : Finance Director

SUBJECT : **SETTING 2010-11 SECURED TAX RATES FOR BONDED INDEBTEDNESS FOR THE 1997 GENERAL OBLIGATION SEWER BONDS**

RECOMMENDATION:

Adopt the resolution setting the 2010-11 bonded indebtedness secured tax rate for the 1997 Sewer Bonds (Series A and B).

EXECUTIVE SUMMARY:

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 a slight increase in Assessed Valuation, the rate for each homeowner will have a minimal decrease from .01727 to .01713 per hundred dollars of assessed valuation. The total amount to be collected is \$755,567 and will be used to pay interest and principal on the G.O. Sewer Bonds.

BUDGET INFORMATION:

There is no budget impact for the City.

GENERAL PLAN:

There is no General Plan impact for the City.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 4.00: Preserving and Enhancing Infrastructure
 - Strategy 4.00: Provide adequate funding for on-going infrastructure needs

BACKGROUND:

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.

The resolution sets one rate for the City's remaining general obligation debt: the 1997 General Obligation Sewer Bonds. The City was authorized to issue up to \$30,000,000 in bonds to complete the wastewater treatment plant project. Due to obtaining a State Revolving Fund Loan, the City issued only \$10,000,000 in bonds, of which \$5,590,000 remains outstanding. These bonds will be retired by September 2019.

The rate is set according to a formula using both secured and unsecured property valuations, which are estimated to be \$4.628 billion for 2010-11. The rates are then used to allocate the bonded indebtedness to each property in order to collect an anticipated \$755,567 that will be used to pay interest and principal on the G.O. Bond.

Due to a slight increase in Assessed Valuation, the rate for each homeowner will have a minimal decrease from .01727 to .01713 per hundred dollars of assessed valuation. For example, if an individual owns a home assessed at \$300,000, the homeowner would pay $\$300,000 (.01713) / 100 = \51.40 for the 1997 Sewer Bonds for fiscal year 2010-11. The amount is \$.42 or 1.0% less than a homeowner with a property assessed at \$300,000 paid in fiscal year 2009-10.

Attachments:

- Resolution setting the 2010-11 secured tax rates for the 1997 Sewer Bonds
- Exhibit I

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SETTING THE 2010-11 SECURED TAX RATES FOR THE 1997 SEWER BONDS

WHEREAS, the City is required to set tax rates on secured property for payment of the 1997 sewer 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 2010-11

BOND	AMOUNT	RATE PER \$100
1997 Sewer Bonds	\$755,567	0.01713

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 20th day of July, 2010 and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

EXHIBIT I
City of Benicia 1997 General Obligation Bonds
Calculation of Ad Valorem Secured Tax Rate for Fiscal Year 2010-11

	1997 Wastewater Bonds		
Net Unsecured Tax Roll	\$ 218,244,829		
Adjusted Unsecured Tax Roll	2,182,448		
FY 09/10 Secured Tax Rate	0.01727		
	37,701		
Principal and Interest	793,268		
less amount paid by unsecured	(37,701)		
Total to be paid by secured	755,567		
Net Local Secured	4,408,336,821		
SBE values	1,300,433		
Net Total Secured	4,409,637,254		
Adjusted	44,096,373		
Tax Rate for FY 10/11	755,567	=	0.01713
	44,096,373		

Tax on \$300,000 Assessed Value

Balance Due:	\$ 5,590,000
Total Tax Base	\$ 46,278,821
Example based on \$300,000	300,000
Tax Rate for FY 10/11	0.0171
	5,140
	100
Total Tax on \$300,000 value	\$ 51.40

	1997 Wastewater Bonds
Debt Requirements	
Interest	\$ 66,488
Interest	59,750
Principal	275,000
Subtotal, Series A	401,238
Interest	68,940
Interest	63,090
Principal	260,000
Subtotal, Series B	392,030
Total Debt Requirement for FY	\$ 793,268

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR**

DATE : July 7, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **SECOND READING OF AN ORDINANCE ADDING NEW SECTIONS 1.24.020 (CITY SEAL) AND 1.24.030 (OFFICIAL FLAG) TO CHAPTER 1.24 (MISCELLANEOUS PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

Adopt the ordinance adding new sections 1.24.020 (City Seal) and 1.24.030 (Official Flag) to Chapter 1.24 (Miscellaneous Provisions) of Title 1 (General Provisions) of the Benicia Municipal Code.

EXECUTIVE SUMMARY:

On July 6, 2010, City Council introduced an ordinance regarding the City Seal and City Flag, which are used in authentication of official documents and in the conduct of official City business. Currently, there are no regulations or restrictions on (1) what the seal and flag should consist of, (2) their proper display, nor (3) the use of such.

STRATEGIC PLAN:

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

BUDGET INFORMATION:

There are no budget impacts.

BACKGROUND INFORMATION:

This proposed ordinance states specifically what the City Seal shall look like, how it can be used and displayed, and who the official custodian of the seal is. The ordinance is intended to prevent unauthorized usage or reproduction of the seal. Specific uses prohibited by the proposed ordinance include a person trying to represent the city of Benicia when he or she has either no affiliation with the city, or an individual using the seal for unofficial city use for either personal or financial gain. Also, the proposed ordinance officially designates the City Flag and provides an official description of its visual characteristics.

Attachments:

- Proposed Ordinance
- Copy of Seal and Flag

CITY OF BENICIA

ORDINANCE NO. 10-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING SECTIONS 1.24.020 (OFFICIAL SEAL) AND 1.24.030 (OFFICIAL FLAG) OF CHAPTER 1.24 (MISCELLANEOUS PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Section 1.24.020 (Official Seal) of Chapter 1.24 (Miscellaneous Provisions) of Title 1 (General Provisions) of the Benicia Municipal Code is added to read as follows:

1.24.020 City Seal.

A. Official Seal: The form of the common seal for the City of Benicia shall be circular, containing for a center scene depicting an image of the City of Benicia Capital Building and scenery in the background, and the words “City of Benicia California” surrounding the center scene. The official copy of the seal shall at all times be kept on file in the office of the City Clerk.

B. Display of the Official Seal: The official seal of the City of Benicia, when used for display purposes, or as a means of identification, shall be displayed in its entirety, without any deletions or additions thereto, and shall not be obscured from view in any manner.

C. Use of the Official Seal: No person shall use or allow to be used the official seal of the City of Benicia, or any cut, facsimile, or reproduction of said seal, or make or use any design which is an imitation of said seal or of the design thereof, or which may be mistaken for the seal of this City or the design thereof, for malicious or commercial purposes, or for any purpose other than for City purposes or for the purposes of any officer, board or department thereof, without the express consent of the City Council of the City of Benicia. It shall be deemed unlawful and considered a misdemeanor to engage in said action.

Section 2.

Section 1.24.030 (Official Flag) of Chapter 1.24 (Miscellaneous Provisions) of Title 1 (General Provisions) of the Benicia Municipal Code is added to read as follows:

1.24.030 Official Flag. An official flag for the city of Benicia is hereby adopted. The official flag shall be rectangular in shape with the a circular image of the City of Benicia Capital Building and scenery in the background surrounded in a circle of yellow saying “The City of Benicia” with the color of the backdrop being white. The standard size of the official flag shall be three feet in width and five feet in length. Any reproduction in

other than standard size shall maintain the same proportions as the standard size.

Section 3.

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 the motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the 6th day of July, 2010, and adopted at a regular meeting of the Council held on the 20th day of July, 2010, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk





**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR**

DATE : July 9, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **PRESERVATION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS**

RECOMMENDATION:

Direct staff to prepare a letter for the Mayor's signature requesting that State and Federal legislators require the Federal Housing Finance Agency to restore the practice of allowing Property Assessed Clean Energy (PACE) loans to acquire a priority lien over existing mortgages, as well as any letters in support of related legislation.

EXECUTIVE SUMMARY:

On July 6, 2010, the Federal Housing Finance Agency (FHFA) directed Fannie Mae, Freddie Mac and the Federal Home Loan Banks to no longer allow PACE loans to hold senior lien positions. The result of this action is effectively to halt programs that allow homeowners to finance renewable energy and conservation improvements through parcel assessments rather than direct purchase of solar arrays, wind turbines, on-demand water heaters and other systems. Municipalities across the country are calling on legislators to request FHFA to restore the senior lien allowance so that these valuable programs can continue.

BUDGET INFORMATION:

If PACE programs are no longer viable, \$185,000 in Valero Improvement Project 2010 Settlement Agreement funds will have to be redirected to other energy or water conservation efforts.

GENERAL PLAN:

The PACE program planned for Benicia would contribute directly to sustainability, which is the overarching goal of the General Plan.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies include:

- ❑ Strategic Issue 2: Protecting and Enhancing the Environment
- Strategy: Reduce greenhouse gas emissions and energy consumption

BACKGROUND:

PACE programs lend bond issue proceeds to property owners to voluntarily finance energy retrofits, such as solar panels, on-demand natural gas water heaters, roof-mounted wind-turbines and other greenhouse gas reducing systems. PACE programs allow property owners to repay the loans via a parcel assessment over a 20-year period. Benicia has been preparing to participate in the statewide California FIRST PACE program over the next few months. Unless the FHFA directive is reversed, local homeowners will not be able to use this mechanism to achieve greenhouse gas reduction, energy savings and cost savings. In addition, jobs will either be lost or not created related to production, installation and servicing of clean energy systems, and greenhouse gas reduction efforts will be hampered.

Attachment:

- Federal Housing Finance Agency Directive of July 6, 2010

FEDERAL HOUSING FINANCE AGENCY



STATEMENT

For Immediate Release
July 6, 2010

Contact: Corinne Russell (202) 414-6921
Stefanie Mullin (202) 414-6376

FHFA Statement on Certain Energy Retrofit Loan Programs

After careful review and over a year of working with federal and state government agencies, the Federal Housing Finance Agency (FHFA) has determined that certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by Fannie Mae, Freddie Mac and the Federal Home Loan Banks. Specifically, programs denominated as Property Assessed Clean Energy (PACE) seek to foster lending for retrofits of residential or commercial properties through a county or city's tax assessment regime. Under most of these programs, such loans acquire a priority lien over existing mortgages, though certain states have chosen not to adopt such priority positions for their loans.

First liens established by PACE loans are unlike routine tax assessments and pose unusual and difficult risk management challenges for lenders, servicers and mortgage securities investors. The size and duration of PACE loans exceed typical local tax programs and do not have the traditional community benefits associated with taxing initiatives.

FHFA urged state and local governments to reconsider these programs and continues to call for a pause in such programs so concerns can be addressed. First liens for such loans represent a key alteration of traditional mortgage lending practice. They present significant risk to lenders and secondary market entities, may alter valuations for mortgage-backed securities and are not essential for successful programs to spur energy conservation.

While the first lien position offered in most PACE programs minimizes credit risk for investors funding the programs, it alters traditional lending priorities. Underwriting for PACE programs results in collateral-based lending rather than lending based upon ability-to-pay, the absence of Truth-in-Lending Act and other consumer protections, and uncertainty as to whether the home improvements actually produce meaningful reductions in energy consumption.

Efforts are just underway to develop underwriting and consumer protection standards as well as energy retrofit standards that are critical for homeowners and lenders to understand the risks and rewards of any energy retrofit lending program. However, first liens that disrupt a fragile housing finance market and long-standing lending priorities, the absence of robust underwriting standards to protect homeowners and the lack of energy retrofit standards to assist homeowners, appraisers, inspectors and lenders determine the value of retrofit products combine to raise safety and soundness concerns.

On May 5, 2010, Fannie Mae and Freddie Mac alerted their seller-servicers to gain an understanding of whether there are existing or prospective PACE or PACE-like programs in jurisdictions where they do business, to be aware that programs with first liens contrary to the Fannie Mae-Freddie Mac Uniform Security Instrument and that the Enterprises would provide additional guidance should the programs move beyond the experimental stage. Those lender letters remain in effect.

Today, FHFA is directing Fannie Mae, Freddie Mac and the Federal Home Loan Banks to undertake the following prudential actions:

1. For any homeowner who obtained a PACE or PACE-like loan with a priority first lien prior to this date, FHFA is directing Fannie Mae and Freddie Mac to waive their Uniform Security Instrument prohibitions against such senior liens.
2. In addressing PACE programs with first liens, Fannie Mae and Freddie Mac should undertake actions that protect their safe and sound operations. These include, but are not limited to:
 - Adjusting loan-to-value ratios to reflect the maximum permissible PACE loan amount available to borrowers in PACE jurisdictions;
 - Ensuring that loan covenants require approval/consent for any PACE loan;
 - Tightening borrower debt-to-income ratios to account for additional obligations associated with possible future PACE loans;
 - Ensuring that mortgages on properties in a jurisdiction offering PACE-like programs satisfy all applicable federal and state lending regulations and guidance.

Fannie Mae and Freddie Mac should issue additional guidance as needed.

3. The Federal Home Loan Banks are directed to review their collateral policies in order to assure that pledged collateral is not adversely affected by energy retrofit programs that include first liens.

Nothing in this Statement affects the normal underwriting programs of the regulated entities or their dealings with PACE programs that do not have a senior lien priority. Further, nothing in these directions to the regulated entities affects in any way underwriting related to traditional tax programs, but is focused solely on senior lien PACE lending initiatives.

FHFA recognizes that PACE and PACE-like programs pose additional lending challenges, but also represent serious efforts to reduce energy consumption. FHFA remains committed to working with federal, state, and local government agencies to develop and implement energy retrofit lending programs with appropriate underwriting guidelines and consumer protection standards. FHFA will also continue to encourage the establishment of energy efficiency standards to support such programs.

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than \$5.9 trillion in funding for the U.S. mortgage markets and financial institutions.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR**

DATE : July 7, 2010
TO : City Manager
FROM : Public Works and Community Development Director
SUBJECT : **STORM WATER INSPECTION FEE**

RECOMMENDATION:

Modify the existing but as yet uncollected \$100 fee for storm water inspection services to a graduated fee of \$25-100 depending on type of land use activity, as presented to Council as part of the most recent Master Fee Schedule update in April 2010.

EXECUTIVE SUMMARY:

In September 2007, Council approved a \$100 Storm Water Inspection fee in the 2007-2009 Master Fee Schedule. The fee has not yet been collected primarily due to the need for staff training. In April 2010, staff recommended modifying the fee to range from \$25 to \$100 based on the cost of a development activity. The need to collect the fee corresponds to issuance by the State Water Resources Control Board of a new Construction General Permit for the City effective July 1, 2010. With the new permit, the City is responsible for enforcing our storm water ordinance, which requires Best Management Practices to protect water quality and the storm drain system from construction debris, erosion and sedimentation (as detailed in the City's Storm Water Pollution Prevention Plan provided to developers and contractors doing work in Benicia).

BUDGET INFORMATION:

Collecting a graduated fee would result in an estimated \$70,000 in annual revenue to the General Fund to offset a portion of the staff cost to perform inspections.

The modified fee would be:

0-\$4,999 project: \$25

\$5,000-\$24,999: \$50

\$25,000-\$99,999: \$75

\$100,000 or more and each lot/building of a subdivision: \$100

The City will not to seek cost recovery for overall administration of the storm water protection program, for which the City expends approximately \$120,000 per year. Municipal approaches to funding storm water programs vary from parcel assessments to fees on specific activities.

GENERAL PLAN:

Relevant General Plan Goals and Policies include:

- ❑ Goal 2.38: Protect water quality
 - Policy 2.38.1: Continue to require the use of feasible and practical Best Management Practices (BMP) to protect receiving waters from adverse effects of construction and urban runoff.
- ❑ Goal 4.12: Accommodate runoff from existing and future development
 - Policy 4.12.3: Ensure that new development pays its fair share cost of drainage system improvements.
- ❑ Goal 4.14: Prevent ground and surface water contamination
 - Policy 4.14.1: Implement non-point source pollution strategies

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies include:

- ❑ Strategic Issue 2: Protecting and Enhancing the Environment
 - Strategy: Implement new water conservation projects/programs.

BACKGROUND:

Under the provisions of the National Pollution Discharge Elimination System, the City is required to administer and enforce a Storm Water Management Plan to reduce pollutants from runoff. The City storm water ordinance (Benicia Municipal Code 15.64) establishes practices and procedures for controlling storm water discharge.

In September 2007 Council approved a Storm Water Inspection fee of \$100 to apply to each building and encroachment permit. With the July 1, 2010 activation of the City Construction General Permit from U.S. EPA and the State Water Board, City staff is now required by the regulatory agencies to comply with requirements for site inspection and program compliance verification.

Attachments:

- ❑ Resolution No. 07-111 with User Fee Determination and Master Fee Schedule
- ❑ User Fee Determination Cost Analysis Worksheets for proposed modified fee
- ❑ Minutes from April 20, 2010 Council meeting

RESOLUTION NO. 07-111

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
ADOPTING A MASTER FEE SCHEDULE THAT INCLUDES CHANGES IN
DEPARTMENTAL FEE STRUCTURES, INCLUDING DEVELOPMENT RELATED
FEES AND CHARGES**

WHEREAS, City Departments developed data and conducted surveys as necessary to support the need to amend the current fees and charges schedules; and

WHEREAS, the City Council has determined that current fees charged by the Engineering Division are not sufficient to recover the actual estimated processing and filing costs associated with development proposals; and

WHEREAS, the City Council has reviewed the proposed fee schedules for the all divisions and has determined that the fees are appropriate for the various types of applications; and

WHEREAS, the adjusted development fees do not exceed the estimated reasonable costs of providing the services in accordance with Government Code §§66013 and 66014; and

WHEREAS, the adoption of new processing fees does not constitute a project as defined by §15378(b)(4) of the California Environmental Quality Act Guidelines; and

WHEREAS, the City Council at a regular meeting on September 18, 2007, conducted a public hearing and reviewed the proposed fee schedule.

NOW, THEREFORE, the City Council of the City of Benicia hereby resolves as follows:

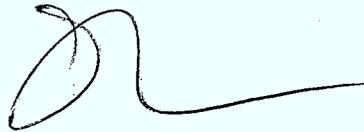
1. That the changes in various fees and charges, attached hereby and included herein, be incorporated into the revised Master Fee Schedule approved for the processing of applications by the City Council on September 18, 2007;
2. That the revised Master Fee Schedule will become effective 60 days after the date of adoption or Monday, November 19, 2007, except that those fees which are decreased by this action may become effective immediately;
3. That the Master Fee Schedule will be updated by the Finance Director annually on July 1, with development related fees based on the annual San Francisco Bay Area Consumer Price Index (CPI) for the previous year. The new fees shall be rounded to the nearest \$1, as appropriate but not exceeding the cost of service when rounding up, and the updated Master Fee Schedule will be subject to approval by the City Council each year prior to implementation.

On motion of Vice Mayor **Schwartzman**, seconded by Council Member **Hughes**, the above resolution was approved by the City Council of the City of Benicia at a regular meeting held on the 18th day of September, 2007, by the following vote:

Ayes: **Council Members Hughes, Patterson, Schwartzman, Whitney and Mayor Messina**

Noes: **None**

Absent: **None**



Steve Messina, Mayor

ATTEST:



Lisa Wolfe, City Clerk

User Fee Determination
Cost Analysis Worksheet

Fee #

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Stormwater Inspection Fee				Engineering	
	080	8080	9		Current Request
					9/18/2007

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to stormwater treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board. Required for project sites generally >10,000 square feet.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 45.64	\$ 6.85	\$ 52.49		\$ -
Mgmt Analyst	\$ 60.88	\$ 9.13	\$ 70.01	0.50	\$ 35.01
Inspector	\$ 62.60	\$ 9.39	\$ 71.99	4.00	\$ 287.94
Engineer Tech	\$ 55.19	\$ 8.28	\$ 63.47		\$ -
Asst Engineer	\$ 68.39	\$ 10.26	\$ 78.65		\$ -
Snr Civil Eng	\$ 84.72	\$ 12.71	\$ 97.43		\$ -
City Engineer	\$ 101.75	\$ 15.26	\$ 117.01		\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 322.95

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$	1.00	\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$	1.00	\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo	\$		

Total Service Direct Costs	\$ 322.95
Current Fee	\$ -
Current Subsidy	\$ 322.95
Recommended Fee	\$ 100.00
Recommended Subsidy	\$ 222.95
Fee Increase/(Decrease)	\$ 100.00

VIII-A-70

Engineering

City of Benicia Master Fee Schedule

#	Service Fee Description	Current 11/07/05	Proposed 11/19/07	% Change
822	Plan Check Fee (\$50/hour)	3% of est costs	4%/\$10K	1.00%
823	Inspection Fee (\$50/hour)	3% of est costs	4%/\$10K	1.00%
824	Performance Bond (=est. costs)	\$5,000 min	\$5,000 min	0.00%
825	Final Parcel Map / Map Check Fee (\$50/hour)	This involves staff review of legal maps including parcel maps, subdivision maps and certificates of compliance. \$500 min + hourly rate	\$640 min + hourly rate	
826	Street / Alley Vacation Process Fee (\$50/hour)	This involves staff review of street/alley vacations and taking the application through the approval process. \$2,000 min + hourly rate	\$2,500 min + hourly rate	
827	Transportation Oversize / Overload Permit (1 hour staff time)	This involves staff review and notification to police for vehicles exceeding legal limits. \$50.00	\$65.00	30.00%
Construction Hydrant Permit				
828	Permit Fee (1 hour staff time)	This involves staff review and setting of temporary hydrant meter \$50.00	\$65.00	30.00%
829	Hydrant meter set (2 hours staff time)	\$100.00	\$125.00	25.00%
830	Materials Bond	\$2,000	\$2,000	0.00%
Photocopying Costs				
831	Microfiche Copies (per page)	\$2.00	\$2.10	4.97%
832	City Map (800 scale)	\$5.00	\$5.25	4.97%
833	Set of Std Plans & Design Criteria (per set)	\$6.00	\$6.30	4.97%
834	Other City Documents	See Misc. Fee Schedule		
Other Fees and Charges				
835	Equivalent Fees and Charges *	Determined by Department Director	Varies	-
836	Related Fee Reduction *	Determined by Department Director	Varies	-
837	In-lieu Parking	\$0	\$2,000	-
838	Storm Water Inspection	\$0	\$100	-
* The Director shall determine an appropriate fee or fee reduction when conditions exist to warrant such an action.				

User Fee Determination
Cost Analysis Worksheet

Fee # 840

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Projects Costing Between \$0 and \$4,999	080	8080	?	Engineering	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Mgmt Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Inspector I	\$ 56.80	\$ 8.52	\$ 65.31	0.50	\$ 32.66
Engineer Tech I	\$ 47.14	\$ 7.07	\$ 54.22	-	\$ -
Asst Engineer	\$ 67.66	\$ 10.15	\$ 77.81	-	\$ -
Snr Civil Eng	\$ 82.76	\$ 12.41	\$ 95.17	-	\$ -
City Engineer	\$ 98.77	\$ 14.82	\$ 113.59	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 32.66

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 32.66
Current Fee	
Current Subsidy	\$ 32.66
Recommended Fee	\$ 25.00
Recommended Subsidy	\$ 7.66
Fee Increase/(Decrease)	\$ 25.00

User Fee Determination

Fee # 295

Cost Analysis Worksheet

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Construction Costing Between \$0 and \$4,999	080	8080	?	Building	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Field Utility Streets Journeyman	\$ 46.33	\$ 6.95	\$ 53.28		\$ -
Management Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Senior Admin Clerk	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Development Services Tech	\$ 48.14	\$ 7.22	\$ 55.36	-	\$ -
Building Official	\$ 91.68	\$ 13.75	\$ 105.43		\$ -
Building Inspector I	\$ 52.99	\$ 7.95	\$ 60.94	0.50	\$ 30.47
		\$ -	\$ -	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 30.47

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 30.47
Current Fee	\$ -
Current Subsidy	
Recommended Fee	\$ 25.00
Recommended Subsidy	\$ 5.47
Fee Increase/(Decrease)	\$ 25.00

User Fee Determination
Cost Analysis Worksheet

Fee # 841

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Projects Costing Between \$5,000 and \$24,999	080	8080	?	Engineering	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Mgmt Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Inspector I	\$ 56.80	\$ 8.52	\$ 65.31	1.00	\$ 65.31
Engineer Tech I	\$ 47.14	\$ 7.07	\$ 54.22	-	\$ -
Asst Engineer	\$ 67.66	\$ 10.15	\$ 77.81	-	\$ -
Snr Civil Eng	\$ 82.76	\$ 12.41	\$ 95.17	-	\$ -
City Engineer	\$ 98.77	\$ 14.82	\$ 113.59	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 65.31

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 65.31
Current Fee	
Current Subsidy	\$ 65.31
Recommended Fee	\$ 50.00
Recommended Subsidy	\$ 15.31
Fee Increase/(Decrease)	\$ 50.00

User Fee Determination
Cost Analysis Worksheet

Fee # 296

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Construction Costing Between \$5,000 and \$24,999	080	8080	?	Building	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Field Utility Streets Journeyman	\$ 46.33	\$ 6.95	\$ 53.28	-	\$ -
Management Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Senior Admin Clerk	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Development Services Tech	\$ 48.14	\$ 7.22	\$ 55.36	-	\$ -
Building Official	\$ 91.68	\$ 13.75	\$ 105.43	-	\$ -
Building Inspector I	\$ 52.99	\$ 7.95	\$ 60.94	1.00	\$ 60.94
		\$ -	\$ -	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 60.94

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 60.94
Current Fee	\$ -
Current Subsidy	
Recommended Fee	\$ 50.00
Recommended Subsidy	\$ 10.94
Fee Increase/(Decrease)	\$ 50.00

User Fee Determination
Cost Analysis Worksheet

Fee # 842

User Fee Description Storm Water Inspection Fee for Projects Costing Between \$25,000 and \$99,999	Fund 080	Program 8080	Account ?	Department/Division Engineering	Prior Approval Current Request 4/6/2010
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Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Mgmt Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Inspector I	\$ 56.80	\$ 8.52	\$ 65.31	1.25	\$ 81.64
Engineer Tech I	\$ 47.14	\$ 7.07	\$ 54.22	-	\$ -
Asst Engineer	\$ 67.66	\$ 10.15	\$ 77.81	-	\$ -
Snr Civil Eng	\$ 82.76	\$ 12.41	\$ 95.17	-	\$ -
City Engineer	\$ 98.77	\$ 14.82	\$ 113.59	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 81.64

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 81.64
Current Fee	\$ -
Current Subsidy	\$ 81.64
Recommended Fee	\$ 75.00
Recommended Subsidy	\$ 6.64
Fee Increase/(Decrease)	\$ 75.00

User Fee Determination

Fee # 297

Cost Analysis Worksheet

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Construction Costing Between \$25,000 and \$99,999	080	8080	?	Building	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Field Utility Streets Journeyman	\$ 46.33	\$ 6.95	\$ 53.28	-	\$ -
Management Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Senior Admin Clerk	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Development Services Tech	\$ 48.14	\$ 7.22	\$ 55.36	-	\$ -
Building Official	\$ 91.68	\$ 13.75	\$ 105.43	-	\$ -
Building Inspector I	\$ 52.99	\$ 7.95	\$ 60.94	1.25	\$ 76.18
		\$ -	\$ -	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 76.18

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo	\$		

Total Service Direct Costs	\$ 76.18
Current Fee	\$ -
Current Subsidy	-
Recommended Fee	\$ 75.00
Recommended Subsidy	\$ 1.18
Fee Increase/(Decrease)	\$ 75.00

User Fee Determination
Cost Analysis Worksheet

Fee # 843

User Fee Description Storm Water Inspection Fee for Projects Costing Between \$100,000 and above	Fund 080	Program 8080	Account ?	Department/Division Engineering	Prior Approval Current Request 4/6/2010
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Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Mgmt Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Inspector I	\$ 56.80	\$ 8.52	\$ 65.31	1.75	\$ 114.30
Engineer Tech I	\$ 47.14	\$ 7.07	\$ 54.22	-	\$ -
Asst Engineer	\$ 67.66	\$ 10.15	\$ 77.81	-	\$ -
Snr Civil Eng	\$ 82.76	\$ 12.41	\$ 95.17	-	\$ -
City Engineer	\$ 98.77	\$ 14.82	\$ 113.59	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 114.30

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 114.30
Current Fee	\$ -
Current Subsidy	\$ 114.30
Recommended Fee	\$ 100.00
Recommended Subsidy	\$ 14.30
Fee Increase/(Decrease)	\$ 100.00

User Fee Determination
Cost Analysis Worksheet

Fee # 298

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Construction Costing Between \$100,000 and above	080	8080	?	Building	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Field Utility Streets Journeyman	\$ 46.33	\$ 6.95	\$ 53.28	-	\$ -
Management Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Senior Admin Clerk	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Development Services Tech	\$ 48.14	\$ 7.22	\$ 55.36	-	\$ -
Building Official	\$ 91.68	\$ 13.75	\$ 105.43	-	\$ -
Building Inspector I	\$ 52.99	\$ 7.95	\$ 60.94	1.75	\$ 106.65
		\$ -	\$ -	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 106.65

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo	\$		

Total Service Direct Costs	\$ 106.65
Current Fee	\$ -
Current Subsidy	-
Recommended Fee	\$ 100.00
Recommended Subsidy	\$ 6.65
Fee Increase/(Decrease)	\$ 100.00

User Fee Determination
Cost Analysis Worksheet

Fee # 839

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Each Lot of a Subdivision - for grading	080	8080	?	Engineering	7/21/2009
					Current Request

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Senior Admin	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Mgmt Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Inspector I	\$ 56.80	\$ 8.52	\$ 65.31	1.75	\$ 114.30
Engineer Tech I	\$ 47.14	\$ 7.07	\$ 54.22	-	\$ -
Asst Engineer	\$ 67.66	\$ 10.15	\$ 77.81	-	\$ -
Snr Civil Eng	\$ 82.76	\$ 12.41	\$ 95.17	-	\$ -
City Engineer	\$ 98.77	\$ 14.82	\$ 113.59	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 114.30

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 114.30
Current Fee	\$ 100.00
Current Subsidy	
Recommended Fee	\$ 100.00
Recommended Subsidy	\$ 14.30
Fee Increase/(Decrease)	\$ -

User Fee Determination
Cost Analysis Worksheet

Fee # 294

User Fee Description	Fund	Program	Account	Department/Division	Prior Approval
Storm Water Inspection Fee for Each Building of a Subdivision	080	8080	?	Building	Current Request 4/6/2010

Description of Service, Demand, Subsidy and Other Comments

Inspect for compliance with conditions of approval related to storm water treatment and best management practices. Inspection required by adopted Storm Water Management Plan, ordinance, and State Water Quality Control Board.

Personnel Costs

Position	Rates			Hours by Position Per Unit	Total Labor Cost per Unit of Service
	Salary & Benefits	Administrative Overhead-15%	Total Burdened Labor Cost/Hr.		
Field Utility Streets Journeyman	\$ 46.33	\$ 6.95	\$ 53.28		\$ -
Management Analyst II	\$ 65.18	\$ 9.78	\$ 74.95	-	\$ -
Senior Admin Clerk	\$ 44.01	\$ 6.60	\$ 50.61	-	\$ -
Development Services Tech	\$ 48.14	\$ 7.22	\$ 55.36	-	\$ -
Building Official	\$ 91.68	\$ 13.75	\$ 105.43		\$ -
Building Inspector I	\$ 52.99	\$ 7.95	\$ 60.94	2.00	\$ 121.89
		\$ -	\$ -	-	\$ -
Total Burdened Personnel Costs per Unit of Service					\$ 121.89

Material & Rental Costs

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Materials, etc.	\$ -		\$ -
			\$ -
			\$ -
			\$ -
Total Material & Rental Costs per Unit of Service			\$ -

Other Costs (Equipment, Building Usage, Part-time Labor w/o Benefits)

Description	Cost Each	Quantity Req'd.	Unit Cost
Describe Other Costs	\$ -		\$ -
			\$ -
			\$ -
Total Other Costs per Unit of Service			\$ -

Fee Comparison Data

Jurisdiction	Fee per Unit	More or (Less) than Benicia Fee per Unit	
		Dollars	Percent
City of Benicia	\$		
City of Antioch	\$		
City of Concord	\$		
City of Fairfield	\$		
City of Martinez	\$		
City of Pleasant Hill	\$		
City of Vacaville	\$		
City of Vallejo			

Total Service Direct Costs	\$ 121.89
Current Fee	\$ -
Current Subsidy	
Recommended Fee	\$ 100.00
Recommended Subsidy	\$ 21.89
Fee Increase/(Decrease)	\$ 100.00

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
APRIL 20, 2010

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:04 p.m. on Tuesday, April 20, 2010 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

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

Absent: None

PLEDGE OF ALLEGIANCE:

Chief Vucurevic led the pledge to the flag.

FUNDAMENTAL RIGHTS:

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

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Mayor Patterson reported Council would give direction to staff to choose a recruiter to assist with the search for a City Manager. The City will look at both internal and external candidates. Council has set a target date of five months for the position to be filled.

Openings on Boards and Commissions:

- Open Government Commission:
One full term to January 31, 2014

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 946-4200.

APPOINTMENTS:

Appointment of Jon Van Landschoot to the Historic Preservation Review Commission for a full term ending January 31, 2014 (Continued from April 6, 2010 Council Meeting):

Mayor Patterson reviewed Mr. Van Landschoot's professional background. He would fulfill one of the State of California's requirements of having someone qualified as a professional history person.

Council Member Hughes discussed concerns raised at the 4/6/2010 Council meeting, regarding the incumbent not being reappointed.

Mayor Patterson discussed bringing a new person on to the HPRC.

Vice Mayor Schwartzman discussed the skills the incumbent possessed that would be lacking if he were not reappointed (the ability to read plans, know about bids, specs, know how to translate what that information means on a real project, know about timelines, etc.) . He suggested deferring Mr. Van Landschoot's appointment until there is another opening on the HPRC.

Mayor Patterson discussed already having two planners who were members of the American Institute of Certified Planners. What was lacking was the level of expertise in history.

Council Member Campbell discussed Mr. Donahue's level of experience. He hoped this would not dissuade him from reapplying in the future.

Council Member Ioakimedes discussed the issue of term limits, and possibly standardizing it for boards and commissions in the future. He discussed the importance of the Mayor retaining the nomination power.

Ms. McLaughlin discussed the issue of term limits. If Council would like to address it, Staff could draft an ordinance.

Council Member Hughes discussed the advantages of the current appointment process.

Vice Mayor Schwartzman discussed the nomination and confirmation process.

RESOLUTION 10-51 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF JON VAN LANDSCHOOT TO THE HISTORIC PRESERVATION REVIEW COMMISSION FOR A FULL TERM ENDING JANUARY 31, 2011

The above Resolution was adopted, on roll call by the following vote:
Ayes: Council Members Campbell, Ioakimedes, and Mayor Patterson
Noes: Council Member Hughes and Vice Mayor Schwartzman

PRESENTATIONS:

Recognition of City Volunteers:

Mayor Patterson presented a proclamation. Officer Patti Barron accepted the proclamation. Various Staff members discussed the volunteers that serve their departments.

Officer Barron presented a symbolic check, symbolizing the amount of volunteer hours worked during the past year.

PROCLAMATIONS:

- Recognition of Earth Day – April 22, 2010
- Recognition of Child Abuse Prevention Month – April 2010

Recognition of Law Day - May 1, 2010

ADOPTION OF AGENDA:

Mr. Erickson recommended continuing VIII-C, as the applicant and the appellant have requested and agreed to a continuance. He recommended moving the item up and opening the public hearing right after the Consent Calendar, as outside counsels were present.

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items received (copies on file).

PUBLIC COMMENT:

1. Earl Miller, Reach Out Benicia – Mr. Miller encouraged citizens to attend Reach Out Benicia’s annual fundraiser. He provided t-shirts for Council to tie-dye that would be auctioned off. He discussed the current substance abuse issues Reach Out Benicia is coming across. He asked for the City’s support in its efforts. He acknowledged the City’s financial contributions.

CONSENT CALENDAR:

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

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

Noes: None

The Minutes of April 6, 2010 were approved.

RESOLUTION 10-52 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE PUBLIC PRIVATE PARTNERSHIP AGREEMENT BETWEEN MEDIC AMBULANCE SERVICES, INC. AND THE CITY OF BENICIA

RESOLUTION 10-53 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING AN AGREEMENT WITH COGENET COMMUNICATIONS FOR A 50 MEGABYTE INTERNET CONNECTION

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

Appeal of the Rose Center Use Permit for Reduced Parking

Mr. Jackson discussed the request of the appellant's attorney to continue the item. The applicant has agreed to the continuance. Staff recommended continuing the item to the 5/18/2010 City Council Meeting.

Public Hearing Opened

Public Comment:

None

Council Member Ioakimedes and Staff discussed the timelines imposed by the courts. If the item were continued past 5/18/2010, one of the parties would be unavailable for a period of time. Ms. Coleson did not anticipate a problem with resolving the issue on 5/18/10. Council could schedule a special meeting if needed to meet the courts timeline.

Council Member Campbell discussed frustration with the appellant's attorney not being available, and the effect it has on Council's agenda.

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman, the Public Hearing was continued to the 5/18/10 Council meeting, on roll call by the following vote:

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

Noes: Council Member Campbell

Master Fee Schedule:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed the fire inspection fee (developing a report on the range of fees), stormwater fees and subsidy, the validity of using other city's fee structures, AB 1600, concerns regarding the stormwater inspection fee increase, and concern regarding the design review fees for homes in the Historic District.

Council Member Ioakimedes and Vice Mayor Schwartzman asked if they needed to recuse themselves from discussion regarding the Historic District. Staff recommended removing the fees regarding the Historic District. Staff will look into whether they would need to recuse themselves when the item is brought back.

Mayor Patterson suggested removing item numbers 428, 429, and 430 from the fee schedule, so Council could discuss it further at a future meeting. Ms. McLaughlin agreed that continuing those items was appropriate.

Council and Staff discussed the fire inspection fees and the annual amount that could be collected if the City had the available staff (approximately \$70,000). Staff would look into the issue further.

Public Hearing Opened

Public Comment:

None

Public Hearing Closed

Council Member Hughes made a motion to adopt the recommended changes without design review fees for the Historic District, and without the storm water inspection fee.

RESOLUTION 1024 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING A MASTER FEE SCHEDULE THAT INCLUDES CHANGES IN DEPARTMENTAL FEES AND CHARGES

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, the above Resolution was adopted as amended, on roll call by the following vote:

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

Noes: None

Public Hearing to consider the application of Benicia Taxi to operate taxicab service within the City of Benicia:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed the differences between taxi service and shuttle service.

Public Hearing Opened

Public Comment:

1. Citizen, Benicia Taxi – The citizen and Mr. Ahmed discussed their desire to provide taxi service to Benicia, the type of service and car that would be used, the issue having two drivers available, standard of service that they would comply with, and their availability to make trips to the airports.
2. T.J. Kumara, Yellow Cab of Vallejo and Benicia – Mr. Kumara discussed the service his company provides to Benicia, welcoming competition, this not being a good time for additional services, current drivers struggling with lack of business, average cost of service in Benicia, and the average number of calls to Benicia (8-10 per day).
3. Karen Perry, Vallejo City Cab – Ms. Perry discussed the dispatch log for Benicia. She provided a copy of the log for Council (copy on file).
4. Citizen, Vallejo City Cab – The citizen discussed his response time from Benicia to Vallejo, and concerns regarding the lack of business to support another taxi service.
5. Citizen, Vallejo Yellow Cab of Vallejo – The citizen discussed the poor economic conditions, the lack of need of another taxi cab service to Benicia, and concerns regarding the new company's availability to serve Benicia if it's only car goes to San Francisco.
6. Citizen, California Cab – The citizen discussed the service his company provides to Benicia, concerns regarding the proposed company's dispatch, concern regarding lack

of availability if their cab went to San Francisco, the quality of vehicles California Cab provides, the need for more time to evaluate whether another taxi company is needed, and average number of calls per day in Benicia (3-4).

Public Hearing Closed

Staff and Council discussed the issue of set fares, the issue of supply and demand, the current three companies meeting the current demand, the need for performance criteria, the permitting process, current contractual obligations with cab companies, and concerns regarding level of service.

Council and Staff discussed reconsidering application when the economy or the company's business plan changes.

Council and Ms. McLaughlin discussed the proposed language. It would be a resolution rejecting the application, use the first three whereas', delete the last two whereas', then it would then read 'now therefore be it resolved that the City Council of the City of Benicia based on public testimony at the Council meeting, the City finds that the number of taxicabs is sufficient to meet the public's need, and increasing the number of taxicabs would exceed the demand. Be it further resolved that the City Council of the City of Benicia rejects the application of Benicia Taxi to operate within the City of Benicia in accordance with the Benicia Municipal Code, because the public convenience and the necessity do not require additional taxicab companies in town.'

Council discussed including something in the resolution language stating 'whereas the current economic conditions or the climate is not attractive, however, future economic conditions may change, and such application and competition would be considered' or that 'until the applicant can demonstrate that the market can accommodate an additional company.'

Council Member Campbell and Staff discussed whether the resolution would hold up in court. It was Staff's opinion that it would.

RESOLUTION 10-55- A RESOLUTION REJECTING THE APPLICATION OF BENICIA TAXI TO OPERATE CAB SERVICE WITHIN THE CITY OF BENICIA

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, the above Resolution was adopted, on roll call by the following vote:

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

Noes: None

ACTION ITEMS:

None

INFORMATIONAL ITEMS:

Reports from City Manager:

Alarm System Ordinance Discussion And Options:

Jim Erickson, City Manager, and Chief Spagnoli reviewed the staff report. Council and Staff discussed the fee structure, response period, habitual false alarm offenders, what constitutes a false alarm, the proposed registration process, permit fees, annual fees, looking at a phasing approach, the need for a true cost assessment of Staff time, and figuring out a way to decrease paperwork that the businesses would have to complete.

