

**August 7, 2007
BENICIA CITY COUNCIL
CITY COUNCIL CHAMBERS
SPECIAL MEETING AGENDA**

August 7, 2007

6:30 P.M.

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

Friends of Old Town and Jerry Hayes v. City of Benicia et al., Solano County Superior Court No. FCS 029859.

- V. ADJOURNMENT:**
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**BENICIA CITY COUNCIL
CITY COUNCIL CHAMBERS
REGULAR MEETING AGENDA**

August 7, 2007

7:00 P.M.

- I. CALL TO ORDER:**
- II. CLOSED SESSION:**
- III. CONVENE OPEN SESSION:**
 - A. ROLL CALL**
 - B. PLEDGE OF ALLEGIANCE**
 - C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- IV. ANNOUNCEMENTS/APPOINTMENTS
PRESENTATIONS/PROCLAMATIONS:**
 - A. ANNOUNCEMENTS:**
 - 1. Announcement of action taken at Closed Session, if any.**
 - 2. Openings on Boards and Commissions:**

Civil Service Commission:

-One full term to August 30, 2010

Planning Commission:

-Three full terms to September 30, 2011

Sky Valley Open Space Committee

- One unexpired term to September 30, 2010

- B. APPOINTMENTS:**

- C. PRESENTATIONS:
 - 1. Presentation of a Russian flag
 - Eve Iversen, author of the book "Romance of Nikolai Rezanov and Concepcion Arguello"
- D. PROCLAMATIONS:
- V. ADOPTION OF AGENDA:
- VI. OPPORTUNITY FOR PUBLIC COMMENT:
 - A. WRITTEN
 - B. PUBLIC COMMENT
- VII. CONSENT CALENDAR:
 - A. Approval of Minutes of [July 17, 2007](#), (City Clerk)
 - B. [Approval of Amendment to Fee Deferral Payment Agreement for 1375 East 5th Street Hotel](#) (City Attorney)

The City of Benicia approved a fee deferral agreement in the amount of \$213,388 to the developer of the 1375 East 5th Street hotel in the form of a fee deferral for certain City development fees. The term of the fee deferral agreement is seven years. The developer requests that the City execute two Subordination Agreements for the project's financing, which requires Council approval because only one Subordination Agreement was contemplated in the original agreement. Premier Commercial Bank has a first place loan to Suraj Investment Group LLC (Suraj) in the amount of \$2,562,500. Small Business Administration has a second place loan to Suraj in the amount of \$900,000. There is no current impact on the City's budget by this action.

Recommendation: Adopt the resolution authorizing an amendment to the East 5th Street Fee Deferral Payment Agreement subordinating the City of Benicia's position to third place.

- C. [Approval of the Salary Range for Assistant Director of Parks and Community Services](#) (Human Resources Manager)

This action establishes a salary range for Assistant Director of Parks and Community Services. This position was authorized as part of the 2007-09 City Budget and is cost neutral as a result of the recent Parks and Community Services Department reorganization.

Recommendation: Adopt the resolution approving the salary range for the position Assistant Director of Parks and Community Services.

- D. [Approval of an agreement resolving the litigation entitled Friends of Old Town and Jerry Hayes v. City of Benicia, et al., Solano County Superior Court No. FCS 029859, in the event that such an agreement is drafted prior to August 7](#)(City Manager)

This item would allow the City Council to approve by minute order an agreement resolving the litigation entitled Friends of Old Town and Jerry Hayes v. City of Benicia, et al., Solano County Superior Court No. FCS 029859. As of August 1, 2007, the parties had not reached an agreement. Thus, this is a "placeholder" agenda item only to allow the City Council to approve such an agreement in the event the parties are able to successfully agree on the terms of a settlement of the litigation.

Recommendation: Approve an agreement resolving the litigation entitled Friends of Old Town and Jerry Hayes v. City of Benicia, et al., Solano County Superior Court No. FCS 029859, in the event that such an agreement is drafted prior to August 7.

