

September 16, 2008 Regular Meeting

BENICIA CITY COUNCIL MEETING

REGULAR AGENDA

City Council Chambers

September 16, 2008

7:00 P.M.

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 P.M.):

II. CLOSED SESSION:

TO BE HELD AT 5:30 P.M., PRECEDING THE REGULAR MEETING

III. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO FUNDAMENTAL RIGHTS OF THE PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/ PRESENTATIONS/ PROCLAMATIONS:

A. ANNOUNCEMENTS:

1. Announcement of Closed Session, if any.

2. Openings on Boards and Commissions:

Sky Valley Open Space Committee:

One unexpired term to September 30, 2010

Economic Development Board

One full term to July 31, 2012

Human Services & Arts Board

One unexpired term to July 31, 2009

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

4. [Golden Gate Partnership recognition from Cal/OSHA to the Benicia Public Works Department](#)

B. APPOINTMENTS:

[Appointment of Youth Commissioner representative to the Parks, Recreation & Cemetery Commission](#)

-Triya Leong

C. PRESENTATIONS:

Coastal Cleanup Day and "Plastics in the Ocean" Program

D. PROCLAMATIONS:

1. [Recognition of Pollution Prevention Week – September 15-21, 2008](#)

2. [Recognition of Amateur Radio Public Awareness Day - September 20, 2008](#)

3. [Welcome for Tua Hallstrom, Exchange Student from Leksand, Sweden](#)

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN

B. PUBLIC COMMENT

VII. CONSENT CALENDAR (7:40 P.M.):

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 of September 2, 2008. (City Clerk)

B. Support for ABAG Focus Program Priority Development Area Application. (Community Development Director)

The Community Development Department has submitted an application to the Association of Bay Area Governments (ABAG) to participate in the FOCUS program by establishing a Priority Development Area (PDA) in Benicia. The proposed PDA consists of 145 acres from N Street to the First Street Pier between West Second and East Third Streets. Approval of the application would make the City eligible for technical assistance and grants for transit, housing, parks and infrastructure projects that support the FOCUS program goals of reducing traffic, protecting the environment and enhancing existing neighborhoods.

Recommendation: Adopt a resolution supporting the designation of Downtown Benicia as a Priority Development Area under the FOCUS program.

C. Granting of authority to the City Treasurer for depositing and withdrawing City monies in the Local Agency Investment Fund. (Finance Director)

This resolution grants authority to the elected City Treasurer to deposit and withdraw City monies in the LAIF. The City Treasurer is granted authority at LAIF in case both the Finance Director and Assistant Finance Director are not available. LAIF requires a resolution with the Treasurer's name whenever there is a change, which occurred during the November 2007 election.

Recommendation: Adopt the resolution authorizing the deposit and withdrawal of City monies in the Local Agency Investment Fund (LAIF) by the elected City Treasurer.

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

VIII. PUBLIC HEARINGS:

IX. ACTION ITEMS (7:45 P.M.):

A. Reaffirm the purpose of the Sky Valley Open Space Committee. (Community Development Director) – Continued from the September 2, 2008 City Council Meeting

Established in 2004, the Sky Valley Open Space Committee is charged with protecting agricultural uses and the watershed north of Lake Herman Road. Since that time, the Committee has completed a work program/scope of services for a possible watershed and recreation management plan, and is now focusing on creating partnerships to acquire land and/or obtain conservation easements in the area. Committee Chair Scott Shepard will make a brief presentation on the history of the committee, its mission and purpose, what has been done to date, and current efforts.

Recommendation: Adopt a resolution reaffirming the purpose of the Sky Valley Open Space Committee.

B. Introduction of an ordinance amending Title 9 (Public Peace, Morals and Welfare) to change the title of Chapter 9.28 from (Night Curfew) to (Youth Protection) and add Article 2

(Daytime Curfew) to Chapter 9.28 (Youth Protection) of the Benicia Municipal Code. (Police Chief)

The Benicia Police Department, in full cooperation with the Benicia Unified School District, recommends the adoption of a daytime curfew ordinance. The involvement of juveniles in criminal and non-criminal activity or calls for service during school time impacts the ability of School Resource Officers to attend to the needs of their assigned campus and the ability of patrol officers to focus on community needs. Additionally, truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. The proposed ordinance would prohibit unauthorized school age children from being present in public on school days during daytime curfew hours.

Recommendation: Introduce the ordinance adding a daytime youth curfew and encompass the new daytime and the existing nighttime curfew ordinances under the umbrella of a chapter title of "Youth Protection."