Public Comments:

1. John Sergeant, ADT – Mr. Sergeant spoke in support of an alarm system ordinance. ADT was willing to provide information to assist the City in its efforts.
2. Roberta Morgan, Morgan Alarm Company – Ms. Morgan spoke in support of an alarm system ordinance. Morgan Alarm Company was more than happy to provide information to assist the City in its efforts.
3. Tom Rood, East Bay Alarm Association – Mr. Rood discussed the Association's philosophy on false alarms. They would like to assist the City with its alarm ordinance.

Council and Staff discussed concern regarding 90% of the issues being caused by 10% of the users. They discussed the need for communication with the community regarding the benefits.

Council gave direction to Staff to continue working with industry, other concerned business people, and residents, to develop an ordinance to include the requirement of an alarm permit registered with the Benicia Police Department, and to consider fees.

Council Member Campbell discussed concern regarding the issue of fees.

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: April 21, 2010
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: Spring General Assembly – April 22, 2010
3. Finance, Audit & Budget Committee - (Vice Mayor Schwartzman & Council Member Campbell) - Next Meeting Date: April 23, 2010
4. League of California Cities - (Mayor Patterson & Vice Mayor Schwartzman) - Next Meeting Date: April 29, 2010
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: August 7, 2010
6. Sky Valley Open Space Committee - (Council Members Campbell & Hughes) - Next Meeting Date: May 5, 2010
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Campbell) - Next Meeting Date: May 27, 2010
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: May 12, 2010

9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Schwartzman) - Next Meeting Date: May 13, 2010
10. Traffic, Pedestrian and Bicycle Safety Committee - (Council Members Hughes & Ioakimedes) - Next Meeting Date: May 20, 2010
11. Tri-City and County Cooperative Planning Group - (Council Members Campbell & Hughes) - Next Meeting Dates: April 19, 2010
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: April 29, 2010
13. Youth Action Coalition - (Vice Mayor Schwartzman & Council Member Campbell) - Next Meeting Date: April 28, 2010
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: April 26, 2010

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:53 p.m.

Lisa Wolfe, City Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR

DATE : July 13, 2010
TO : City Council
FROM : City Attorney
SUBJECT : **APPOINTMENT OF AN INTERIM CITY MANAGER**

RECOMMENDATION:

Adopt the resolution approving an agreement with Jim Erickson for interim city manager services.

EXECUTIVE SUMMARY:

Due to the retirement of City Manager Jim Erickson on July 15, 2010, arrangements for temporary city manager services are required until a new city manager is hired. This agreement allows Jim Erickson to continue to provide city manager services until September 15, 2010.

BUDGET INFORMATION:

There is some small savings from this agreement. The agreement continues the 3% reduction to salary the City Manager previously agreed to. However, because this position is not an employee position, there is not cost for health and retirement benefits typical of an employee position.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A

BACKGROUND:

Effective July 15, 2010, Jim Erickson will retire as City Manager. He has agreed to continue to provide city manager services on an interim basis until September 15, 2010. It is hoped that a new city manager will be on board by then. The agreement may be extended if both parties agree. The attached agreement provides for the same salary compensation as previously provided to the City Manager, including the 3% reduction. Rather than call out specific office hours, the agreement specifies the Interim City Manager will work an average of 40 hours per week. Necessary and reasonable expenses will be reimbursed.

Attachments:

- Resolution
- Agreement
- Interim City Manager response 070110

RESOLUTION NO. 10-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
HIRING JIM ERICKSON AS THE INTERIM CITY MANAGER**

WHEREAS, Jim Erickson currently serves as the City Manager for the City and has performed his duties in a praiseworthy and diligent manner; and

WHEREAS, Mr. Erickson has given notice of his intent to retire effective July 15, 2010;

WHEREAS, the City Council desires to have Mr. Erickson continue to serve the City as Interim City Manager on an interim basis until a recruitment can be done and a new City Manager is hired; and

WHEREAS, Mr. Erickson is willing to serve until September 15, 2010 unless mutually extended.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENICIA that the agreement hiring Jim Erickson as Interim City Manager is hereby approved.

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 20th day of July, 2010, and adopted by the following vote:

Ayes:

Noes:

Absent:

Attest:

Elizabeth Patterson, Mayor

Lisa Wolfe, City Clerk

AGREEMENT FOR INTERIM CITY MANAGER SERVICES

This Employment Agreement for Interim City Manager Services is entered into effective July 16, 2010 between the City of Benicia ("City") and Jim Erickson.

WHEREAS, the City desires to hire Jim Erickson as its Interim City Manager;
and

WHEREAS, Jim Erickson is qualified and willing to serve as the Interim City Manager.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Scope of Services. The City hereby hired Jim Erickson as its Interim City Manager to perform the duties of the City Manager as set forth in Sections 2.08.070 and 2.08.080 2.08 of the Benicia Municipal Code and such other duties as may be required of the City Manager by the City Council.

2. Time of Performance. The services of Jim Erickson ("Interim City Manager") shall commence on July 16, 2010 and shall continue until September 15, 2010 unless extended by mutual agreement. It is agreed that the Interim City Manager shall hold regular office hours and shall attend day and night meetings, including City Council meetings, as necessary and proper for the scope of services. It is anticipated that the Interim City Manager will work an average of 40 hours per week but shall be entitled to take, without deduction from his compensation, regular city holidays off as well as 14 hours per month in lieu of vacation. An additional time off which reduced the Interim City Manager's hours below the 40 hour average shall be without pay.

3. Compensation. The Interim City Manager shall receive compensation in the amount of \$16310.55 per month (\$16,815 less 3%). Any necessary and reasonable expenses shall be reimbursed according to City policy. Training and education expenses shall not be considered necessary or reasonable except that expenses for Mayor's Conference Meetings, Division Meetings of the League of California Cities and similar local meetings where the Interim City Manager is representing the City are reimbursable.

4. Independent Contractor. It is understood that the Interim City Manager, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. The Interim City Manager shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and the Interim City Manager hereby expressly waives any claim he may have to any such rights.

5. Termination. The City Council may terminate this Agreement at any time without cause upon a three-fifth's (3/5) vote of the City Council. Upon termination, the Interim City Manager shall be entitled to compensation for services performed up to the effective

date of termination. The Interim City Manager may terminate this Agreement at any time without cause upon providing 30 days' written notice to the City Council.

6. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

7. Amendments. This Agreement may be modified or amended only by a written document executed by both the Interim City Manager and the City and approved as to form by the City Attorney.

8. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

CITY OF BENICIA

INTERIM CITY MANAGER

Elizabeth Patterson, Mayor

APPROVED AS TO FORM:

ATTEST:

Heather C. Mc Laughlin
City Attorney

Lisa Wolfe
City Clerk

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
CONSENT CALENDAR

DATE : July 13, 2010

TO : City Council

FROM : City Attorney

SUBJECT : **REVISING THE PROCESS FOR APPOINTMENT TO THE CITY COUNCIL APPOINTMENT SUB-COMMITTEE**

RECOMMENDATION:

Adopt the resolution clarifying the appointment process for City Council Members to be appointed to the Appointment Sub-committee.

EXECUTIVE SUMMARY:

In 2008, the City Council adopted a procedure to incorporate a City Council Sub-committee to make recommendations to the Mayor on appointments to boards, commissions and committees. While this process has worked well, an adjustment needs to be made to ensure that there is adequate rotation and overlap on the Sub-committee.

BUDGET INFORMATION:

There is no budget impact.

GENERAL PLAN:

N/A

STRATEGIC PLAN:

N/A

BACKGROUND:

At a January 2008 special meeting, the City Council reviewed the City's boards and commissions as well as the City's practices as they relate to recruitment of board and commission members, application format, interview/appointment process, term limits, as well as several other related issues. One of the areas identified for further review was the interview/appointment process to allow more openness of this process and better integrate Council input in the selection of potential board and commission members.

Later, a Council Sub-committee composed of Mayor Patterson and Council Member met and explored this process in more detail. As a result of that meeting, the sub-committee recommended that a study session be held in order to give the Council an opportunity to hear from representatives of other communities regarding how they handle the appointments. After the study session, the Council agreed to pursue the subcommittee approach, similar to Fairfield's process.

The process adopted involves the Mayor appointing two Council Members to an appointment subcommittee. This subcommittee interviews all applicants for the various board and commission openings, and then provides the Mayor with a ranked list of the top 2-3 candidates. The Mayor will then utilize this input in terms of making a selection.

This process has worked well for the past two years. Recently, it has become difficult to comply with the provision that provides: "Whereas, each term of the subcommittee will be filled by Council Members who did not serve on the committee during the prior term." To fix this, the appointment resolution has been revised to reflect that filling the Sub-committee with members who did not serve on the committee during the prior term will be done to the extent possible. Also, spreading out the appointments of the Sub-committee members will allow better overlap. A provision has been added to state that the appointment of the Sub-committee members will happen in January and July of each year and that each term will be for one year.

The appointment of Vice Mayor Schwartzman to the Appointment Subcommittee will be for the term beginning in July. Council Member Hughes has agreed to continue on the committee. Although his term is set to expire in September, he will continue to serve until January in order to accomplish the appropriate overlap of terms. This continuing to serve is consistent with the process for city boards and commission where the members serve until a successor is appointed.

Attachments:

- Resolution
- Redlined Resolution

RESOLUTION NO. 10-__

A RESOLUTION OF THE CITY COUNCIL REVISING THE PROCEDURE FOR APPOINTMENT TO BOARDS, COMMISSIONS AND COMMITTEES TO INCORPORATE RECOMMENDATIONS TO THE MAYOR FROM A CITY COUNCIL APPOINTMENT SUBCOMMITTEE

WHEREAS, the Mayor of the City of Benicia, with confirmation by the City Council, appoints certain members of the community to boards and commissions; and

WHEREAS, beginning June 17, 2008, a two-member subcommittee appointed by the Mayor, which will rotate among council members with one new appointee each year, shall be appointed to interview applicants for all boards, commissions and committees, unless otherwise provided for by statute, ordinance or resolution; and

WHEREAS, to the extent possible, each term of the subcommittee will be filled by Council Members who did not serve on the committee during the prior term; and

WHEREAS, this subcommittee shall recommend two to three applicants, in ranked order, to the Mayor for each vacancy and the Mayor shall make the appointments from the recommended applicants; and

WHEREAS, if none of the applicants are acceptable to the Mayor, the subcommittee shall recommend two additional applicants until an appointment is made by the Mayor, which shall be subject to final approval by the Council; and

WHEREAS, if, at any point during this process, only one qualified applicant is available, the committee may choose to make a single recommendation; and

WHEREAS, if the subcommittee is unable to recommend applicants due to lack of qualified applicants, then the Mayor may elect to interview the available applicants and/or direct staff to conduct additional outreach efforts to fill the opening; and

WHEREAS, the members currently serving on City boards, commissions and committees as of the effective date of this resolution shall be subject to its provisions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that process of making appointments to boards, commissions and committees is revised to incorporate a City Council sub-committee that will jointly interview applicants and make recommendations to the Mayor.

BE IT FURTHER RESOLVED THAT one member of the City Council sub-committee shall be appointed in January of each year and one member appointed in July of each year, each for a one year term.

On motion of Council Member _____, seconded by Council Member _____, 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 20th day of July, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

RESOLUTION NO. 10-Redlined

A RESOLUTION OF THE CITY COUNCIL REVISING THE PROCEDURE FOR APPOINTMENT TO BOARDS, COMMISSIONS AND COMMITTEES TO INCORPORATE RECOMMENDATIONS TO THE MAYOR FROM A CITY COUNCIL APPOINTMENT SUBCOMMITTEE

WHEREAS, the Mayor of the City of Benicia, with confirmation by the City Council, appoints certain members of the community to boards and commissions; and

WHEREAS, beginning June 17, 2008, a two-member subcommittee appointed by the Mayor, which will rotate among council members with one new appointee each year, shall be appointed to interview applicants for all boards, commissions and committees, unless otherwise provided for by statute, ordinance or resolution; and

WHEREAS, to the extent possible, each term of the subcommittee will be filled by Council Members who did not serve on the committee during the prior term; and

WHEREAS, this subcommittee shall recommend two to three applicants, in ranked order, to the Mayor for each vacancy and the Mayor shall make the appointments from the recommended applicants; and

WHEREAS, if none of the applicants are acceptable to the Mayor, the subcommittee shall recommend two additional applicants until an appointment is made by the Mayor, which shall be subject to final approval by the Council; and

WHEREAS, if, at any point during this process, only one qualified applicant is available, the committee may choose to make a single recommendation; and

WHEREAS, if the subcommittee is unable to recommend applicants due to lack of qualified applicants, then the Mayor may elect to interview the available applicants and/or direct staff to conduct additional outreach efforts to fill the opening; and

WHEREAS, the members currently serving on City boards, commissions and committees as of the effective date of this resolution shall be subject to its provisions.

~~**WHEREAS**, the City Attorney is hereby directed to prepare the appropriate ordinances to amend the Benicia Municipal Code and resolutions to be consistent with the procedure set forth in this resolution. The City Manager and City Attorney shall establish the procedure for phasing the resolution into effect.~~

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that process of making appointments to boards, commissions and committees is revised to incorporate a City Council sub-committee that will jointly interview applicants and make recommendations to the Mayor.

BE IT FURTHER RESOLVED THAT one member of the City Council sub-committee shall be appointed in January of each year and one member appointed in July of each year, each for a one year term.

On motion of Council Member _____, seconded by Council Member _____, 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 20th day of July, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: JULY 6, 2010
INFORMATIONAL ITEM**

DATE: July 6, 2010

TO: Jim Erickson, City Manager

FROM: Steve Vucurevich, Fire Chief

SUBJECT: **INFORMATIONAL REPORT ON VALERO INCIDENTS
OCCURRING ON JUNE 17, 2010**

RECOMMENDATION:

Receive report as information and provide any direction to staff that may be appropriate.

EXECUTIVE SUMMARY:

On June 17, 2010, the Valero Refinery had two vapor releases. The second one, occurring at 8:51 PM resulted in activation of the Community Alert and Notification (CAN) System. The activation of the CAN System identified some problems that have been evaluated and corrected.

Based on information received from the Bay Area Air Quality Management District, fine carbon particulates were present downwind of the refinery as a result of these incidents. This information was gathered by the use of fallout plates, which were placed downwind of the refinery. Based on information received from the Solano County Department of Resource Management Environmental Health Division, ground level monitors in the area did not show any readings and the release of the carbon particulates did not constitute a significant health risk. Don Gamiles, PhD, of Argos Scientific also evaluated information gathered by the UV Hound (air quality monitoring device). He found levels reading far below any current health standards for the gases in question, and these levels are consistent with what are typically seen in urban environments.

BUDGET INFORMATION:

N/A

BACKGROUND:

On June 17, 2010 at 10:18 AM, the Benicia Fire Department was dispatched to a vapor release at the Valero Refinery, 3400 East Second Street. The initial First Alarm response included a chief officer (Division Chief Tim Winfield), two engines, and a rescue from Benicia Fire Department and one engine from Vallejo Fire Department. On arrival, there was black cloud coming from a tower unit in the middle of the refinery. Division Chief Winfield requested a second chief officer and ladder truck from the Vallejo Fire Department.

Chief Tim Winfield met with Valero Fire Chief Frank Averett who was serving as the Operations Chief for the incident. Based on the information exchange between the two, a second alarm was requested by Division Chief Winfield. Engine 11 from Benicia and Truck 27 from Vallejo responded into the plant to assist the Valero Fire Department units with operations. All other resources were staged at the main gate of Valero. We received information that four Valero workers were evaluated for minor injuries on site and were released back to work. The incident was stabilized without incident and without injury to emergency responders.

On June 17, 2010 at 8:51 PM, the Benicia Fire Department was dispatched to a vapor release at the Valero Refinery, 3400 East Second Street. The initial First Alarm response included a chief officer (Division Chief Tim Winfield), two engines, and a rescue from Benicia Fire Department and one engine from Vallejo Fire Department. On arrival, there was a large yellow/brown cloud rising from a stack, with the cloud covering a large part of the refinery. Division Chief Winfield requested a second alarm response to the incident. He also requested a Level 3 notification with a number nine message to be sent out through the Community Alert and Notification (CAN) System. A Level 3 notification includes the activation of the CAN System sirens. The number nine message is an advisory that an incident has occurred at the refinery that could affect individuals with respiratory sensitivities, but there is no threat to the general community. Benicia Fire Marshal Ray Iverson responded to the incident and was initially assigned as the Staging Manager and later assigned as the Information Officer for the incident. Benicia Engines 11 and 12 responded to Valero Fire Station 15 inside the refinery. Division Chief Tim Winfield and Vallejo Fire Chief Doug Robertson responded to the Valero Control House to meet with the Valero Incident Commander. The incident was stabilized without incident and without any injury to emergency responders or anyone else, to our knowledge. The CAN System remained active with message nine until about 10:30 PM, when the message was updated.

The Valero Refinery has a fire brigade staffed by plant personnel and trained in emergency firefighting operations, technical rescue operations and emergency medical services. Fire Chief Frank Averett oversees the brigade and is also very experienced with the Valero Refinery operations. All fire agencies within Solano County are part of the mutual aid agreement, which utilizes an alarm matrices to respond emergency fire resources to incidents as needed as well as staff host agency fire stations for additional calls for service. Each alarm level brings additional resources to the scene of the incident.

The Community Alert and Notification (CAN) System is designed to alert our citizens to potential hazards that may be present as a result of an emergency incident and to give information out quickly, in order to help them stay safe during the event. The system incorporates emergency sirens located throughout the community, which provide an audible alert, and cable television Channel 27 and radio station 1610, which provide information. The sirens are typically utilized to signal a shelter in place, but in the second Valero incident on June 17th, the sirens were activated to alert the community to a potential hazard, so that they would know to check Channel 27 and radio station 1610 for additional information.

The activation of the CAN System for the second Valero event identified some problems that were not recognized prior to the activation. For example, there was a date at the bottom of the Channel 27 message that caused confusion to the public. This date has been

eliminated on all CAN Channel 27 messages. The streaming video link, which is a brand new feature that is currently being tested on the City's website, was not over ridden by the Channel 27 CAN message. This has been corrected and is now functioning properly. Information will be going out to the public in early July to communicate the availability of this feature for accessing Channel 27 via the website. Finally, radio station 1610 did not get activated during the incident due to the volume of calls received by the dispatch center. Procedures have been put in place to prevent this from occurring in the future. A meeting was held on 6/29/2010 between Benicia Fire and Police Department and Valero representatives to discuss the incident and to look at ways of improving our response in the future. Additionally, public outreach, including press releases, email alerts and a mass mailing with information regarding the CAN system are currently underway in order to ensure the community is aware of actions to take when the CAN system is activated.

**AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
PUBLIC HEARING**

DATE : July 7, 2010
TO : City Manager
FROM : Public Works & Community Development Director
SUBJECT : **INTRODUCTION AND FIRST READING OF ORDINANCE
AMENDING CHAPTER 13.50 PRETREATMENT AND SOURCE
CONTROL OF WASTE DISPOSAL OR DISCHARGE AND
ADOPTION OF A RESOLUTION AMENDING THE
PRETREATMENT ENFORCEMENT RESPONSE PLAN**

RECOMMENDATION:

Hold a public hearing, introduce the proposed ordinance amending Title 13 (Public Services) of the Benicia Municipal Code by amending Chapter 13.50 (Pretreatment and Source Control of Waste Disposal or Discharge) and adopt a resolution amending the Pretreatment Enforcement Response Plan.

EXECUTIVE SUMMARY:

To comply with revised federal regulations pertaining to the City's program governing nonresidential discharges to the wastewater treatment plant, the City has drafted an update to its current pretreatment ordinance. As also required, the City has drafted an update to the Pretreatment Enforcement Response Plan. The Plan outlines noncompliant situations and subsequent enforcement actions. The ordinance affects industrial, commercial, and institutional customers that use water in any process of their business that results in a wastewater discharge. If a business uses water only in bathrooms, employee kitchens, or landscaping, this ordinance does not apply.

GENERAL PLAN:

Relevant General Plan Goals:

- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
The pretreatment program reduces pollutant load to the wastewater plant thereby

protecting the environment by reducing the potential for discharge permit violations.

□ Strategic Issue #4: Preserving and Enhancing Infrastructure

The pretreatment program reduces pollutant load to the wastewater collection (sewer) system thereby reducing the potential for sewer overflows and protects plant processes and reducing the potential for permit violations.

BUDGET INFORMATION:

There are no budget impacts from the proposed action.

BACKGROUND:

The City of Benicia is required by the Environmental Protection Agency (EPA), under the provisions of the Clean Water Act, to conduct a pretreatment program as part of the National Pollutant Discharge Elimination System (NPDES) permit for the wastewater treatment plant. All agencies with pretreatment programs, including the City of Benicia, are required to maintain their pretreatment ordinance in compliance with the Federal regulations outlined in 40 CFR 403 – General Pretreatment Regulations for Existing and New Sources of Pollution. To comply with revisions to the regulations, the City drafted an update to its current ordinance using language from a “model” pretreatment ordinance written and provided by the Environmental Protection Agency. The ordinance affects industrial, commercial and institutional customers that use water in any process of their business that results in a wastewater discharge. If a business uses water only in bathrooms, employee kitchens, or landscaping, this ordinance does not apply.

Key points of the proposed ordinance changes are listed below:

- No changes in the existing fee structure will occur as a result of the proposed changes.
- Provides for minimal regulation of small (<100 gallons per day of process wastewater discharge) Significant Industrial Users (SIUs).
- Spill control requirements must be included in SIU permits.
- If an industrial user category (such as cheese manufacturing) is identified as “significant,” the business must be evaluated within one year to determine the need for a spill control plan.
- SIUs are required to notify the wastewater treatment plant immediately of any changes that would affect the potential to have a non-routine (slug) discharge.
- The definition of Significant Noncompliance (SNC) is expanded to include additional types of Pretreatment Standards and Requirements (such as Best Management Practices).
- SIU permits must contain Best Management Practices (BMPs) that are required by Federal standards for specific industries, local limits, or State or local law.

- The City's Pretreatment Program and SIUs must maintain records of BMP compliance in the same manner as other record-keeping requirements.
- If Benicia's Pretreatment Program performs sampling for the SIU, the City is also responsible for performing repeat analysis within 30 days of becoming aware of the violation.
- If an SIU has to submit reports that document water sample events, the City has to state how many samples are required and require that for any sample collected the results are reported.
- Certain SIUs are required to collect samples that are representative of their wastewater discharge.
- Requires the SIU to notify the City of any changed conditions of the wastewater discharged.
- The City Manager must specify the authorized representative of the City.

Concurrently, the Pretreatment Enforcement Response Plan (ERP) is being updated. The ERP defines noncompliant wastewater discharges or other wastewater-related activities that require oversight and identifies the responses the City will undertake and the staff person responsible. Nationwide, all agencies with pretreatment programs are required to adopt a Pretreatment Enforcement Response Plan to clarify enforcement actions in response to noncompliant pretreatment program situations, such as discharge violations.

Outreach to the business community occurred through several means. A summary of the regulation changes, the proposed draft ordinance, and the proposed revised Enforcement Response Plan were posted on the City's website starting May 27, 2010. Brief information on the ordinance changes, a public workshop, and where to obtain further information was sent using the Economic Development Division's e-newsletter on June 2, 2010 and was advertised on Channel 27 starting June 4, 2010. The Chamber of Commerce and Benicia Industrial Park Association were provided a summary page of the regulation changes that was sent via their email lists, and all current permitted users were notified via email. A public workshop was held June 14, 2010 and staff made a presentation at a Benicia Industrial Park Association Board meeting on June 16, 2010.

Attachments:

- ❑ Proposed Ordinance Amending Chapter 13.50 to Title 13 of the Benicia Municipal Code (clean copy)
- ❑ Proposed Ordinance Amending Chapter 13.50 to Title 13 of the Benicia Municipal Code (with changes shown)
- ❑ Proposed Resolution amending the Pretreatment Program Enforcement Response Plan
- ❑ Amended Pretreatment Program Enforcement Response Plan

Chapter 13.50

PRETREATMENT AND SOURCE CONTROL
OF WASTEWATER DISPOSAL OR DISCHARGE*

Sections:

- 13.50.010 Purpose and policy.
- 13.50.020 Definitions.
- 13.50.030 Abbreviations.
- 13.50.040 Prohibited discharge--Certain waters or wastes.
- 13.50.041 Hazardous waste notification.
- 13.50.042 Unlawful disposal of wastes.
- 13.50.043 Prohibited discharge locations.
- 13.50.044 Treatment of wastes required.
- 13.50.046 Unlawful disposal facilities.
- 13.50.050 Federal categorical pretreatment standards.
- 13.50.075 Best Management Practices (BMPs).
- 13.50.070 Pollutant limitations and local limits.
- 13.50.080 Prohibition of dilution as treatment.
- 13.50.085 Deny/Condition New or Increased Contributions.
- 13.50.089 Reports of Changed Conditions
- 13.50.090 Accidental and Slug Discharges
- 13.50.095 Slug Discharge Control Plans.
- 13.50.100 Charges and fees.
- 13.50.105 Permit required.
- 13.50.115 Special Discharge Permit.
- 13.50.120 Permit—Application
- 13.50.125 General Permits
- 13.50.130 Permit— Revocation.
- 13.50.140 Permit--Modifications.
- 13.50.150 Permit conditions.
- 13.50.160 Permit duration.
- 13.50.165 Permit reissuance.
- 13.50.170 Permit transfer.
- 13.50.175 Analytical requirements.
- 13.50.180 Reporting and sampling requirements for permittee.
- 13.50.183 Sample Collection.
- 13.50.185 Recordkeeping requirements.
- 13.50.190 Monitoring requirements.
- 13.50.200 Inspection and sampling.
- 13.50.210 Pretreatment.
- 13.50.215 POTW requirements.
- 13.50.220 Confidential information.
- 13.50.230 Emergency suspensions.

* Prior ordinance history: Ords. 88-13 N.S., and 90-11 N.S., and 92-1 N.S.

13.50.240	Permit--Enforcement--Termination of permit.
13.50.250	Notification of Violation.
13.50.251	Notification of Violation and Repeat Sampling.
13.50.252	Enforcement—Administrative Orders.
13.50.255	Enforcement--Cease and desist orders.
13.50.260	Enforcement--Show cause hearing.
13.50.265	Enforcement--Consent orders.
13.50.266	Enforcement--Compliance orders--Discontinuance of sewer service.
13.50.270	Enforcement--Legal action.
13.50.275	Enforcement--Injunctive relief.
13.50.280	Violations--Public nuisance.
13.50.285	Applicable Civil and Criminal Penalties.
13.50.290	Repealed.
13.50.295	Enforcement-- Appeal Process.
13.50.300	Violations--Misdemeanor.
13.50.305	Publication of IUs in Significant Non-Compliance
13.50.310	Penalties--Cumulations.
13.50.315	Enforcement--Liability insurance.
13.50.320	Severability.
13.50.325	Enforcement
13.50.330	Conflict.
13.50.340	Exceptions--Special agreements.
13.50.360	Publication of IUs

13.50.010 Purpose and policy. A. This chapter sets forth uniform requirements for direct and indirect discharges into the wastewater collection and treatment system pursuant to authority conferred by law including but not limited to the California Health and Safety Code, § 5400 - 5474, the California Government Code, § 54725 – 54740.6, and 66000 - 66003, the California Code of Regulations, Title 22, the Porter Cologne Water Quality Control Act (California Water Code Division 7), the Federal Clean Water Act, 33 U.S.C. 1251, *et seq.*, the Code of Federal Regulations, 40 CFR Parts 400 - 699, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901, *et seq.* and the National Pollutant Discharge Elimination System permits issued by the Regional Water Quality Control Board, San Francisco Bay Region to the City of Benicia. B. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the municipality wastewater system, which may interfere with the operation of the system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants into the municipal wastewater system which may pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the municipal wastewater system;
3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
4. To provide for equitable distribution of the cost of the municipal wastewater system.

5. To protect both municipal wastewater personnel who may be affected by wastewater and sludge in the course of their employment and the general public.

C. This chapter provides for the regulation of all Users of the municipal wastewater system or Publicly Owned Treatment Works (POTW). The ordinance authorizes the issuance of individual or general wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the Superintendent of the city POTW shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized City employee.

13.50.020 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter shall have the meanings hereafter designated:

"Act" or "the Act" means the Federal Clean Water Act formerly known as the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.

"Approval authority" means the director of the California State Water Resources Control Board (SWRCB) Division of Water Quality NPDES Unit which conducts an approved state pretreatment program. .

"Authorized or Duly Authorized representative of industrial or other user" means:

1. If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
4. The individuals described in paragraphs A through C, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for

environmental matters for the facility, and the written authorization is submitted to the City.

"Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in BMC Section 13.50.040 A and B [CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage."Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at twenty degrees centigrade, usually expressed as a concentration (e.g., milligrams per liter) but may be converted to organic loading, expressed as pounds per day.

"Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW.

"Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

"Categorical standard or Categorical Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307 (b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 – 471.

"Chemical Oxygen Demand (COD)" is a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

"City" means the city of Benicia or the city council of Benicia.

"Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

"Categorical Industrial User" (CIU) means any industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

"Control authority" means the city of Benicia or the Superintendent given that the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

"Daily Maximum Limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where Daily Maximum Limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

"Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the state of California.

"Domestic user" means a user that discharges wastewater from a single or multi-family residence.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

"Existing Source" means any source of discharge that is not a "New Source."

"Grab sample" means a sample which is taken from a wastestream on a one-time basis with no regard to the flow volume of the wastestream and over a period of time not to exceed 15 minutes.

"Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

"Indirect discharge" means the introduction of pollutants into the POTW from any nondomestic source. "Industrial user or IU" means a source of indirect discharge.

"Instantaneous Limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the typical operation of the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, may cause a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

"Local Limit" means specific discharge limits developed and enforced by the city upon industrial or commercial User facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

"Medical Waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and potentially contaminated laboratory wastes, and dialysis wastes.

"Monthly Average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"Monthly Average Limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"New Source" means:

1. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

- b. The building, structure, facility, or installation completely replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

- c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with

the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program

i. any placement, assembly, or installation of facilities or equipment; or

ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

"National pollution discharge elimination system permit" or "NPDES permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

"Noncontact Cooling Water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"Pass-Through" means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

"pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, certain medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor.)

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or

biological processes, or process changes or by other means, except ; by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard. .

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

"Pretreatment Standards or Standards" means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

"Publicly Owned Treatment Works (POTW)" means a treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

"POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater.

"Shall" is mandatory; "may" is permissive.

"Significant Industrial User (SIU)."

Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

1. An Industrial User subject to Categorical Pretreatment Standards; or
2. An Industrial User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement..
3. The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a SIU on a finding that the IU never discharges more than 100 gallons per calendar day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - a. The IU, prior to the City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - b. The IU annually submits the certification statement required in 40 CFR 403.12(q) or BMC Section 13.50.180(E)(2), together with any additional information necessary to support the certification statement; and
 - c. The IU never discharges any untreated concentrated wastewater.
4. Upon a finding that a User meeting the criteria in BMC Section 13.50.040 of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from

an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU. "Significant noncompliance" (SNC) means the federal regulations establish criteria for publishing that significant noncompliance is one or more of the following:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-(6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 13.50.040 of this ordinance;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33%) or more of wastewater measurements taken for each pollutant parameter taken during a six-(6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined by Section 13.50.040 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a Pretreatment Standard or Requirement as defined in this chapter (daily maximum, monthly average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; and

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program..

"Slug load" or "slug discharge" means any pollutant release (of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge) in a discharge at a flow rate and/or pollutant concentration which has a reasonable potential to cause Interference or Upset of the sewerage system operations, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

"State" means the state of California.

"Standard industrial classification (SIC)" means a classification pursuant to the 1987 SIC Manual and North American Industry Classification System (NAICS) means classification pursuant to the 2007 NAICS Manual, both issued by the Executive Office of the President, Office of Management and Budget.

"Storm water" means any flow occurring during or following any form of natural precipitation and resulting from such precipitation.

. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering. This term also refers to the Total Filterable Residue test.

"Superintendent" means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his Duly Authorized Representative.

"Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

"User" means any person who contributes, causes or permits the contribution of wastewater in the city's POTW.

"Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

"Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

13.50.030 Abbreviations. The following abbreviations shall have the designated meanings:

Act	-	Clean Water Act
<u>BOD</u>	-	Biochemical Oxygen Demand
<u>BMC</u>	-	Benicia Municipal Code
<u>BMP</u>	-	Best Management Practices
<u>BMR</u>	-	Baseline Monitoring Report
<u>CFR</u>	-	<i>Code of Federal Regulations</i>
<u>CIU</u>	-	Categorical Industrial User
<u>COD</u>	-	Chemical Oxygen Demand
<u>CWA</u>	-	Clean Water Act
<u>EPA</u>	-	Environmental Protection Agency
<u>gpd</u>	-	gallons per day
<u>IU</u>	-	Industrial User
<u>l</u>	-	Liter
<u>ug/l</u>	-	Micrograms per liter (parts per billion)
<u>mg/l</u>	-	Milligrams per liter (parts per million)
<u>NPDES</u>	-	National Pollutant Discharge Elimination System
<u>NSCIU</u>	-	Non-Significant Categorical Industrial User
<u>NAICS</u>	-	North American Industrial Classification System (1997)
<u>POTW</u>	-	Publicly Owned Treatment Works
<u>RCRA</u>	-	Resource Conservation and Recovery Act
<u>SIC</u>	-	Standard Industrial Classification (replaced by NAICS)
<u>SIU</u>	-	Significant Industrial User
<u>SNC</u>	-	Significant Noncompliance
<u>SWDA</u>	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
<u>TSS</u>	-	Total Suspended Solids
<u>U.S.C.</u>	-	United States Code

13.50.040 Prohibited discharge--Certain waters or wastes. A. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which interferes with the operation or performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not the User is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A User shall not contribute the following substances to any POTW.

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 26.1.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

2. Solid or viscous substances which may cause obstruction to the flow in the POTW or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

3. Any wastewater having a pH less than 5.0, nor more than 11.0 or other wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;

4. Any wastewater containing toxic pollutants in sufficient quality, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act;

5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for life maintenance and repair;

6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged into the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;

7. Any substance which will cause the POTW to violate its NPDES Permit requirements or the receiving water quality standards;

8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C (104 degrees F).

10. Any pollutants, including oxygen demanding pollutants (BOD, COD, etc.) released at a flow rate and/or pollutant concentration which may cause interference, pass through, or process upset to the POTW. The user shall notify the POTW immediately, upon discovery, of any slug loading. If subject pollutants are released, the user must prove it lacked any knowledge that such a discharge would cause interference. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that cause Interference within the POTW.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

12. Surface water, storm water or seepage, and cooling water or unpolluted process water unless specifically approved by the Superintendent;

13. Discharge of wastewater causing alone, or in conjunction with other sources, the POTW's effluent to fail toxicity tests;

14. Any wastewater which has any corrosive or detrimental characteristics that may cause damage to the City's sewer system or causes a hazard to service personnel, maintenance personnel or human life or creates a public nuisance;

15. Discharges which create a fire or explosion hazard including wastestreams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (sixty degrees Celsius);

16. Any amounts of petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that cause interference or pass through, or form persistent water emulsions;

17. Fats, oils, or greases of animal or vegetable origin in concentrations that would cause, or contribute to cause, obstruction to the flow in the POTW or other interference with the operation of the wastewater treatment facilities.

18. Discharges that result in toxic gases, fumes, or vapors in a quantity capable of causing worker health and safety problems.

B. When the Superintendent determines that a User(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall: (a) advise the User(s) of the impact of the contribution on the POTW; and (b) develop effluent limitation(s) for such user to correct the interference with the POTW.

13.50.041 Hazardous waste notification. All Industrial users are required to notify the EPA, the state and the city within one hundred eighty days of commencing discharge of listed and characteristic hazardous wastes, the constituents of these wastes, and anticipated discharges of such wastes over a calendar month and over one year. The federal regulations do not apply to discharges of less than fifteen kilograms per month of hazardous wastes unless the wastes are acute hazardous wastes. Additionally, notification is not necessary if pollutants are already reported

in periodic self-monitoring reports. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 13.50.089 of this ordinance.

. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

13.50.042 Unlawful disposal of wastes. It is unlawful for a person to place or deposit in an unsanitary manner upon public or private property within the city any human or animal excrement, garbage or other objectionable waste.

13.50.043 Prohibited discharge locations. It is unlawful for a User, except City personnel involved in maintenance functions of the sewerage system, to discharge any wastewater directly into a manhole or other opening in a sewer other than through an approved building sewer, unless approved by the Superintendent upon written application by the User and payment of any applicable fees and charges established herein. No User shall circumvent or obviate the intent or purpose of this Chapter by discharging, or causing to be discharged, into any storm drain, storm water channel, storm water drainage system facility, or natural watercourse, whether currently carrying water or not, or into any pipe, public street, or waterway leading to such drain, channel, facility, or natural watercourse, any material, waste, or wastewater, not including unpolluted water, which is prohibited or restricted as to its discharge into the public sewer system.

13.50.044 Treatment of wastes required. It is unlawful to discharge on land or to any stream or watercourse any sewage, industrial waste, or other polluted water, except where suitable treatment is provided in accordance with this chapter.

13.50.046 Unlawful disposal facilities. It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facilities intended or used for the disposal of sewage, except as provided in this chapter. It is unlawful to discharge trucked or hauled wastes to the sanitary sewers except at points designated by the city.

13.50.050 Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471..

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with Section 13.50.50E and 13.50.50F.

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual Industrial Users.

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the city shall impose an alternate limit in accordance with 40 CFR 403.6(e).

D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.

1. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

2. Criteria.

a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.

E. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 13.50.50E(1)(a) through 13.50.50E(1)(e) below.

1. To be eligible for equivalent mass limits, the Industrial User must:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

- b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and,
 - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
2. An Industrial User subject to equivalent mass limits must:
- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the Superintendent whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 13.50.050E(1)(c) of this Section. Upon notification of a revised production rate, the City will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and,
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph 13.50.050E(1)(a) of this Section so long as it discharges under an equivalent mass limit.
3. When developing equivalent mass limits, the City:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and,
 - c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as for treatment pursuant to Section 13.50.080. The Industrial User must also be in compliance with the regulations regarding the prohibition of bypass.
- F. The Superintendent may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Superintendent. In addition, the Superintendent will document how the equivalent limits were derived for any changes from

concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).

G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (13.50.050) in lieu of the promulgated categorical Pretreatment Standard from which the equivalent limitations were derived.

H. Many categorical Pretreatment Standards specify one limit for calculating Daily Maximum discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both average and the maximum equivalent limitations.

I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

13.50.070 Pollutant limitations and Local Limits. No person shall discharge wastewater containing toxic or poisonous substances in sufficient quantity to injure or interfere with the POTW, constitute a hazard to human or animal, degrade water quality, cause a violation in discharge requirements, or create a hazard in the receiving waters of the POTW. The city may from time to time by resolution set Local Limits on other pollutants or on users to control mass emissions. These Local Limits will be reviewed by the city as deemed necessary by the Superintendent. State requirements and limitations of discharges shall apply in any case where they are more stringent than federal requirements and limitations or those set forth or promulgated pursuant to these regulations. When IUs discharge in excess of a Local Limit, they are subject to enforcement actions. The Superintendent may develop BMPs, by ordinance or in wastewater discharge permits or general permits, in order to achieve compliance with Local Limits and the requirements of Section 13.50.040 of this chapter..

13.50.075 Best Management Practices (BMPs). The Superintendent may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits or general permits, to achieve compliance with Local Limits and the requirements of Section 13.50.040.

13.50.080 Prohibition against dilution as treatment. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state.

13.50.085 Deny/Condition New or Increased Contributions. The City may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

13.50.089 Reports of Changed Condition. Each user must notify the Superintendent of any changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 14 days before the change.

A. The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Sections 13.50.105, 13.50.120 and 13.50.125 of this ordinance.

B. The Superintendent may issue a wastewater discharge permit or general permit under Section 13.50.165 of this chapter or modify an existing wastewater discharge permit or general permit under Section 13.50.140 of this chapter in response to changed conditions or anticipated changed conditions.

13.50.090 Accidental and Slug Discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

A. In the case of any discharge including, but not limited to, accidental discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems to the POTW, it is the responsibility of the User to immediately telephone and notify the Superintendent of the incident. The notification shall include location and time of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Written Notice. Within five days following an accidental or slug discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this regulation or other applicable law.

C. Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental or slug discharge. Employers shall insure that all employees who may cause or suffer any such a discharge to occur are advised of the emergency notification procedure.

C. Significant Industrial Users shall notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

13.50.095 Slug Discharge Control Plans. The Superintendent will evaluate whether each SIU or IU is required to develop and implement a slug discharge plan within one year of becoming an SIU. If the City decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. Description of discharge practices, including non-routine batch discharges.

B. Description of stored chemicals.

C. Procedures for immediately notifying the City of slug discharges,

including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days.