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

VIII. **PUBLIC HEARINGS:**

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

The Master Fee Schedule will be presented to the City Council for consideration on September 4, 2007.

Recommendation: Open the public hearing, accept public testimony, and continue the public hearing to September 4, 2007.

- B. [Review of the Benicia Business Park Draft Environmental Impact Report](#) (City Manager and Community Development Director)

Pursuant to Section III (D) of the City's CEQA Environmental Review Guidelines, the decision making body for the project (in this case the City Council) conducts a public hearing on the adequacy of the DEIR based in part on responses to comments received regarding that document. The Council may find that the DEIR conforms to the City CEQA Guidelines and "there has been an adequate response to potential environmental impacts," or may continue the hearing to gather additional information necessary to achieve conformance. The applicant requested an August 7, 2007 hearing date and has stated intent to provide additional information regarding the project at this hearing. Additional written information available for the hearing is the Response to Comments. The applicant requests a finding of conformance of the DEIR with the City's CEQA guidelines. Looking forward, the applicant disputes DEIR findings that may not allow the proposed project to be approved, and has indicated a willingness to discuss these issues with the City once DEIR adequacy has been determined. There is no fiscal impact to this recommendation.

Recommendation: Accept additional public comment regarding the adequacy of the Draft Environmental Impact Report (DEIR) for the Benicia Business Park project, and consider adopting a resolution determining that the DEIR conforms with the City's California Environmental Quality Act (CEQA) Guidelines, and also finding that certification of a final EIR based on the project description in the DEIR likely will not allow the project as described to be approved due to significant and unavoidable impacts regarding City General Plan goals and policies.

IX. **ACTION ITEMS:**

- A. [Introduction of an ordinance repealing Chapter 9.02 \(Minor Alcohol Offenses/ Parties\) and replacing it with a new Chapter 9.02 \(Social Host Accountability\)](#) (City Attorney)

The proposed ordinance revises the City's regulations for addressing parents, guardians, and minors who serve alcohol to minors at parties, by providing for three different types of punishments for violations.

Recommendation: Introduce the proposed ordinance updating the City's Municipal Code provisions that hold parents, guardians, and minors liable for parties where alcohol is served to minors.

- B. [Consideration of ordinances related to businesses selling alcohol](#) (City Attorney, Police Chief, City Manager)

These two ordinances will improve city regulation of businesses that sell alcohol, and set forth minimum operational standards for them. Existing businesses will be governed by the "Deemed Approved" ordinance unless they make changes to their business. New businesses and existing businesses that change operations will be governed by the "Alcohol Sales Use Permit" ordinance. Adoption of these ordinances will improve the city's enforcement abilities in regulating alcohol-related businesses. There will be no fiscal impact from these changes.

Recommendation: Direct the Planning Commission to review the "Deemed Approved" and "Alcohol Sales Use Permit" ordinances and provide a recommendation to the Council.

C. Enhancement of Fund Balance Reserve Policy (Finance Director)

The City Council first adopted the Fund Balance Reserve Policy in April 2004 and directed that staff return from time to time with recommendations for enhancing the policy. Staff recommends "segmenting" the 20% Budget Stabilization Reserve into three specific contingency reserves: Economic Uncertainty Reserve-5%, Exposures Reserve-5%, and Emergency Reserve-10%. The three reserves provide separate coverage for economic changes that impact revenues and expenditures, liability and property losses not covered by insurance, and natural disasters. The policy maintains that all three reserves must total 20%, which is consistent with the current policy. There is no budget impact.

Recommendation: Adopt the resolution authorizing changes to the City of Benicia Fund Balance Reserve Policy.

X. INFORMATIONAL ITEMS:

A. Reports from City Manager.

XI. COMMENTS FROM COUNCIL MEMBERS:

XII. ADJOURNMENT:

Public Participation

The Benicia City Council welcomes public participation.

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

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

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

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.