C. Adoption of a resolution accepting the emissions inventory report and approving greenhouse gas reduction targets. (Economic Development Manager)

Benicia's communitywide greenhouse gas emissions in 2000 were about four million metric tonnes, of which just .2% was attributable to the City's municipal operations. While the community emissions grew to 4.2 million tonnes in 2005, the City's declined almost 20%, to 7400 tonnes. Under a business as usual scenario, the community's emissions in 2010 will increase by 9% from 2005 (to 4.6 million tonnes), and in 2020, the forecasted increase is 21% (to 5.1 million tonnes). To prevent this growth, the recommended reduction targets are:

- 25% below 2000 level in 2010 for City Operations;
- Maintain 2005 level in 2010 for the Community;
- 33% below 2000 level in 2020 for City Operations;
- 10% below 2000 levels by 2020 for the Community.

Recommendation: Adopt a resolution accepting the Greenhouse Gas Emissions Inventory Report and approving its greenhouse gas reduction targets, to be re-evaluated after the Climate Action Plan's completion in Spring 2009.

D. Endorsement of Solano County Measure T on the November 4, 2008 General Election Ballot. (City Manager)

The 2008 Solano County Final General Plan will come before the voters as Measure T on the November ballot in order to comply with the requirements of the Orderly Growth Initiative. The Solano County Board of Supervisors introduced and adopted Ordinance #2008-01 that places on the November 5, 2008 ballot a proposed amendment to the 1994 Orderly Growth Initiative that would update certain provisions of the Solano County General Plan relating to agriculture and open space policies and land use designations, and extend the amended initiative until December 31, 2028.

Recommendation: To consider the resolution endorsing Solano County Measure T on the November 4, 2008 General Election Ballot, and to consider authorizing a letter to the Solano County Board of Supervisors urging strict adherence to the "city-centered growth" policy contained therein.

X. INFORMATIONAL ITEMS (9:45 P.M.):

A. Reports from City Manager:

1. Update from the Police Chief regarding public safety statistics and comparisons. (Police Chief) – Continued from September 2, 2008 City Council Meeting

The Police Chief will present a summary of the 2007 and 2008 (year-to-date) Uniform Crime Reports for Benicia. An overview of Benicia's policing philosophy will also be provided by the Chief, along with a summary of important crime prevention strategies.

Recommendation: This is an informational report, no action is necessary.

2. Analysis of the Graffiti Ordinance. (Police Chief) – Continued from September 2, 2008 City Council Meeting

The Police Chief will present an analysis of the City's current graffiti ordinance, which includes recommended changes to the ordinance and associated cost implications.

Recommendation: Review and provide direction to staff.

3. Solar Programs Information. (Economic Development Manager)

Solar electric residential installations are an alternative energy source, with financing available through a variety of avenues including Federal and state incentives. Local incentive programs are developing in some cities. The issue of solar power and its potential applicability on a larger scale in Benicia is likely to be thoroughly considered in the forthcoming Climate Action Plan.

Recommendation: Receive additional information regarding municipal solar electric programs, and solar power as an alternative energy source generally; direct staff to include consideration of solar in the upcoming Climate Action Plan.

B. Council Member Committee Reports:

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

1. Mayor's Committee Meeting. (Mayor Patterson)

Next Meeting Date: September 17, 2008

2. Association of Bay Area Governments (ABAG). (Mayor Patterson & Vice Mayor Campbell)

Next Meeting Date: October 24, 2008

3. Audit & Finance Committee. (Vice Mayor Campbell & Council Member Schwartzman)

Next Meeting Date: October 10, 2008

4. League of California Cities. (Mayor Patterson & Council Member Schwartzman)

Next Meeting Date: Annual Conference – September 24-27, 2008

5. School Liaison Committee. (Council Members Ioakimedes & Hughes)

Next Meeting Date: To be determined

6. Sky Valley Open Space Committee. (Vice Mayor Campbell & Council Member Ioakimedes)

Next Meeting Date: October 1, 2008

7. Solano EDC Board of Directors (Mayor Patterson & Council Member Ioakimedes)

Next Meeting Date: September 25, 2008

8. Solano Transportation Authority (STA) (Mayor Patterson & Council Member Schwartzman)

Next Meeting Date: October 8, 2008

9. Solano Water Authority/Solano County Water Agency and Delta Committee (Mayor Patterson & Vice Mayor Campbell)

Next Meeting Date: October 9, 2008

10. Traffic, Pedestrian and Bicycle Safety Committee (Vice Mayor Campbell & Council Member Hughes)

Next Meeting Date: October 16, 2008

11. Tri-City and County Regional Parks and Open Space (Vice Mayor Campbell & Council Member Hughes)

Next Meeting Date: To be determined.