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

13.50.100 Charges and fees. It is the purpose of this section to provide for the recovery of costs from users of the city's POTW for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

A. The city may adopt charges and fees which may include:

1. Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
2. Fees for monitoring, inspections and surveillance procedures;
3. Fees for reviewing accidental discharge procedures and construction;
4. Fees for permit applications;
5. Fees for filing appeals;
6. Other fees as the city may deem necessary to carry out the requirements contained herein.

B. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city.

13.50.105 Permit required To provide for the maximum public benefit for the use of the City POTW, written authorization to use said facilities is required. This written authorization shall be in the form of a individual or general wastewater discharge permit. No vested right shall be given by issuance of permits provided for in this Section.

A. Wastewater Discharge Permit Types. Wastewater discharge permits will be issued in one of four forms dependent on the type of discharger, volume, and discharge characteristics. The four discharge permits types are:

1. Tier 1: Wastewater Discharge Permits are issued to:
 - (a) Any user subject to Federal Categorical Pretreatment Standards
2. Tier 2: Wastewater Discharge Permits are issued to:
 - (a) Any user having a process wastestream greater than 25,000 gallons per day.
 - (b) Any user that has a reasonable potential for adversely affecting the operation of the POTW or for violating any pretreatment standard or requirement.
3. Tier 3: Wastewater Discharge Permits are issued to:
 - (a) Any user subject to Categorical Pretreatment Standards, that does not discharge industrial waste, and only discharges domestic waste into the sewerage system
 - (b) Any user discharging wastewater other than domestic waste only;
 - (c) Any user that implements Best Managements Practices

as an alternative means (i.e., management plans) of complying with, or in place of, certain established categorical Pretreatment Standards and effluent limits.

(d) Any group of users discharging non-domestic waste (General Permits).

4. Temporary Wastewater Discharge Permits are issued to:
(a) Any user discharging wastewater temporarily from industrial or other operations.

(b) Any User who has a discharge of unpolluted water whereby no alternative method of disposal is available.

B. No user requiring a permit shall discharge wastewater without obtaining a wastewater discharge permit.

C. All users proposing to discharge directly or indirectly into the PTOW shall obtain a Wastewater Discharge Permit by filing an application pursuant to Section 13.50.120 and paying the applicable fees pursuant to BMC Chapter 13.52.

D. All permits shall be expressly subject to all provisions of this Chapter and all other regulations, charges for use, and fees established by the City. Wastewater Discharge Permit conditions shall be enforced by the City in accordance with this Chapter and applicable State and Federal Regulations.

13.50.110 Special Discharge Permit. A Special Discharge Permit (SDP) is required for a one-time disposal of wastewater to the POTW. The wastewater must comply with local pretreatment standards and be conveyed or transported to the POTW for disposal. A SDP application must be completed for approval along with appropriate fees before permission is granted. A pretreatment charge and volume charge will be assessed to the final bill after the discharge is completed.

13.50.120 Permit--Application.

A. Users seeking to obtain a Wastewater Discharge Permit or General Permit shall complete and file with the City, prior to commencing discharge, an application and survey on the forms prescribed by the City. The applicant may be required to submit, in units and terms appropriate for evaluation and in sufficient time to allow proper and thorough evaluation, the following information:

1. Name and address of the facility, SIC number(s) and/or NAICS number (s), and a description of the manufacturing process or service activity.

2. Contact information, including the name of the operator and principals/owners (whichever is applicable) of the company; City of Benicia Business License.

3. Description of Operations
a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 4. Time and duration of discharges;
 5. The location for monitoring all wastes covered by the permit;
 6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2C (40 CFR 403.6(e)).
 7. Measurement of Pollutants.
 - a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 13.50.175 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.
 - e. Sampling shall be performed in accordance with procedures set out in Section 13.50.180 of this chapter.
 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on 13.50.180 C4.
 9. Any request to be covered by a general permit based on Section 13.50.125.
 10. EPA Hazardous Waste Generator Number, if applicable.
 11. Any other information as specified.
 12. Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, spill containment, clarifiers, pretreatment equipment, and appurtenances by size, location, and elevation for evaluation.
 13. Applicants may also be required to submit information related to the applicant's business operations, processes, and potential discharge as may be requested by the City to properly evaluate the permit application. B. The application shall be signed by an Authorized Representative of the user and contain the certification statement in 13.50.180 E. The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided herein. The permit application may be denied if the applicant fails to establish to the City's satisfaction, that adequate pretreatment equipment is included within the applicant's plans to ensure that the

discharge limits will be met or if the applicant has, in the past, demonstrated an inability to comply with applicable discharge limits..

13.50.125 General Permit.

A. At the discretion of the Superintendent, the Superintendent may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or Best Management

Practices;

4. Require the same or similar monitoring; and
5. In the opinion of the Superintendent, be more appropriately

controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with 13.50.180C.4 for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Superintendent has provided written notice to the SIU that such a waiver request has been granted in accordance with 13.50.180C.4.

C. The Superintendent will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 13.50.125A(1) to (5) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit.

D. The Superintendent may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined Wastestream Formula (Section 13.50.050C) or Net/Gross calculations (Section 13.50.050D).

13.50.130 Permit Revocation. The Superintendent may revoke an individual wastewater discharge permit or general permit for good cause including, but not limited to, the following reasons:

A. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the city of changed conditions pursuant to Section 13.50.140 ("Permit—Modifications") of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the city timely access to the facility premises and records;

G. Failure to meet effluent limitations or comply with Best Management Practices;

- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedule;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility: or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or general permit or any provisions of this ordinance.

Wastewater discharge permits or general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual or general wastewater discharge permits issued to a user are void upon the issuance of a new individual or general wastewater discharge permit to that User.

13.50.140 Permit--Modifications. The city or Superintendent may modify an individual wastewater discharge permit or general permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements or Best Management Practices;
- B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual or general wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- E. Violation of any terms or conditions of the individual wastewater discharge permit or general permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the individual wastewater discharge permit or general permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 13.50.170 ("Permit Transfer") of this ordinance.

13.50.150 Permit conditions. Users issued a wastewater discharge permit or general permit shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

- A. The baseline Equivalent Dwelling Unit assigned the user, unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- B. Limits on the average and maximum wastewater constituents and characteristics;

- C. Limits on average and maximum flow rate and time of discharge or requirements for flow regulations and equalization;
- D. Requirements for installation and maintenance of inspection and sampling facilities, pH control, and/or flow monitoring systems;
- E. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- F. Requirements for submission of technical reports, production data, waste manifests, or discharge reports (see Section 13.50.180);
- G. Requirements for maintaining and retaining plant records relating to wastewater discharge for a minimum period of three years unless a longer time period is specified by the city, and affording city access thereto;
- H. Requirements for advance notification to the city of any new introduction of wastewater constituents, including hazardous wastes, or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system. It shall be unlawful to introduce new wastewater constituents or to substantially change the volume or character of wastewater constituents released into the wastewater treatment system without prior approval by the city;
- I. Requirements for notification of accidental or slug discharges. ;
- J. Installation and maintenance by the user at his own expense of pretreatment facilities necessary to meet the quality limits set forth in this or as the city may require;
- K. The installation and maintenance by the user at his own expense of a suitable control manhole in the portion of the side sewer located on private property to facilitate observation, sampling and measurement of the waste. When required, the manhole must be accessible and safely located and shall be constructed as approved by the city;
- L. The installation and maintenance by the user at his own expense of grease, oil and sand interceptors or traps necessary for the proper handling of liquid wastes, containing grease and excessive amounts of any inflammable waste, and other harmful ingredients. All interceptors or traps shall be of an approved type and capacity and must be so located as to be readily and easily accessible for cleaning and inspection;
- M. The submission to and approval by the city of plans for any of the facilities or equipment required to be installed and maintained by the user. The city approval does not relieve the applicant from demonstrating the successful performance of the facilities or complying with the terms of this part;
- N. After commencement of operation of pretreatment facilities, the duty of the user to make periodic reports at his expense setting forth adequate data upon which the acceptability of the sewage, industrial waste or other waste, after treatment, may be determined;
- O. Submission to and approval by the city of plans, facilities and operating procedures to prevent accidental discharge of prohibited materials;
- P. Other conditions as deemed appropriate by the city to ensure compliance with this chapter.
- Q. A statement of permit duration and nontransferability, applicable effluent limits, applicable monitoring and reporting requirements, and a statement of applicable penalties. .

R. Effluent limits, including BMPs, based on applicable Pretreatment Standards;

S. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.

T. Requirements to control accidental or slug discharges, if determined by the Superintendent to be necessary.

U. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 13.50.180.C.4.

13.50.160 Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The terms and conditions of the permit shall be subject to modification by the city during the term of the permit as limitations or requirements as identified in Section 13.50.150 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

13.50.165 Permit reissuance. A user with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with Sections 13.50.105 and 13.50.120 of this chapter, a minimum of 180 days prior to the expiration of the user's existing individual wastewater discharge permit or general permit.

13.50.170 Permit transfer. Wastewater discharge permits and general permits are issued to a specific user for a specific operation. A wastewater discharge permit or general permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

13.50.175 Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 using a State or national certified lab and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

13.50.180 Reporting and sampling requirements for permittee.

A. Compliance Date Report. Within ninety days following the date for final compliance with applicable pretreatment standards or, in the case of a new

source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements as described in Section 13.50.180D.5 and 13.50.120A.3 and 6. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. The compliance reports must be signed by an authorized representative of the Industrial user, and certified in accordance with Section 13.50.180E.

B. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 13.50.180D.7 or 13.50.150F:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

2. No increment referred to above shall exceed nine months.

3. The user shall submit a progress report to the Superintendent no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

4. In no event shall more than nine months elapse between such progress reports to the Superintendent.

C. Periodic Compliance Reports.

1. All SIUs (except a Non-Significant Categorical User), and any IUs designated by the Superintendent, at a frequency determined by the city, shall submit no less than twice per year, reports indicating the nature and concentration of pollutants in the effluent discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. Each report is due to the Superintendent within 30 days of the last day of the reporting period, one reporting period representing January through June and the other July through December. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the user. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

2. The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such

cases, the report required by subdivision 1 of this subsection B shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standard. All analysis must be performed by a state-certified laboratory using methods approved in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Superintendent or approval authority. Sampling shall be performed in accordance with the techniques approved by the Superintendent or designee.

3. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 13.50.175 the results of this monitoring shall be included in the report.

4. The City may authorize an Industrial user subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit or general permit, but in no case longer than 5 years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit or general permit. See Section 13.50.120A.8.

c. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

d. The request for a monitoring waiver must be signed in accordance with Section 13.50.020C, and include the certification statement in 13.50.180E.1.

e. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

f. Any grant of the monitoring waiver by the Superintendent must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Superintendent for 3 years after expiration of the waiver.

g. Upon approval of the monitoring waiver and revision of the User's permit by the Superintendent, the Industrial User must certify on each report with the statement in Section 13.50.180F below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

h. In the event that a waived pollutant is found to be present

or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 13.50.180C.1, or other more frequent monitoring requirements imposed by the Superintendent, and notify the Superintendent.

i. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

5. The city may reduce the requirement for periodic compliance reports to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the State, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

a. The POTW's value for 0.01 percent of the design dry-weather hydraulic capacity of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches

b. The POTW's value for 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and

c. The POTW's value for 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 13.50.075 of this ordinance.

Reduced reporting is not available to Industrial users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 13.50.020. In addition, reduced reporting is not available to an Industrial user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Superintendent, decreasing the reporting requirement for this Industrial user would result in data that are not representative of conditions occurring during the reporting period.

D. Baseline Reports. Within one hundred eighty days after the effective date of a categorical pretreatment standard, or one hundred eighty days after the final administrative decision made upon a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Superintendent a baseline report (BMR) which contains the information required in 40 CFR, Section 403.12(b) including, but not limited to the following.

1. Identifying information including name, address of the facility, operator and owners.

2. A list of any environmental control permits held by or for the facility.

3. A brief description of the nature, average rate of production, and SIC/NAICS codes of the operation(s) carried out by the Industrial user. The description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary to allow use of the combined wastestream formula in 40

CFR 403.6(e). The Superintendent may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

5. Measurement of pollutants.

a. The user shall identify the Pretreatment Standards applicable to each regulated process.

b. The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Superintendent) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP the user shall submit documentation as required by the Superintendent or applicable standards to determine compliance with the standard.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentration necessary to allow use of the combined wastestream formula in 40CFR403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40CFR403.6(e) this adjusted limit along with supporting data shall be submitted to the Superintendent.

d. Sampling and analysis shall be performed in accordance with Section 13.50.175.

e. The Superintendent may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Compliance Certification. A statement, reviewed by the user's Authorized Representative as defined in Section 13.50.020 and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

7. Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule must meet the requirements in 40 CFR 403.12(b)(7).

8. All baseline monitoring reports must be certified in accordance with Section 13.50.180 D and signed by an Authorized Representative as defined in 13.50.020.

E. Statement Required/Data Accuracy Certification.

1. Each report requires a statement, reviewed by an authorized representative of the Industrial user, as defined in Section 13.50.020, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the Industrial user to meet the pretreatment standards and requirements.

The following certification shall be included in reports to the city:

“I have personally examined and am familiar with the information submitted in the attached document, and I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2. A facility determined to be a Non-Significant Categorical Industrial user by the Superintendent pursuant to 13.50.020 must annually submit the signed certification statement as follows:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial user as described in 13.50.020; (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.”

This compliance certification is based on the following information.

F. Certification of Pollutants Not Present. users that have an approved monitoring waiver based on 13.50.180C.4 must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 13.50.180C.”

G. Sampling Requirements. All significant and non-categorical Industrial users are required to sample their effluent at least twice a year and submit the results to the city.

H. All wastewater samples must be representative of the users discharge.

Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge

13.50.183 Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW. Where time-proportional composite sampling or grab sampling is authorized by the POTW, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the POTW, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in 13.50.180A and D, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the POTW may authorize a lower minimum. For the reports required by paragraphs 13.50.180C, the user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

13.50.185 Record keeping requirements. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established by the city in its chapter, in general permits or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 13.50.040 of this ordinance.

Record keeping requirements are as follows:

A. Industrial users shall maintain records of all information resulting from any monitoring activities required. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples or chain of custody;
2. The dates analyses were performed;
3. Who performed the analyses;

4. The analytical techniques/methods use; and
5. The results of such analyses.

B. Industrial users are required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required) and shall make such records available for inspection and copying by the city. This period shall be automatically extended for the duration of any unresolved litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city.

13.50.190 Monitoring requirements. The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the city.

13.50.200 Right of Entry: Inspection and sampling. The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to manufacturer's specification to ensure accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

E. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this ordinance.

13.50.210 Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. .

13.50.215 POTW requirements. A. The city will notify users of applicable pretreatment standards and requirements.

B. The city will inspect and sample the effluent from each SIU at least once per year. The city will evaluate, at least once every two years, whether each SIU needs a plan to control slug discharges.

C. The city will develop and implement an enforcement response plan. The plan must describe how the control authority will investigate noncompliance, the types of escalating enforcement responses, time periods for responses, and the responsible personnel.

D. The city will maintain a list of Industrial users that meet the definition of "significant," or "nonsignificant" identifying the criteria that placed the user on the list, and submit the list periodically to the approval authority indicating which industrial users should not be considered significant.

13.50.220 Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, in accordance with 40 CFR Part 2 the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as

defined in 40 CFR 403.14(b) shall not be recognized as confidential information and shall be available to the public without restriction.

13.50.230 Emergency suspensions. A. The Superintendent may suspend the water service, wastewater treatment service, and/or wastewater discharge permit or general permit of a user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment or significant violation to the health or welfare of persons, the POTW, or the environment.

B. Any user notified of a suspension of the water service, wastewater treatment service, and/or the wastewater discharge permit or general permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Section 13.50.240 are initiated against the user.

C. An user that is responsible in whole or in part for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in subsection (B) above.

13.50.240 Permit--Enforcement--Termination of permit. Any user who violates the following conditions, is subject to water service suspension or permit termination:

- A. Violation of permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater constituents and characteristics;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
- E. Violation of the Pretreatment Standards and applicable state and federal law.

Noncompliant Industrial users will be notified of the proposed termination of their wastewater discharge permit or general permit and be offered an opportunity to show cause or appeal under Section 13.50.260 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the IU..

13.50.250 Notification of Violation Whenever the Superintendent finds that any user has violated or is violating this chapter, or a wastewater discharge permit or general permit or order issued hereunder, the Superintendent or his duly authorized representative may serve upon said user written Notice of Violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

13.50.251 Notice of Violation and Repeat Sampling. If sampling performed by a wastewater discharge permittee indicates a violation, the user must notify the Superintendent within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis within five days of becoming aware of the violation and submit the results of the repeat analysis to the Superintendent within thirty days after becoming aware of the violation. Resampling by the user is not required if the city performs sampling at the user's facility at least once per month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the IU.

13.50.252 Enforcement—Administrative Orders. The Superintendent is hereby empowered to issue administrative orders or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user, including, but not limited to, installation of pretreatment equipment, or adoption of BMPs, or need for additional operation and maintenance personnel to correct the noncompliance within a time period also specified by the order. Administrative orders shall have the same force and effect as consent orders issued.

13.50.255 Enforcement--Cease and Desist Orders. When the Superintendent finds that an Industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- A. Comply forthwith;
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. 13.50.260 Enforcement--Show Cause Hearing.

A. The Superintendent may order any Industrial user which causes or contributes to a violation of this chapter or wastewater discharge permit or general permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified Industrial user appears as noticed, immediate enforcement action may be pursued.

B. The city Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

1. Issue in the name of the city Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
2. Take the evidence;

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city Council for action thereon.

C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

D. After the city Council has reviewed the evidence, it may issue an order to the user responsible for the discharge. This order may direct that, following a specified time period, the sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued.

13.50.265 Enforcement--Consent orders. The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the Industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the Industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued.

13.50.266 Enforcement--Compliance orders--Discontinuance of sewer service. When the Superintendent finds that an Industrial user has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the Industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

13.50.270 Enforcement--Legal action. If any user discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the Superintendent, through the city attorney may commence an action for appropriate legal and/or equitable relief in the Solano County superior court or the municipal court for Solano County.

13.50.275 Enforcement--Injunctive relief. Whenever an Industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the Superintendent, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the Industrial user. The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges.

13.50.280 Violations--Public nuisance. It is prohibited and a public nuisance for any user to violate an order of the city Council or willfully or negligently fail to

comply with any provision of these regulations, and the orders, rules, regulations and permits issued hereunder. The nuisance shall be abated as provided by this code or state law. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The city may recover reasonable attorney's fees, witness fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated these regulations or the orders, rules, regulations, and permits issued hereunder.

13.50.285 Enforcement—Civil/Criminal remedies--Administrative fines.

Notwithstanding any other section of this chapter, any person who discharges any wastes or pollutants, as defined in California Water Code Section 13050, except as permitted by waste discharge requirements, or who is found to have violated any provision of this chapter, or permits and orders issued hereunder, or who refuses to comply with the requirements adopted pursuant to Section 13385 or 13387 of the Water Code, shall be subject to a civil/criminal penalty at least in the amount of two hundred and fifty dollars (\$250), but not to exceed twenty-five thousand dollars (\$25,000) for each day in which such discharge, violation, or refusal occurs. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, witness fees, court costs, court reporter fees, sample collection costs, and all other expenses of litigation incurred by the city and resulting from any action brought against a person found to have violated this part, or the orders, rules, regulations, and permits issued hereunder.. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. A lien against the user's property shall be sought for any unpaid charges, fees, or penalties.

13.50.295 Enforcement—Appeal Process. Industrial users desiring to dispute such fines, or enforcement actions (limited to permit revocation, cease and desist orders, and compliance orders) must file a request for the Superintendent to reconsider the fine or the applicable enforcement action within ten days of being notified of the fine. The Superintendent shall convene a hearing on the matter within fifteen days of receiving the request from the Industrial User. If the user is still aggrieved by the Superintendent's decision after reconsideration of the matter, the user shall have the right to appeal to the city Council at a regularly scheduled meeting of the Council, to show cause why a proposed enforcement action should not be taken.

13.50.300 Violations--Misdemeanor. A. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these regulations, or wastewater discharge permit or general permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under these regulations, is guilty of a misdemeanor.

B. Any user who violates an order of the city Council or who willfully or negligently fails to comply with any provision of these regulations and the orders, rules, regulations and permits issued hereunder is guilty of a misdemeanor.

C. Each person is guilty of a misdemeanor for each and every day during any portion the violation(s) set forth in subsection A or B of this section is committed, continued or permitted by that person.

13.50.310 Penalties--Cumulations. The penalties set forth above are not exclusive and are cumulative to each other as well as to other penalties under other federal, state and local laws and regulations.

13.50.315 Enforcement--Liability insurance. The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

13.50.320 Severability. If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

13.50.325 Enforcement. The remedies provided for in this ordinance are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any User when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant User.

13.50.330 Conflict. All other chapters and parts of other chapters inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. Should there be any conflict between this chapter and the general pretreatment regulations (40 CFR Part 403), the general pretreatment regulations shall control.

13.50.340 Exceptions--Special agreements. The city may enter into a special agreement with a person or establishment whereby an industrial waste of unusual strength or character may be accepted by the city for treatment subject to payment and to such terms and conditions as the city may fix. Under no circumstances shall the agreement include any waiver of national categorical pretreatment standards.

13.50.360 Publication of Industrial Users in Significant Noncompliance. The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the IUs which, at any time during the previous twelve (12) months, were in Significant Noncompliance (SNC) with applicable Pretreatment Standards and Requirements. The term SNC shall be applicable to all SIUs (or any other IU that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-(6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 13.50.040 of this ordinance;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33%) or more of wastewater measurements taken for each pollutant parameter taken during a six-(6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined by Section 13.50.040 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined in this ordinance (Daily Maximum, Monthly Average, Instantaneous Limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge.

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Chapter 13.50

PRETREATMENT AND SOURCE CONTROL
OF WASTE WATER DISPOSAL OR DISCHARGE*

Sections:

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- 13.50.020 Definitions.
- 13.50.030 Abbreviations.
- 13.50.040 Prohibited discharge--Certain waters or wastes.
- 13.50.041 Hazardous waste notification.
- 13.50.042 Unlawful disposal of wastes.
- 13.50.043 Prohibited discharge locations.
- 13.50.044 Treatment of wastes required.
- 13.50.046 Unlawful disposal facilities.
- 13.50.050 Federal categorical pretreatment standards.
- 13.50.075 Best Management Practices (BMPs).
- 13.50.070 Pollutant limitations and local limits.
- 13.50.080 ~~Excessive discharge~~ Prohibition of dilution as treatment.
- 13.50.085 Deny/Condition New or Increased Contributions.
- 13.50.089 Reports of Changed Conditions
- 13.50.090 Accidental ~~and Slug~~ and Discharges ~~(Reports of Changed Conditions and and potential problems.~~
- 13.50.095 Slug Discharge Control Plans.
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- 13.50.115 Special Discharge Permit.
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- 13.50.175 Analytical requirements.
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* Prior ordinance history: Ords. 88-13 N.S., and 90-11 N.S., and 92-1 N.S.

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13.50.360	Publication of IUs

13.50.010 Purpose and policy. A. This chapter sets forth uniform requirements for direct and indirect ~~contributor~~[discharge](#)s into the wastewater collection and treatment system [pursuant to authority conferred by law including but not limited to the California Health and Safety Code, § 5400 - 5474, the California Government Code, § 54725 – 54740.6, and 66000 - 66003, the California Code of Regulations, Title 22, the Porter Cologne Water Quality Control Act \(California Water Code Division 7\), the Federal Clean Water Act, 33 U.S.C. 1251, et seq., the Code of Federal Regulations, 40 CFR Parts 400 - 699, the Resource Conservation and Recovery Act \(RCRA\), 42 U.S.C. § 6901, et seq. and the National Pollutant Discharge Elimination System permits issued by the Regional Water Quality Control Board, San Francisco Bay Region to the City of Benicia.~~for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations \(40 CFR, Part 403\).~~](#)

B. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the municipality wastewater system, which ~~will~~[may](#) interfere with the operation of the system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants into the municipal wastewater system which ~~will~~[may](#) pass through the system, inadequately treated,

into receiving waters or the atmosphere or otherwise be incompatible with the municipal wastewater system;

3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

4. To provide for equitable distribution of the cost of the municipal wastewater system.

5. To protect both municipal wastewater personnel who may be affected by wastewater and sludge in the course of their employment and the general public.

C. This chapter provides for the regulation of ~~direct and indirect contributors to all Users of~~ the municipal wastewater system or Publicly Owned Treatment Works (POTW). The ordinance authorizes through the issuance of individual or general wastewater discharge permits; ~~provides for to certain nondomestic users and through enforcement of general requirements for the other users, authorize~~ monitoring, compliance and enforcement activities; establishes administrative review procedures; ~~requires~~ user reporting, ~~assumes~~ that existing customer's capacity will not be preempted, and ~~provides~~ for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the ~~superintendent~~ Superintendent of the city POTW shall administer, implement, and enforce the provisions of this chapter. ~~(Ord. 91-1 N.S. (part), 1991). Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized City employee.~~

13.50.020 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter shall have the meanings hereafter designated:

~~1~~ "Act" or "the Act" means the Federal Clean Water Act formerly known as the Federal Water Pollution Control Act, ~~also known as the Clean Water Act~~, as amended, 33 U.S.C. 1251, et seq.

~~2~~ "Approval authority" means the director of the California State Water Resources Control Board (SWRCB) Division of Water Quality NPDES Unit in an NPDES state with which conducts an approved state pretreatment program, ~~and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.~~

~~3~~ "Authorized or Duly Authorized representative of industrial or other nondomestic user" means: ~~an authorized representative of an industrial u~~ User may be: (a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

1. If the user is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

3. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

4. The individuals described in paragraphs A through C, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the facility, and the written authorization is submitted to the City.

"Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in BMC Section 13.50.040 A and B [CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

4. "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at twenty degrees centigrade, usually expressed in terms of weight and as a concentration (e.g., milligrams per liter) but may be converted to organic loading, expressed as pounds per day.

5. "Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW.

7. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

6. "Categorical standards or Categorical Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307 (b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 – 471. national categorical pretreatment standards or pretreatment standard.

"Chemical Oxygen Demand (COD)" is a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

7. "City" means the city of Benicia or the city council of Benicia.

8. "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

"Categorical Industrial User" (CIU) means any industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

~~9.~~—"Control authority" means the city of Benicia or term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent Superintendent if given that the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

"Daily Maximum Limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where Daily Maximum Limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

~~10.~~—"Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the state of California.

~~16~~ "Domestic ser" means a user that discharges wastewater from a single or multi-family residence.

~~11.~~—"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

~~18~~ "Existing Source" means any source of discharge that is not a "New Source."

~~12.~~—"Grab sample" means a sample which is taken from a waste stream wastestream on a one-time basis with no regard to the flow volume of in the waste stream wastestream and without consideration of over a period of time not to exceed 15 minutes.

~~13.~~—"Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

~~14.~~—"Indirect discharge" means the discharge or the introduction of nondomestic pollutants into the POTW from any nondomestic source. source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

~~15.~~—"Industrial user or IU" means a source of indirect discharge.

~~23.~~ "Instantaneous Limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

~~16.~~—"Interference" means the a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibition or disruption of the typical operation of the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is themay cause of which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

~~17.~~—"National categorical pretreatment standard" or "pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 301(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

“Local Limit” means specific discharge limits developed and enforced by the city upon industrial or commercial User facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“Medical Waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and potentially contaminated laboratory wastes, and dialysis wastes.

“Monthly Average” means the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Monthly Average Limit” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

~~“National prohibitive discharge standard” or “prohibitive discharge standard” means any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.~~

~~19~~ — “New sSource” means:

1. ~~a~~Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act ~~which that~~ will be applicable to such source if such sStandards are thereafter promulgated in accordance with that section provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility, or installation completely replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program

i. any placement, assembly, or installation of facilities or equipment; or

ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

~~20.~~—"National pollution discharge elimination system permit" or "NPDES permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

"Noncontact Cooling Water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

~~21.~~—"Pass-Through" means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

~~22.~~—"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or their legal representatives, agents or assigns. ∴ This definition includes all Federal, State, and local government entities. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

~~23.~~—"pH" means ~~the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution~~ a measure of the acidity or alkalinity of a solution, expressed in standard units.

~~24.~~—"Pollution" ~~means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.~~

~~25.~~—"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, certain medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or ~~discharged~~ equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor.) discharged into water.

~~26.~~—"Pretreatment" ~~or "treatment"~~ means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to ~~a less harmful state prior to~~ or in lieu of discharging or otherwise introducing such pollutants ~~into ainto the~~ POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes ~~through or by~~ other means, except ~~as; by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard, prohibited by 40 CFR Section 403.6(d).~~

~~27.~~—"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a User, other than a ~~national pretreatment standard imposed on an industrial user.~~

"Pretreatment Standards of Standards" means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

~~28.~~—"Publicly Owned Treatment Works (POTW)" means a treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned ~~in this instance~~ by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances

not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

~~29.~~—"POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater.

~~30.~~—"Shall" is mandatory; "may" is permissive.

~~31.~~—"Significant Industrial User (SIU)." ~~or "significant user" means any industrial user of the city's wastewater disposal system who~~

~~Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:~~

~~1. An Industrial User subject to Categorical Pretreatment Standards; or~~

~~2. aAn Industrial User that:~~

~~(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); has a discharge flow of twenty-five thousand gallons or more per average work day, or~~

~~(b) Contributes a process ~~wastestream~~wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or has a flow equal to or greater than five percent of the POTW's dry weather hydraulic or organic capacity, or~~

~~(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, is designated by the superintendent to have a reasonable potential to adversely affect the POTW's operation.~~

~~3. The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a SIU on a finding that the IU never discharges more than 100 gallons per calendar day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:~~

~~(a) The IU, prior to the City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;~~

~~(b) The IU annually submits the certification statement required in 40 CFR 403.12(q) or BMC Section 13.50.180(E)(2), together with any additional information necessary to support the certification statement; and~~

~~(c) The IU never discharges any untreated concentrated wastewater.~~

~~4. Upon a finding that a User meeting the criteria in BMC Section 13.50.040 of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.~~

~~32.~~—"Significant noncompliance" (SNC) means the federal regulations establish criteria for publishing that significant noncompliance is one or more of the following:

~~(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the~~

same pollutant parameter taken during a six-(6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 13.50.040 of this ordinance~~chronic violations (exceeding the daily maximum limit or the average limit sixty-six percent of the time during a six-month period) of the same pollutant parameter;~~

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33%) or more of wastewater measurements taken for each pollutant parameter taken during a six-(6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined by Section 13.50.040 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH)~~Technical Review Criteria (TRC) violations (thirty-three percent or more of measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the applicable limit and the TRC value (1.4 times the limit for a conventional pollutant or 1.2 times the limit for a toxic pollutant));~~

(c) ~~a violation of pass-through or interference~~aAny other violation of a Pretreatment Standard or Requirement as defined in this chapter (daily maximum, monthly average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, interference or Pass Through (including endangering the health of POTW personnel or the general public);

(d) ~~Any discharge of a pollutant that has caused imminent endangerment to human health, welfare the public, or to the environment, or which required the POTW to use~~has resulted in the Superintendent's exercise of its emergency authorities~~authority to halt or prevent such a discharge;~~

(e) ~~Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance~~violations of a compliance schedule milestone by ninety days;

(f) ~~Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules~~violations of report submittal deadlines by thirty days;

(g) ~~Failure to accurately report noncompliance; and~~

(h) ~~Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program, deemed significant by the city.~~

"Slug load" or "slug discharge" means any pollutant release (of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge) in a discharge at a flow rate and/or pollutant concentration which has a reasonable potential to cause Interference or Upset of the sewerage system operations, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

33.—"State" means the state of California.

34.—"Standard industrial classification (SIC)" means a classification pursuant to the 1987 Standard Industrial Classification SIC Manual and North American Industry Classification System (NAICS) means classification pursuant to

[the 2007 NAICS Manual, both](#) issued by the Executive Office of the President, Office of Management and Budget, 1972.

35. "Storm water" means any flow occurring during or following any form of natural precipitation and resulting ~~therefrom~~ [such precipitation](#).

36. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering. [This term also refers to the Total Filterable Residue test.](#)

37. "Superintendent" means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his ~~duly~~ [Duly authorized](#) ~~Authorized representative~~ [Representative](#).

38. "Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

39. "User" means any person who contributes, causes or permits the contribution of wastewater in the city's POTW.

40. "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

44. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

~~42. "Wastewater contribution permit" means as set forth in Section 13.50.110 of this chapter. (Ord. 91-1 N.S. (part), 1991).~~

13.50.030 Abbreviations. The following abbreviations shall have the designated meanings:

Act	-	Clean Water Act
BOD	-	Biochemical Oxygen Demand
BMC	-	Benicia Municipal Code
BMP	-	Best Management Practices
BMR	-	Baseline Monitoring Report
CFR	-	Code of Federal Regulations
CIU	-	Categorical Industrial User
COD	-	Chemical Oxygen Demand
CWA	-	Clean Water Act
EPA	-	Environmental Protection Agency
gpd	-	gallons per day
IU	-	Industrial User
l	-	Liter
ug/l	-	Micrograms per liter (parts per billion)
mg	-	Milligrams
mg/l	-	Milligrams per liter (parts per million)
NPDES	-	National Pollutant Discharge Elimination System
NSCIU	-	Non-Significant Categorical Industrial User
NAICS	-	North American Industrial Classification System (1997)

<u>POTW</u>	-	Publicly Owned Treatment Works
<u>RCRA</u>	-	<u>Resource Conservation and Recovery Act</u>
<u>SIC</u>	-	Standard Industrial Classification <u>(replaced by NAICS)</u>
<u>SIU</u>	-	<u>Significant Industrial User</u>
<u>SNC</u>	-	<u>Significant Noncompliance</u>
<u>SWDA</u>	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
<u>USC</u>	-	<u>United States Code</u>
<u>TSS</u>	-	Total Suspended Solids (Ord. 91-1 N.S. (part), 1991.
<u>U.S.C.</u>	-	<u>United States Code</u>

13.50.040 Prohibited discharge--Certain waters or wastes. A. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which interferes with the operation or performance of the POTW. These general prohibitions apply to all such Uusers of a POTW whether or not the Uuser is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A Uuser shall not contribute the following substances to any POTW.

1. ~~Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 26.1.21.~~ At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. ~~Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system;~~

2. Solid or viscous substances which may cause obstruction to the flow in a sewer the POTW or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

3. Any wastewater having a pH less than 5.0, ~~unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other~~ nor more than 11.0 or other wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;

4. Any wastewater containing toxic pollutants in sufficient quality, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth

in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act;

5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for life maintenance and repair;

6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged into the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;

7. Any substance which will cause the POTW to violate its NPDES ~~and/or State Disposal System~~ Permit requirements or the receiving water quality standards;

8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C (104 degrees F), unless the POTW treatment plant is designed to accommodate such temperature;

10. Any pollutants, including oxygen demanding pollutants (BOD, COD, etc.) released at a flow rate and/or pollutant concentration which will may cause interference, pass through, or process upset to the POTW. The user shall notify the POTW immediately, upon discovery, of any slug loading. If subject pollutants are released, the user must prove it lacked any knowledge that such a discharge would cause interference. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen minutes more than five times the average twenty-four hour concentration, quantities, or flow during normal operation; cause Interference within the POTW.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the ~~superintendent~~ Superintendent in compliance with applicable state or federal regulations;

12. Surface water, stormwater or seepage, and cooling water or unpolluted process water unless specifically approved by the ~~city~~ Superintendent;

13. Discharge of ~~the contents of a swimming pool unless specifically approved by the city~~ wastewater causing alone, or in conjunction with other sources, the POTW's effluent to fail toxicity tests;

14. Any wastewater which has any corrosive or detrimental characteristics that may cause damage to the City's sewer system or causes a hazard to service personnel, maintenance personnel or human life or creates a public nuisance;

15. Discharges which create a fire or explosion hazard including wastestreams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (sixty degrees Celsius);

16. ~~Discharges~~ Any amounts of petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that cause interference or pass through, or form persistent water emulsions;

17. Fats, oils, or greases of animal or vegetable origin in concentrations that would cause, or contribute to cause, obstruction to the flow in the POTW or other interference with the operation of the wastewater treatment facilities.

~~4718.~~ Discharges that result in toxic gases, fumes, or vapors in a quantity capable of causing worker health and safety problems.

B. When the ~~superintendent~~ Superintendent determines that a ~~user~~ User(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the ~~superintendent~~ Superintendent shall: (a) advise the User(s) of the impact of the contribution on the POTW; and (b) develop effluent limitation(s) for such user to correct the interference with the POTW. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.041 Hazardous waste notification. All ~~i~~Industrial users are required to notify the EPA, the state and the city within one hundred eighty days of ~~the domestic sewage study (DSS) regulations effective date (or within one hundred eighty days for sources commencing discharge after the effective date of the federal regulations) of discharges~~ of listed and characteristic hazardous wastes, the constituents of these wastes, and anticipated discharges of such wastes over a calendar month and over one year. The federal regulations do not apply to discharges of less than fifteen kilograms per month of hazardous wastes unless the wastes are acute hazardous wastes. Additionally, notification is not necessary if pollutants are already reported in periodic self-monitoring reports. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 13.50.089 of this ordinance. (Ord. 91-1 N.S. (part), 1991). In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

13.50.042 Unlawful disposal of wastes. It is unlawful for a person to place or deposit in an unsanitary manner upon public or private property within the city any human or animal excrement, garbage or other objectionable waste. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.043 Prohibited discharge locations. It is unlawful for a User, except City personnel involved in maintenance functions of the sewerage system, to discharge any wastewater directly into a manhole or other opening in a sewer other than through an approved building sewer, unless approved by the Superintendent upon written application by the User and payment of any applicable fees and charges

established herein. No User shall circumvent or obviate the intent or purpose of this Chapter by discharging, or causing to be discharged, into any storm drain, storm water channel, storm water drainage system facility, or natural watercourse, whether currently carrying water or not, or into any pipe, public street, or waterway leading to such drain, channel, facility, or natural watercourse, any material, waste, or wastewater, not including unpolluted water, which is prohibited or restricted as to its discharge into the public sewer system.

13.50.044 Treatment of wastes required. It is unlawful to discharge on land or to any stream or watercourse any sewage, industrial waste, or other polluted water, except where suitable treatment is provided in accordance with this chapter. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.046 Unlawful disposal facilities. It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facilities intended or used for the disposal of sewage, except as provided in this chapter. It is unlawful to discharge trucked or hauled wastes to the sanitary sewers except at points designated by the city. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.050 Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. ~~The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.~~ ~~(Ord. 91-1 N.S. (part), 1991).~~

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with Section 13.50.50E and 13.50.50F.

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual Industrial Users.

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the city shall impose an alternate limit in accordance with 40 CFR 403.6(e).

D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.

1. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

2. Criteria.

a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.

E. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 13.50.50E(1)(a) through 13.50.50E(1)(e) below.

1. To be eligible for equivalent mass limits, the Industrial User must:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and,

e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

2. An Industrial User subject to equivalent mass limits must:

a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

c. Continue to record the facility's production rates and notify the Superintendent whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 13.50.050E(1)(c) of this Section. Upon notification of a revised production rate, the City will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and.

d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph 13.50.050E(1)(a) of this Section so long as it discharges under an equivalent mass limit.

3. When developing equivalent mass limits, the City:

a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and.

c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as for treatment pursuant to Section 13.50.080. The Industrial User must also be in compliance with the regulations regarding the prohibition of bypass.

F. The Superintendent may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Superintendent. In addition, the Superintendent will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).

G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (13.50.050) in lieu of the promulgated categorical Pretreatment Standard from which the equivalent limitations were derived.

H. Many categorical Pretreatment Standards specify one limit for calculating Daily Maximum discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both average and the maximum equivalent limitations.

I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

13.50.070 Pollutant limitations and ~~local~~ Local limitsLimits. No person shall discharge wastewater containing toxic or poisonous substances in sufficient quantity to injure or interfere with the ~~sewage treatment process~~POTW, constitute a hazard to human or animal, ~~or~~ degrade water quality, cause a violation in discharge requirements, or create a hazard in the receiving waters of the ~~sewage treatment plant~~POTW. The city may from time to time by resolution set ~~local~~Local limitsLimits on other pollutants or on users to control mass emissions. These ~~local~~Local limitsLimits will be reviewed by the city as deemed necessary by the ~~superintendent~~Superintendent. State requirements and limitations of discharges shall apply in any case where they are more stringent than federal requirements and limitations or those set forth or promulgated pursuant to these regulations. When IUs discharge in excess of a Local Limit, they are subject to enforcement actions. The Superintendent may develop BMPs, by ordinance or in wastewater discharge permits or general permits, in order to achieve compliance with Local Limits and the requirements of Section 13.50.040 of this chapter.(Ord. 91-1 N.S. (part), 1991).

13.50.075 Best Management Practices (BMPs). The Superintendent may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits or general permits, to achieve compliance with Local Limits and the requirements of Section 13.50.040.

13.50.080 Excessive dischargeProhibition against dilution as treatment. No ~~user~~User shall ever increase the use of process water, or, in any way, attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Ord. 91-1 N.S. (part), 1991).

13.50.085 Deny/Condition New or Increased Contributions. The City may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

13.50.089 Reports of Changed Condition. Each User must notify the Superintendent of any changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 14 days before the change.

A. The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Sections 13.50.105, 13.50.120 and 13.50.125 of this ordinance.

B. The Superintendent may issue a wastewater discharge permit or general permit under Section 13.50.165 of this chapter or modify an existing wastewater discharge permit or general permit under Section 13.50.140 of this chapter in response to changed conditions or anticipated changed conditions.

13.50.090 Accidental and Slug dischargesDischarges. A.—Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own

cost and expense. ~~Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by January 1, 1989. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the city of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.~~

A. In the case of any discharge including, but not limited to, accidental discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems to the POTW, it is the responsibility of the User to immediately telephone and notify the Superintendent of the incident. The notification shall include location and time of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Written Notice. Within five days following an accidental or slug discharge, the user shall submit to the ~~superintendent~~ Superintendent a detailed written report describing the cause ~~toof~~ the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this regulation or other applicable law.

C. Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of ~~a dangerous~~ an accidental or slug discharge. Employers shall insure that all employees who may cause or suffer any such a ~~dangerous~~ discharge to occur are advised of the emergency notification procedure. (~~Ord. 91-1 N.S. (part), 1991~~).

D. Significant Industrial Users shall notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

13.50.095 Slug Discharge Control Plans. The Superintendent will evaluate whether each SIU or IU is required to develop and implement a slug discharge plan within one year of becoming an SIU. If the City decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. Description of discharge practices, including non-routine batch discharges.

B. Description of stored chemicals.

C. Procedures for immediately notifying the City of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days.

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing

toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

13.50.100 Charges and fees. ~~A.~~ It is the purpose of this section to provide for the recovery of costs from users of the city's POTW wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

BA. The city may adopt charges and fees which may include:

1. Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
2. Fees for monitoring, inspections and surveillance procedures;
3. Fees for reviewing accidental discharge procedures and construction;
4. Fees for permit applications;
5. Fees for filing appeals;
6. Other fees as the city may deem necessary to carry out the requirements contained herein.

CB. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city. ~~(Ord. 91-1 N.S. (part), 1991).~~

~~13.50.105 Permit required—Tier 3, minor industrial users. It shall be unlawful for minor industrial users to discharge without the required permit (Tier 3) to any natural outlet within the city of Benicia, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter.~~

~~Minor industrial users are distinguished from the significant industrial user classification by having a nondomestic wastestream but not fulfilling the significant industrial user criteria. (Ord. 91-1 N.S. (part), 1991). To provide for the maximum public benefit for the use of the City POTW, written authorization to use said facilities is required. This written authorization shall be in the form of a individual or general wastewater discharge permit. No vested right shall be given by issuance of permits provided for in this Section.~~

A. Wastewater Discharge Permit Types. Wastewater discharge permits will be issued in one of four forms dependent on the type of discharger, volume, and discharge characteristics. The four discharge permits types are:

1. Tier 1: Wastewater Discharge Permits are issued to:
 - (a) Any user subject to Federal Categorical Pretreatment Standards
2. Tier 2: Wastewater Discharge Permits are issued to:
 - (a) Any user having a process wastestream greater than 25,000 gallons per day.
 - (b) Any user that has a reasonable potential for adversely affecting the operation of the POTW or for violating any pretreatment standard or requirement.
3. Tier 3: Wastewater Discharge Permits are issued to:
 - (a) Any user subject to Categorical Pretreatment Standards, that does not discharge industrial waste, and only discharges domestic waste into the sewerage system
 - (b) Any user discharging wastewater other than domestic waste only;

(c) Any user that implements Best Managements Practices as an alternative means (i.e., management plans) of complying with, or in place of, certain established categorical Pretreatment Standards and effluent limits.

(d) Any group of users discharging non-domestic waste (General Permits).

4. Temporary Wastewater Discharge Permits are issued to:

(a) Any user discharging wastewater temporarily from industrial or other operations.

(b) Any User who has a discharge of unpolluted water whereby no alternative method of disposal is available.

B. No user requiring a permit shall discharge wastewater without obtaining a wastewater discharge permit.

C. All users proposing to discharge directly or indirectly into the PTOW shall obtain a Wastewater Discharge Permit by filing an application pursuant to Section 13.50.120 and paying the applicable fees pursuant to BMC Chapter 13.52.

D. All permits shall be expressly subject to all provisions of this Chapter and all other regulations, charges for use, and fees established by the City. Wastewater Discharge Permit conditions shall be enforced by the City in accordance with this Chapter and applicable State and Federal Regulations.

~~13.50.106 Tier 3 permit—Application. A. Minor industrial users required to obtain a Tier 3 wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city, and accompanied by a fee to be set from time to time by resolution of the city council. In support of the application, the minor user shall submit, in units and terms appropriate for evaluation, the following information:~~

- ~~1. Name, address, and location (if different from the address);~~
- ~~2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;~~
- ~~3. Wastewater constituents and characteristics including, but not limited to those mentioned in Section 13.50.070 of this chapter as determined by a reliable analytical laboratory sampling; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;~~
- ~~4. Time and duration of contribution;~~
- ~~5. Average daily and maximum daily wastewater flow rates, including daily, monthly and seasonal variations, if any;~~
- ~~6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;~~
- ~~7. Description of activities, facilities, and plant processes on the premises including all constituents which are or could be discharged;~~
- ~~8. Any other information as may be deemed by the city to be necessary to evaluate the permit application.~~

~~B. The application shall be signed by an authorized representative of the minor user. The city will evaluate the data furnished by the minor user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a Tier 3 wastewater contribution permit subject to terms and conditions provided herein. (Ord. 91-1 N.S. (part), 1991).~~

~~13.50.110 Permit required--Tier 1 and 2, significant industrial users. It is unlawful for significant users to discharge without the required permit to any natural outlet within the city or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter.~~

~~All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within one hundred eighty days after the effective date of this chapter. (Ord. 91-1 N.S. (part), 1991).~~

13.50.110 Special Discharge Permit. A Special Discharge Permit (SDP) is required for a one-time disposal of wastewater to the POTW. The wastewater must comply with local pretreatment standards and be conveyed or transported to the POTW for disposal. A SDP application must be completed for approval along with appropriate fees before permission is granted. A pretreatment charge and volume charge will be assessed to the final bill after the discharge is completed.

13.50.120 Permit--Application. A. Users required to obtain a wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city, and accompanied by a fee to be set from time to time by resolution of the city council. Existing users shall apply for a wastewater contribution permit within sixty days after the effective date of this chapter, and proposed new users shall apply at least sixty days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- ~~1. Name, address, and location (if different from the address);~~
- ~~2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;~~
- ~~3. Wastewater constituents and characteristics including, but not limited to those mentioned in Section 13.50.070 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;~~
- ~~4. Time and duration of contribution;~~
- ~~5. Average daily, maximum daily, and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;~~
- ~~6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;~~
- ~~7. Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;~~
- ~~8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;~~

~~9. — If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard:~~

~~The following conditions shall apply to this schedule:~~

~~a. — The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).~~

~~b. — No increment referred to in paragraph (a) of this subsection A9 shall exceed nine months.~~

~~c. — Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent;~~

~~10. — Each product produced by type, amount, process or processes and rate of production;~~

~~11. — Type and amount of raw materials processed (average and maximum per day);~~

~~12. — Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;~~

~~13. — Any other information as may be deemed by the city to be necessary to evaluate the permit application.~~

A. Users seeking to obtain a Wastewater Discharge Permit or General Permit shall complete and file with the City, prior to commencing discharge, an application and survey on the forms prescribed by the City. The applicant may be required to submit, in units and terms appropriate for evaluation and in sufficient time to allow proper and thorough evaluation, the following information:

1. Name and address of the facility, SIC number(s) and/or NAICS number (s), and a description of the manufacturing process or service activity.

2. Contact information, including the name of the operator and principals/owners (whichever is applicable) of the company; City of Benicia Business License.

3. Description of Operations

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

d. Type and amount of raw materials processed (average and maximum per day);

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

4. Time and duration of discharges;

5. The location for monitoring all wastes covered by the permit;

6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined **wastestream** formula set out in Section 2.2C (40 CFR 403.6(e)).

7. Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 13.50.175 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.

e. Sampling **shall** be performed in accordance with procedures set out in Section 13.50.180 of this **chapter**.

8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on 13.50.180 **C4**.

9. Any request to be covered by a general permit based on Section 13.50.125.

10. EPA Hazardous Waste Generator Number, if applicable.

11. Any other information as specified.

12. Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, spill containment, clarifiers, pretreatment equipment, and appurtenances by size, location, and elevation for evaluation.

13. Applicants may also be required to submit information related to the applicant's business operations, processes, and potential discharge as may be requested by the City to properly evaluate the permit application.

B. The application shall be signed by an ~~authorized~~ Authorized representative ~~Representative~~ of the user and contain the certification statement in 13.50.180 **E**. The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided herein. The permit application may be denied if the applicant fails to establish to the City's satisfaction, that adequate pretreatment equipment is included

within the applicant's plans to ensure that the discharge limits will be met or if the applicant has, in the past, demonstrated an inability to comply with applicable discharge limits.(Ord. 91-1 N.S. (part), 1991).

13.50.125 General Permit.

A. At the discretion of the Superintendent, the Superintendent may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations **or Best Management**

Practices;

4. Require the same or similar monitoring; and
5. In the opinion of the Superintendent, **be**more appropriately controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with 13.50.180C.4 for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Superintendent has provided written notice to the SIU that such a waiver request has been granted in accordance with 13.50.180C.4.

C. The Superintendent will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 13.50.125A(1) to (5) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit.

D. The Superintendent may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined **Wastestream** Formula (Section 13.50.050C) or Net/Gross calculations (Section 13.50.050D).

~~13.50.130 Permit-Refusal Revocation. The city may refuse to grant any permit upon determination that one or more of the following conditions apply:~~

- ~~A. The user has not submitted information required;~~
- ~~B. The application contains false statements or misrepresentations;~~
- ~~C. The applicant's existing or proposed discharge does not conform to this part;~~
- ~~D. The granting of a permit would result in the establishment of a use or occupancy of land which violates any land use regulation of the city;~~
- ~~E. The granting of a permit would result in an occupancy or use which would result in the creation or maintenance of a public nuisance. (Ord. 91-1 N.S. (part), 1991). The Superintendent may revoke an individual wastewater discharge permit or general permit for good cause including, but not limited to, the following reasons:~~

~~A. Failure to notify the **city** of significant changes to the wastewater prior~~

to the changed discharge:

B. Failure to provide prior notification to the city of changed conditions pursuant to Section 13.50.140 ("Permit—Modifications") of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the city timely access to the facility premises and records;

G. Failure to meet effluent limitations or comply with Best Management Practices;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedule;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility: or

M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or general permit or any provisions of this ordinance.

Wastewater discharge permits or general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual or general wastewater discharge permits issued to a User are void upon the issuance of a new individual or general wastewater discharge permit to that User.

13.50.140 Permit--Modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for wastewater contribution permit as required by Section 13.50.110, the user shall apply for a wastewater contribution permit within one hundred eighty days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within one hundred eighty days after the promulgation of an applicable federal categorical pretreatment standard the information required by subdivision (h) and (i) of Section 13.50.120(A). (Ord. 91-1 N.S. (part), 1991). The city or Superintendent may modify an individual wastewater discharge permit or general permit for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements or Best Management Practices;

B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual or general wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

ED. Violation of any terms or conditions of the individual wastewater discharge permit or general permit;

FE. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

GF. Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

HG. To correct typographical or other errors in the individual wastewater discharge permit or general permit; or

IH. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 13.50.170 ("Permit Transfer") of this ordinance.

13.50.150 Permit conditions. ~~W~~Users issued a wastewater ~~contribution discharge~~ permits ~~or general permit~~ shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits ~~shall~~ may contain the following:

A. The baseline Equivalent Dwelling Unit assigned the user, unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

B. Limits on the average and maximum wastewater constituents and characteristics;

C. Limits on average and maximum flow rate and time of discharge or requirements for flow regulations and equalization;

D. Requirements for installation and maintenance of inspection and sampling facilities, pH control, and/or flow monitoring systems;

E. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law~~Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule~~;

~~F. Compliance schedules~~;

~~GF.~~ Requirements for submission of technical reports, production data, waste manifests, or discharge reports (see Section 13.50.180);

HG. Requirements for maintaining and retaining plant records relating to wastewater discharge for a minimum period of three years unless a longer time period is specified by the city, and affording city access thereto;

~~IH.~~ Requirements for advance notification to the city of any new introduction of wastewater constituents, including hazardous wastes, or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system. It shall be unlawful to introduce new wastewater constituents or to substantially change the volume or character of wastewater constituents released into the wastewater treatment system without prior approval by the city;

~~IJ.~~ Requirements for notification of accidental or slug discharges. ~~Installation and maintenance by the user at his own expense of detention tanks or other facilities or equipment for reducing the maximum rates of discharge of sewage or industrial waste to such a percentage of the twenty-four-hour rate as the superintendent may require~~;

KJ. Installation and maintenance by the user at his own expense of ~~preliminary-pre~~treatment facilities necessary to meet the quality limits set forth in this or as the city may require;

LK. The installation and maintenance by the user at his own expense of a suitable control manhole in the portion of the side sewer located on private property to facilitate observation, sampling and measurement of the waste. When required, the manhole must be accessible and safely located and shall be constructed as approved by the city;

ML. The installation and maintenance by the user at his own expense of grease, oil and sand interceptors or traps necessary for the proper handling of liquid wastes, containing grease and excessive amounts of any inflammable waste, and other harmful ingredients. All interceptors or traps shall be of an approved type and capacity and must be so located as to be readily and easily accessible for cleaning and inspection;

NM. The submission to and approval by the city of plans for any of the facilities or equipment required to be installed and maintained by the user. The city approval does not relieve the applicant from demonstrating the successful performance of the facilities or complying with the terms of this part;

ON. After commencement of operation of ~~preliminary-pre~~treatment facilities, the duty of the user to make periodic reports at his expense setting forth adequate data upon which the acceptability of the sewage, industrial waste or other waste, after treatment, may be determined;

PO. Submission to and approval by the city of plans, facilities and operating procedures to prevent accidental discharge of prohibited materials;

QP. Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

RQ. ~~Control mechanisms that contain a~~ statement of permit duration and nontransferability, applicable effluent limits, applicable monitoring and reporting requirements, and a statement of applicable penalties. (~~Ord. 91-1 N.S. (part), 1991~~).

R. Effluent limits, including BMPs, based on applicable Pretreatment Standards;

S. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.

T. Requirements to control accidental or slug discharges, if determined by the Superintendent to be necessary.

U. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 13.50.180.C.4.

13.50.160 Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. ~~The user shall apply for permit reissuance a minimum of one hundred eighty days prior to the expiration of the user's existing permit.~~ The terms and conditions of the permit shall be subject to modification by the city during the term of the permit as limitations or requirements as identified in Section 13.50.150 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty days prior to

the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.165 Permit reissuance. A user with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with Sections 13.50.105 and 13.50.120 of this chapter, a minimum of 180 days prior to the expiration of the user's existing individual wastewater discharge permit or general permit.

13.50.170 Permit transfer. Wastewater ~~contribution-discharge~~ permits and general permits are issued to a specific user for a specific operation. A wastewater ~~contribution-discharge~~ permit or general permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.175 Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 using a State or national certified lab and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

13.50.180 Reporting and sampling requirements for permittee.

A.— Compliance Date Report. Within ninety days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the ~~superintendent~~ Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements as described in Section 13.50.180D.5 and 13.50.120A.3 and 6. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. ~~The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement~~ The compliance

reports must shall be signed by an authorized representative of the industrial Industrial user, and certified to by a qualified professional in accordance with Section 13.50.180E.

B. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 13.50.180D.7 or 13.50.150F:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

2. No increment referred to above shall exceed nine months.

3. The User shall submit a progress report to the Superintendent no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule.

4. In no event shall more than nine months elapse between such progress reports to the Superintendent.

BC. Periodic Compliance Reports.

1. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, All SIUs (except a Non-Significant Categorical User), and any IUs designated by the Superintendent, at a frequency determined by the city, shall submit to the superintendent no less than twice per year during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a reports indicating the nature and concentration of pollutants in the effluent discharge which are limited by such pretreatment Pretreatment standards Standards and the measured or estimated average and maximum daily flows for the reporting period. Each report is due to the Superintendent within 30 days of the last day of the reporting period, one reporting period representing January through June and the other July through December. In addition, this report shall include a record of all average and maximum daily flows for these process units. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the User. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the significant user, and certified by a qualified professional. At the discretion of the superintendent Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent Superintendent may agree to alter the months during which the above reports are to be submitted.

2. The superintendent Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subdivision 1 of

this subsection B shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the ~~superintendent~~Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standard. All analysis ~~shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained must be performed by a state-certified laboratory using methods approved~~ in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the ~~administrator~~Superintendent or approval authority. Sampling shall be performed in accordance with the techniques approved by the ~~administrator~~Superintendent or designee.

3. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 13.50.175 the results of this monitoring shall be included in the report.

4. The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit or general permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit or general permit. See Section 13.50.120A.8.

c. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

d. The request for a monitoring waiver must be signed in accordance with Section 13.50.020C, and include the certification statement in 13.50.180E.1.

e. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

f. Any grant of the monitoring waiver by the Superintendent must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Superintendent for 3 years after expiration of the waiver.

g. Upon approval of the monitoring waiver and revision of the User's permit by the Superintendent, the Industrial User must certify on each report with the statement in Section 13.50.180F below, that there has been no

increase in the pollutant in its wastestream due to activities of the Industrial User.

h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 13.50.180C.1, or other more frequent monitoring requirements imposed by the Superintendent, and notify the Superintendent.

i. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

5. The city may reduce the requirement for periodic compliance reports to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the State, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

a. The POTW's value for 0.01 percent of the design dry-weather hydraulic capacity of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches

b. The POTW's value for 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and

c. The POTW's value for 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 13.50.075 of this ordinance.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 13.50.020. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Superintendent, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

GD. Baseline Reports. Within one hundred eighty days after the effective date of a categorical pretreatment standard, or one hundred eighty days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing Industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the superintendent Superintendent a baseline report (BMR) which contains the information required in 40 CFR, Section 403.12(b) including, but not limited to the following.

1. Identifying information including name, address of the facility, operator and owners.

2. A list of any environmental control permits held by or for the facility.

3. A brief description of the nature, average rate of production, and SIC/NAICS codes of the operation(s) carried out by the Industrial User. The description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and

other streams as necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e). The Superintendent may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

5. Measurement of pollutants.

a. The user shall identify the Pretreatment Standards applicable to each regulated process.

b. The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Superintendent) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP the User shall submit documentation as required by the Superintendent or applicable standards to determine compliance with the standard.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentration necessary to allow use of the combined wastestream formula in 40CFR403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40CFR403.6(e) this adjusted limit along with supporting data shall be submitted to the Superintendent.

d. Sampling and analysis shall be performed in accordance with Section 13.50.175.

e. The Superintendent may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Compliance Certification. A statement, reviewed by the user's Authorized Representative as defined in Section 13.50.020 and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

7. Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule must meet the requirements in 40 CFR 403.12(b)(7).

8. All baseline monitoring reports must be certified in accordance with Section 13.50.180 D and signed by an Authorized Representative as defined in 13.50.020.

DE. Statement Required/Data Accuracy Certification.

1. Each report requires a statement, reviewed by an authorized representative of the industrial-Industrial user, as defined in Section 13.50.020, and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the Industrial user to meet the pretreatment standards and requirements.

The following certification shall be included in the statement reports to the city:

"I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. was obtained in accordance with the requirements of 40 CFR, Section 403.6(a). Moreover, based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein, I believe that the submitted information is Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to 13.50.020 must annually submit the signed certification statement as follows:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 13.50.020;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period."

This compliance certification is based on the following information.

F. Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on 13.50.180C.4 must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due

to the activities at the facility since filing of the last periodic report under Section 13.50.180C.”

EG. Sampling Requirements. All significant and non-categorical industrial Industrial users are required to sample their effluent at least twice a year and submit the results to the city. (~~Ord. 91-1 N.S. (part), 1991~~).

H. All wastewater samples must be representative of the Users discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge

13.50.183 Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW. Where time-proportional composite sampling or grab sampling is authorized by the POTW, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the POTW, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in 13.50.180A and D, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the POTW may authorize a lower minimum. For the reports required by paragraphs 13.50.180C, the User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

13.50.185 Record keeping requirements. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established by the city in its chapter, in general permits or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 13.50.040 of this ordinance. Record keeping requirements are as follows:

A. Industrial users shall maintain records of all information resulting from any monitoring activities required. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples or chain of custody;
2. The dates analyses were performed;
3. Who performed the analyses;
4. The analytical techniques/methods use; and
5. The results of such analyses.

B. Industrial users are required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required) and shall make such records available for inspection and copying by the city. This period shall be automatically extended for the duration of any unresolved litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city.

13.50.190 Monitoring requirements. The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the city. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.200 Right of Entry: Inspection and sampling. ~~The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and photocopying, or the performance of any of their duties. The city, approval authority, and EPA (where the NPDES state is the approval authority) shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. 91-1 N.S. (part), 1991). The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater~~

discharge permit or general permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force that require proper identification and clearance before entry into its premises, the ser shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The Superintendent may require the ser to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to manufacturer's specification to ensure accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

E. Unreasonable delays in allowing the Superintendent access to the ser's premises shall be a violation of this ordinance.

13.50.210 Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

~~The city shall annually publish in the Benicia Herald newspaper a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the twelve previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve months.~~

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.215 POTW requirements. A. ~~Within thirty days of receiving approval authority of its list of significant industrial users (SIU), t~~The Ccity is required towill notify ~~the~~ Uusers of applicable pretreatment standards and requirements.

B. The ~~C~~city will inspect and sample the effluent from each SIU at least once per year. The city will evaluate, at least once every two years, whether each SIU needs a plan to control slug discharges.

C. The ~~C~~city will develop and implement an enforcement response plan. The plan must describe how the control authority will investigate noncompliance, the types of escalating enforcement responses, time periods for responses, and the responsible personnel.

D. The ~~C~~city will ~~prepare~~ maintain a list of ~~industrial~~ Industrial users ~~which~~ Users that meet the definition of "significant," or "nonsignificant" identifying the criteria that placed the ~~SIU~~ user on the list, and submit the list periodically to the approval authority indicating which industrial users should not be considered significant. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.220 Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, in accordance with 40 CFR Part 2 the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined in 40 CFR 403.14(b) will shall not be recognized as confidential information and shall be available to the public without restriction. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.230 Emergency suspensions. A. The ~~superintendent~~ Superintendent may suspend the water service, wastewater treatment service, and/or wastewater discharge permit or general permit of ~~an~~ industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment or significant violation to the health or welfare of persons, the POTW, or the environment.

B. Any user notified of a suspension of the water service, wastewater treatment service, and/or the wastewater discharge permit or general permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the ~~superintendent~~ Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The ~~superintendent~~ Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Section 13.50.240 are initiated against the user.

C. An ~~industrial user which is responsible in whole or in part for imminent endangerment~~ user that is responsible in whole or in part for imminent endangerment

shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the ~~superintendent~~Superintendent prior to the date of the hearing described in subsection (~~bB~~) above. (~~Ord. 91-1 N.S. §1, 1992: Ord. 91-1 N.S. (part), 1991.~~)

13.50.240 Wastewater discharge pPermit--Enforcement--Termination of permit. ~~Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority.~~ Any user who violates the following conditions ~~of this chapter or a wastewater discharge permit or order any applicable state and federal law~~, is subject to ~~permit revocation and discharge-water service suspension or permit~~ termination:

- A. Violation of permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater constituents and characteristics;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

E. Violation of the Pretreatment Standards and applicable state and federal law.

Noncompliant ~~industrial~~Industrial users will be notified of the proposed termination of their wastewater ~~discharge permit or general permit~~ and be offered an opportunity to show cause ~~or appeal~~ under Section 13.50.260 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the IU. (~~Ord. 92-1 N.S. §2, 1992: Ord. 91-1 N.S. (part), 1991.~~)

13.50.250 Notification of violationViolation Whenever the ~~superintendent~~Superintendent finds that any ~~industrial~~ user has violated or is violating this chapter, or a wastewater ~~discharge permit or general permit~~ or order issued hereunder, the ~~superintendent~~Superintendent or his duly authorized representative may serve upon said user written ~~notice~~Notice of ~~the violation~~Violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the ~~superintendent~~Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. (~~Ord. 92-1 N.S. §3, 1992: Ord. 91-1 N.S. (part), 1991.~~)

13.50.251 Notice of Violation and Repeat Sampling. If sampling performed by a wastewater discharge permittee indicates a violation, the user must notify the Superintendent within twenty-four hours of becoming aware of the violation. The User shall also repeat the sampling and analysis within five days of becoming aware of the violation and submit the results of the repeat analysis to the Superintendent within thirty days after becoming aware of the violation. Resampling by the User is not required if the city performs sampling at the user's facility at least once per month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the IU.

13.50.252 Enforcement—Administrative Orders. The Superintendent is hereby empowered to issue administrative orders or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user, including, but not limited to, installation of pretreatment equipment, or adoption of BMPs, or need for additional operation and maintenance personnel to correct the noncompliance within a time period also specified by the order. Administrative orders shall have the same force and effect as consent orders issued.

13.50.255 Enforcement--Cease and ~~desist~~ Desist ordersOrders. When the ~~superintendent~~ Superintendent finds that an ~~industrial~~ Industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the ~~superintendent~~ Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- A. Comply forthwith;
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. (~~Ord. 92-1 N.S. §4, 1992~~).

13.50.260 Enforcement--Show ~~cause~~ Cause hearingHearing.

A. ~~_____~~—The ~~superintendent~~ Superintendent may order any ~~industrial~~ Industrial user which causes or contributes to a violation of this chapter or wastewater discharge permit or general permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified ~~industrial~~ Industrial user appears as noticed, immediate enforcement action may be pursued.

B. The city ~~council~~ Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

1. Issue in the name of the city ~~council~~ Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
2. Take the evidence;
3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city ~~council~~ Council for action thereon.

C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

D. After the city ~~council~~ Council has reviewed the evidence, it may issue an order to the user responsible for the discharge. This order may direct that, following a specified time period, the sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed

and properly operated. Further orders and directives as are necessary and appropriate may be issued. (~~Ord. 92-1 N.S. §5, 1992: Ord. 91-1 N.S. (part), 1991~~).

13.50.265 Enforcement--Consent orders. The ~~superintendent~~ Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the ~~industrial-Industrial~~ user responsible for the noncompliance. Such orders will include specific action to be taken by the ~~industrial-Industrial~~ user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued. (~~Ord. 92-1 N.S. §6, 1992~~).

13.50.266 Enforcement--Compliance orders--Discontinuance of sewer service. When the ~~superintendent~~ Superintendent finds that an ~~industrial-Industrial~~ user has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the ~~industrial-Industrial~~ user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices. (~~Ord. 92-1 N.S. §7, 1992~~).

13.50.270 Enforcement--Legal action. If any user discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the ~~superintendent~~ Superintendent, through the city attorney may commence an action for appropriate legal and/or equitable relief in the Solano County superior court or the municipal court for Solano County. (~~Ord. 92-1 N.S. §8, 1992: Ord. 91-1 N.S. (part), 1991~~).

13.50.275 Enforcement--Injunctive relief. Whenever an ~~industrial-Industrial~~ user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the ~~superintendent~~ Superintendent, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the ~~industrial-Industrial~~ user. The ~~superintendent~~ Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges. (~~Ord. 92-1 N.S. §9, 1992~~).

13.50.280 Violations--Public nuisance. It is prohibited and a public nuisance for any user to violate an order of the city ~~-council~~ Council or willfully or negligently fail to comply with any provision of these regulations, and the orders, rules, regulations and permits issued hereunder. The nuisance shall be abated as provided by this code or state law. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The city may recover reasonable attorney's fees, witness fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated these regulations or the orders, rules, regulations, and permits issued hereunder. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.285 Enforcement—Civil/Criminal remedies--Administrative fines.

Notwithstanding any other section of this chapter, any ~~user~~ person who discharges any wastes or pollutants, as defined in California Water Code Section 13050, except as permitted by waste discharge requirements, or who is found to have violated any provision of this chapter, or permits and orders issued hereunder, or who refuses to comply with the requirements adopted pursuant to Section 13385 or 13387 of the Water Code, shall be subject to a civil/criminal penalty at least in the amount of two hundred and fifty dollars (\$250), but not to exceed twenty-five thousand dollars (\$25,000) for each day in which such discharge, violation, or refusal occurs. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, witness fees, court costs, court reporter fees, sample collection costs, and all other expenses of litigation incurred by the city and resulting from any action brought against a person found to have violated this part, or the orders, rules, regulations, and permits issued hereunder. ~~be fined in an amount not to exceed one thousand dollars per violation. Each day on which noncompliance occurs or continues shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the uUser, and any other factor as justice requires. A lien against the User's property shall be sought for any unpaid charges, fees, or penalties.~~

13.50.295 Enforcement—Appeal Process. Industrial users desiring to dispute such fines, or enforcement actions (limited to permit revocation, cease and desist orders, and compliance orders) must file a request for the ~~superintendent~~ Superintendent to reconsider the fine or the applicable enforcement action within ten days of being notified of the fine. The ~~superintendent~~ Superintendent shall convene a hearing on the matter within fifteen days of receiving the request from the ~~Industrial user~~ User. If the user is still aggrieved by the ~~superintendent's~~ Superintendent's decision after reconsideration of the matter, the user shall have the right to appeal to the city ~~council~~ Council at a regularly scheduled meeting of the ~~council~~ Council, to show cause why a proposed enforcement action should not be taken. (Ord. 92-1 N.S. §10, 1992).

13.50.290 Violations—Penalties. ~~Any user who is found to be in violation of this chapter shall be fined not less than one thousand dollars nor more than the maximum amount allowed by Government Code Section 36901 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, witness fees, court costs, court reporter fees, and all other expenses of litigation incurred by the city and resulting from any action brought against a person found to have violated this part, or the orders, rules, regulations, and permits issued hereunder. (Ord. 91-1 N.S. (part), 1991).~~

~~13.50.295 Enforcement--Civil penalties. A. Any industrial user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the city, through the superintendent for a civil penalty of not more than one thousand dollars plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring.~~

~~B. The superintendent shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to the extent of harm caused by the violation. (Ord. 92-1 N.S. §11, 1992).~~

13.50.300 Violations--Misdemeanor. A. Any person ~~to~~ who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these regulations, or wastewater ~~contribution-discharge~~ contribution-discharge permit or general permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under these regulations, is guilty of a misdemeanor.

B. Any user who violates an order of the city ~~council~~ Council or who willfully or negligently fails to comply with any provision of these regulations and the orders, rules, regulations and permits issued hereunder is guilty of a misdemeanor.

C. Each person is guilty of a misdemeanor for each and every day during any portion the violation(s) set forth in subsection A or B of this section is committed, continued or permitted by that person. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.310 Penalties--Cumulations. The penalties set forth above are not exclusive and are cumulative to each other as well as to other penalties under other federal, state and local laws and regulations. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.315 Enforcement--Liability insurance. The ~~superintendent~~ Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge. ~~(Ord. 92-1 N.S. §12, 1992).~~

13.50.320 Severability. If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect. ~~(Ord. 91-1 N.S. (part), 1991).~~

13.50.325 Enforcement. The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any User when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant User.

13.50.330 Conflict. All other chapters and parts of other chapters inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. Should there be any conflict between this chapter and the general pretreatment regulations (40 CFR Part 403), the general pretreatment regulations shall control. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.340 Exceptions--Special agreements. The city may enter into a special agreement with a person or establishment whereby an industrial waste of unusual strength or character may be accepted by the city for treatment subject to payment and to such terms and conditions as the city may fix. Under no circumstances shall the agreement include any waiver of national categorical pretreatment standards. (~~Ord. 91-1 N.S. (part), 1991~~).

13.50.360 Publication of Industrial Users in Significant Noncompliance. The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the IUs which, at any time during the previous twelve (12) months, were in Significant Noncompliance (SNC) with applicable Pretreatment Standards and Requirements. The term SNC shall be applicable to all SIUs (or any other IU that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-(6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 13.50.040 of this ordinance;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33%) or more of wastewater measurements taken for each pollutant parameter taken during a six-(6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined by Section 13.50.040 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined in this ordinance (Daily Maximum, Monthly Average, Instantaneous Limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge.

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AMENDING THE PRETREATMENT PROGRAM ENFORCEMENT RESPONSE
PLAN**

WHEREAS, a Pretreatment Program Enforcement Response Plan was adopted on January 7, 1992 by Ordinance No. 92-1 and has been updated to align it with the Pretreatment and Source Control of Wastewater Disposal or Discharge Ordinance amendments; and

WHEREAS, the Enforcement Response Plan outlines the enforcement actions the City is required to make in response to violations of its Pretreatment and Source Control Ordinance, BMC Chapter 13.50.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the amended Pretreatment Program Enforcement Response Plan on file with the City Clerk.

* * * * *

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 on the 20th day of July, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

CITY OF BENICIA

Enforcement Response Plan

Pretreatment Program



Date: July 2010

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Abbreviations

BMP – Best Management Practice

CA – City Attorney

ERP – Enforcement Response Plan

IU – Industrial User

NOV – Notice of Violation

NPDES – National Pollutant Discharge Elimination System

DPW – Public Works Director

RWQCB – Regional Water Quality Control Board or Water Board

S – Superintendent (Wastewater Treatment Plant Superintendent)

SIU – Significant Industrial User

SNC – Significant Noncompliance

WQS – Water Quality Supervisor

WQT – Water Quality Technician

I. Introduction

The U.S. Environmental Protection Agency (EPA) promulgated regulations (40CFR403.8(f)(5)) that require Publicly Owned Treatment Works (POTWs) to develop and implement an enforcement response plan (ERP) as part of their approved pretreatment program. This ERP was developed using the EPA Guidance for *Developing Control Authority Enforcement Response Plans* (September 1989).

The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to violations of the City of Benicia Pretreatment and Source Control Ordinance. The ERP provides guidance in selecting initial and follow-up enforcement actions, indicates staff responsibilities for these actions, and specifies the time frames in which to take them. An Enforcement Response Table is provided to relate the degree of noncompliance with the type of enforcement response to be taken. The table lists the most common types of non-compliance and enforcement actions taken and the responsibilities of personnel in initiating enforcement actions.

Adoption of a comprehensive ERP is beneficial to the City in a number of ways. Since the ERP clearly outlines staff responsibilities in enforcement issues, task coordination among staff is improved and staff members will be able to perform their functions decisively when enforcement actions are necessary.

A second benefit is the enhancement of the City's image as a responsible public agency. Proper use of the ERP prevents inconsistencies in enforcement. Because documented enforcement procedures are being followed, the regulated community is less likely to view enforcement actions as subjective or unreasonable.

The City implements the ERP through the legal authority provided in its sewer use ordinance, specifically *Chapter 13.50 Pretreatment and Source Control of Wastewater Disposal or Discharge*.

II. Definitions

Administrative Order: Administrative Orders are enforcement documents that direct Industrial Users to undertake or to cease specified activities by specified deadlines. The terms of an administrative order may or may not be negotiated with Industrial Users (IUs). Administrative orders may incorporate compliance schedules, timeframes, administrative penalties, termination of service and specific actions to be taken by the user including, but not limited to, installation of pretreatment equipment, adoption of Best Management Practices (BMPs) or utilization of additional Operation and Maintenance (O&M) personnel. Administrative Orders include:

- Consent Order
- Compliance Order
- Show Cause Hearing

- Cease and Desist Orders
- Termination of Permit

Categorical Zero Discharger: A source performing any categorical process subject to Federal Pretreatment Standards, as described in Chapter 40 of the Code of Federal Regulations (40 CFR) 405-471 that has any connection to the sanitary sewer system and does not discharge any wastewater except domestic wastewater to the sanitary sewer system.

Cease and Desist Order: An order to cease and desist all such violations and direct those persons in noncompliance to comply forthwith and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Civil Action: An order, hearing, or other action by the presiding court. Such orders may include penalties at least in the amount of two hundred and fifty dollars (\$250), but not to exceed twenty-five thousand dollars (\$25,000) for each day. The City may also recover reasonable fees and costs associated with prosecution of the action.

Compliance Inspection: An inspection to determine compliance status and to identify practices that may result in or contribute to non-compliance. Compliance inspections are normally not scheduled.

Compliance Meeting: A meeting between City staff and IU representatives to discuss the causes of noncompliance, corrective actions to achieve compliance, and time frames for the implementation of corrective actions.

Compliance Order: A letter that directs the IU to achieve or restore compliance by a date specified in the order. A Compliance Order may provide that penalties will begin to accrue if compliance is not achieved by a specified date.

Compliance Schedule: A timetable for the implementation of corrective actions by an IU in order to achieve consistent compliance.

Consent Order: Document establishing an agreement with the IU responsible for the noncompliance, including specific action to be taken by the IU to correct the noncompliance within a time period also specified by the order.

Fines: Monetary penalties imposed by the court or by the City for a violation of discharge regulations.

Industrial User (IU): A source of indirect discharge.

Non-Significant Categorical Industrial User: A categorical industrial user that has a discharge of wastewater of less 100 gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and specific conditions are met.

Notice of Violation (NOV): An official notice that a violation of discharge regulations has occurred. A written response to the Notice of Violation, identifying causes of the violation and corrective actions taken to prevent recurring violations is required within ten days of the mailing date.

Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or by other means, except by diluting the concentration of the pollutants.

Show Cause Hearing: Notice is served on the IU specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the IU show cause why this proposed enforcement action should not be taken. Whether or not a duly notified IU appears as noticed, immediate enforcement action may be pursued. The City council may conduct the hearing and take evidence or may designate an officer.

Significant Industrial User (SIU): Any Industrial User of the City's wastewater disposal system who is:

1. Subject to Categorical Pretreatment Standards; or
2. An Industrial User that
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
3. The City may determine that an IU subject to categorical Pretreatment Standards is a Non-significant Categorical Industrial User rather than a SIU based on a finding that the IU never discharges more than 100 gallons per calendar day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The IU, prior to the City's or POTW's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The IU annually submits the certification statement required in 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and
 - (c) The IU never discharges any untreated concentrated wastewater.
4. Upon a finding that an IU meeting the criteria in #2 above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or Requirement, the City or POTW may at any time, on its own initiative or in response to a petition received from an IU, and in

accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

Significant Non-compliance (SNC): Significant non-compliance (as defined in 40CFR403.8(f)(2)(vii)) is a compliance status in which one or more of the following is found:

- Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD; TSS; and; fats, oil and grease, and 1.2 for all other pollutants except pH).
- Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Director determines has caused, alone or in combination with other IUs, interference or pass through (including endangering the health of POTW personnel or the general public).
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.
- Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- Failure to provide, within forty five days after the due date, required reports such as self monitoring reports, ninety day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- Failure to accurately report non-compliance.
- Any other violation or group of violations, which the Director determines, will adversely affect the operation or implementation of the local pretreatment program.

Tier 1 Permit: Permit for a categorical industrial user.

Tier 2 Permit: Permit for a non-categorical significant industrial user.

Tier 3 Permit: Permit for zero-discharger or Non-significant categorical industrial user (NSCIU). Permit for a commercial or industrial discharger of concern to the POTW. For example, this type of permit may be issued to a restaurant to limit the discharge of fats, oils, and grease (FOG) or to industrial user with a low process discharge.

Termination of Permit: A notice delivered to an IU serving notification of the City's intent to revoke the IU's Permit or the termination of sewer service.

Verbal Warning: A documented warning communicated to the responsible party orally. This enforcement response is reserved for minor violations.

III. Roles and Responsibilities

The Public Works Department is responsible for the management, implementation and enforcement of the Pretreatment Program.

Water Quality Technician

The Water Quality Technician (WQT) is responsible for the day-to-day implementation and enforcement of the industrial pretreatment program. The WQT's duties are to:

- Maintain the Industrial User Inventory
- Screen compliance monitoring data
- Conduct sampling
- Determine compliance with permit conditions through on-site inspections
- Identify instances of noncompliance
- Prepare verbal warnings or Notice of Violations (NOVs)
- Coordinate compliance meetings and oversee compliance schedules

Water Quality Supervisor

The Water Quality Supervisor (WQS) monitors the WQT's actions and initiates formal enforcement actions at the recommendation of the WQT. The WQS's role is to:

- Provide assistance and counsel to the WQT
- Ensure consistency of the Pretreatment Program
- Facilitate compliance meetings
- Prepare Administrative Orders and Penalties
- Prepare referrals to the City Attorney, District Attorney, Regional Water Quality Control Board or EPA

Superintendent

The Superintendent's role is to:

- Sign Tier 3 permits
- Approve issuance of show cause orders and civil actions

Director of Public Works

The Director of Public Works duties are to:

- Signs Tier 1 permits (Categorical IUs) and Tier 2 permits (non-categorical SIUs)
- Approve termination of service
- Act as the hearing officer for administrative complaints (penalties)

City Council

The City Council can conduct a show cause hearing or hear appeals from IUs.

Legal Counsel

The City attorney will prosecute civil and criminal cases or provide support for higher level cases.

IV. Identifying Violations

There are many activities associated with the identification and investigation of instances of noncompliance. Brief descriptions of these activities are provided in this ERP. For more detailed descriptions refer to the Pretreatment Program standard operating procedures (SOPs) and Program Manual.

Industrial User Inventory

The list of industrial users permitted by the City is based upon surveys performed at the inception of the pretreatment program. The list is updated by monitoring business and building permit applications through the City's permit process and a determination is made as to the need for inclusion in the pretreatment program. A Sewer Use Questionnaire (SUQ) is sent to the new businesses when more information is required before a determination can be made. The Water Quality Technician also looks for new commercial and industrial businesses when in the service area conducting other inspections.

Compliance Monitoring Procedures

The City's compliance monitoring procedures were developed according to the applicable EPA guidance. The monitoring procedures used to determine industrial user (IU) compliance with pretreatment program requirements have been reviewed and deemed adequate by Regional Water Quality Control Board staff. Permitted industries are on various self-monitoring and reporting schedules based on their flows and their potential to discharge harmful substances. The City routinely inspects the facilities and

samples the discharges of all significant industrial users (SIUs) twice each year. All other permitted IU's are monitored every other year. Monitoring frequency is increased following any incidence of non-compliance.

Inspections and sampling dates are generally scheduled for the 2nd and 4th quarters. One inspection is formal, scheduled, and includes a complete facility tour by the IU contact. The second inspection is unannounced. The two sample visits may or may not be concurrent with an inspection. Any significant process or pretreatment equipment change must be reported and is responded to by an inspection and/or sample visit.

All inspections are documented in the form of inspection reports placed in the IU's file. All analysis results are reviewed and placed in the IU's file along with laboratory Quality Assurance/Quality Control (QA/QC) data and chain-of-custody forms.

IU Self-Monitoring Frequencies

All Significant Industrial Users (SIUs) are required to self-monitor semi-annually and are encouraged to self-monitor quarterly.

The City will use the following table for new SIU discharges during the initial (first year) compliance period. A decrease in frequency will be considered by the Water Quality Supervisor (WQS) if the Industrial User has demonstrated consistent compliance over an initial time period (from six months to one year). Industrial Users that demonstrate frequent non-compliance over a similar time period will be considered by the Water Quality Supervisor for increased monitoring.

Table 1. Initial Compliance Period Sampling Frequency

Industrial Flow (gallons/day)	Conventional Pollutants, inorganic pollutants, cyanide and phenol	Organics
0 – 10,000	1/month	1/year
10,000 – 50,000	2/month	2/year
50,000 – 100,000	1/week	4/year
100,000 – 240,000	2/week	1/month
>240,000	3/week	2/month

Screening of Monitoring Data

All monitoring data is reviewed by the WQT within five working days of receipt to determine compliance with discharge limits. If violations are discovered, they are highlighted on the data sheet and the City's response is documented in the IU's file. Upon discovery of a local limit violation, the permitted IU is required to resample within five days and submit the results to the City within 30 days. Resampling by the IU is not required if the City performs the sampling.

At the end of each calendar month, a review of appropriate files is performed by the WQT to determine if all reports due during the month have been received. Any compliance schedule milestones or pending enforcement actions are also reviewed at this time. Required reports may include baseline monitoring reports, progress reports on compliance schedules, self monitoring reports, slug control reports or notices of slug loading.

The WQT is responsible for identifying if a violation has occurred and initiating the appropriate enforcement action

Categorical Zero Dischargers

Categorical Industrial Zero Dischargers are required to apply for a categorical industrial zero discharge permit (Tier 3). These facilities are required to submit semi-annually a zero discharge certification. WQTs inspect these facilities a minimum of once per year to verify the facility is not discharging.

Inspections

The WQT inspects each IU at least once per year to evaluate compliance. These inspections are typically scheduled with IU in advance. The WQT also performs inspection on demand. These inspections are typically in response to an incident or violation or to gather needed information.

V. Enforcement Procedures

When violations are identified the appropriate response can be determined by referencing the Enforcement Response Guide (Attachment A). When considering the type of enforcement action to be taken, the Enforcement Response Guide (ERG) provides a level of response appropriate to the violation. Additional criteria, which are not “built-in” to the ERG, can be used to establish an appropriate enforcement action, which may be more or less stringent. Pretreatment Program personnel will consider the following factors when selecting a response from among the options shown in the guide:

- Good faith of the user;
- Compliance history of the user;
- Success of previous enforcement actions taken against the user;
- Effect of the violation on receiving water quality; and
- Effect of the violation on the POTW.

Since the actions designated in the Guide are all considered appropriate, City staff will weigh each of the above factors in deciding whether to use a more or less stringent approach.

Types of Enforcement Actions

The following enforcement options are available to the Pretreatment Program and its agents. If appropriate, any type of enforcement action may include a requirement for immediate correction.

Verbal Warnings

A Verbal Warning is generally issued for minor violations. In this case the WQT notifies the IU that a violation occurred and directs the IU to take corrective actions. This notification serves as the enforcement action. A written response from the IU is not required. Written documentation of a Verbal Warning will be noted in IU's file. A more stringent enforcement action may be the issuance of a Notice of Violation in place of a Verbal Warning in cases where there have been previous recent violations for the same violation consistent with the guidelines in the Enforcement Response Guide. An email may be sent in lieu of a phone call.

Notice of Violation (NOV)

The Notice of Violation (NOV) is generally issued for a severe violation or recurring violations. The NOV documents the type of violation that occurred and directs the IU to identify and correct the cause of the violation. The IU is required to respond in writing within ten days describing the cause of the violation and the corrective actions taken or the plan for taking corrective actions.

Administrative Orders

Administrative orders are enforcement documents that direct Industrial Users to undertake or to cease specified activities by specified deadlines. The terms of an administrative order may or may not be negotiated with Industrial Users. Administrative orders may incorporate compliance schedules, administrative penalties, and termination of service orders. Administrative orders include:

- Consent Order
- Compliance Order
- Show Cause Hearing
- Cease and Desist Orders
- Termination of Permit

Monetary fines can also be issued with Administrative Orders.

Civil or Criminal Remedies with or without penalties

The City, through the City Attorney, may commence an action for appropriate legal and/or equitable relief through the Solano County court system. Any person may be civilly liable in the amount of at least two hundred and fifty dollars (\$250), but not to exceed twenty-five thousand dollars (\$25,000) for each day in which the discharge,

violation, or refusal occurs. A civil action may result in the issuance of an injunction, the assessment of monetary penalties by the court, and/or an award of costs and/or attorneys fees to the agency. Criminal charges may be filed against the IU responsible party to secure some or all of the following: injunctive relief, fines, jail sentence, costs, and attorneys' fees.

Newspaper Announcement

When any action by the IU meets one or more of the criteria for Significant Non-compliance (SNC) the IU shall be designated SNC in the Semiannual and Annual Pretreatment Compliance Reports, and published in the newspaper annually.

Timelines for Enforcement Action Response

All violations will be identified and documented within five working days of receiving compliance information. Initial enforcement responses will occur within 15 working days of violation detection.

Follow-up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response. Compliance schedules will be issued for all continuing violations. If an IU fails to respond to a Notice of Violation that requires a response, the City shall issue an administrative order.

Violations threatening health, property, or the environment are considered emergencies and will receive an immediate response, which may include halting the discharge or termination of service until the violation is identified and corrected. If appropriate, any type of enforcement action may include a requirement for immediate correction.

All violations constituting significant noncompliance, as defined in the City's Pretreatment Ordinance, will be addressed with an enforceable action within 30 days of the identification of the significant noncompliance. The names of any IU's that have been in significant noncompliance with Pretreatment Program requirements will be published on an annual basis in the Benicia Herald newspaper.

If sampling performed by an IU indicates a violation, the IU must notify the Pretreatment Program within twenty-four hours of becoming aware of the violation. The IU is required to repeat the sampling and analysis within five days of becoming aware of the violation and submit the results of the repeat analysis to the WQT within thirty days after becoming aware of the violation. Resampling by the IU is not required if the City performs sampling at the IU's facility between the time when the initial sampling was conducted and the time when the IU receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the IU.

ATTACHMENT A ENFORCEMENT RESPONSE GUIDE

Terms and abbreviations used in the Enforcement Response Guide are defined below.

AO	Administrative Order
Civil Action	Civil litigation against the IU seeking equitable relief, monetary penalties, and actual damages (BMC Section 13.50.285)
Criminal Action	Pursing punitive measures against an individual and/or organization through a court of law (BMC Chapter 13.50.270 and 285)
IU	Industrial User (BMC Chapter 13.50.020.W)
Show Cause	Informal compliance meeting with IU to resolve recurring noncompliance (BMC Chapter 13.50.260)
NOV	Notice of Violation (BMC Chapter 13.50.250)
S	Superintendent (BMC Chapter 13.50.010(D))
DPW	Director of Public Works
SNC	Significant Noncompliance (BMC Chapter 13.50.020 (RR))
Terminate Service	Suspension or termination of service by revocation/termination of the IU's permit (BMC Chapter 13.50.230 and 240)
WQS	Water Quality Supervisor
WQT	Water Quality Technician

The following Enforcement Response Guide is used as follows:

1. Locate the type of noncompliance in the first column and identify the most accurate description of the violation from column two.
2. Assess the appropriateness of the recommended responses in column three according to the criteria listed in Section V above.
3. Apply the enforcement response to the IU. Specify corrective action or other responses required of the IU. Column four indicates City personnel responsible for the enforcement action.
4. Follow-up with escalated enforcement action if the IU's response is not received or the violation continues.

All supporting documentation regarding the violation and enforcement actions taken should be documented in the IU's file.

Enforcement Response Guide

Noncompliance	Nature of Violation	Enforcement Response	Personnel
<i>Unauthorized Discharges (No Permit)</i>			
Unpermitted discharge	IU unaware of requirement; no harm to POTW/environment	Phone call, email; NOV	WQT
	IU unaware of requirement; harm to POTW	NOV	WQT
		AO with/without fine	WQS
		Civil action	S
	Failure to apply, continues without application after notice by the POTW	NOV	WQT
		AO with/without fine	WQS
		Civil action	S/ City Attorney
		Criminal investigation	S/ City Attorney
Terminate service	DPW		
Non-permitted discharge (failure to renew)	IU has not submitted application within 10 days of due date	Phone call, email; NOV	WQT
<i>Discharge Limit Violation</i>			
Exceedence of local or Federal Standard (permit limit)	Isolated, not significant	Phone call, email; NOV	WQT
	Isolated, significant (no harm)	NOV	WQT
		AO with/without fine, to develop spill prevention plan	WQS
		IU samples for specified number of days	WQS
	Isolated, harm to POTW or environment	AO with fine	WQS
		IU samples for specified number of days	WQS
		Show cause order	S
		Civil action	S/ City Attorney
	Recurring, no harm to POTW/environment	NOV	WQT
		AO with/without fine	WQS
	Recurring, significant harm to POTW and/or environment	AO with fine	WQS
		Show cause order	S
Civil action		S/ City Attorney	
Terminate service IU samples for specified number of days		DPW WQS	
<i>Monitoring and Reporting Violations</i>			
Reporting Violation	Report is improperly signed or certified	Phone call, email, or NOV	WQT
		NOV	WQS
	Report is improperly signed or certified after notice by POTW	NOV	WQT
		AO with/without fine	WQS

Noncompliance	Nature of Violation	Enforcement Response	Personnel
	Report, cont.	Show cause order	S
	Isolated, not significant (e.g. 5 days late)	Phone call, email or NOV	WQT
	Significant (e.g. report 30 days or more late) (SNC)	NOV	WQT
		AO with/without fine	WQS
	Reports are always late and/or incorrectly signed or no reports at all	AO with/without fine	WQS
		Show cause order	S
		Civil action	S/ City Attorney
	Failure to report spill or changed discharge (no harm)	NOV	WQT
	Failure to report spill or changed discharge (results in harm)	NOV	WQT
		AO with/without fine	WQS
		Civil action	S/ City Attorney
	Repeated failure to report spills	AO with fine	WQS
		Show cause order	S
		Terminate service	DPW
Falsification	Criminal investigation	S/ City Attorney	
	Terminate service	DPW	
Failure to monitor correctly	Failure to monitor all pollutants as required by permit	Phone call, NOV or AO with/without fine	WQT, WQS
	Recurring failure to monitor	NOV	WQT
		AO with/without fine	WQS
Improper sampling	Evidence of intent to falsify	Civil action	S/ City Attorney
		Phone call, NOV	WQT
		AO with/without fine	WQS
		Criminal investigation	S/ City Attorney
Failure to install monitoring equipment	Recurring violation of AO	Terminate service	DPW
		Delay of less than 30 days	Phone call, NOV
		Delay of 30 days or more	AO with/without fine
		Civil action	S/ City Attorney
		Criminal investigation	S/ City Attorney
Failure to install monitoring equipment as outlined in compliance schedule	Recurring violation of AO	Terminate service	DPW
		Delay of less than 30 days	Phone call, NOV
		Delay of 30 days or more	AO with/without fine
		Civil action	S/ City Attorney
		Criminal investigation	S/ City Attorney
Compliance schedules (in permit)	Missed milestone by less than 30 days, or will not affect final milestone	NOV	WQT
		AO with/without fine	WQS
	Missed milestone by more than	NOV	WQT

Noncompliance	Nature of Violation	Enforcement Response	Personnel
	30 days, or will affect final milestone (good cause for delay) (good faith)	AO with/without fine	WQS
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	AO with/without fine	WQS
		Show cause order with fine	S
		Civil action	S/ City Attorney
		Terminate service	DPW
	Recurring violation or violation of schedule in AO	Show cause order with fine	S
		Civil action	S/ City Attorney
		Criminal investigation	S/ City Attorney
		Terminate service	DPW
Other Permit Violations			
Waste stream are diluted in lieu of treatment	Initial violation	NOV	WQT
		AO with/without fine	WQS
	Recurring	AO with/without fine	WQS
		Show cause order	S
	Terminate service	DPW	
Failure to mitigate noncompliance or halt production	Does not result in harm	NOV	WQT
		AO with/without fine	WQS
	Does result in harm	AO with fine	WQS
		Civil action	S/ City Attorney
		Criminal action	S/ City Attorney
	Terminate service	DPW	
Failure to properly operate and maintain pretreatment facility	See above		
Violations Detected During Site Visits			
Entry denial	Entry denied or consent withdrawn, copies of records denied	NOV	WQT
		Obtain warrant and return to IU	WQS, S
Illegal discharge	No harm to POTW or environment and no evidence of intent	NOV with/without fine	WQT
		AO with/without fine	WQS
	Discharges causes harm or evidence of intent/negligence	AO with fine	WQS
		Civil action	S/ City Attorney
		Criminal investigation	S/ City Attorney
	Recurring violation of AO	Civil or criminal	S, DPW
Improper sampling	Unintentional sampling at incorrect location	Phone call, NOV	WQT
	Unintentionally using incorrect sample type	Phone call, NOV	WQT

Noncompliance	Nature of Violation	Enforcement Response	Personnel
	Unintentionally using incorrect sample collection techniques	Phone call, email, NOV	WQT
	Evidence of intent	AO with fine	WQS
		Civil action	S/ City Attorney
Inadequate record keeping	Inspector finds files incomplete to missing (no evidence of intent)	Verbal warning, email, or NOV	WQT
	Recurring	NOV	WQT
		AO with/without fine	WQS
Failure to report additional monitoring	Inspection finds additional files	NOV	WQT
	Recurring	AO with/without fine	WQS

Time frames for responses

- A. All violations will be identified, documented and the appropriate response initiated within five (5) days of receiving compliance information
- B. Initial enforcement responses [involving contact with the industrial user and requesting information on corrective or preventative action(s)] will occur within fifteen (15) days of violation detection.
- C. Follow-up action for continuing or recurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of significant noncompliance.
- F. Within 30 days of the date of the notice (or agreed upon date), a plan for the satisfactory correction thereof shall be submitted to the City by the User.

AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
PUBLIC HEARINGS

DATE : July 6, 2010

TO : City Manager

FROM : Public Works and Community Development Director

SUBJECT : **CONDUCT A NOTICED PUBLIC HEARING TO CONSIDER APPROVING THE SECOND AMENDMENT TO THE COUNTYWIDE NON-DISPOSAL FACILITY ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE MANAGEMENT PLAN**

RECOMMENDATION:

Conduct a noticed public hearing and consider approval of the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan.

EXECUTIVE SUMMARY:

In 1994, the cities and county of Solano each prepared their own original Non-Disposal Facility Element (NDFE) of the Countywide Integrated Waste Management Plan (CIWMP) that was approved by the former California Integrated Waste Management Board (CIWMB), now CalRecycle. In 1998, Solano County Unincorporated was the only Solano County jurisdiction to amend its original NDFE and that first amendment included updates on all non-disposal facilities utilized by the cities and county of Solano.

In 2009, Solano County's Local Task Force for Integrated Waste Management directed the update of the CIWMP elements beginning with the NDFE. On behalf of its cities, Solano County led the preparation of the second amendment to the NDFE and determined that the shared use of non-disposal facilities justified a single, multi-jurisdictional NDFE to be recognized as the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan when submitted to the respective governing authorities for adoption and approval.

BUDGET INFORMATION:

Approval of the second amendment to the NDFE has no fiscal impact.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies include:

- ❑ Strategic Issue 2: Protecting and Enhancing the Environment
- Strategy: Pursue and adopt sustainable practices

BACKGROUND:

The California Integrated Waste Management Act of 1989 required each City and County to prepare, adopt and implement a Source Reduction and Recycling Element and Household Hazardous Waste Element. It also required counties to prepare Countywide Siting Element. All of these “Elements” were to be included in a Countywide Integrated Waste Management Plan. The Benicia City Council approved the City’s Source Reduction and Recycling Element and Household Hazardous Waste Element on March 17, 1992.

In Solano County, the CIWMP is prepared and maintained by the County of Solano in cooperation with its incorporated cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo. The CIWMP consists of the following five elements:

- **Source Reduction and Recycling Element (SRRE) [PRC Section 41780]**
Requires an implementation schedule of diversion programs that shows how the jurisdiction would achieve the mandated diversion goals through source reduction, recycling and composting activities.
- **Household Hazardous Waste Element (HHWE) [PRC Section 41500]**
Requires identification of programs for the safe collection, recycling, treatment, and disposal of hazardous wastes generated by households and should be separated from the solid waste stream.
- **Countywide Siting Element (CSE) [Title 14, CCR Section 18755]**
Requires demonstration of 15 years combined permitted disposal capacity through existing or planned solid waste disposal facilities or through additional strategies.
- **Summary Plan (SP) [PRC Section 41751]**
Provide an overview of significant waste management problems faced by the jurisdiction, along with specific steps to be taken, independently and in concert with cities within their boundaries in order to comply with AB 939.
- **Non-Disposal Facility Element (NDFE) [PRC Section 41732]**
Requires identification and description of all existing or proposed non-disposal facilities to be utilized to implement diversion programs outlined in the SRRE to meet diversion goals.

The primary purpose of a NDFE is to identify new, existing, or expanding “non-disposal” facilities within a jurisdiction’s borders required to obtain a state-issued Solid Waste Facility Permit to operate for the purpose of these facilities being found in conformance with the CIWMP.

Non-Disposal Facility: A solid waste facility required to obtain a permit from CalRecycle that is a material recovery facility, compost facility, or transfer station/processing facility; a non-disposal facility is NOT a solid waste disposal facility or a transformation facility.

Solid Waste Disposal Facility: Accepts solid waste for land disposal.

***Transformation Facility:** A facility whose principal function is to process solid waste by incineration, pyrolysis, destructive distillation, or gasification for the purpose of volume reduction, synthetic fuel production, or energy recovery; biomass and composting are NOT transformation.

The first amendment to the Non-Disposal Facilities Element was completed in 1998 and is now outdated. Additionally, it does not accurately identify all the in-county and out-of-county non-disposal facilities in use to manage Solano County generated recyclables, yard waste, organics, and concrete, demolition and inert debris materials. Thus, the Solano County non-disposal facilities permitted to operate by CalRecycle depend on this amendment's adoption to ensure Solano County can determine their conformance with the CIWMP as required for any future solid waste permit-related activity.

The second amendment to the Countywide Non-Disposal Facility Element is intended to update existing, identify new, and adequately describe non-disposal facilities utilized in the collection and processing of commingled recyclables, green waste and organics, and construction, demolition, and inert debris material generated within the cities and county of Solano that contribute to the mandatory waste diversion mandate under AB 939. There are fourteen newly identified facilities in the second amendment that were not previously identified in the first amendment.

The Solano County Local Task Force (LTF) for Integrated Waste Management is a 27-member body represented by each Solano County city, three divisions of Solano County, Travis Air Force Base, Solano Community College, four recyclers, the six franchised waste haulers, both landfills, and three community groups that include the Sierra Club.

The LTF has been an active participant in providing technical comments to a series of drafts that have culminated in the LTF having no comments to the final copy of the second amendment to the Countywide NDFE.

The following chart displays the facilities described in the first amendment and the corresponding change and/or update to them found in the second amendment. Of these twelve facilities below, eight have been updated in the second amendment while four were excluded due to them no longer assisting the cities and county of Solano in meeting their waste reduction goals.

Attachments:

- ❑ Non-Disposal Facility Element Chart
- ❑ Resolution
- ❑ NDFE 2nd Amendment 0610

The following chart displays the facilities described in the first amendment and the corresponding change and/or update to them found in the second amendment. Of these twelve facilities below, eight have been updated in the second amendment while four were excluded due to them no longer assisting the cities and county of Solano in meeting their waste reduction goals.

Table	Facility Name	Facility Name Change	Facility Type Change	Facility Description Updated	Facility Capacity Updated	Diversion Rate Updated	Participating Jurisdictions Updated	Location Change
1	B&J Drop Box Landfill Composting	Jepson Prairie Organics Composting Facility	No	Yes	Yes	Yes	Yes	No
2	Potrero Hills Composting Facility	Potrero Hills Compost Facility	No	Yes	Yes	Yes	No	No
3	Solano Garbage Intermediate Processing Facility	This facility is not identified in the NDFE's second amendment because it no longer processes on-site the commingled recyclables collected curbside from residential and commercial sectors. Instead, the materials are transported to West County Resources Recovery, Inc. in Richmond, California for source-separation and commodity market sales.						
4	Devlin Road Transfer Station	Same	Yes	Yes	Yes	Yes	Yes	No
5	Napa Garbage Service Composting Facility	Napa Materials Diversion Facility	Yes	Yes	Yes	Yes	Yes	No
6	Pacific Rim Intermediate Processing Facility	Pacific Rim Recycling	Yes	Yes	Yes	Yes	Yes	No
7	Vallejo Garbage Service Intermediate Processing Facility	Recology Vallejo	Yes	Yes	Yes	Yes	Yes	No
8	Travis Air Force Base Composting	This facility is not identified in the NDFE's second amendment because it closed as per the 2007 Solano County Local Enforcement Agency inspection report.						
9	California Waste Solutions	This facility is not identified in the NDFE's second amendment because the commingled recyclables generated within the City of Benicia and the unincorporated areas outside Benicia are no longer transported to this site for processing. Instead, these materials are direct-hauled to Pacific Rim Recycling in Benicia, California for source-separation and commodity market sales.						
10	Contra Costa Landscaping – Goodyear Road Composting Facility	Goodyear Road Compost Facility	No	Yes	Yes	Yes	Yes	No
11	Concrush Concrete and Asphalt Facility	Concrush	Yes	Yes	Yes	Yes	Yes	No
12	Solano Garbage Materials Recovery Facility	This was a proposed facility that was determined to be excluded from the NDFE's second amendment since it is not a current project recognized by a local planning agency.						

RESOLUTION NO. 10-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING THE SECOND AMENDMENT TO THE COUNTYWIDE NON-
DISPOSAL FACILITY ELEMENT OF THE COUNTYWIDE INTEGRATED WASTE
MANAGEMENT PLAN**

WHEREAS, Public Resources Code (PRC) Sections 40900 et seq. describe the requirements to be met by cities and counties when developing and implementing integrated waste management plans; and

WHEREAS, PRC Sections 41730 et seq. require that each city and county prepare and adopt a Non-Disposal Facility Element which includes a description of existing and new solid waste facilities, and the expansion of existing solid waste facilities, that are needed to implement a jurisdiction's Source Reduction and Recycling Element, to enable it to meet the requirements of PRC Section 41780; and

WHEREAS, PRC Section 40151 defines a non-disposal facility as any solid waste facility required to obtain a state-issued solid waste facility permit, except a disposal facility or transformation facility; and

WHEREAS, 14 California Code of Regulations (CCR) 18752 et seq. allows the inclusion of other facilities, such as recycling centers, in the Non-Disposal Facility Element that are not defined as non-disposal facilities but assist the jurisdictions in meeting the waste diversion mandate; and

WHEREAS, the County of Solano's original Non-Disposal Facility Element was adopted on December 13, 1994 and the first amendment was adopted on August 11, 1998; and

WHEREAS, the County of Solano led the preparation of the NDFE update to supersede the first amendment on behalf of the Cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo and determined that the shared use of non-disposal facilities justified a single, multi-jurisdictional submission recognized as the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan; and

WHEREAS, PRC Section 41734 requires that prior to the adoption or approval of an amendment, the Solano County Local Task Force ("LTF") for Integrated Waste Management shall assess regional impacts of the potential diversion facilities in its technical reviews and formally comment on the final copy; and

WHEREAS, PRC Section 41735 provides that the adoption or amendment of the Non-Disposal Facility Element is not subject to environmental review under the California Environmental Quality Act; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan.

* * * * *

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 on the 20th day of July, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



Countywide Integrated Waste Management Plan

Countywide Non-Disposal Facility Element (NDFE)

Second Amendment

May 20, 2010

Prepared by:
Department of Resource Management
Division of Planning Services – Integrated Waste Management
675 Texas Street, Suite 5500
Fairfield, CA 94533
(707) 784-6765
www.solanocounty.com

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EXECUTIVE SUMMARY

In 1989, when the Integrated Waste Management Act, or Assembly Bill 939 (AB 939), was established, California diverted only 10 percent of solid waste out of landfills and into recycling and/or reuse projects. AB 939 mandated local jurisdictions to meet solid waste diversion goals of 25 percent by 1995 and 50 percent by 2000 and beyond [Public Resources Code (PRC), Section 41780]. To ensure a jurisdiction's success to achieve the diversion goal, each jurisdiction was required to create a Countywide Integrated Waste Management Plan (CIWMP) that looked at recycling programs and waste minimization policies. The preparation, adoption and maintenance of a CIWMP is subject to AB 939 and pursuant to Public Resources Code Section 41750-41451.

In Solano County, the CIWMP is prepared and maintained by the County of Solano in cooperation with its incorporated cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo. The CIWMP consists of the following five elements:

- **Source Reduction and Recycling Element (SRRE) [PRC Section 41780]**
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Requires demonstration of 15 years combined permitted disposal capacity through existing or planned solid waste disposal facilities or through additional strategies.
- **Summary Plan (SP) [PRC Section 41751]**
Provide an overview of significant waste management problems faced by the jurisdiction, along with specific steps to be taken, independently and in concert with cities within their boundaries in order to comply with AB 939.
- **Non-Disposal Facility Element (NDFE) [PRC Section 41732]**
Requires identification and description of all existing or proposed non-disposal facilities to be utilized to implement diversion programs outlined in the SRRE to meet diversion goals.

In 1994, the cities and county of Solano each prepared their own original Non-Disposal Facility Element (NDFE) of the CIWMP that was approved by the former California Integrated Waste Management Board (CIWMB), now CalRecycle. In 1998, Solano County Unincorporated was the only Solano County jurisdiction to amend its original NDFE and that first amendment included updates on all non-disposal facilities utilized by the cities and county of Solano.

In 2009, Solano County's Local Task Force for Integrated Waste Management directed the update of the CIWMP elements beginning with the NDFE. On behalf of its cities, Solano County led the preparation of

the second amendment to the NDFE and determined that the shared use of non-disposal facilities justified a single, multi-jurisdictional NDFE to be recognized as the second amendment to the Countywide Non-Disposal Facility Element of the Countywide Integrated Waste Management Plan when submitted to the respective governing authorities for adoption and approval.

The primary purpose of a NDFE is to identify new, existing, or expanding “non-disposal” facilities within a jurisdiction’s borders required to obtain a state-issued Solid Waste Facility Permit to operate for the purpose of these facilities being found in conformance with the CIWMP.

Non-Disposal Facility: A solid waste facility required to obtain a permit from CalRecycle that is a material recovery facility, compost facility, or transfer station/processing facility; a non-disposal facility is NOT a solid waste disposal facility or a transformation facility.

Solid Waste Disposal Facility: Accepts solid waste for land disposal.

***Transformation Facility:** A facility whose principal function is to process solid waste by incineration, pyrolysis, destructive distillation, or gasification for the purpose of volume reduction, synthetic fuel production, or energy recovery; biomass and composting are NOT transformation.

*NOTE: California has three transformation facilities located in the City of Commerce, City of Long Beach and Stanislaus County. CalRecycle has ceased the permitting of transformation facilities.

Non-disposal facilities in Solano County are described in a section of this NDFE as:

In-County PERMITTED Non-Disposal Solid Waste Facilities

Additionally, a NDFE may also identify facilities located within and outside jurisdictional borders that are, and are not, subject to a state-issued Solid Waste Facility permit but are utilized to meet AB 939 waste diversion goals through implementation of the Source Reduction and Recycling Element (SRRE).

These facilities are described in sections of this NDFE as:

Out-of-County PERMITTED Non-Disposal Solid Waste Facilities

In-County OPTIONAL Facilities

Out-of-County OPTIONAL Facilities

The second amendment to the Countywide Non-Disposal Facility Element is intended to update existing, identify new, and adequately describe non-disposal facilities utilized in the collection and processing of commingled recyclables, green waste and organics, and construction, demolition, and inert debris material generated within the cities and county of Solano that contribute to the mandatory waste diversion mandate under AB 939.

CalRecycle would determine this diversion rate by using a complex mathematical calculation based on estimated generation and actual disposal that could not be finalized for up to two years after each reporting year. This calculation method would later be replaced in 2007 as a result of stakeholders desiring emphasis on program implementation rather than numbers.

The Solid Waste Disposal Measurement Act of 2007 (SB 1016)

In 2007, Senate Bill (SB) 1016 was enacted to make the process of goal measurement as established by the Integrated Waste Management Act of 1989 (AB 939) simpler, more timely, and more accurate to evaluate jurisdictions' program implementation. SB 1016 does not change the 50 percent requirement in AB 939--it just measures it differently.

The 50 percent equivalent per capita disposal target is equal to the amount of disposal a jurisdiction would have had during the base period if it had been exactly at a 50 percent diversion rate. It is calculated using the average of 2003-2006 per capita generation for each jurisdiction. It then divides this generation average in half to determine the 50 percent equivalent per capita disposal target.

Per Resident Disposal Rate (RDR) / Day

	RDR Target (PPD)	2007 RDR (PPD)	2008 RDR (PPD)
Benicia	10.5	8.1	7.5
Dixon	9.9	5.7	4.5
Fairfield	8.5	5.9	5.4
Rio Vista	9.7	5.4	4.6
Suisun City	4.9	3.7	3.3
Vacaville	6.5	6.0	5.5
Vallejo	5.5	4.4	3.5
Unincorporated Solano County	7.7	5.5	4.4
Average	7.9	5.6	4.8

*Per Employee Disposal Rate (EDR) / Day

	EDR Target (PPD)	2007 EDR (PPD)	2008 EDR (PPD)
Benicia	23.3	17.1	15.5
Dixon	22.1	13.7	11.2
Fairfield	22.7	15.8	15.2
Rio Vista	39.7	26.4	22.8
Suisun City	32.8	32.8	29.3
Vacaville	24.6	21.1	19.3
Vallejo	24.1	18.5	14.3
Unincorporated Solano County	26.0	19.3	15.3
Average	26.9	20.6	17.9

*Industry employment is calculated using the same method as the population 50 percent equivalent disposal target rate. However, only employment and generation for the years 2005 and 2006 will be used since industry employment at the jurisdiction level is only available after 2005.

City of Benicia

On October 1, 2001 the City of Benicia entered into an exclusive franchise agreement with Republic Services, Inc., the parent company of Allied Waste Services (also known as Pleasant Hill Bayshore Disposal), for garbage, green waste, and recyclables collection. The agreement is due to expire on February 8, 2012.

- Commingled recyclables include aluminum and tin cans, glass bottles and jars, all plastic #1-#7, newspapers, magazines, all paper, chipboard, scrap metal and small metal items are collected bi-weekly at curbside from the residential and commercial sectors and direct-hauled to **Pacific Rim Recycling** in Benicia, CA where the material is source-separated for commodity market sales. (See Page 33)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, and weeds are collected bi-weekly at curbside from the residential and commercial sectors and direct-hauled to **Contra Costa Transfer Station and Recovery** in Martinez, CA and transferred for processing as alternative daily cover for use at Keller Canyon Landfill. (See Page 24)

-C & D material is source-separated by debris box and self-haul commodities are delivered to **Contra Costa Transfer Station and Recovery** in Martinez, CA where wood and green waste is ground and transported to Keller Canyon Landfill for use as alternative daily cover; concrete and asphalt are ground for winter tipping pads and access roads at Keller Canyon Landfill; clean soil is used for alternative daily cover at Keller Canyon Landfill; cardboard is direct-hauled to **Pacific Rim Recycling** in Benicia, CA where the material is processed for commodity market sales; and metal is truck-transferred to **Sims Metal Management** in Richmond, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 24, 33, 42)

The Residential Disposal Rate (RDR) for the City of Benicia is as follows:

Residential Disposal Rate Target	10.5 ppd
2007 Reporting Year RDR	8.1 ppd
2008 Reporting Year RDR	7.5 ppd

*ppd = pounds per person per day

City of Dixon

On April 9, 1996 the City of Dixon entered into an exclusive franchise agreement with Recology Dixon, formerly Dixon Sanitary Service, for garbage, green waste, and recyclables collection. The agreement is due to expire December 31, 2017; the agreement is renewed every year pending City Council approval and is a rolling eight-year agreement.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Recology Hay Road for drop-off into recycling bunkers and then transferred into a tractor-trailer for transport to **Recology Vallejo** in Vallejo, CA where the material is source-separated for commodity market sales. (See Page 36)

-Yard Waste is commingled with limited organics that include grass clippings, leaves, tree/shrub prunings, weeds, bread, and kitchen fruit and vegetable scraps are collected weekly at curbside from the residential and commercial sectors and then direct-hauled to **Jepson Prairie Organics** in Vacaville, CA for processing into local residential compost use; and agricultural and landscape compost market sales. (See Page 21)

-C & D material is source-separated by debris box and direct-hauled to **Recology Hay Road** in Vacaville, CA where concrete and asphalt are ground for winter access roads and winter tipping pads; wood waste and green waste is ground for compost; clean soil is used as landfill cover; and metal is recycled by **Standard Iron & Metals Company** in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 35, 43)

The Residential Disposal Rate (RDR) for the City of Dixon is as follows:

Residential Disposal Rate (RDR) Target	9.9 ppd*
2007 Reporting Year RDR	5.7 ppd*
2008 Reporting Year RDR	4.5 ppd*

*ppd = pounds per person per day

City of Fairfield

On July 17, 2001 the City of Fairfield entered into an *exclusive franchise agreement with Republic Services, Inc., the parent company of Solano Garbage Company for garbage, green waste, and recyclables collection. The agreement is due to expire November 15, 2012.

*Construction and Demolition hauling is subject to the City of Fairfield's Construction and Demolition Ordinance and not exclusive to the franchise agreement.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#2 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Solano Garbage Company in Fairfield, CA for drop-off into recycling bunkers and then transferred into a tractor-trailer for transport to **West County Resources Recovery, Inc.** in Richmond, CA where the material is source-separated for commodity market sales. (See Page 29)

-Yard Waste is commingled with limited organics that include grass clippings, leaves, tree/shrub prunings, weeds, vegetable and fruit matter, grain products and baked goods, egg shells, coffee grounds, meat, fish, bones, and other decomposable matter are collected weekly at curbside from the residential and commercial sectors and then direct-hauled to **Potrero Hills Compost Facility** in Suisun, CA for processing. (See Page 22)

-C & D material is source-separated by debris box where metal is recycled by **Alco Iron & Metal Company** in Vallejo, CA where ferrous and non-ferrous metals are prepared for commodity market sales; concrete and asphalt are direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site road base; wood waste and green waste is direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site alternative daily cover; and clean soil is direct-hauled to **Potrero Hills Landfill** in Suisun, CA for on-site landfill cover. (See Page 31, 34)

Other haulers also take C&D materials to the following non-disposal facilities:

Contra Costa Transfer Station and Recovery, Page 24

Devlin Road Transfer Station, Page 25

K&M Recycling Recycle America Alliance, Page 26

M&M Services, Inc., Page 27

Concrush, Page 32

The Residential Disposal Rate (RDR) for the City of Fairfield is as follows:

Residential Disposal Rate (RDR) Target	8.5 ppd*
2007 Reporting Year RDR	5.9 ppd*
2008 Reporting Year RDR	5.4 ppd*

*ppd = pounds per person per day

City of Rio Vista

On October 1, 2002 the City of Rio Vista entered into an exclusive franchise agreement with Rio Vista Sanitation Service, Inc., whose parent company is Garaventa Enterprises, for garbage and recyclables collection. The agreement is due to expire October 1, 2011.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 plastics, newspapers, magazines, paper, and chipboard are collected weekly at curbside from the residential sector and direct-hauled to **Mount Diablo Recycling** in Pittsburg, CA where the material is source-separated for commodity market sales. (See Page 41)

-Yard Waste service is not included in the franchise agreement.

-C & D material is source-separated by debris box and direct-hauled to **Contra Costa Waste Service** in Pittsburg, CA where concrete and asphalt are ground and delivered to Antioch Building Materials; wood waste and green waste is ground for compost; clean soil is used as alternative daily cover at Potrero Hills Landfill in Suisun, CA; and metal is recycled by Standard Iron & Metal in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 40)

The Residential Disposal Rate (RDR) for the City of Rio Vista is as follows:

Residential Disposal Rate (RDR) Target	9.7 ppd*
2007 Reporting Year RDR	5.4 ppd*
2008 Reporting Year RDR	4.6 ppd*

*ppd = pounds per person per day

City of Suisun City

On March 17, 1998 the City of Suisun City entered into an exclusive franchise agreement with Republic Services, Inc., the parent company of Solano Garbage Company for garbage, green waste, and recyclables collection. The agreement is due to expire December 31, 2023.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#2 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Solano Garbage Company in Fairfield, CA for drop-off into recycling bunkers and then transferred into a tractor-trailer for transport to **West County Resources Recovery, Inc.** in Richmond, CA where the material is source-separated for commodity market sales. (See Page 29)

-Yard Waste is commingled with limited organics that include grass clippings, leaves, tree/shrub prunings, weeds, vegetable and fruit matter, grain products and baked goods, egg shells, coffee grounds, meat, fish, bones, and other decomposable matter are collected weekly at curbside from the residential and commercial sectors and then direct-hauled to **Potrero Hills Compost Facility** in Suisun, CA for processing. (See Page 22)

-C & D material is source-separated by debris box where metal is recycled by **Alco Iron & Metal Company** in Vallejo, CA where ferrous and non-ferrous metals are prepared for commodity market sale; concrete and asphalt are direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site road base; wood waste and green waste is direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site alternative daily cover; and clean soil is direct-hauled to **Potrero Hills Landfill** in Suisun, CA for on-site landfill cover. (See Page 31, 34)

The Residential Disposal Rate (RDR) for the City of Suisun City is as follows:

Residential Disposal Rate (RDR) Target	4.9 ppd*
2007 Reporting Year RDR	3.7 ppd*
2008 Reporting Year RDR	3.3 ppd*

*ppd = pounds per person per day

City of Vacaville

On July 1, 1990 the City of Vacaville entered into an exclusive franchise agreement with Recology Vacaville Solano, formerly Vacaville Sanitary Service, for garbage, green waste, and recyclables collection. The agreement is due to expire June 30, 2013.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Recology Hay Road for drop-off into recycling bunkers and transferred into a tractor-trailer for transport to **Recology Vallejo** in Vallejo, CA where the material is source-separated for commodity market sales. (See Page 36)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, weeds, bread, and kitchen fruit and vegetable scraps are collected weekly at curbside from the residential sector and then direct-hauled to **Jepson Prairie Organics** in Vacaville, CA for processing into local residential compost use; and agricultural and landscape compost market sales. (See Page 21)

-C & D material is source-separated by debris box and direct-hauled to **Recology Hay Road** in Vacaville, CA where concrete and asphalt are ground for winter access roads and winter tipping pads; wood waste and green waste is ground for compost; clean soil is used as landfill cover; and metal is recycled by **Standard Iron & Metals Company** in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 35, 43)

The Residential Disposal Rate (RDR) for the City of Vacaville is as follows:

Residential Disposal Rate (RDR) Target	6.5 ppd*
2007 Reporting Year RDR	6.0 ppd*
2008 Reporting Year RDR	5.5 ppd*

*ppd = pounds per person per day

City of Vallejo

On July 1, 1987 the City of Vallejo entered into an *exclusive franchise agreement with Recology Vallejo, formerly Vallejo Garbage Service, for garbage, green waste, and recyclables collection. The agreement is due to expire June 30, 2017.

*Construction and Demolition hauling is subject to the City of Vallejo's Construction and Demolition Ordinance and not exclusive to the franchise agreement.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and direct-hauled to **Recology Vallejo** in Vallejo, CA where the material is source-separated for commodity market sales. (See Page 36)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, and weeds are collected weekly at curbside from the residential and commercial sectors and delivered to Recology Vallejo for drop-off into recycling bunkers and transferred into a tractor-trailer for transport to **Jepson Prairie Organics** in Vacaville, CA for processing into agricultural and landscape compost market sales. (See Page 21)

-C & D material is source-separated by debris box where green waste is transferred into a tractor-trailer for transport at Recology Vallejo in Vallejo, CA and direct-hauled to **Jepson Prairie Organics** in Vacaville, CA; commingled C&D is direct-hauled to **Devlin Road Transfer Station** in American Canyon, CA; wood waste and clean dirt are direct-hauled to **Napa Materials Diversion Facility**; cardboard is processed on-site at **Recology Vallejo** in Vallejo, CA for commodity market sales; concrete and asphalt are direct-hauled to **Syar Industries, Inc.** in Vallejo, CA; metal is direct-hauled to **Steel Mill Supply** in Napa, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 21, 25, 28, 36, 38, 44).

The Residential Disposal Rate (RDR) for the City of Vallejo is as follows:

Residential Disposal Rate (RDR) Target	5.5 ppd*
2007 Reporting Year RDR	4.4 ppd*
2008 Reporting Year RDR	3.5 ppd*

*ppd = pounds per person per day

Unincorporated Solano County (Outside the City of Benicia)

The County of Solano has not entered into a franchise agreement with Republic Services, Inc., the parent company of Allied Waste Services (also known as Pleasant Hill Bayshore Disposal), for garbage, green waste, or recyclables collection. However, the County's service area map adopted in 2004 assigns this hauler as the designated provider. (See Page 45)

- Commingled recyclables include aluminum and tin cans, glass bottles and jars, all plastic #1-#7, newspapers, magazines, all paper, chipboard, scrap metal and small metal items are collected bi-weekly at curbside from the residential and commercial sectors and direct-hauled to **Pacific Rim Recycling** in Benicia, CA where the material is source-separated for commodity market sales. (See Page 33)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, and weeds are collected bi-weekly at curbside from the residential and commercial sectors and direct-hauled to **Contra Costa Transfer Station and Recovery** in Martinez, CA and transferred for processing as alternative daily cover for use at Keller Canyon Landfill. (See Page 24)

-C & D material is source-separated by debris box and self-haul commodities are delivered to **Contra Costa Transfer Station and Recovery** in Martinez, CA where wood and green waste is ground and transported to Keller Canyon Landfill for use as alternative daily cover; concrete and asphalt are ground for winter tipping pads and access roads at Keller Canyon Landfill; clean soil is used for alternative daily cover at Keller Canyon Landfill; cardboard is direct-hauled to **Pacific Rim Recycling** in Benicia, CA where the material is processed for commodity market sales; and metal is truck-transferred to **Sims Metal Management** in Richmond, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 24, 33, 42)

While the unincorporated areas of Solano County are served by different solid waste providers, Solano County Unincorporated reports the sum of its areas for waste diversion and disposal to CalRecycle.

The Residential Disposal Rate (RDR) for the Unincorporated Solano County is as follows:

Residential Disposal Rate Target (pounds per day)	7.7 ppd
2007	5.5 ppd
2008	4.4 ppd

**Unincorporated Solano County
(Outside the Cities of Dixon and Vacaville)**

On January 1, 2005 the County of Solano entered into a franchise agreement with Recology Vacaville Solano, formerly Vacaville Sanitary Service, for garbage, green waste, and recyclables collection. The agreement is due to expire December 31, 2014.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Recology Hay Road for drop-off into recycling bunkers and transferred into a tractor-trailer for transport to **Recology Vallejo** in Vallejo, CA where the material is source-separated for commodity market sales. (See Page 36)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, weeds, bread, and kitchen fruit and vegetable scraps that the residential sector may self-haul two times per year to **Jepson Prairie Organics** in Vacaville, CA for processing into local residential compost use; and agricultural and landscape compost market sales. (See Page 21)

-C & D material is source-separated by debris box and direct-hauled to **Recology Hay Road** in Vacaville, CA where concrete and asphalt are ground for winter access roads and winter tipping pads; wood waste and green waste is ground for compost; clean soil is used as landfill cover; and metal is recycled by **Standard Iron & Metals Company** in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 35, 43)

While the unincorporated areas of Solano County are served by different solid waste providers, Solano County Unincorporated reports the sum of its areas for waste diversion and disposal to CalRecycle.

The Residential Disposal Rate (RDR) for the Unincorporated Solano County is as follows:

Residential Disposal Rate Target (pounds per day)	7.7 ppd
2007	5.5 ppd
2008	4.4 ppd

**Unincorporated Solano County
(Outside the Cities of Fairfield and Suisun City)**

On January 1, 2005 the County of Solano entered into an exclusive franchise agreement with Solano Garbage Company for garbage, green waste, and recyclables collection. The agreement is due to expire December 31, 2014.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#2 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and delivered to Solano Garbage Company in Fairfield, CA for drop-off into recycling bunkers and then transferred into a tractor-trailer for transport to **West County Resources Recovery, Inc.** in Richmond, CA where the material is source-separated for commodity market sales. (See Page 29)

-Yard Waste is commingled with limited organics that include grass clippings, leaves, tree/shrub prunings, weeds, vegetable and fruit matter, grain products and baked goods, egg shells, coffee grounds, meat, fish, bones, and other decomposable matter are collected weekly at curbside from the residential and commercial sectors and then direct-hauled to **Potrero Hills Compost Facility** in Suisun, CA for processing. (See Page 22)

-C & D material is source-separated by debris box where metal is recycled by **Alco Iron & Metal Company** in Vallejo, CA where ferrous and non-ferrous metals are prepared for commodity market sale; concrete and asphalt are direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site road base; wood waste and green waste is direct-hauled to **Potrero Hills Landfill** in Suisun, CA to be ground for on-site alternative daily cover; and clean soil is direct-hauled to **Potrero Hills Landfill** in Suisun, CA for on-site landfill cover. (See Page 31, 34)

While the unincorporated areas of Solano County are served by different solid waste providers, Solano County Unincorporated reports the sum of its areas for waste diversion and disposal to CalRecycle.

The Residential Disposal Rate (RDR) for the Unincorporated Solano County is as follows:

Residential Disposal Rate Target (pounds per day)	7.7 ppd
2007	5.5 ppd
2008	4.4 ppd

Unincorporated Solano County (Outside the City of Rio Vista)

The County of Solano has not entered into a franchise agreement with Garaventa Enterprises, Inc., the parent company of Rio Vista Sanitation Service, for garbage, green waste, or recyclables collection. However, the County's service area map adopted in 2004 assigns this hauler as the designated provider. (See Page 45)

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 plastics, newspapers, magazines, paper, and chipboard are collected weekly at curbside from the residential sector and direct-hauled to **Mount Diablo Recycling** in Pittsburg, CA where the material is source-separated for commodity market sales. (See Page 41)

-Yard Waste service is unavailable.

-C & D material is source-separated by debris box and direct-hauled to **Contra Costa Waste Service** in Pittsburg, CA where concrete and asphalt are ground and delivered to Antioch Building Materials; wood waste and green waste is ground for compost; clean soil is used as alternative daily cover at Potrero Hills Landfill in Suisun, CA; and metal is recycled by Standard Iron & Metal in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 40)

While the unincorporated areas of Solano County are served by different solid waste providers, Solano County Unincorporated reports the sum of its areas for waste diversion and disposal to CalRecycle.

The Residential Disposal Rate (RDR) for the Unincorporated Solano County is as follows:

Residential Disposal Rate Target (pounds per day)	7.7 ppd
2007	5.5 ppd
2008	4.4 ppd

Unincorporated Solano County (Outside the City of Vallejo)

On January 1, 2005 the County of Solano entered into an exclusive franchise agreement with Recology Vacaville Solano, formerly Vacaville Sanitary Service, for garbage, green waste, and recyclables collection. The agreement is due to expire December 31, 2014.

- Commingled recyclables are aluminum and tin cans, glass bottles and jars, #1-#7 narrow-neck plastic bottles and jugs, newspapers, magazines, and chipboard are collected weekly at curbside from the residential and commercial sectors and direct-hauled to **Recology Vallejo** in Vallejo, CA where the material is source-separated for commodity market sales. (See Page 36)

-Yard Waste is commingled grass clippings, leaves, tree/shrub prunings, weeds, bread, and kitchen fruit and vegetable scraps are collected weekly at curbside from the residential sector and direct-hauled to Recology Vallejo for drop-off into recycling bunkers and transferred into a tractor-trailer for transport to **Jepson Prairie Organics** in Vacaville, CA for processing into agricultural and landscape compost market sales. (See Page 21)

-C & D material is source-separated by debris box and direct-hauled to **Recology Hay Road** in Vacaville, CA where concrete and asphalt are ground for winter access roads and winter tipping pads; wood waste and green waste is ground for compost; clean soil is used as landfill cover; and metal is recycled by **Standard Iron & Metals Company** in Oakland, CA where ferrous and non-ferrous metals are prepared for commodity market sales. (See Page 35, 43)

While the unincorporated areas of Solano County are served by different solid waste providers, Solano County Unincorporated reports the sum of its areas for waste diversion and disposal to CalRecycle.

The Residential Disposal Rate (RDR) for the Unincorporated Solano County is as follows:

Residential Disposal Rate Target (pounds per day)	7.7 ppd
2007	5.5 ppd
2008	4.4 ppd

ALPHABETICAL LIST OF FACILITIES

1. Alco Iron & Metal Company (Vallejo, CA)	Page 31
2. Concrush (Fairfield, CA)	Page 32
3. Contra Costa Transfer Station and Recovery (Martinez, CA)	Page 24
4. Contra Costa Waste Service (Concord, CA)	Page 40
5. Devlin Road Transfer Station (American Canyon, CA)	Page 25
6. Goodyear Road Compost Facility (Benicia, CA)	Page 20
7. Jepson Prairie Organics Composting Facility (Vacaville, CA)	Page 21
8. K&M Recycling Recycle America Alliance (Sacramento, CA)	Page 26
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11. Napa Materials Diversion Facility (Napa, CA)	Page 28
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22. West County Resources Recovery, Inc. (Richmond, CA)	Page 29

Solano County NDFE 2nd Amendment

PERMITTED Non-Disposal Solid Waste Facilities

IN-COUNTY

Facility Name: GOODYEAR ROAD COMPOST FACILITY
Facility Location: 1460 Goodyear Road, Benicia, CA 94510
Latitude: 38.1548 Longitude: -122.1076

SWIS #: 48-AA-0088

Facility Type: Composting

Facility Capacity: 106 tons/day

Facility Description: This facility is owned and operated by CCL Organics LLC. It processes yard waste material collected at contractors' yards.

Facility Diversion Rate: 96%

Participating Jurisdictions: City of Benicia
City of Vallejo
Unincorporated Solano County

Facility Contact: David Burnley, Managing Partner
CCL Organics LLC
1460 Goodyear Road
Benicia, CA 94510
(707) 751-0466
cclorganics@aol.com

Facility Name: JEPSON PRAIRIE ORGANICS COMPOSTING FACILITY
Facility Location: 6426 Hay Road, Vacaville, CA 95687
Latitude: 38.3136 Longitude: -121.8372

SWIS #: 48-AA-0083

Facility Type: Composting

Facility Capacity: 750 tons/day

Facility Description: This facility is owned by, and operates on portions of two parcels of, Recology Hay Road. It accepts source-separated yard waste, agricultural waste, and organic waste from residential and commercial recycling programs.

**Commodities
Diversion
Rate:** 98%

**Participating
Jurisdictions:** City of Dixon
City of Vacaville
City of Vallejo
Unincorporated Solano County

Facility Contact: Greg Pryor, General Manager
Recology Hay Road
6426 Hay Road
Vacaville, CA 95687
(707) 678-4718, x-24
gpryor@recology.com

Facility Name: POTRERO HILLS COMPOST FACILITY
Facility Location: 3675 Potrero Hills Lane, Suisun, CA 94585
Latitude: 38.2118 Longitude: -121.9808

SWIS #: 48-AA-0084
(Notification Tier)

Facility Type: Composting

Facility Capacity: 12,500 yards³ on-site at any one time

Facility Description: This facility is owned by Waste Connections, Inc. and is operated by Potrero Hills Landfill. It accepts source-separated green material with limited commingled organic material, agricultural material and wood waste from residential and commercial recycling programs to be processed and used for beneficial re-use on-site and off-site.

**Commodities
Diversion
Rate:** 90%

**Participating
Jurisdictions:** City of Fairfield
City of Rio Vista
City of Suisun City
Unincorporated Solano County

Facility Contact: Jim Dunbar, General Manager
Potrero Hills Landfill
P.O. Box 68
Fairfield, CA 94533
(707) 432-4621
JamesDu@WasteConnections.com

Solano County NDFE 2nd Amendment

PERMITTED Non-Disposal Solid Waste Facilities

OUT-OF-COUNTY

Facility Name: CONTRA COSTA TRANSFER STATION AND RECOVERY
Facility Location: 951 Waterbird Way, Martinez, CA 94553
Latitude: 38.0236 Longitude: -122.0916

SWIS #: 07-AA-0027

Facility Type: Large Volume Transfer/Processing Facility

Facility Capacity: 1,900 tons/day

Facility Description: This facility is owned and operated by Republic Services. It accepts source-separated yard waste, agricultural waste, organic waste, and processes construction, demolition and inert debris from residential and commercial recycling programs.

**Commodities
Diversion
Rate:** 96%

**Participating
Jurisdictions:** City of Benicia
City of Fairfield
Unincorporated Solano County

Facility Contact: Rick King, General Manager
Contra Costa Transfer Station and Recovery
951 Waterbird Way
Martinez, CA 94553
(925) 458-9800
rking@republicservices.com

Facility Name: **DEVLIN ROAD TRANSFER STATION**
Facility Location: 889 Devlin Road, American Canyon, CA 94558
Latitude: 38.20583 Longitude: -122.2607

SWIS #: 28-AA-0027

Facility Type: Large Volume Transfer/Processing Facility

Facility Capacity: 1,440 tons/day

Facility Description: This facility is owned and operated by the Napa-Vallejo Waste Management Authority. It processes commingled and source-separated materials accepted from residential and commercial recycling programs.

Commodities

Diversion

Rate: 28%

Participating

Jurisdictions: City of Fairfield
City of Vallejo

Facility Contact: Steve Kelley, General Manager
Northern Recycling Operations & Waste Services, LLC
Devlin Road Recycling & Transfer Facility
889-B Devlin Road
American Canyon, CA 94559
(707) 252-0500
stevek@devlinroadrecycling.com

Facility Name: K&M RECYCLING RECYCLE AMERICA ALLIANCE
Facility Location: 3562 Ramona Avenue, Sacramento, CA 95826
Latitude: 38.54306 Longitude: -121.41306

SWIS #: 34-AA-0191

Facility Type: Large Volume Construction, Demolition and Inert Debris Processing Facility

Facility Capacity: 1,000 tons/day

Facility Description: This facility is owned and operated by Waste Management Recycle America LLC. It processes commingled and source-separated construction and demolition materials for commodity market sales.

Commodities

Diversion

Rate: 70%

Participating

Jurisdictions: City of Fairfield

Facility Contact: Derek Harrington
3562 Ramona Avenue
Sacramento, CA 95826
Phone: (916) 452-0142
dharring@wm.com

Facility Name: M&M SERVICES, INC.
Facility Location: 590 Caletti Avenue, Windsor, CA 95492
Latitude: 38.52138 Longitude: -122.79234

SWIS #: 49-AA-0398

Facility Type: Medium Volume – Construction, Demolition, and Inert Debris Processing

Facility Capacity: 175 tons/day

Facility Description: This facility is owned and operated by M&M Services, Inc. This facility accepts source-separated C&D materials for sorting, separation and processing for re-use and recycling.

**Commodities
Diversion
Rate:** 73%

**Participating
Jurisdictions:** City of Fairfield

Facility Contact: Dustin Abbott
590 Caletti Avenue
Windsor, CA 95492
(707) 838-2597
dabbott@m&mservicesinc.com

Facility Name: NAPA MATERIALS DIVERSION FACILITY
Facility Location: 820 Levitin Way, Napa, CA 94559
Latitude: 38.2104 Longitude: -122.2654

SWIS #: 28-AA-0030

Facility Type: Large Volume Transfer/Processing Facility

Facility Capacity: 360 tons/day

Facility Description: This facility is owned by the City of Napa and operated by Napa Recycling and Waste Services. It processes C&D materials from residential and commercial recycling programs.

**Commodities
Diversion
Rate:** 97%

**Participating
Jurisdictions:** City of Fairfield
City of Vallejo

Facility Contact: Greg Kelley, General Manager
Napa Recycling and Waste Services
P.O. Box 659
Napa, CA 94558
(707) 255-5200
greg@NapaRecycling.com

Facility Name: WEST COUNTY RESOURCES RECOVERY, INC.
Facility Location: 101 Pittsburg Avenue, Richmond, CA 94801
Latitude: 37.9620 Longitude: -122.3643

Facility Type: Large Volume Transfer/Processing Facility

Facility Capacity: 1,200 tons/day

Facility Description: This facility is owned by Republic Services and operated by West County Resource Recovery, Inc. It processes commingled and source-separated materials accepted from residential and commercial recycling programs.

**Commodities
Diversion
Rate:** 85%

**Participating
Jurisdictions:** City of Fairfield
City of Suisun City
Unincorporated Solano County

Facility Contact: Peter Nuti, General Manager
West County Resource Recovery, Inc.
101 Pittsburg Avenue
Richmond, CA 94801
(510) 412-4503
pnuti@republicservices.com

Solano County NDFE 2nd Amendment

OPTIONAL Facilities

IN-COUNTY

Facility Name: ALCO IRON & METAL COMPANY
Facility Location: 629 Azuar Avenue, Vallejo, CA 94592
Latitude: 38.0983 Longitude: -122.2748

Facility Type: Recycling Center – Scrap Metal Recycler and Dealer

Facility Description: This facility receives source-separated ferrous and non-ferrous scrap metal to be processed for commodity market sales.

**Commodities
Diversion
Rate:** 96%

**Participating
Jurisdictions:** City of Fairfield
City of Suisun City
Unincorporated Solano County

Facility Contact: Kari Fletcher, General Manager
Alco Iron & Metal
629 Azuar Drive
Vallejo, CA 94592
(707) 562-1107
karifletcher@alcometals.com

Facility Name: CONCRUSH
Facility Location: 2216 Cement Hill Road, Fairfield, CA 94533
Latitude: 38.2881 Longitude: -121.9793
Facility Type: Recycling Center – Construction, Demolition, and Inert Debris Processing
Facility Capacity: 822 tons/day
Facility Description: This facility is owned and operated by ConCrush, Inc. It accepts rock, concrete and asphalt for crushing to create the minimum standard road base approved by the California Department of Transportation for sale to contractors.

Commodities
Diversion
Rate: 96%

Participating
Jurisdictions: City of Benicia
City of Dixon
City of Fairfield
City of Rio Vista
City of Suisun City
City of Vacaville
City of Vallejo
Unincorporated Solano County

Facility Contact: Allen Hochstetler, President
ConCrush, Inc.
2216 Cement Hill Road
Fairfield, CA 94533
(707) 437-1239
allen@concrush.com

Facility Name: PACIFIC RIM RECYCLING
Facility Location: 3690 Sprig Drive, Suite A, Benicia, CA 94510
Latitude: 38.0674 Longitude: -122.1254

Facility Type: Recycling Center

Facility Capacity: 197 tons/day

Facility Description: This facility is owned and operated by Pacific Rim Recycling. It processes commingled and source-separated materials accepted from residential and commercial recycling programs.

Commodities Diversion Rate: 93%

Participating Jurisdictions: City of Benicia
Unincorporated Solano County

Facility Contact: Steve Moore
Pacific Rim Recycling
3690 Sprig Drive, Suite A
Benicia, CA 94510
(707) 746-6067
more1023@aol.com

Facility Name: **POTRERO HILLS LANDFILL**
Facility Location: 3675 Potrero Hills Lane, Suisun, CA 94585
Latitude: 38.2118 Longitude: -121.9808

Facility Type: Recycling Center – Construction, Demolition, and Inert Debris Processing

Facility Capacity: 500 tons/day

Facility Description: This facility is owned by Waste Connections, Inc. and is operated by Potrero Hills Landfill and accepts source-separated C&D materials for sorting, separation and processing for re-use and recycling.

**Commodities
Diversion
Rate:** 90%

**Participating
Jurisdictions:** City of Fairfield
City of Suisun City
Unincorporated Solano County

Facility Contact: Jim Dunbar, General Manager
Potrero Hills Landfill
P.O. Box 68
Fairfield, CA 94533
(707) 432-4621
JamesDu@WasteConnections.com

Facility Name: RECOLOGY HAY ROAD
Facility Location: 6426 Hay Road, Vacaville, CA 95687
Latitude: 38.312 Longitude: -121.8372

Facility Type: Recycling Center – Construction, Demolition, and Inert Debris Processing

Facility Description: This facility accepts source-separated C&D materials for sorting, separation and processing for re-use and recycling purposes.

**Commodities
Diversion
Rate:** 90%

**Participating
Jurisdictions:** City of Dixon
City of Vacaville
City of Vallejo
Unincorporated Solano County

Facility Contact: Greg Pryor, General Manager
Recology Hay Road
6426 Hay Road
Vacaville, CA 95687
(707) 678-4718, x-24
gpryor@recology.com

Facility Name: RECOLOGY VALLEJO
Facility Location: 2021 Broadway Street, Vallejo, CA 94589
Latitude: 38.1424 Longitude: -122.2523

Facility Type: Recycling Center

Facility Capacity: 160 tons/day

Facility Description: This facility is owned and operated by Recology. It processes commingled and source-separated recyclables accepted from residential and commercial recycling programs.

Commodities
Diversion
Rate: 92%

Participating
Jurisdictions: City of Dixon
City of Vacaville
City of Vallejo
Unincorporated Solano County

Facility Contact: Ed Farewell, General Manager
Recology Vallejo
2021 Broadway Street
Vallejo, CA 94589
(707) 552-3110
efarewell@recology.com

Facility Name: RECYCLING ZONE
Facility Location: 4989-B Peabody Road, Fairfield, CA 94533
Latitude: 38.28918 Longitude: -121.97003

Facility Type: Recycling Center

Facility Capacity: 164 tons/day

Facility Description: It processes commingled and source-separated recyclables accepted from residential drop-off customers, buy-back centers, and commercial accounts.

Commodities
Diversion
Rate: 96%

Participating
Jurisdictions: City of Fairfield
City of Suisun City
City of Vacaville
Unincorporated Solano County

Facility Contact: Jack Waite, President
Recycling Zone
4898-B Peabody Road
Fairfield, CA 94533
(707) 437-1301
(707) 396-0078, mobile
jack.waite@recyclingzone.org

Facility Name: SYAR INDUSTRIES, INC.
Facility Location: 885 Lake Herman Road, Vallejo, CA 94591
Latitude: 38.1011 Longitude: -122.1631

Facility Type: Recycling Center – Construction, Demolition, and Inert Debris Processing

Facility Description: Recycles base rock and source separates plastic, wood, and steel for commodity market sales.

**Commodities
Diversion
Rate:** 99%

**Participating
Jurisdictions:** City of Vallejo

Facility Contact: Mike Burneson, Plant Manager
Syar Industries, Inc.
P.O. Box 2540
2301 Napa-Vallejo Highway
Vallejo, CA 94589
(707) 558-1510
mburneson@syar.com

Solano County NDFE 2nd Amendment

OPTIONAL Facilities

OUT-OF-COUNTY

Facility Name: CONTRA COSTA WASTE SERVICE
Facility Location: 1300 Loveridge Road, Pittsburg, CA 94565
Latitude: 38.0162 Longitude: -121.8588

Facility Type: Recycling Center – Construction, Demolition, and Inert Debris Processing

Facility Capacity: 500 tons/day

Facility Description: This facility is owned and operated by Contra Costa Waste Services, Inc. It processes commingled and source-separated materials accepted from residential and commercial recycling programs.

Commodities Diversion Rate: 90%

Participating Jurisdictions: City of Rio Vista
Unincorporated Solano County

Facility Contact: Jim Nejedly, Manager
Contra Costa Waste Services, Inc.
4080 Mallard Drive
Concord, CA 94524
jim@garaventaent.com

Facility Name: MOUNT DIABLO RECYCLING
Facility Location: 1300 Loveridge Road, Pittsburg, CA 94565
Latitude: 38.0162 Longitude: -121.8588

Facility Type: Recycling Center

Facility Capacity: 500 tons/day

Facility Description: This facility is owned and operated by Contra Costa Waste Services, Inc. It processes commingled and source-separated materials accepted from residential and commercial recycling programs.

**Commodities
Diversion
Rate:** 95%

**Participating
Jurisdictions:** City of Rio Vista
Unincorporated Solano County

Facility Contact: Keith Nance, Source Manager
Contra Costa Waste Services, Inc.
4080 Mallard Drive
Concord, CA 94524
(925) 757-7660
keith@garaventaent.com

Facility Name: SIMS METAL MANAGEMENT
Facility Location: 600 4th Street, Richmond, CA 94801
Latitude: 37.9404 Longitude: -122.3655

Facility Type: Recycling Center – Scrap Metal Recycler and Dealer

Facility Description: Recycles all common metal-based products, such as cars, aluminum cans, steel beams and fridges; electronics and IT equipment containing both metals and plastics, including computers, televisions, mobile phones, iPods and gaming consoles; submarines and airplanes.

**Commodities
Diversion
Rate:** 99%

**Participating
Jurisdictions:** City of Benicia
Unincorporated Solano County

Facility Contact: Jerry Hatchett, Division Manager
Sims Metal Management
600 South 4th Street
Richmond, CA 94801
(510) 412-5300

Facility Name: STANDARD IRON & METALS COMPANY

Facility Location: 4525 San Leandro Street, Oakland, CA 94601

Latitude: 37.7684 Longitude: -122.2156

Facility Type: Recycling Center – Scrap Metal Recycler and Dealer

Facility Description: Recycles ferrous and non-ferrous metals; and steel plate, beams, pipe, angles, and channels.

Commodities

Diversion

Rate: 99%

Participating

Jurisdictions:

City of Dixon

City of Vacaville

City of Vallejo

Unincorporated Solano County

Facility Contact:

Jason Allen, President

Standard Iron & Metals Company

4525 San Leandro Street

Oakland, CA 94601

(510) 535-0222

jallen@standardiron.net

Facility Name: STEEL MILL SUPPLY OF NAPA
Facility Location: 659 Napa Junction Road, American Canyon, CA 94558
Latitude: 38.1780 Longitude: -122.2492

Facility Type: Recycling Center – Scrap Metal Recycler and Dealer

Facility Description: Recycles ferrous and non-ferrous metals; and scrap steel.

Commodities
Diversion
Rate: 96%

Participating
Jurisdictions: City of Vallejo

Facility Contact: Mark Lutz, President
Steel Mill Supply of Napa
659 Napa Junction Road
American Canyon, CA 94558
(707) 226-3950
ml.steelmill@comcast.net

County of Solano Solid Waste Service Area Boundaries Established November 2004

Solid Waste Service Areas

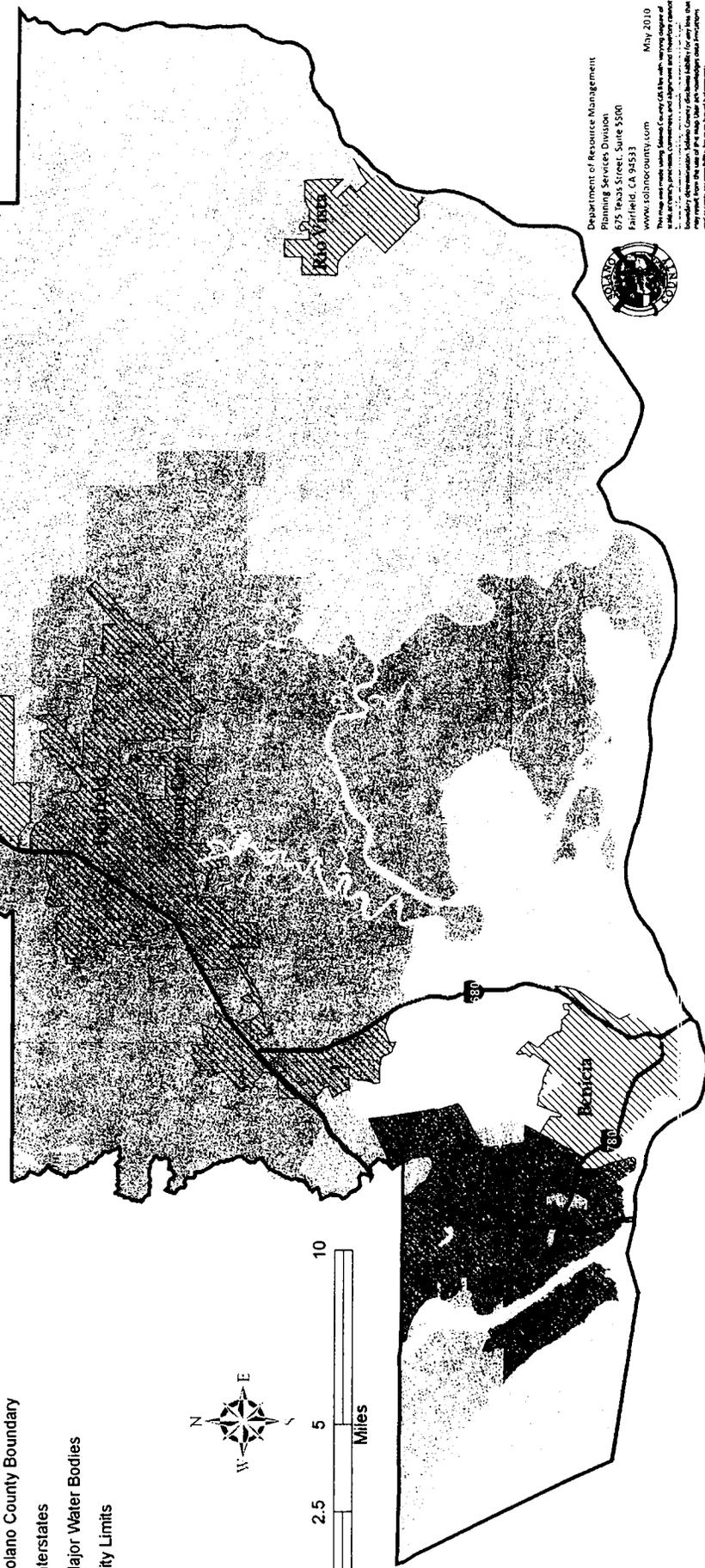
-  Allied Waste Services (formerly Pleasant Hill Bayshore Disposal)
-  Rio Vista Sanitation Service
-  Solano Garbage Company
-  Recology Vacaville Solano (formerly Vacaville Sanitary Service)
-  Recology Vallejo (formerly Vallejo Garbage Company)
-  Recology Dixon (formerly Dixon Sanitary Service)

 Solano County Boundary

 Interstates

 Major Water Bodies

 City Limits




 Department of Resource Management
 Planning Services Division
 675 Peas Street, Suite 3300
 Fairfield, CA 94533
www.solanocounty.com
 May 2010
This map is a representation of the information provided to the County of Solano. It is not intended to be used for any purpose other than the one for which it was prepared. The County of Solano is not responsible for any errors or omissions in this map.

**AGENDA ITEM
CITY COUNCIL MEETING DATE - JULY 20, 2010
ACTION ITEMS**

DATE : July 13, 2010
TO : City Council
FROM : City Manager
SUBJECT : **REDUCTION IN COMPENSATION PACKAGE FOR THE CITY COUNCIL**

RECOMMENDATION:

Adopt the attached resolution which:

- 1) Encourages the City Council to voluntarily agree to a 3.0% reduction in base salary effective July 1, 2010.
- 2) Eliminates the automatic increase in the City's contribution toward medical premiums and instead freeze the City's contribution towards medical as a flat rate based on the City's (7/1/10) current contribution to ensure that future increases by the City are considered by the Council based on the City's ability to pay and not an automatic increase.
- 3) Directs the City Manager to return to Council with recommendations on how the 3% base salary reduction listed in one above can be converted to an ongoing permanent reduction in pension or medical reform no later than January 15, 2011.

EXECUTIVE SUMMARY:

Not unlike most jurisdictions in California, the City of Benicia has identified a structural deficit due to the unprecedented economic downturn of the economy. The City has identified a structural deficit that is anticipated to continue for the next five years. At the last Council meeting, the direction was given to staff to return with a resolution decreasing the City Council's salaries, similar to the action taken for the City Manager and City Attorney. Given constraints in state law regarding decreasing council salaries, adoption of the attached resolution would encourage the City Council to voluntarily agree to a 3.0% reduction in their salaries due to the immediate financial challenges facing the City.

BUDGET INFORMATION:

The decrease in the salaries by 3% of the City Council will result in a savings of approximately \$1,000.

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue # 3: Strengthening Economic and Fiscal Conditions

BACKGROUND:

Since the adoption of the budget the City's General Fund revenues has declined \$1,651,085 in the current year, primarily due to reduction in property taxes, sales taxes, utility users taxes and franchise fees. The City has determined that reductions are necessary given the loss of revenues due to the financial crisis in the national and local economy. Currently, the City is conducting a smart sizing effort to identify program areas that can be reduced and/or eliminated towards bridging the current budget gap. The recommendations from this process will be provided to the Council later this summer for consideration. At this time, the City is also beginning contract negotiations with the majority of its employees groups and is requesting assistance with reductions in order to address the budget deficit and minimize program reductions and layoffs. Therefore, in recognition of the current fiscal situation, the City Council directed staff to agendize this reduction in compensation for the City Council in accordance with state and local requirements.

It should be noted that the California Attorney General has opined that the city council of a general law city, such as Benicia, may not reduce the salaries of the council members during their current terms of office. (80 Cal. Op. Att'y Gen. 119) Given the Council's direction to implement a salary decrease commensurate with the concessions being asked of City employees, a resolution is attached that encourages each member of the City Council to voluntarily agree to an immediate 3% reduction in their salaries due to the financial challenges facing the City.

As discussed at the July 6th Council meeting, the City is currently reviewing its various pension and medical programs currently being offered to determine fiscal sustainability into the future. CalPERS has notified the City that starting in July 2011 its miscellaneous rate will increase by approximately 2% and its safety rates will increase by 2.5% as a result of the lower than expected investment earnings as a result of the downturn in the economy. This will only add to the \$1.2 million dollar deficit estimated for fiscal year 2011 – 2012. Additionally, increases in medical premiums for fiscal year 2010 – 2011 were an average of 11.25%, and are anticipated to increase again in 2011 – 2012. Given the urgency of the City's fiscal condition, staff recommends Council approve the recommended actions to obtain the necessary savings immediately, and staff will return prior to January 15, 2011 with recommendations on how the 3% base salary reduction can be converted to an ongoing permanent reduction in pension or medical reform.

Attachments:

- Resolution
- Form for reducing Council's salaries
- 80 Cal. Op. Att'y Gen 119 (1997)

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A REDUCTION IN THE COMPENSATION PACKAGE FOR THE CITY COUNCIL

WHEREAS, the City of Benicia has identified a structural deficit due to the unprecedented economic downturn of the economy and it is anticipated to continue for the next five years; and

WHEREAS, the City has determined that reductions are necessary given the loss of revenues due to the financial crisis in the national and local economy; and

WHEREAS, the City is conducting a smart sizing effort to identify program areas that can be reduced and/or eliminated towards bridging the current budget gap; and

WHEREAS, the City is also currently reviewing its various pension and medical programs currently being offered to determine fiscal sustainability into the future; and

WHEREAS, the City Council wishes to take this action to assist the City's efforts in making ongoing structural reductions in order to address the City's structural deficit.

NOW, THEREFORE, BE IT RESOLVED THAT a reduction in compensation of the City Council will be achieved as follows:

- 1) Council will be encouraged to voluntarily agree to reduce base salary by 3% effective 7/1/10.
- 2) Eliminate the automatic increase in the City's contribution toward medical premiums and instead freeze the city's contribution towards medical as a flat rate based on the City's (7/1/10) current contribution to ensure that future increases by the City are considered by the council based on the City's ability to pay and not an automatic increase.
- 3) Direct the City Manager to return to Council with recommendations on how the 3% base salary reduction listed in one above can be converted to an ongoing permanent reduction in pension or medical reform no later than January 15, 2011.

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 20th day of July, 2010 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

CITY COUNCIL – REDUCTION IN SALARY

On July 20, 2010, the City Council adopted a resolution *voluntarily* asking that the City Council to agree to reduce their salaries by 3% given the immediate financial challenges facing the City. The 3% figure was based on the concessions being discussed with employees.

Please indicate below whether you agree to have your salary reduced by 3% and then return this form to the City Manager’s Office. Again, as stated in the Council resolution, this is a voluntary action.



I, _____, AGREE TO VOLUNTARILY REDUCE MY SALARY BY 3%.

Executed on _____, 2010, at _____, California.

(Signature)

Please return to the City Manager’s Office

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

DANIEL E. LUNGREN
Attorney General

OPINION :
 : No. 97-103
 of :
 : May 23, 1997
 DANIEL E. LUNGREN :
 Attorney General :
 :
 ANTHONY S. Da VIGO :
 Deputy Attorney General :
 :

THE HONORABLE LIZ FIGUEROA, MEMBER OF THE CALIFORNIA STATE ASSEMBLY, has requested an opinion on the following questions:

1. May the city council of a general law city reduce the salary of its members during their current terms of office?
2. May the city council of a general law city reduce the additional salary of an elected mayor during his or her current term of office?
3. May the city council of a general law city reduce the health and welfare benefits of its members, including the elected mayor, during their current terms of office?

CONCLUSIONS

1. The city council of a general law city may not reduce the salary of its members during their current terms of office.
2. The city council of a general law city may not reduce the additional salary of an elected mayor during his or her current term of office.
3. The city council of a general law city may not reduce the health and welfare benefits of its members, including the elected mayor, during their current terms of office.

ANALYSIS

During a recent city election, a slate of candidates for city council campaigned on the promise of reducing the salaries and benefits of city council members. The slate was elected, and now the new council members wish to fulfill their campaign promises, as do the city's voters. May the salaries and benefits of the council members be reduced during their current terms of office?

The three questions presented for resolution concern two separate statutory schemes. The one (Gov. Code, §§ 36514.5-36516.5) Footnote No. 1 deals with salaries, reimbursement for expenses, and compensation in general. Section 36514.5 provides: "City councilmen may be reimbursed for actual and necessary expenses incurred in the performance of official duties." Section 36515 states: "The compensation of a city councilman appointed or elected to fill a vacancy is the same as that payable to the member whose office was vacated." Section 36516 provides:

"(a) A city council may enact an ordinance providing that each member of the city council shall receive a salary, the amount of which shall be determined by the following schedule:

"(1) In cities up to and including 35,000 in population, up to and including three hundred dollars (\$300) per month.

"(2) In cities over 35,000 up to an including 50,000 in population, up to and including four hundred dollars (\$400) per month.

"(3) In cities over 50,000 up to and including 75,000 in population, up to an including five hundred dollars (\$500) per month.

"(4) In cities over 75,000 up to and including 150,000 in population, up to and including six hundred dollars (\$600) per month.

"(5) In cities over 150,000 up to and including 250,000 in population, up to and including eight hundred dollars (\$800) per month.

"(6) In cities over 250,000 population, up to and including one thousand dollars (\$1,000) per month.

"For purposes of this section the population shall be determined by the last preceding federal census, or a subsequent census, or estimate validated by the Department of Finance.

"(b) At any municipal election, the question of whether city council members shall receive compensation for services, and the amount of compensation, may be submitted to the electors. If a majority of the electors voting at the election favor it, all of the council members shall receive the compensation specified in the election call. Compensation of council members may be increased beyond the amount provided in this section or decreased below the amount in the same manner.

"(c) Compensation of council members may be increased beyond the amount provided in this section by an ordinance or by an amendment to an ordinance but the amount of the increase may not exceed an amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted. No salary ordinance shall be enacted or amended which provides for automatic future increases in salary.

"(d) Any amounts paid by a city for retirement, health and welfare, and federal social security benefits shall not be included for purposes of determining salary under this section provided the same benefits are available and paid by the city for its employees."

Section 36516.1 states:

"A mayor elected pursuant to Sections 34900 to 34904, inclusive, of the Government

Code may be provided with compensation in addition to that which he receives as a councilman. Such additional compensation may be provided by an ordinance adopted by the city council or by a majority vote of the electors voting on the proposition at a municipal election." Footnote No. 2

Finally, section 36516.5 provides:

"A change in compensation does not apply to a councilman during his term of office; however, the prohibition herein expressed shall not prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of such council becomes eligible for a salary increase by virtue of his beginning a new term of office."

The other statutory scheme (§§ 53200-53210) deals specifically with providing health and welfare benefits for the officers and employees of a city, as well as other local agencies. Subdivision (a) of section 53201 states:

"The legislative body of a local agency, subject to such conditions as may be established by it, may provide for any health and welfare benefits for the benefit of its officers, employees, retired employees, and retired members of the legislative body who elect to accept the benefits and who authorize the local agency to deduct the premiums, dues, or other charges from their compensation, to the extent that such charges are not covered by payments from funds under the jurisdiction of the local agency as permitted by Government Code Section 53205."

Section 53202.3 provides:

"All plans, policies or other documents used to effectuate the purposes of this article shall provide benefits for large numbers of employees. No plan or policy may be approved pursuant to this article unless its issuance or the payment of benefits thereunder is otherwise lawful in this State. This article does not authorize the issuance of any group policy or the representation of any insurance benefits as group insurance unless the policy concerning which the representation is made is designated as a group policy by the applicable provisions of the Insurance Code."

Section 53205 states:

"From funds under its jurisdiction, the legislative body may authorize payment of all, or such portion as it may elect, of the premiums, dues, or other charges for health and welfare benefits of officers, employees, retired employees, former elective members specified in subdivision (b) of Section 53201, and retired members of the legislative body subject to its jurisdiction.

"Those expenditures are charges against the funds. If the employer pays any portion of the premiums, dues, or other charges for the health and welfare benefits, any dividends paid or premiums refunded or other rebates or refunds under any of those health and welfare benefits up to the aggregate expenditures of the employer for the benefits are the employer's property. The excess, if any, shall be applied by the employer for the benefit of the employees or their dependents generally."

Finally, section 53208 provides:

"Notwithstanding any statutory limitation upon compensation or statutory restriction relating to interest in contracts entered into by any local agency, any member of a legislative body may participate in any plan of health and welfare benefits permitted by this article."

In analyzing these various statutes, we apply well established rules of statutory interpretation. "The overriding objective of statutory construction is to ascertain and effectuate legislative intent." (*Larson v. State Personnel Bd.* (1996) 28 Cal.App.4th 265, 276.) "In doing so we turn first to the statutory language, since the words the Legislature chose are the best indicators of its intent." (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 826.) Every word, phrase, and sentence in a statute should, if possible, be given significance. (*Penasquitos, Inc. v. Superior Court* (1991) 53 Cal.3d 1180, 1186.) Each word is to be given its "usual and ordinary meaning." (*Da Fonte v. Up-Right, Inc.* (1992) 2 Cal.4th 593, 601.) "Where the words of the statute are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history." (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562.) "A statute must be construed "in the context of the entire statutory system of which it is a part, in order to achieve harmony among the parts."" (*People v. Hull* (1991) 1 Cal.4th 266, 272.) "A statute should be construed whenever possible so as to preserve its constitutionality." (*Walnut Creek Manor v. Fair Employment & Housing Com.* (1991) 54 Cal.3d 245, 268.)

In addressing the three questions presented, we will assume that the current salaries and benefits of the city council members and mayor are fixed in amount and that the proposed reductions would not be as a result of a prior arrangement, either contractual or prescribed by statute or ordinance. (See *International Assn. of Firefighters v. City of San Diego* (1983) 34 Cal.3d 292, 299, 302; 73 Ops.Cal.Atty.Gen. 296, 300-304 (1990); 70 Ops.Cal.Atty.Gen. 214, 218 (1987); 65 Ops.Cal.Atty.Gen. 66, 69-70 (1982); 47 Ops.Cal.Atty.Gen. 61, 62 (1966); 39 Ops.Cal.Atty.Gen. 200, 202 (1962).)

1. Reducing a Council Member's Salary

The first question to be resolved is whether the members of a city council may reduce their own salaries during their current terms of office. We conclude that they may not do so.

A city council may set the salary of its members at \$1 per month or up to \$1,000 per month, depending upon the size of the city. (§ 36516, subd. (a).) It can exceed the statutory limit set for the size of its city by "5 percent for each calendar year from the operative date of the last adjustment of the salary" (§ 36516, subd. c.) There is no similar limit for reducing the salary of council members. Under subdivision (a) of section 36516, the council may reduce the salaries of its members to whatever amount it chooses. So also may the voters at a municipal election. (§ 36516, subd. (b).)

Section 36516.5, however, provides: "A change in compensation does not apply to a councilman during his term of office" Reading section 36516.5 in light of section 36516, we find that the term "compensation" must include "salary," whether increased or decreased. The fact that certain increases in salary may avoid the general prohibition (§ 36516.5) does not mean that decreases in salary are outside the scope of the prohibition.

It may be argued that the obvious purpose in delaying changes in compensation is to protect the city's funds from improvident council action in increasing the salaries of its members during their current terms of office. No similar purpose would be served by delaying decreases in the salaries; indeed, immediate implementation would conserve a city's funds. Here, for example, if five council candidates campaign on the promise of reducing council member salaries, what purpose would be served by preventing an immediate reduction once they are elected?

That question must be answered by determining what the Legislature intended in enacting section 36516.5. First, the Legislature might well believe that decreases in salary should be delayed when they are imposed by the electorate rather than by the council members themselves. (See, e.g., Stats. 1972, ch. 591, § 1.) The language of section 36516.5, however, does not draw such a distinction or expressly disclose a purpose that would prevent its application to all decreases in salary. On balance, we do not find the necessary legislative intent to ignore the plain meaning of the terms used in section 36516.5.

Moreover, we must interpret section 36516.5 in the manner that would uphold its constitutionality. Would a reduction in a council member's compensation during his or her term of office impair the obligation of a contract (U.S. Const., art. I, § 10; Cal. Const., art. I, § 9) or deprive the council member of a vested property right (U.S. Const., 14th Amend.; Cal. Const., art. I, § 7, subd. (a))?

Generally, neither the obligation of contracts nor vested property rights may be impaired or destroyed by subsequent enactment. (*Coombes v. Getz* (1932) 285 U.S. 434, 442, 448; 70 Ops.Cal.Atty.Gen., *supra*, 216.) It is true, again generally, that the terms and conditions relating to public employment are controlled by statute or ordinance rather than by ordinary contract standards. (*Olson v. Cory* (1980) 27 Cal.3d 532, 537-538; *Markman v. County of Los Angeles* (1973) 35 Cal.App.3d 132, 134-135; 72 Ops.Cal.Atty.Gen. 1, 6 (1989); 67 Ops.Cal.Atty.Gen. 510, 511 (1984).) Thus no one has a vested right in public employment except insofar as the right is conferred by statute or other valid regulation; public employees have no vested right in any particular measure of compensation or benefits; and compensation may be modified or reduced by proper statutory authority. (*Butterworth v. Boyd* (1938) 12 Cal.2d 140, 150; 67 Ops.Cal.Atty.Gen., *supra*, 511.)

On the other hand, public employment gives rise to certain obligations that are protected by the contract clause of the Constitution. **Footnote No. 3** These include the right to the payment of a salary that has been earned (*Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 308-309) **Footnote No. 4** as well as other aspects of employment (see generally *California League of City Employee Associations v. Palos Verdes Library Dist.* (1978) 87 Cal.App.3d 135, 139; 67 Ops.Cal.Atty.Gen., *supra*, 511-512).

The employment relationship between a city council member and the city is contractual, and the elements of compensation and benefits for such an office become contractually vested upon acceptance of employment. (Cf. *Olson v. Cory*, *supra*, 27 Cal.3d at 538-539, fn. 3; *Betts v. Board of Administration* (1978) 21 Cal.3d 859, 863; 77 Ops.Cal.Atty.Gen. 50, 53 (1994); 73 Ops.Cal.Atty.Gen., *supra*, 302; 67 Ops.Cal.Atty.Gen., *supra*, 512.) In *Olson v. Cory*, *supra*, 27 Cal.3d 532, for example, the court held that a judge entering office is deemed to do so in consideration of--at least in part--salary benefits then offered by the state for that office; if salary benefits are diminished by the Legislature during a judge's term, the judge is nevertheless entitled to the contracted benefits during the remainder of such term. In *Betts v. Board of Administration*, *supra*, 21 Cal.3d 859, the court held that the elements of compensation, including retirement benefits, for the office of State Treasurer become contractually vested upon acceptance of employment. (See also *Legislature v. Eu* (1991) 54 Cal.3d 492, 528, 533-534.) **Footnote No. 5** In 67 Ops.Cal.Atty.Gen. 510, *supra*, we concluded that a school district providing health and life insurance benefits to board members may not discontinue such benefits during the board members' current terms.

Interpreting the language of section 36516.5 in light of these constitutional principles, we find that it forbids decreases in compensation during a council member's current term of office. Of course, as a practical matter, council members may contribute back to the city whatever portion of their salaries they wish. No statutory authorization is necessary for such voluntary action to take place.

We conclude in answer to the first question that a city council of a general law city may not reduce the salary of its members during their current terms of office.

2. Reducing an Elected Mayor's Additional Salary

An elected mayor of a general law city is a member of the city council. (§ 34903.) His or her salary as a member of the council would be subject to the same constraints as set forth in answer to the first question. While such salary may be reduced by the council, section 36516.5 prohibits the reduction from taking place during the mayor's current term of office.

An elected mayor, however, may also receive "compensation in addition to that which he receives as a councilman." (§ 36516.1.) May this additional amount of compensation be reduced during the mayor's current term of office? We conclude that it may not.

As quoted above, section 36516.1 allows the electorate or the city council to set the amount of the mayor's additional compensation at whatever level it chooses. The statutory grant of authority would include reducing the amount from that previously chosen. Does section 36516.5, however, prevent the reduction from taking place during the mayor's current term of office?

Section 36516.5's prohibition is as follows: "A change in compensation does not apply to a councilman during his term of office" Although a mayor is a member of the city council, he or she is not normally referred to as a "councilman." The additional salary authorized by section 36516.1 would seemingly not be received as a "councilman"; rather, the additional compensation would be granted for the performance of mayoral duties.

Nevertheless, as indicated in response to the first question, we must interpret section 36516.5 so that its application is consistent with the Constitution. Accordingly, it prohibits a city council from reducing a mayor's additional compensation during his or her current term of office. Such construction preserves the mayor's contractual and vested property rights.

We thus conclude in answer to the second question that an elected mayor's additional compensation may not be reduced by the city council during the mayor's current term of office.

3. Reducing a Council Member's Benefits

The final question concerns whether a city council may reduce the amount of health and welfare benefits received by council members, including the mayor, during their current terms of office. We conclude that it may not do so.

As quoted above, section 53208 authorizes city council members to participate in a health and welfare benefits plan adopted under the provisions of sections 53200-53210 "[n]otwithstanding any statutory limitation upon compensation" The statutory limitation of section 36516.5 would thus be inapplicable to the furnishing of the benefits in question. (See *People v. De La Cruz* (1993) 20 Cal.App.4th 955, 963.) Sections 53200-53210 do not expressly authorize or prohibit decreases in health and welfare benefits for officers and employees of a public agency. The benefits, however, must be part of a plan "for large numbers of employees."

(§ 53202.3; see also § 36516, subd. (a).) Whether the benefits under such a plan may be adjusted upward or downward during an incumbent's term of office would depend upon the conditions established by the city council in providing for such benefits. Subdivision (a) of section 53201 authorizes a city council to provide benefits to its members "subject to such conditions as may be established by it."

As we have indicated in response to the first two questions, unless the preexisting plan itself authorizes decreases in benefits during a council member's current term of office (which we have assumed is not the case), any decreases must await the end of the current term to meet constitutional requirements. Hence, we conclude in answer to the third question that the city council of a general law city may not reduce the health and welfare benefits of its members, including the elected mayor, during their current terms of office.

* * * * *

Footnote No. 1

All unidentified section references hereafter are to the Government Code.

Footnote No. 2

Sections 34900-34904 set forth the procedures for electing a mayor in general law cities.

Footnote No. 3

Issues respecting the impairment of contracts are frequently viewed in the related context of the due process clause of the federal and state Constitutions as a deprivation of a vested property interest. (U.S. Const., 14th Amend.; Cal. Const., art. I, § 7, subd. (a); 67 Ops.Cal.Atty.Gen., *supra*, 511, fn. 6; 66 Ops.Cal.Atty.Gen. 418, 421 (1983).) Our focus herein will be upon the contract clause.

Footnote No. 4

Where it is claimed that the state has impaired the obligation of its own contract, an initial inquiry arises concerning the ability of the state to enter into an agreement surrendering an essential attribute of its sovereignty. (Cf. *California Teachers Assn. v. Cory* (1984) 155 Cal.App.3d 494, 510-512; *Valdez v. Cory* (1983) 139 Cal.App.3d 773, 789-791.) This reserved powers doctrine does not pertain, however, to a purely financial obligation. (70 Ops.Cal.Atty.Gen., *supra*, 217, fn. 4.)

Footnote No. 5

Such contractual interests include not only those in effect upon commencement of employment, but also those conferred during the term of office. (*Olson v. Cory, supra*, 27 Cal.3d at 540; *Betts v. Board of Administration, supra*, 21 Cal.3d at 866; 70 Ops.Cal.Atty.Gen., *supra*, 218.)

**AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
INFORMATIONAL ITEM**

DATE : July 13, 2010
TO : Mayor & City Council
FROM : City Manager
SUBJECT : **SB 435 (PAVELY) CLEAR AIR QUALITY ACT**

RECOMMENDATION:

Informational report; no action requested. Staff does not currently recommend endorsement of the bill based on the information available at this time.

EXECUTIVE SUMMARY:

SB 435 would declare the Legislature's intent to enact legislation to increase enforcement, including, but not limited to, increasing penalties for tampering with pollution control devices on motorcycles with regard to all relevant anti-tampering laws that apply to motorcycles. Specifically, it would require motorcycles manufactured in the 2011 model year and later to be inspected biennially, and upon change of ownership, under the smog check program beginning January 1, 2012, and require exhaust labeling which is already set forth in Federal law. The bill would apply to the most common type of motorcycles on the road, Class III motorcycles. While the bill is endorsed by the California Highway Patrol (CHP), it is opposed by the American Motorcycle Association (AMA) due to a number of issues associated with enforcement.

BUDGET INFORMATION:

N/A

STRATEGIC PLAN:

Relevant Strategic Plan Issues and Strategies:

- Strategic Issue # 3: Strengthening Economic and Fiscal Conditions

BACKGROUND:

Due to a loophole in California's smog check program that exempts motorcycles, California car owners must have their vehicles inspected and tested every two years, but motorcycles are not currently required to do so. Over the past decade, there have been improvements in pollution control equipment for motorcycles, and most now come equipped with catalytic

converters. However, many motorcycle enthusiasts remove the factory installed emissions control equipment and replace it with “custom” parts that are more polluting. This practice violates state law, but the California Air Resources Board (CARB) lacks an effective means of enforcement.

Existing legislation prohibits any person from disconnecting, modifying, or altering a motor vehicle pollution control device, such as a catalytic converter on a motorcycle. SB 435 would declare the Legislature’s intent to enact legislation to increase enforcement, including but not limited to, increasing penalties for tampering with pollution control devices on motorcycles with regard to all relevant anti-tampering laws that apply to motorcycles. It would require motorcycles manufactured in the 2011 model year and later to be inspected biennially, and upon change of ownership, under the smog check program beginning January 1, 2012 and display a federal sticker containing the Motorcycle Exhaust System Noise Emission Control Information. The bill would apply to the most common type of motorcycles on the road, Class III motorcycles.

In terms of implementation, there are a number of issues, for example, the bill is designed to be enforced as a secondary violation (i.e., the driver must have another violation, such as speeding, excessively loud pipes, etc.) and would be considered a “fix it ticket.” Officers cannot pull over a motorcycle because the Federal Motorcycle Exhaust System Noise Emission Control Information sticker is not visible.

Further, this bill supports existing Federal Law - Section 205.166, Title 40 Code of Federal Regulations established in 1986. It is not proposed to go back to 1986 with this bill, since there is an issue with proving compliancy with many after-market systems. So there will be some significant “catch up” necessary, because law enforcement cannot cite for this violation with bikes older than 2011.

Finally, under the proposed law, a motorcyclist can still remove the catalytic converter, have the federal sticker on the pipes and appear to be in compliance. In addition, absent the federal labeling on new motorcycles, a fix-it ticket can be issued, and the burden of proof is on the motorcycle owner to prove exhaust is in compliance. Using today’s vehicle code, the burden of proof is on the officer to prove there is a violation of modified exhaust, which is difficult to prove since the officers have to prove that the internal components of the exhaust are altered (27151a CVC). Motorcycles louder than 95dbA due to modified exhaust do not violate 27151b California Vehicle Code (loud vehicles) since this law applies to vehicles only. In addition, whenever there is a violation of a loud vehicle due to modified exhaust in excess of 95dbA, the violation is difficult to prove since there is no standard method to obtain a noise test.

The objective of this new law is to reduce motorcycle noise and emissions. While the overall goal is clearly a desirable one; implementation of this bill still appears to have some issues that will need to be addressed in order to achieve the objective. SB 435 is supported and sponsored by the California Highway Patrol, American Lung Association and the National Parks Conservation Association. The bill is opposed by the American Motorcycle Association. The League of California Cities has not taken a position.

Attachments:

- Bill Analysis – SB 435
- Related Email correspondence

BILL ANALYSIS

SB 435
Page 1

Date of Hearing: June 28, 2010

ASSEMBLY COMMITTEE ON TRANSPORTATION
Bonnie Lowenthal, Chair
SB 435 (Pavley) - As Amended: June 30, 2010

SENATE VOTE : Not relevant

SUBJECT : Motorcycle exhaust system federal noise labels.

SUMMARY : Makes it a crime for a person to park, use, or operate a motorcycle, registered in the state that is manufactured on and after January 1, 2011, that does not have a federal U.S. Environmental Protection Agency (EPA) noise emission control label. Specifically, this bill :

- 1) Requires that a registered motorcycle manufactured on and after January 1, 2011, and operating within the state, have a federal U.S. EPA noise emission label.
- 2) Establishes that a violation of the labeling requirement is a mechanical violation and a peace officer is prohibited from stopping a motorcycle solely on a suspicion of a violation of this labeling requirement. Requires a peace officer to cite a violation of this law as a secondary infraction.
- 3) Requires that a person issued a notice to appear or to whom a complaint is filed, to produce a proof of correction.
- 4) Authorizes the court to dismiss the penalty imposed on a first violation upon correction of the violation.
- 5) Establishes a violation of this law as punishable by the same fine that is currently established pursuant to the equipment anti-tampering law.

EXISTING LAW :

- 1) Known as California's anti-tampering law, prohibits the installation, sale, offer for sale, or advertisement of any device, apparatus, or mechanism intended for use with, or as a part of, any required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system.

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Page 2

- 2) Subsequent to the purchase of a motor vehicle (including a motorcycle), establishes an exemption by the California Air Resources Board (ARB) if an alteration, modification, or modifying device, apparatus, or mechanism does either of the following:
 - a) Not to reduce the effectiveness of the required motor vehicle pollution control device; or,
 - b) To result in emissions from the modified or altered vehicle that are at levels that comply with existing state or federal standards for that model year.
- 3) Requires a motorcycle to have equipped at all times an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise. Prohibits a person from modifying the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of the vehicle that exceeds the noise limits or otherwise makes the motorcycle noncompliant.
- 4) Existing federal regulations require a motorcycle manufactured on and after January 1, 1983, and exhaust emission systems for those motorcycles, to meet specified noise emissions standards and require that a label be affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards.

FISCAL EFFECT : Unknown

COMMENTS : According to this bill's author, "federal regulations promulgated under the Noise Pollution Control Act have required, since 1983, that all motorcycles in the United States (original equipment and aftermarket replacement exhaust systems) must maintain two permanent, readily visible EPA stamps, one on the chassis of the motorcycle and one on the muffler, certifying

that the equipment meets or exceeds the maximum noise levels prescribed by the federal government. Failure to comply is currently punishable under the Act, but since there is no "Federal Noise Police," enforcement of these regulations has been lax. This bill, by requiring in the California Vehicle Code that these stamps be maintained on all motorcycles in California going forward from 2011, gives state and local law enforcement the ability to write citations for violations of the

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federal regulation? This is needed because current noise control statutes are rarely and unevenly applied throughout the state, and this will give law enforcement a uniform tool by which they can cite motorcycles for illegally tampering with their emissions equipment in order to increase noise. Any such citation will have a base fine of \$50-\$100 that can be dismissed upon proof of correction, and will be citable as a secondary infraction. Additionally, since enforcement of federal regulations against after market manufacturers has been lax over the last 25 years, this bill will be proscriptive, starting in January 2011 so as not to unfairly penalize riders who may have, through no fault of their own, purchased technically illegal equipment since 1983."

U.S. EPA regulation enforcement : In the past, the EPA coordinated all federal noise control activities through its Office of Noise Abatement and Control. However, in 1981, the Administration at that time concluded that noise issues were best handled at the state or local government level. As a result, the EPA phased out the office's funding in 1982 as part of a shift in federal noise control policy to transfer the primary responsibility of regulating noise to state and local governments. However, the Noise Control Act of 1972 and the Quiet Communities Act of 1978 were not rescinded by Congress and remain in effect today, although essentially unfunded. Accordingly, leaving enforcement up to the states and local governments without any federal financial assistance resulted in sporadic enforcement of these laws nationwide.

Availability of parts and effective date : The availability of aftermarket replacement exhaust mufflers from 1990 to 2000 and newer was difficult to determine with any amount of reliability. For the most part, it appeared that replacement equipment that is compliant with the federal noise labeling regulations, likely due to the lack of federal oversight and enforcement, was not consistently available upon questioning of workers at motorcycle part stores. Accordingly, it was determined that it would be unfair and impracticable upon owners of older year motorcycles to require older year models to operate with federally noise compliant exhaust systems. Taking a reasonable, modest, and proscriptive approach, this bill's requirements will be imposed upon motorcycles beginning with 2011 and thereafter.

Support : Writing in support of this bill and as its sponsor, the American Lung Association in California indicates that the

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bill "would increase enforcement of current anti-tampering and noise-level statutes for motorcycles, and ensure that motorcycles on California roads operate with approved emission control systems. Failure to properly display a label indicating compliance with federal regulations would require the operator to take the necessary action to obtain the appropriate exhaust system and label?While this bill is focused on federal noise requirements, tampering with exhaust systems has serious air quality and public health implications. The ARB has reported that the average motorcycle with a tampered exhaust system emits several times more smog-forming emissions than a non-tampered motorcycle and up to 10 times more for certain types of motorcycles and modifications."

Opposition : Writing in opposition to the bill (Note: Letter received prior to June 22, 2010 amendment), ABATE contends that the bill "is a nuisance issue, having no impact on motorcyclist or non-rider safety. It is a nuisance caused by a small minority of motorcycle riders and there are existing laws, some on the books for over 40 years, to cite and sanction operators of excessively loud motorcycles, whether from worn out or damaged exhaust systems or modified parts. Here are our opposition points:

1)Existing California Vehicle Code Sections 27150 and 27151 are

already routinely used to cite motorcyclists with excessively loud mufflers.

- 2) Enacting the federal label matching requirements adds nothing to those laws that are already in effect. This will be a redundant, overlapping statute that does little or nothing to solve the problem.
- 3) The U.S. EPA noise labels on motorcycle mufflers are nothing more than a manufacturer's self-certification warranty that the mufflers will be noise compliant for a period of one year or 3,730 miles, whichever comes first. After that, from wear or tear or damage, they may no longer be noise compliant, so that doesn't solve the excessive noise problem. Think of them as the function that a mattress tag serves - certification that the mattress meets federal standards at point of sale. There are no restrictions against an end user, or any one else, removing them at some later date. In fact, many new motorcycles' muffler stampings are there, but legally obscured by heat shields, covers and accessories. How can they be

□

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cited, when these labels were never primarily designed to be an enforcement tool?

- 4) Noise laws from all sources, like autos with noisy boom boxes or mufflers, loud house parties and construction equipment need to be enforced, not just targeting motorcycles for subjective and discriminatory prosecution.
- 5) Some motorcycle riders buy replacement mufflers that may, or may not, comply with the EPA noise standard because stock parts may no longer be available from the manufacturers after several years. It will be unfair to subject them to a label-matching requirement especially if they have bought their motorcycle, used, from another party that installed those parts.
- 6) What option does an owner have if their muffler wears out or is damaged if stock parts are no longer available from their dealer or manufacturer? This is especially critical for aftermarket catalytic converter motorcycle mufflers. There are currently few, if any, aftermarket mufflers available because ARB only passed a regulation for their certification less than a year ago.

Also writing in opposition to the bill, the Imperial Valley Cycle Center indicates that "Grandfather all existing bikes in, at the very least so that all future motorcycles will be on notice of what using uncertified mufflers will cost them."

REGISTERED SUPPORT / OPPOSITION :

Support

American Lung Association in California (sponsor)
 Bay Area Air Quality Management District
 Boston City Councilor Sal Lamattina
 Breathe California
 California Air Pollution Control Officers Association
 Los Angeles City Councilmember Bill Rosendahl
 Los Angeles County
 Los Angeles County Sheriff Lee Baca
 NoiseOff.org
 Noise Pollution Clearinghouse
 Sacramento Metropolitan Air Quality Management District
 San Joaquin Valley Air Pollution Control District

□

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Town of Windsor
 West Hollywood
 Letters from two individuals

Opposition

ABATE - American Brotherhood Aimed Towards Education - A Union of Motorcyclists
 ABATE Local 1
 American Motorcyclist Association
 B & B Cycles
 Barger Harley-Davidson
 Bellflower Motorsports Employees

Beaumont Motorcycles & Watercraft
California Motorcycle Dealers Association
Cucamonga Yamaha
Harley-Davidson San Jose
Imperial Valley Cycle Center
LeBard & Underwood, Inc.
Livermore Harley-Davidson
Michael's Harley-Davidson, Inc.
Mountain Motorsports
Northern California Harley-Davidson Dealer's Association
Skip Fordyce Harley Davidson
Southern California Harley-Davidson Motorcycle Dealers
Association
Petition signatures of individuals 36,661 (received prior to
June 22, 2010 amendments)
Numerous letters (over 90 individuals received prior to June 22,
2010 amendments)

Analysis Prepared by : Ed Imai / TRANS. / (916) 319-2093

Anne Cardwell - Fwd: California Senate Bill 435

From: Anne Cardwell
Subject: Fwd: California Senate Bill 435

>>> Nicholas Haris <nharis@ama-cycle.org> 7/13/2010 2:21:53 PM >>>

Mayor Patterson, I have been informed that the Benicia City Council has decided to consider endorsing Senate Bill 435 again. While the bill is purported in the media to be targeting excessive motorcycle sound, in reality it will only create a difficult situation for both riders as well as law enforcement officials charged with its enforcement. Numerous other cities have in fact considered similar ordinances but all have either decided against adoption (New York for example) or simply not enforced it after adoption (Denver and Boston). This is due to a number of factors, however the bottom line is the EPA label is simply not proof of sound compliance, nor it a lack of one proof of a violation of federal law.

A very compelling presentation on the troubles law enforcement would have in regards to the EPA label location was put together by a group of riders in New York, it can be downloaded in .pdf format here:
<http://www.abate.org/LinkClick.aspx?fileticket=g89Mz6h33JA%3d&tabid=73>

Also the police chief in North Hampton, NH was quoted as saying he felt a similar ordinance under consideration there was basically unenforceable in the field: <http://www.seacoastonline.com/articles/20100622-NEWS-6220307>

In addition the following links may be useful for the debate. The AMA has long been on the record in opposition to excessive sound: <http://www.amadirectlink.com/legisltn/positions/sound.asp>

In addition we authored a document a number of years ago on the subject:
http://www.amadirectlink.com/legisltn/Sound_Advice.asp

And lastly we have model legislation based on adoption of the J2825 test procedure:
http://www.amadirectlink.com/legisltn/Model_On_Highway_Sound_Ordinance.pdf

If you are available I would like to meet with you prior to the City Council meeting next Tuesday to discuss the current version of SB 435 and consider the alternatives. I can be in Benicia in a few hours (I live in Placerville, CA) and would welcome to opportunity for a face to face discussion on this issue. At the end of the day I think we will have a lot of common ground and be able to craft an ordinance that is consistent, fair and legally defensible.

Sincerely,

Nick

Nicholas Haris
Western States Representative
American Motorcyclist Association
(530) 626 4250

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AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 13, 2010
TO : Mayor Patterson
FROM : City Manager
SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:30 pm. The agenda for the meeting held on June 16 is attached. The next Mayors' Committee meeting is on July 21, 2010. The agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 7, 2010
TO : Mayor Patterson
Council Member Ioakimedes
FROM : City Attorney
SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the July 20, 2010 council meeting:

- The date for the Fall General Assembly is Thursday, October 21, 2010.
- The conference will be held in San Jose. The exact location and topics have not been determined.

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : June 9, 2010

TO : Vice Mayor Schwartzman
Council Member Campbell

FROM : Finance Director

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

The following information is provided for your committee report at the Council meeting.

The FAB committee held a meeting on June 25, 2010 and I have attached a copy of the *Draft* minutes for your review. The next meeting will be held on July 23, 2010.

Attachment:

- *Draft* Minutes from June 25, 2010

FINANCE, AUDIT AND BUDGET COMMITTEE
***DRAFT* REGULAR MEETING MINUTES**
COMMISSION ROOM
June 25, 2010 - 8:00 AM

1. Call to Order at 8:03

Attended by Acting Committee Chair Dennis Lowry, Board Members, Larry Grossman, Lee Wines; Council Members Tom Campbell, Alan Schwartzman, City Treasurer Teddie Bidou. Staff present - Finance Director Robert Sousa and Assistant Finance Director Abigail Urrutia. Member of the public present – Dan Miceli. Guests present – Carlos Oblites, PFM Investment Management; City staff: Bill Guggemos, IT Manager and Dave Bosse, IT Analyst.

2. Notice to the Public

Before approval of the minutes, Member Grossman asked if the committee needs to approve the agenda at the beginning of the meeting. He also requested to rearrange the calendar so that the Long Range calendar is moved up in the agenda instead of being the last agenda item to be discussed. He wants the most effective way this committee will work and have a big picture approach for the City as a whole.

For next month's meeting, Director Sousa will agendize the committee's role and scope of functions and a recommendation will be forwarded to the City Council if changes are recommended. There was concurrence with committee members on these changes.

6. Presentation of PFM Investment Advisor Carlos Oblites

This item was moved up since advisor was in attendance. Carlos Oblites from PFM presented an update on the investment portfolio his company is managing for the City. Returns for the quarter are good, even though the yields are low. PFM's investment strategy is an active management of portfolio to help increase the yield and return for the City, but always having pre-approval from the City for any trades. The past year's portfolio performance generated a total return of 2.27%, well above Merrill Lynch US Treasury benchmark of 1.03%.

Council Member Campbell inquired if a presentation by Carlos Oblites can be included as a future agenda item in the City Council's meeting to inform and educate them of the City's investments. Director Sousa will follow up on that.

3. Approval of Minutes from the meeting held on May 28, 2010.

Abstained by Treasurer Bidou - she was not present at that meeting. Approved by consensus, with additional note from Acting Chair Lowry on Purchasing Policy presentation – opposed as presented since there was no cost/benefit analysis presented for decentralized purchasing.

4. Previous Month Warrant Register Review for May 2010.

Approximately 11 claims were questioned by the committee members. The following claims need further review and clarification from staff:

Check #193898 Pacific Power Service – Finance Director will follow-up on next meeting.
Check #193911 Republic Electric – Finance Director will follow-up on next meeting.
Check #194041 US Bank lines 6 & 26 did not have initials showing the cardholder – Finance Director will follow-up on next meeting.

Warrant registers approved by consensus.

5. Review Monthly Financial Report for May 2010

Acting Chair Lowry presented his summarized versions of the financial report and asked to understand why the budget changes every month. Staff explained that any budget amendments are included in the budget and with the accounting software limitation, only the amended budget amounts appear in the General Ledger. Finance Director Sousa will present a worksheet version of the financial report showing the adopted budget, plus any budget amendments that will match the General Ledger report.

The meeting was past the 10:00 time frame and the committee had to vote if the meeting will be adjourned or not. Members agreed to continue the meeting.

6. Review of Telecommunications Contracts (Presentation Only)

The IT Manager and IT Analyst presented an overview of the City's telecommunications system, including a host of contracts for telephones, wireless devices, and high-speed data lines. No further direction was received.

7. Review Long Range Calendar

Add election of Chair and discussion of FAB Mission, Duties and Structure to next meeting.

9. Public Comment

10. Adjournment

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : City Manager

SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

The North Bay Division of the League of California Cities will meet on Thursday, July 29, 2010 in Dixon.



NORTH BAY DIVISION GENERAL MEMBERSHIP MEETING

**NORTH BAY DIVISION
MEMBER CITIES**

MARIN COUNTY

BELVEDERE
CORTE MADERA
FAIRFAX
LARKSPUR
MILL VALLEY
NOVATO
ROSS
SAN ANSELMO
SAN RAFAEL
SAUSALITO
TIBURON

NAPA COUNTY

AMERICAN CANYON
CALISTOGA
NAPA
ST. HELENA
YOUNTVILLE

SOLANO COUNTY

BENICIA
DIXON
FAIRFIELD
RIO VISTA
SUISUN CITY
VACAVILLE
VALLEJO

SONOMA COUNTY

COTATI
HEALDSBURG
PETALUMA
ROHNERT PARK
SANTA ROSA
SEBASTOPOL
SONOMA
WINDSOR

OFFICERS

PRESIDENT

ERNESTO OLIVARES
COUNCILMEMBER, SANTA ROSA

FIRST VICE PRESIDENT

CURTIS HUNT
VICE MAYOR - VACAVILLE

SECOND VICE PRESIDENT

JOHN DUNBAR
VICE MAYOR - YOUNTVILLE

PAST PRESIDENT

SHAWN MARSHALL
COUNCILMEMBER - MILL VALLEY

DIVISION DIRECTOR

ALICE FREDERICKS
COUNCILMEMBER - TIBURON

INTERIM STAFF

MARRY CREASEY
REGIONAL PUBLIC AFFAIRS ANALYST

Hosted by the City of Dixon
Thursday, July 29th, 2010

Linde Lane Tearoom
140 N. Jackson Street
Dixon, CA 95620

Welcome Reception 6:00 p.m.
Dinner 6:45 p.m.
Program Begins 7:15 p.m.

**Featuring a discussion on the early release of parolees and
the regional impacts of the program**

**Robert Ambroselli, Director of Parole
California Department of Corrections and Rehabilitation
California Medical Facility**

* AND *

**Gary Stanton, Sheriff
Solano County**

\$40 per person

~ Served Dinner Menu~

1st Course: Sorbet & Spring Mix with Green Tea Vinaigrette

*2nd Course: Chicken Linde with Garlic Butter Cream Sauce
Carrot Soufflé*

Stuffed Mushrooms

Wild Rice

*Dessert: Lemon Melt-Away Cookies by Cakes by Floozie's Sugar Art
Beverages: Filtered Water, Iced Tea, and Hot Tea will be served*

(Vegetarian Option Available Upon Advance Request)

Please RSVP by Monday July 26th to:

Mary Creasey mcreasey@cacities.org

(Seating is limited to 50 people)

\$40.00 per person payable to North Bay Division, LOCC

Pay at the door or mail check to:

Mary Creasey, League of California Cities,
1400 K Street, 4th Floor
Sacramento, CA 95814

Questions? Please contact Mary Creasey
(916) 658-8243

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 13, 2010

TO : Council Member Ioakimedes
Council Member Hughes

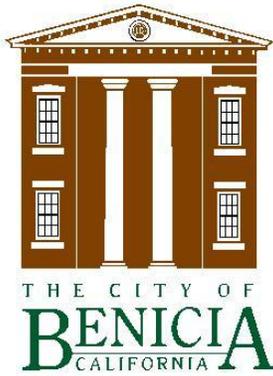
FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room.

The minutes from the March 11, 2010 meeting are attached. The meeting scheduled for June was cancelled. The next meeting has not been scheduled.



• Since 1849 •

DRAFT

MINUTES

BENICIA CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE

District Board Room

350 East K St

March 11, 2010 8:30-10:00am

Present:

Janice Adams, Superintendent of Schools

Rosie Switzer – School Board Member

Dana Dean – School Board Member

Tim Rahill – Chief Business Official

Joe Amaral – Supervisor of Maintenance and Facilities, BUSD

Ron Wheat – BHS Vice -Principal

Jim Erickson – City Manager

Mike Alvarez – Parks and Community Services Director

Rob Souza – City Finance Director

Mike Ioakimedes – City Council Member

Sandra Spagnoli – Chief of Police

Mike Daley – Lieutenant Benicia Police Department

Call to Order and Pledge of Allegiance:

Janice Adams, Superintendent of Schools, called the meeting to order at 8:33 a.m. on Thursday, March 11, 2010. She referenced the Fundamental Rights of the public.

Ms Adams led the pledge of allegiance.

Consent Calendar:

It was moved and seconded to approve the Minutes of the Regular Meeting November 12, 2009. The motion passed unanimously.

Business Items:

A. Discussion of the Student Resource Officer Coverage

Sandra Spagnoli, Chief of Police and Lieutenant Mike Daley discussed the SRO coverage at all Benicia Schools. Lieutenant Daley told the committee that there has been coverage at Liberty and the officers will

X.B.5.3

Minutes

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

be listing office hours so the students know when they are there. This will also tie in with the Safe Schools meeting that occurs once a week. Ms. Adams also asked the Chief to reconsider the option of having SRO's at the sites five days a week. She would like to see this brought up for discussion again. Ron Wheat and Janice Adams expressed their appreciation for all the work the SRO's do and the great relationship between the schools and the police department. There was some discussion about closing the gates at the high school during lunch, but no decision was made.

B. Discussion on the Use of Police Dogs on Campus

Janice Adams, Superintendent, opened the discussion on the use of police dogs on campus in response to questions from the Administrative team. Ron Wheat would like to see the dogs brought in once a week to search for drugs. Chief Spagnoli told the committee that there are currently two trained dogs. She is concerned about the community reaction to the dogs on campus. The police could possibly bring the dogs on when there are no students present, but she would like to see what other districts are doing. Trustee Dean expressed her concerns regarding this issue and does not want to see any dogs on campus without the school board discussing it in open session. Chief Spagnoli said the dogs are currently used when an alarm goes off at the site after hours and she asked Lieutenant Daley to check on surrounding district's policies regarding this issue.

C. Discussion on Lockdown Drills

Lieutenant Daley reported that the SRO's and the administrators recently performed a lock down drill at several sites. They are going to work with the high school staff over the summer to create a plan for having one there. Ron Wheat asked who declares the site safe when there is a bomb threat. Lieutenant Daley said that it was the school's decision based on police recommendation. Ms. Adams told the committee that the office staff has all had 911 training and that the administrative team is working on the Safety Plan for each site.

D. Report on the City and School District Budget 2010-2011

Jim Erickson, City Manager, reported that the city is in the midst of difficult budget balancing. He shared that our city is in better shape than most but still facing some cutbacks and a hiring freeze. The city is working on prioritizing all services and looking at goals and priorities in each department. Rob Souza talked about all the employees they have lost and not replaced and the effect it is having on the remaining staff. Jim Ericson reminded the committee that the city has to keep a 20% reserve.

Janice Adams, Superintendent, reported to the committee that last year the district made significant cuts but the ARRA money gave us the opportunity to rescind several of them. The district has to cut \$2.4 million next year and \$1.1 million the year after. This will affect the

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Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

quality of education that we can offer and this will eventually impact the city. Tim Rahill explained to the committee about ADA and how the district gets it's funding. The most funding comes from students attending school. Right now our ADA is flat with no anticipated growth. Mike Ioakimedes concurred that failing schools do not do the city any good or the district. He wants to be sure the two groups continue to work together. Rob Souza said that his staff would share their experience in having successful ballot measures if needed.

Future Agenda Items

a) Report back on Every 15 Minutes and Campus Safety

The meeting adjourned at 9:48 a.m.

Public Participation

The City Council/School Board Liaison Committee welcomes public participation.

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

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

Disabled Access

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

Meeting Procedures

All items listed on this agenda are for City Council/School Board Liaison Committee discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a

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Benicia City Council / School Board Liaison Committee

Benicia Unified School District Board Room

350 East K St

recommended action does not limit, or necessarily indicate, what action may be taken by the City Council/School Board Liaison Committee.

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010

TO : Mayor Patterson
Vice Mayor Campbell

FROM : Director of Public Works and Community Development

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the July 20, 2010 Council meeting.

The Sky Valley Committee last met on Wednesday, June 16, 2010. The Commission discussed the following Agenda items:

- Adoption of the minutes from February 3, 2010
- Approval of the Meeting Schedule for the remainder of 2010
- Distribute Sky Valley member handbooks
- Update on the Signature Property
- Valero Improvement Agreement update
- Collaboration with Rangeland Trust

The next regular meeting with the Sky Valley Committee will be on Wednesday, August 4, 2010.

Attachment:

- Approved Minutes of February 3, 2010



BENICIA SKY VALLEY OPEN SPACE COMMITTEE MEETING MINUTES

**Wednesday, February 3, 2010
7:00 P.M.**

I. CALL TO ORDER

- A. Pledge of Allegiance**
- B. Roll Call of Committee Members**

Present: Chair Scott Shepard, Members Tom Campbell, John Furtado, Jon Van Landschoot

Absent: Vice Chair Craig Snider, Mark Hughes

Staff present: Lisa Porras, Senior Planner
Terry Baldwin, Sr. Administrative Clerk
Heather McLaughlin, City Attorney

- C. Reference to Fundamental Rights of Public** - A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030 of the City of Benicia's Open Government Ordinance.

II. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None

III. PRESENTATIONS

A. OPEN GOVERNMENT PRINCIPLES

City Attorney, Heather McLaughlin, gave an overview of the Open Government Ordinance, including Brown Act, Conflict of Interest, Ethics, Public Records and Ex-Parte Communication.

B. TRI CITY/COUNTY OPEN SPACE COMMITTEE UPDATE

Gene Doherty, representative from the Tri City/County Open Space Committee gave an update on recent discussions, events and projects occurring in the Tri-Cities planning area. A handout was given to the Committee members.

Oh behalf of the Tri-City and County Cooperative Planning Group, Lisa Porras, Senior Planner, invited members to attend their next meeting on February 17, 2010.

C. SOLANO LAND TRUST/SIGNATURE PROPERTIES UPDATE

Marilyn Farley, retired Executive Director of the Solano Land Trust, gave an update to the Committee on conservation easement efforts for the Signature Properties parcel, which is currently for sale. Maps were passed out to the Committee Members.

IV. CONSENT CALENDAR

On motion of Committee Member Furtado, seconded by Chair Shepard, the Consent Calendar was approved by a vote of the Committee.

A. Minutes of November 4, 2009

V. COMMUNICATIONS FROM COMMITTEE MEMBERS

None

VI. COMMUNICATIONS FROM STAFF

None

VII. ADJOURNMENT

Chair Shepard adjourned the meeting at 9:10 pm. The next regularly scheduled meeting of the Sky Valley Open Space Committee is May 5, 2010.

AGENDA ITEM
CITY COUNCIL MEETING: July 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010

TO : Mayor Patterson
Council Member Campbell

FROM : City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the July 20, 2010 Council meeting:

The last Board of Directors meeting was held on Thursday, May 27, 2010. The agenda was previously issued. The minutes are not yet available.

The next Board of Directors meeting will be held on Thursday, July 22, 2010 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 13, 2010

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

The STA Board meeting was held on Wednesday, July 14 at 6:00 p.m., Suisun City Hall Council Chambers the agenda from that meeting is attached. The minutes of the May 12, 2010 meeting are not available.

The next regular meeting of the STA Board is scheduled for Wednesday, September 8, 2010, 6:00 p.m., Suisun City Hall Council Chambers.



Solano Transportation Authority

SOLANO TRANSPORTATION AUTHORITY
BOARD MEETING AGENDA

5:30 p.m., Closed Session
6:00 p.m., Regular Meeting
July 14, 2010
Suisun City Hall Council Chambers
701 Civic Center Drive
Suisun City, CA 94585

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

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

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

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

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

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

ITEM

BOARD/STAFF PERSON

I. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

pursuant to CA Gov't Code §54956.9 et seq. Yocha Dehe Wintun Nation v. Solano Transportation Authority, Solano Transportation Authority Board of Directors;

B. PERSONNEL CLOSED SESSION pursuant to CA Gov't Code § 549547

et seq.; Public Employee Performance Review – Executive Director; and

C. CONFERENCE WITH LABOR NEGOTIATOR pursuant to CA Gov't Code §

54054.6 et seq., STA Board Chairman – STA Executive Director

(5:30 – 6:00 p.m.)

STA BOARD MEMBERS

Table listing STA Board Members: Pete Sanchez (Chair, City of Suisun City), Harry Price (Vice-Chair, City of Fairfield), Elizabeth Patterson (City of Benicia), Jack Batchelor, Jr. (City of Dixon), Jan Vick (City of Rio Vista), Len Augustine (City of Vacaville), Osby Davis (City of Vallejo), and Jim Spering (County of Solano).

STA BOARD ALTERNATES

Table listing STA Board Alternates: Mike Hudson, Chuck Timm, Mike Ioakimedes, Rick Fuller, Ron Jones, Curtis Hunt, Erin Hannigan, and Mike Reagan.

The complete STA Board Meeting Packet is available on STA's Website at www.solanolinks.com

II. CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chair Sanchez

(6:00 – 6:05 p.m.)

III. CONFIRM QUORUM/ STATEMENT OF CONFLICT

Chair Sanchez

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; (3) leave the room until after the decision has been made. Cal. Gov't Code § 87200.

IV. APPROVAL OF AGENDA

V. OPPORTUNITY FOR PUBLIC COMMENT

(6:05 – 6:10 p.m.)

VI. EXECUTIVE DIRECTOR'S REPORT – Pg. 1

Daryl K. Halls

(6:10 – 6:15 p.m.)

VII. COMMENTS FROM CALTRANS, THE METROPOLITAN TRANSPORTATION COMMISSION (MTC), AND STA

(6:15 – 6:20 p.m.)

A. MTC Report

Supervisor Spring

B. Caltrans Report

C. STA Reports:

1. Directors Reports:

a. Planning

Robert Macaulay

b. Projects

Janet Adams

c. Transit and Rideshare

Elizabeth Richards

VIII. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

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

(6:20 - 6:25 p.m.)

A. STA Board Meeting Minutes of June 9, 2010

Johanna Masiclat

Recommendation:

Approve STA Board Meeting Minutes of June 9, 2010.

Pg. 5

B. Review Technical Advisory Committee (TAC) Draft Minutes for the Meeting of June 30, 2010

Johanna Masiclat

Recommendation:

Receive and file.

Pg. 15

- C. Eastern Congestion Mitigation Air Quality Improvement (CMAQ): SNCI Climate Initiatives Funding** Robert Guerrero
Recommendation:
Approve the Solano Napa Commuter Information Program for \$445,000 from MTC's Climate Initiative ECMAQ Program.
Pg. 23
- D. Fiscal Year (FY) 2010-11 Transportation Fund for Clean Air (TFCA) 40% Program Manager Funds** Robert Guerrero
Recommendation:
Adopt Resolution No. 2010-08 approving the following projects and TFCA funding amounts for FY 2010-11:
 1. A reduced amount of \$205,929 for the Solano Napa Commuter Information Program; and
 2. \$88,000 for the Solano Bikeway Extension/McGary Road Project jointly sponsored by the City of Vallejo and County of Solano.**Pg. 27**
- E. STA Grant Proposals: MTC Climate Initiatives Grant Program** Robert Guerrero
Recommendation:
Authorize the Executive Director to submit a grant application to MTC for a total request of \$500,000 to implement the STA Safe Routes to School Program as specified in Attachment A.
Pg. 31
- F. Fiscal Year (FY) 2010-11 Transportation Development Act (TDA) Article 3 Bicycle Projects** Sara Woo
Recommendation:
Approve FY 2010-11 TDA Article 3 Resolution No. 2010-07.
Pg. 37
- G. Solano Bicycle and Pedestrian Project Funding Amendment** Sara Woo
Recommendation:
Amend the City of Fairfield's Linear Park Alternate Route Nightingale Drive project by reprogramming \$29,000 of TDA Article 3 funds from preliminary engineering (PE) to the construction phase.
Pg. 51
- H. Bicycle Advisory Committee (BAC) Member Appointment** Sara Woo
Recommendation:
Appoint David Pyle as City of Fairfield's representative to the STA Bicycle Advisory Committee for a three-year term.
Pg. 55
- I. Pedestrian Advisory Committee (PAC) Member Appointment** Sara Woo
Recommendation:
Appoint Stephen Sikes as City of Dixon's representative to the STA Pedestrian Advisory Committee for a three-year term.
Pg. 59

- J. I-780 Overcrossing Dedication** Sara Woo
Recommendation:
 Support the City of Benicia nomination to dedicate the Benicia I-780 Bicycle and Pedestrian Overcrossing in the name of “Austin Howard Gibbon.”
Pg. 63
- K. Countywide Bicycle Plan Project List Amendment: Dixon West B Street Undercrossing Project** Robert Macaulay
Recommendation:
 Amend the Solano Bicycle Plan Project List to include the City of Dixon West B Street Undercrossing as shown in Attachment A.
Pg. 65
- L. Fiscal Year (FY) 2010-11 & FY 2011-12 Safe Routes to School (SR2S) Programming Update** Sam Shelton
Recommendation:
 Approve the STA’s SR2S Program’s revised FY 2010-11 and FY 2011-12 Final Workslope to reduce the Education and Encouragement activities by \$35,000 over the next two years in exchange for funding \$35,000 in SR2S planning activities.
Pg. 81
- M. Contract Amendment for Jepson Parkway Project Environmental Document and Preliminary Engineering** Janet Adams
Recommendation:
 Authorize the Executive Director to amend the contract with PBS&J for \$75,000 for the additional work required to complete the Environmental Impact Statement (EIS) and preliminary engineering.
Pg. 87
- N. Contract Amendment for the Mark Thomas & Co./Nolte Joint Venture for the Gordon Waterline Relocation Project** Janet Adams
Recommendation:
 Approve a contract amendment for MTCO/Nolte in the amount of \$235,000 for construction support services for the Gordon Water Line (Rockville Road Water Main) Relocation Project.
Pg. 91
- O. Award Construction Contract for the Mitigation Planting and Irrigation Project for the North Connector Project** Janet Adams
Recommendation:
 Approve Resolution No. 2010-10 for the Mitigation Planting and Irrigation Project for the North Connector.
Pg. 103

- P. Approve Modification to the North Connector Phase 2 Project** Janet Adams
Recommendation:
Approve a modification to the North Project increasing the contingency budget of \$1,157,000 to cover the increased cost of the 30" water line, for a revised contingency budget of \$2,566,212 and a revised total construction budget of \$11,960,960.
Pg. 107
- Q. Contract Amendment for Associated Right of Way Services (ARWS) for North Connector Project** Janet Adams
Recommendation:
Approve a contract amendment with ARWS for \$2,000 and an extended term to April 2011 to complete the Right-of-Way relocation services for the North Connector Project.
Pg. 109
- R. Contract Amendment for HDR for the I-80 Eastbound Cordelia Truck Scales Relocation Project** Janet Adams
Recommendation:
Approve a contract amendment for HDR in the amount of \$1,400,000, to complete the PS&E and R/W engineering for the I-80 Eastbound Cordelia Truck Scales Relocation Project.
Pg. 113
- S. Mitigation Agreements for I-80 Eastbound Truck Scales Relocation Project** Janet Adams
Recommendation:
Authorize the Executive Director to finalize and execute separate agreements with Elsie Gridley Mitigation Bank for \$14,000 for seasonal wetland mitigation and Jenny Farms Mitigation Bank for \$95,950 for Swainson's Hawk mitigation for the I-80 Eastbound Truck Scales Relocation Project.
Pg. 129
- T. Advertise and Award Tree Removal Contracts for I-80 Eastbound Truck Scales Relocation Project** Janet Adams
Recommendation:
Approve Resolution No. 2010-11 authorizing the Executive Director to advertise and award one or more tree removal contract(s) for the I-80 Eastbound Cordelia Truck Scales Relocation Project for a total amount not-to-exceed \$120,000 plus a 20% contingency.
Pg. 145

- U. Utility Relocation Agreements for I-80 Eastbound Truck Scales Relocation Project** Janet Adams
Recommendation:
Approve the following:
- 1. Authorize the Executive Director to finalize and execute separate agreements between STA, PG&E and Solano Irrigation District (SID) as required; and*
 - 2. Approve Resolution No. 2010-12 authorizing the Executive Director to advertise and award one or more construction contracts for the SID Utility Relocations for a total amount not to exceed \$900,000 plus 20% contingency.*
- Pg. 151**

- V. Fiscal Year (FY) 2010-11 Transportation Development Act (TDA) Matrix – July 2010** Elizabeth Richards
Recommendation:
Approve the FY 2010-11 TDA Matrix – July 2010 as shown in Attachment A for the County of Solano and Vallejo Transit.
- Pg. 171**

- W. 2010 Congestion Management Program (CMP)** Robert Macaulay
Recommendation:
Adopt the revised 2010 Solano CMP as specified in Attachment A.
- Pg. 175**

IX. ACTION NON-FINANCIAL ITEMS

- A. Public Input for Proposed Vehicle Registration Fee (VRF) Expenditure Plan Categories** Daryl K. Halls
Bill Gray,
Gray-Bowen, Inc.
Recommendation:
Receive public comment and provide staff with direction regarding the eligible categories for VRF expenditures and options for allocation of VRF funds for each category.
(6:25 – 6:55 p.m.)
- Pg. 177**

- B. Locally Preferred Alternative for the I-80/I-680/State Route (SR) 12 Interchange Project** Janet Adams
Recommendation:
Authorize the Executive Director to send a letter to Caltrans to inform them STA has identified Alternative C (and Alternative C-1) as the locally preferred alternative and to include this information in the Draft EIS/EIR for public review and comment.
(6:55 – 7:05 p.m.)
- Pg. 217**

- C. Solano County Transit Joint Powers Agreement – Consolidation of Benicia and Vallejo Transit Services** Elizabeth Richards
- Recommendation:*
Approve the following:
1. Resolution No. 2010-09 approving the creation of the Solano County Transit (“SOLTRANS”) Joint Powers Agency by and among the STA, the City of Benicia, and the City of Vallejo; and
 2. Authorize the Executive Director to enter into a JPA with the Cities of Benicia and Vallejo to form Solano County Transit.
- (7:05 – 7:15 p.m.)
Pg. 265

X. ACTION FINANCIAL ITEMS

- A. STA’ Fiscal Year (FY) 2010-11 Budget Revision and FY 2011-12 Proposed Budget** Daryl K. Halls
Susan Furtado
- Recommendation:*
Approve the following:
1. Adopt the STA’s FY 2010-11 Budget Revision as shown in Attachment A; and
 2. Adopt the STA’s FY 2011-12 Proposed Budget as shown in Attachment B.
- (7:15 – 7:25 p.m.)
Pg. 337

XI. INFORMATIONAL – NO DISCUSSION

- A. Regional Transportation Improvement Fee (RTIF) Update** Sam Shelton
Informational
Pg. 345
- B. PM 2.5 Hotspot Analysis Follow-up** Sam Shelton
Informational
Pg. 347
- C. Legislative Update** Jayne Bauer
Informational
Pg. 363
- D. Funding Opportunities Summary** Sara Woo
Informational
Pg. 375
- E. STA Board Meeting Schedule for 2010** Johanna Masielat
Informational
Pg. 379

XII. BOARD MEMBERS COMMENTS

XIII. ADJOURNMENT

The next regular meeting of the STA Board is scheduled for **Wednesday, September 8, 2010, 6:00 p.m., Suisun City Hall Council Chambers.**

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 13, 2010

TO : Mayor Patterson
Vice Mayor Schwartzman

FROM : Director of Public Works and Community Development

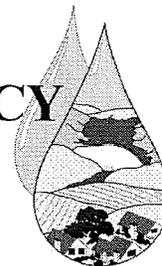
SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

The Solano Water Authority (SWA) Board of Directors meeting scheduled for July 8, 2010 was cancelled. The next SWA meeting is scheduled for August 12, 2010.

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

SOLANO COUNTY WATER AGENCY



ATTENTION!!

BOARD MEETING CANCELATION NOTICE!

The Solano County Water Agency's July 8 Board of Directors meeting has been canceled.

Our next Board meeting will be taking place on Thursday, August 12 at the Solano Irrigation District Board Room at 7pm.

EXECUTIVE COMMITTEE MEETING CANCELATION NOTICE!

The Solano County Water Agency's July 30 Executive Committee meeting has also been canceled.

Our next Executive Committee meeting will be taking place on Wednesday, August 4 at 6:00 pm via conference call.

A5.JulyBOD.Cancellation.Notice.doc

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



X.B.9.3

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010

TO : Council Member Hughes
Council Member Ioakimedes

FROM : Director of Public Works and Community Development

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

The following is provided for your committee report at the July 12, 2010 Council meeting.

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

The regular meeting scheduled for July 15, 2010 was cancelled. The next scheduled meeting is October 21, 2010 at 7:00 pm.

A special meeting was held on May 20, 2010, 7:00 pm, in the Commission Room. That meeting agenda is attached for your information.

The meeting minutes of the April 23 and May 6, 2009 special meetings were recently approved and are attached. The meeting minutes from the May 20, 2010 meeting are being reviewed.

Attachments:

- TPBS Committee minutes from April 23 and May 6, 2009 meetings
- TPBS Committee agenda from May 20, 2010 meeting

Approved May 20, 2010
MINUTES
CITY OF BENICIA
TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY (TPBS) COMMITTEE
Special Meeting
Thursday, April 23, 2009
7:00 pm

I. CALL TO ORDER -- Meeting called to order at 7:00 pm

1. Roll Call -- Committee Members Present:
Council Member Mark Hughes (Chair), Vice-Mayor Tom Campbell, Director of Public Works Dan Schiada, City Engineer Michael Throne, Sgt. Frank Hartig, Police Department Traffic Division
Staff Present: Senior Civil Engineer Mike Roberts, Administrative Secretary Kathy Trinque.
2. Pledge of Allegiance
3. Fundamental Rights Statement

II. APPROVAL OF MINUTES

Minutes for the November 6, 2008 special meeting were approved by a 5-0 vote of the Committee.

Chairman, Mark Hughes, due to the number of interested parties in the audience, changed the order of the agenda to move Item VI. 1. and 3. to after public comment.

III. PUBLIC COMMENT

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

Pat Donoghue stated his request to have the parking lot open because it benefits his business and tenants, helps take parking off of First Street. Wants the gate to be open 24/hours per day. Several other residents want the gate open. Requests that this item be placed on the agenda for the next meeting, but does not want to wait 3 months for the next scheduled meeting.

Mark H: Asked why this item was placed under public comment?

Dan S: I agreed to place it under public comment for the committee to hear, discuss and decide on this issue. We did not want to go through a formal public notification process if we are going to re-open this issue since it was already decided by this Committee a few years ago to close the gate. If there's a desire by this Committee to re-consider opening the gate, we need to re-schedule this under "action items" and notice the neighbors. Another issue was to allow parking 24/hours per day.

Mark H: I feel uncomfortable making a decision without neighborhood notice. We should put it on a future agenda to make a decision.

Frank H: I'm not in favor of the gate being open 24 hours/day because it creates problems with reckless driving and other enforcement issues.

Tom C: I wanted the gates closed at both ends, open during the day and closed at night. Would like to see ropes or barriers that divide the lot into smaller lots to discourage reckless driving.

Dan S: My opinion is that the E Street parking lot has 2 entrances, the main one from East E Street and one from Kuhland Alley. The lot is usable 24 hours/day. The alley allows another use. Staff has tried to compromise by closing the Kuhland Alley gate except for special events. Am strongly against changing the parking restrictions unless we decide to post it closed from 2:00 to 6:00 am to keep cars and recreational vehicles from camping there overnight. We can set a special meeting to hear this item.

Mark H: Let's schedule it before the next quarterly meeting.

Tom C: Asked Pat to come back with solutions/ideas to address reckless driving and other problems that come up with the gate being open.

Tom Campbell made the motion to place this item on a future TPBS Committee agenda for action. Seconded by Frank Hartig. Adopted by a 5-0 vote.

2. Other Public Comments:

Gretchen Burgess of Buena Vista St: At a recent public workshop, parking for the downtown came in #2 as a priority. Citizens want to re-claim this parking lot and open the gate. There are lots of potholes, but these are wonderful traffic calming measures.

Reiko McDonald of 1601 Bayview Cir: The handicap ramp on Military at East 2nd Street is not easy for handicapped people to push the pedestrian button (by Baskin Robbins).

Mike R: Offered to meet her at the site in the near future to look at this problem.

VI. ACTION ITEMS

1. East 2nd Street/Riverhill Drive Crosswalk (M. Roberts/F. Hartig)

Mike Roberts summarized the written report.

Frank Hartig reported on his investigation of the accident that occurred in February 2009. Regarding this accident, the pedestrian was intoxicated and did not use the crossing guard to cross the street, instead he stepped into the path of the vehicle that hit him. There were no injuries. The car was not speeding (determined after the investigation). The PD has worked additional enforcement at this location. No citations were issued as a result of the accident. Both pedestrians and vehicle drivers have to use due caution.

Mike Roberts: We made an effort to inform concerned residents and to look at the flashing warning lights currently in place. All were properly functioning. We need to recognize that 16,000 cars per day use this street. Staff is recommending that we upgrade this crosswalk to a high visibility crosswalk and pursue grant funds to install radar speed signs.

Mark H: It does appear that in this case the pedestrian was at fault.

Resident of Bayview Circle stated that she has observed near misses with crossing guards. Cars don't stop for pedestrians and kids are afraid to cross there. Need blinking lights at the crosswalk.

Judy Arrants of Riverview Terrace stated that she was worried when the new development was built, specifically about increased pedestrians crossing East 2nd Street. Need to do something there to make the crosswalk safer.

Larry Bennett of Riverview Terrace stated that he sees E 2nd Street as a dangerous entrance to town. Often has to turn right instead of left because the street is a race course. Wants the entire corridor addressed with speed bumps or something to slow the cars down. Photo traffic enforcement would help and change the truck route.

Pam Schutz of St. Augustine stated that she doesn't cross there because cars do not stop. There's too much traffic to turn left on East 2nd Street. The entire street needs to be looked at because commuters cut through town when the freeway traffic is stopped. No recommendation but this needs to be addressed.

Gretchen Burgess of Buena Vista stated that she loves ladder crosswalks and the yield to pedestrian signs like they have in Vallejo.

Mark H: Questions from the Committee?

Frank H: We have done some pedestrian stings at this intersection, which is a planned event. We were successful at this intersection. Red light cameras are expensive and we don't have quite enough traffic volume to justify the cost. PD has increased speed enforcement on this street and the vehicle speeds seemed to be OK.

Dan S: I like the ladder type crosswalk because it's helps to increase visibility for the pedestrian. Radar speed signs will also help with vehicle speed. Maybe we need to move the flashing signs closer to the crosswalk.

Michael T: The next step in the works is to add the radar speed signs, then we will make the crosswalks more visible. As the entrance to town it is designed to funnel traffic into the City. We have good site distance here. A ladder crosswalk should be a good improvement and moving the flashing signs with the addition of radar speed signs. We could look into relocating the lighted crosswalk from the high school. We will be salvaging the lights and could move them to this location, as funding allows. A longer

term solution is for a capital improvement project to improve this street, as a gateway entrance to the City.

Motion made by Dan Schiada to install a ladder-type crosswalk here, have staff report back at the next meeting on the grant application, move the BHS lighted crosswalk here and look at the funding and timing of this work.

Seconded by Michael Throne. Tom Campbell recused himself. Adopted by a 4-0 vote.

VI. 3. On-street Parking on East 4th Street between East I and East J Street (Mike Roberts). Mike summarized the written report and passed out exhibits to the committee and members of the public.

Michael Throne recused himself, due to a conflict of interest. Mike Roberts summarized the written report.

Elizabeth Lundberg of 926 East 4th Street passed out pictures of the area and reviewed them with the committee and the public.

Dan S asked what are the solutions you offer the committee?

Elizabeth Lundberg responded that she supports a parking permit program that excludes residents with parking lots; change the curb to emergency drop-off only; no parking on East I Street to East 5th Street. No parking on East J Street to St. Dominic's. Make East I and East J Streets one-way and add a stop sign on East I at East J Street.

Mark H: How many houses are there on East 4th Street in the 900 block?

Mike R: 2 houses.

Julie Peterson, Benicia Housing Authority Director stated that the 20 to 30% rationale is low. Casa de Villarasa tenants choose to park on the street, though the Housing Authority recommends that they use the lots. Residents still want the same right as other residents to park on the street. Submitted a petition from the senior housing complex.

Casa de Villarasa resident stated that he often prefers to park on the street because it's easier for him when he leaves for work and when it's dark. Mrs. Lundberg blocks the sidewalk with her car, then pedestrians have to walk in the street.

Two Casa de Villarasa residents stated that they want to be able to park on the street. Trucks option take up parking on both sides of the street. Wants cars parked where it's easier to see.

Priscilla Bernal stated that a loading zone from 9 to 5, Monday – Saturday would not help during church for the church congestion.

Comments from Tom & Mildred Donahue of 300 East I Street, read by Elizabeth Lund: stated that they are housebound and their visitors cannot find parking. Were assured that Casa de Villerasa residents would be required to park in the parking lot.

Julie Peterson stated that the Housing Authority is not aware of safety concerns on East 4th Street. The management has been in place for 23 years, enforcing the same rules. Some newer residents prefer to park on East 4th Street.

Mike R: I checked with the City Attorney's office and she confirmed that all residents are entitled to use street parking. Staff looked for a parking lot agreement with Casa de Villerasa and did not find one.

Dan S: Regarding the issue with the staircase off the southwest entry, the City looks at it from the standpoint that it met the code at the time it was built. Regarding inadequate handicap access, the Casa de Villerasa complex does have handicap access on site. These two streets are very narrow and in light of traffic calming, narrow streets actually help to keep vehicle speeds down. While parking can be inconvenient, it does help with this traffic calming concept. About the existing 15-minute zone, the intent is for loading and unloading. Maybe we can expand that zone.

Tom C: This is a neighborhood problem. If you expand zones and add no parking, it will reduce available parking spots.

Frank H: The Police Dept. met with the principal of St. Dominic's school to improve student drop-off safety next year. We will continue to work with them. We are trying to find a happy medium for everyone.

Dan: On J Street, on the St. Dominic church side, there were some signs put up, such as no parking, loading during school hours, which left parking open at other times for residents to park. We will continue to work with the schools in this area.

Mark H. We can't make everyone happy on this issue. I appreciate your issues and I understand the Casa de Villerasa residents' concerns also. We can explore some ideas tonight.

Tom C. I know that permit parking doesn't work because everyone here are residents.

Dan: I will offer a motion (we can't address request #1 on the petition) that the Police Dept. and Engineering staff work with St. Dominic's school to review their drop off and pick up activity and report back to the committee at the next meeting with a verbal status and offer some solutions. In addition, we ask the Casa de Villerasa management to encourage residents to use the parking lots and ask vendors to use the parking lots during their deliveries.

Seconded by Frank H and adopted by a 4-0 vote.

Elizabeth Lundberg requested that the Casa de Villerasa ask residents not to park in front of residents' homes.

VI. 2. Safe Routes to School Radar Speed Sign Grant Program (M. Throne)

Michael Throne summarized the written report.

Tom C. How much do these signs cost?

Michael: \$8,000 each and crosswalks cost \$3,000 to \$5,000 each. According to the grant, we can only have two locations. We also need to buy a computer so we can re-program the signs as needed.

Tom C. Can we get more signs added to this grant?

Dan S: The criteria is 2 locations maximum. We can add a landing zone or bulb out on Southampton Road on the church side of the street.

Committee discussion.

Gretchen Burgess: Likes the idea of two locations, but wants signs on both sides of the street.

Motion made by Dan: To confirm the selection of the East 2nd Street corridor and Southampton Road corridor as appropriate Safe Routes to School sections for the placement of radar speed signs and direct staff to maximize the use of grant funds. Seconded by Michael Throne. Adopted by a 5-0 vote.

IV. VERBAL UPDATES

1. Safety enhancements on Drolette Drive near Mary Farmar Elementary School (M. Roberts).

Mike Roberts reviewed the requests we received from the Mary Farmar Elementary School staff. He distributed pictures to the committee.

The following improvements have been made since the last meeting:

- ✓ Bus pull-outs were converted back to employee parking.
- ✓ Old bus pull-outs became a new loading zone.
- ✓ No U-turn signs were installed on Drolette
- ✓ Extended the intersection lines at the nearby intersection.

Read e-mail received from Susan Sullivan, Principal, expressing her thanks to staff for their cooperation and installing the improvements to improve student safety on Drolette Way.

V. INFORMATION ITEMS

1. Benicia High School Signal and Entrance Circulation Improvement Project – Progress Report (Michael Throne)

Michael Throne summarized his written report. We are in process of finishing the final project design and plan to be out to bid next month. Award of contract could occur in June 09. We are on schedule for construction summer.

Mark H: If the road diet doesn't work, is it flexible enough that we could change it?

Michael T: It is not flexible, it's actually done with concrete.

Mike R: It might be interesting to have a mock-up done (with paint) to make sure it works, before school is out.

Mark H: Would ask staff to look into these options.

Committee discussion with Ron Wheat, Vice-principal at Benicia High School. Ron asked if the City would also help them with traffic pattern flows both on and off campus.

2. Regional Signal Timing Program Grant (M. Throne)

Michael summarized the written report. We received a grant from MTC to interconnect/synchronize 2 sets of traffic signals -- one on the East 2nd Street corridor and the other on the Southampton Road/West 7th Street corridor. Does not include all the necessary funding, but will provide a technical consultant to do the work. The idea is that a car could leave the First/Military intersection and travel up East 2nd Street to the freeway without stopping. Will require working with CALTRANS because they own several of the signals.

VII. COMMUNICATION FROM STAFF

Michael Throne announced that Dan is retiring in July, before the next regularly scheduled meeting.

Dan S: This committee has to consider the challenge of working without a registered traffic engineer along with possible committee member changes. We'll include this item on the agenda of the next TPBS Committee meeting.

Adjourned at 9:25 pm.

Respectfully submitted,

Kathy Trinque
Administrative Secretary
Public Works Department

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010

TO : Mayor Patterson
Vice Mayor Campbell

FROM : Director of Public Works and Community Development

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

The following information is provided for your committee report at the July 20, 2010 Council meeting.

TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP

The Tri-City and County Cooperative Planning Group (TCCCPG) will held a joint meeting between the Governing Board (GB) members and the Citizens Advisory Committee (CAC) members on Monday, June 14, 2010.

Agenda topics included:

- Approval of Joint Meeting Minutes from April 19, 2010
- Update on Solano Land Trust Activities (SLT Staff)
- Report by Regional Park Subcommittee:
 - Brochures
 - Open Space Website and Electronic Newsletter
 - September/October Trail Dedication Events
- Report on Lynch Canyon (Dan Sykes, County Parks)
 - Review of Lynch Canyon Status Report and Success Criteria
 - Discussion of Lynch Canyon Operations, Including Hours
- Lynch Canyon Signs: Status and Next Steps
- Fall 2010 Tour

No activity has occurred since then. Minutes from the Joint Meeting of June 14, 2010 are in draft form and will be presented in September for adoption.

The next schedule meeting will occur as a Joint Meeting between the CAC and GB and will be held in September this year. The date and location has yet to be determined.

Attachment

- Adopted Minutes of April 19, 2010



TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP
Cities of Benicia, Fairfield, and Vallejo and County of Solano

JOINT MEETING
GOVERNING BOARD/CITIZENS ADVISORY COMMITTEE
MINUTES
April 19, 2010

1. Call Meeting to Order

Governing Board: Tom Campbell, Linda Seifert, Catherine Moy, Erin Hannigan

Staff Present: Brian Miller, Bill Tuikka, Lisa Porras

Citizens Advisory Committee Eugene Doherty, Dan Smith, Mark Morris, Bob Berman, Harry Englebright, Karlyn Lewis, Jim Syar, Teri Booth

Others Present: Sue Wickham (Solano Land Trust), Dan Sykes (Solano County Parks)

2. Introductions

Everyone in the room introduced themselves

3. Public Comment

Eugene Doherty noted that the state Parks ballot initiative campaign has obtained enough signatures to qualify for the next election.

4. Minutes: Approval of Joint Minutes of December 14, 2009 (Governing Board) and Approval of CAC Minutes of February 17, 2010 (CAC).

Bob Berman noted that Kathy Hoffman's name was listed as "present" at the February 17 meeting. He also requested correction of the footer. The minutes were then approved as corrected by the respective bodies.

5. Update on Solano Land Trust Activities (SLT Staff).

Sue Wickham provided an overview of recent Solano Land Trust activities, which will be communicated via their new paperless e-newsletter. She distributed a sign-up sheet for those wishing to receive updates. Upcoming events include:

- April 24 (10 a.m.): Rush Ranch Open House –A free event offering carriage rides, horses, a tour of the house, and various activities.
- May 2 (12 p.m.) Kite Festival at Lynch Canyon \$5 parking fee.
- May 8 Farm Fresh Feast Fundraiser at Lester Farms near Winters
- May 15 (9:30) Explore Lynch Canyon Hike dedicated to the late volunteer docent Dave Warner
- June 5: Third Annual Trail Run at Lynch Canyon

Dan Smith suggested that the Cooperative Planning Group attend these events to establish its presence.

Bob Berman noted that the Land Trust and the County are still pursuing earmark funds for the acquisition of the properties adjacent to Lynch Canyon and in Sky Valley Benicia. Solano County has approved staff time to pursue this project.

6. Report by Regional Park Subcommittee.

7. Improving Public Awareness of Open Space: Branding and Publicity Brochure

Bob Berman provided the update. The Subcommittee, consisting of Eugene Doherty, Dan Smith, Bob Berman, Harry Englebright, Karlyn Lewis, and Linda Seifert, met on March 13, 2010. Eugene Doherty is still working on the email list, with Karlyn Lewis preparing a conceptual webpage. Eugene noted that the next major step is to begin adding content. His goal is to provide a centralized clearinghouse of information. Karlyn Lewis noted that the website and email list are very scalable and will allow other groups to add their events to the calendar. Eugene Doherty noted that the name of the open space project remains an issue.

Linda Seifert noted that the main purpose of these efforts is to increase park use. Parks and open space are a great resource for families during economic challenging times. As more people use parks and open space, there will be greater support for funding.

The subcommittee will finalize the details of the website and present the results at the next meeting.

Bob Berman also noted the importance of having a Cooperative Planning Group presence at the various open space events and conferences. He gave as examples the opening of the bridge at Benicia State Recreation Area and the completion of McGary Road. Linda Seifert noted that the cooperative Planning Group is not the issue, increasing the use of and support for parks is.

The Group then discussed the issue of public awareness and “branding” open space. “Solano Open Space was the subcommittee’s recommended general name, as it leaves open the possibility of other areas and other groups to join in with marketing open space in the County.

Harry Englebright then presented the subcommittee’s recommendation for a new brochure, featuring a detailed map showing open space areas, trails, and resources. He suggested that any new logo be used on trail signs, banners displayed at events, and other literature.

Catherine Moy expressed her support for the new name.

Eugene Doherty expressed concern that the Cooperative Planning Group is only responsible for the southern half of the County and that other groups in the County focused on open space should be contacted before the new term is used. Harry Englebright responded that there should definitely be communication with other groups. Ultimately, the Cooperative Planning Group is responsible for the southern part of the county, but other groups can join in at later dates. Erin Hannigan suggested that she sees “Tri City” going away and a countywide group emerging.

The consensus of the Group was to have the Subcommittee return with an outreach plan. The Group also agreed to move forward with printing the brochures.

8. Approval of Lynch Canyon Success Criteria

Dan Sykes briefly reviewed the Year 3 Success Criteria for Lynch Canyon, noting the emphasis on educational outreach, attracting new users, and developing the volunteer pool. The criteria were reviewed by the Citizens Advisory Committee in February, and the document presented tonight incorporates the recommendation that the County and Solano Land Trust pursue opportunities to open the property on more days of the week.

The Governing Board unanimously approved the Success Criteria. In response to a question from staff, Mr. Sykes agreed to forward an upcoming report on the criteria to the Tri City and County mailing list.

Jim Syar noted that there are local tribal groups which might be interested in supporting Lynch Canyon activities.

9. Lynch Canyon Freeway Sign (County Staff)

Dan Sykes presented the freeway sign conceptual designs prepared by CALTRANS Region 4. CALTRANS has no funds currently to fabricate or install the signs. He noted that the Land Trust is interested in moving the sign project forward. The project will involve fabricating the signs,

paying for a CALTRANS Encroachment Permit. Linda Seifert noted that she had met with Jim Syar, who has the equipment to fabricate the signs. The group expressed concern about language on the signs reading "County Park." The consensus was to use the simple phrase "Open Space" instead. It was agreed that Dan Sykes will work with the subcommittee, Jim Syar, and the Land Trust to expedite the installation of the signs.

10. Fiscal Year 2010-2011 Budget

Brian Miller presented the proposed budget, which reflects mid year (March) expenditures-to-date. He noted that the budget will be reconciled at the end of the Fiscal Year. He explained the new line items, including specific funding to help install freeway signage for Lynch Canyon and funds for printing new open space brochures. Sue Wickham (Solano land Trust) requested reallocation of \$7,000 in "New Funds from "Capital Projects" to "Public Outreach."

The Budget was then unanimously approved by minute action of the Governing Board.

11. Future Agenda Items: Solano Land Trust Acquisitions and CPG Boundary Amendments.

Brian Miller noted that acquisition of the parcels near Lynch Canyon and in Sky Valley should be acknowledged by amending the boundaries of the Cooperative Planning Area. This will require General Plan Amendments by the four member jurisdictions as well.

Dan Smith commented that the School District is negotiating for a land swap related to the Orchards School project. This will be brought back to the Cooperative Planning Group for review and comment.

Erin Hannigan requested that future meeting dates be definitively set at the beginning of the year. This will make it easier for the elected officials to manage their calendars. Staff noted that the Group adopted a schedule but that for a variety of reasons the Group was unable to follow it. Staff agreed that this is a problem, especially for elected officials with multiple commitments.

In reviewing the upcoming meeting dates, the consensus was to cancel the upcoming May Citizens Advisory Committee meeting and hold another joint meeting on June 19. The next meeting will be held in Fairfield at the County Government Center

12. Adjournment.

The meeting was adjourned at 8:40 p.m. to the joint meeting of June 14, 2010.

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010
TO : Council Member Hughes
FROM : City Manager
SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the July 20, 2010 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The next CAP meeting is scheduled for July 15, 2010, the agenda for that meeting is not available.

AGENDA ITEM
CITY COUNCIL MEETING: July 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 14, 2010

TO : Mayor Elizabeth Patterson
Council Member Tom Campbell
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : **YOUTH ACTION COALITION**

The following information is provided for your committee report at the July 20, 2010 City Council meeting.

The next Benicia Youth Action Coalition meeting will be held on Wednesday, August 25, 2010, 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available. The minutes from the June meeting are not yet available.

Chief here's info for your report.

X.B.13.1

**YOUTH ACTION TASK FORCE
STRATEGIC PLANNING SESSIONS (June 13, 2008 and July 30, 2008)
REPORT**

The Benicia City Council directed City staff to coordinate a strategic planning process earlier this year to open discussion with stakeholders regarding the mission, vision, goals, activities and operating plan of the Benicia Youth Action Task Force (YATF). Following identification and coordination with a number of identified stakeholders, including regular YATF participants and City and School District representative, this Strategic Planning Session was scheduled on June 13, 2008. The City coordinated this effort with Sharon O'Hara, the Director of the Center for Community Action & Training (CCAT), which is funded in part by a technical assistance and training subcontract from the California Department of Alcohol and Drug Programs. Ms. O'Hara served as the facilitator for the first Strategic Planning Session.

At the June 13, 2008 Planning Session the following were in attendance:

City Manager Jim Erickson
Council Member Alan Schwartzman
Council Member Mike Ioakimedes
Janice Adams, Superintendent BUSD
Spence Rundberg, Psychologist, BUSD
Curtis Hunt, ATOD All City Teams Coordinator
Karen LaRiviere, Parent/Benicia High School Site Council
Allison Angell, Benicia Public Library
Mary Frances Kelly Poh, Community Action Council
Rosie Switzer, BUSD trustee
Chief Sandra Spagnoli, Benicia Police Department
Patti Baron, Benicia Police Department
Jerry Pollard, BPD Chaplaincy Corps, Faith Community, BERT
Annie Lloyd, Parks and Cemetary Commission, BUSD (retired)
Jim Trimble, MSA Advisory Board, Rotary Club
Jane Aberle, Principal Liberty High School
Gary Wing, Crisis Response Team, Youth Pastor

The group discussed the following:

What members wanted to get from the day?

Clarity and consensus on:

- Vision-A subcommittee appointed to develop statement.
- Mission- Current mission statement approved as is
- Name Change needed
- Structure-Establish group leadership with a Chair and Vice Chair
- Membership-discussed membership sectors as required by ATOD grants
- Decision Makers-who gets to actually vote, establish rules/procedures

- **Definition of Coordination-new coordinator role and Chair**
- **Communication Plan-expectation of members**

The group also reviewed past successes and challenges. CHIEF IF YOU NEED ME TO ITEMIZE THESE FROM THE PLANNING NOTES THAT I ALREADY DID LET ME KNOW.

At the end of the day, the group agreed that a second Planning Session was needed to finalize the action items. The second Planning Session was held on July 30, 2008 in the Commission Room at City Hall and was facilitated by newly hired YATF Coordinator Patti Baron.

The following members attended the July 30, 2008 Strategic follow planning session:

Council Member Alan Schwartzman

Council Member Mike Ioakimedes

Janice Adams

Jim Trimble

Gary Wing

Karen LaRiviere

Spence Rundberg

Jerry Pollard

Mary Frances Kelly Poh

Rosie Switzer

Allison Angell

Sandra Spagnoli

Patti Baron

The following action items were discussed and finalized.

- 1) The Youth Action Task Force name has been changed to Benicia Youth Action Coalition.**
- 2) A Vision Statement was established – “Benicia Supporting Youth for a Successful Future”.**
- 3) A sub committee will meet on August 13, 2008 to develop rules and procedures policy and present to the coalition at the August meeting.**
- 4) Nominations for a Chair and Vice Chair are being accepted from the group, deadline for nominations is August 13th. The newly elected Chair will preside over the August 27th Coalition meeting.**

AGENDA ITEM
CITY COUNCIL MEETING: JULY 20, 2010
COUNCIL MEMBER COMMITTEE REPORTS

DATE : July 12, 2010
TO : City Council
FROM : Mayor Patterson
SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The following information is provided for the committee report at the July 20, 2010 City Council meeting.

The Bay Area Water Forum has moved to a quarterly meeting format for the 2010 year.

The next meeting will be held on Monday, September 27, 2010. Meetings are from 10:00 a.m. to 12:30 p.m. at the State Coastal Conservancy, 11th floor conference room, 1330 Broadway at 13th Street, Oakland.

The topics for the next meeting are:

- ❑ Aging Water, Wastewater and Flood infrastructure and Climate Change
- ❑ Federal Stimulus Projects

REQUEST FOR ITEM ON COUNCIL AGENDA

Requested by:

Mayor Patterson

Requested Council Meeting Date:

July 20, 2010

Agenda Item Name:

Request to agendaize review of Comcast service and franchise agreement.

The purpose of the proposed agenda item is to have a public discussion about the quality of service, increase in fees and public obligations pursuant to the franchise agreement.