12. Valero Community Advisory Panel (CAP) (Council Member Hughes)

Next Meeting Date: September 25, 2008

13. Youth Action Coalition (Council Members Ioakimedes & Schwartzman)

Next Meeting Date: September 24, 2008

14. ABAG/CAL FED Task Force/Bay Area Water Forum (Mayor Patterson)

Next Meeting Date: September 22, 2008

XI. COUNCIL MEMBER REPORTS (10:15 P.M.):

[A. Request to agendize discussion of the need for an ordinance regarding properties in foreclosure. \(Mayor Patterson\) – Continued from the September 2, 2008 City Council Meeting](#)

U.S. cities are passing ordinances related to properties in foreclosure in an effort to recover costs related to abandoned properties. Homes that are being foreclosed often sit vacant and unmaintained for long periods of time. This has a negative effect on surrounding properties and may lead to devaluation of the area and increased criminal activity. California cities such as Stockton, Chula Vista, and San Jose have adopted ordinances that require registration and maintenance of the vacant properties.

Recommendation: Consider agendizing for a future City Council meeting.

XII. ADJOURNMENT (10:30 P.M.):

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 Valerie Ruxton, 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.

/Agenda0916.08

-  [PW Announcement.pdf](#)
-  [Appointment.pdf](#)
-  [Proclamation - 1.pdf](#)
-  [Proclamation - 2.pdf](#)
-  [Proclamation - 3.pdf](#)
-  [Minutes.pdf](#)
-  [ABAG.pdf](#)
-  [LAIF.pdf](#)
-  [Sky Valley.pdf](#)
-  [youth ordinance.pdf](#)
-  [emissions inventory.pdf](#)
-  [Measure T.pdf](#)
-  [Public Safety.pdf](#)
-  [Graffiti.pdf](#)
-  [committee reports.pdf](#)
-  [foreclosure agenda request.pdf](#)
-  [Solar Program Staff Report 091608.pdf](#)

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ANNOUNCEMENT**

DATE : September 8, 2008
TO : City Manager
FROM : Director of Public Works 
SUBJECT : **GOLDEN GATE PARTNERSHIP RECOGNITION FROM
CAL/OSHA TO THE BENICIA PUBLIC WORKS DEPARTMENT**

RECOMMENDATION:

It is requested that the Mayor make the following announcement regarding the recognition from Cal/OSHA:

***** ANNOUNCEMENT *****

The City of Benicia Public Works Department recently received 3 Golden Gate Partnership Recognitions from Cal/OSHA for demonstrated commitment to workplace safety and health conditions at the Water Treatment Plant, Wastewater Treatment Plant and the Public Works Corporation Yard. These prestigious recognitions are the result of workplace safety audits requested by the Public Works Department and conducted by Cal/OSHA Consultation Services who specifically recognized the demonstrated commitment from our managers and employees at each one of these facilities to improve the effectiveness of workplace safety and health management systems.

Special recognition is due to Assistant Director of Public Works, Chris Tomasik, Water Plant Superintendent, Scott Rovanpera, Wastewater Treatment Plant Superintendent, Jerry Gall, and Public Works Maintenance Superintendent, Nate Rankin for each of their continuous efforts in leading these divisions within the Public Works Department.

cc: Assistant Director of Public Works
City Engineer

Arnold Schwarzenegger, Governor

State of California
Department of Industrial Relations
Cal/OSHA Consultation Service
2424 Arden Way #410
Sacramento, CA 95824
Phone: (916) 263-0704
Fax: (916) 263-2858



Certificate #G0523

July 23, 2008

Chris Tomasik
Assistant Director of Public Works/Utilities Manager
City of Benicia Water Treatment Plant
100 Water Way
Benicia, CA 94510

GOLDEN GATE PARTNERSHIP RECOGNITION

Dear Ms. Tomasik:

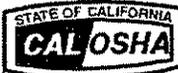
Congratulations, your company has been recognized by the Cal/OSHA Consultation Service for its effort in implementing and maintaining an effective Injury and Illness Prevention Program (IIPP) during the Cal/OSHA Consultation Service visit on July 23, 2008.

Golden Gate recognition was developed to provide motivation and support to employers who proactively work with their employees and the Cal/OSHA Consultation Service. During our consultative visit to your company, your managers and employees demonstrated a commitment to continuously improve the effectiveness of its workplace safety and health management system. This commitment to workplace safety and health is being commended by the Cal/OSHA Consultation Service. Thank you for taking an active participation in occupational safety and health in your workplace.

Sincerely,

Richard DaRosa,
Area Manager

Marisela Bonilla,
Health Consultant



This letter does not exempt your company from future enforcement activities, nor does this letter mean that your workplace is free from potential workplace safety and health hazards. The Cal/OSHA Consultation Service is available to provide advice and assistance in reducing workplace safety and health hazards and improving your safety and health management systems.

W.A. 42

State of California
Department of Industrial Relations
Cal/OSHA Consultation Service
2424 Arden Way #410
Sacramento, CA 95824
Phone: (916) 263-0704
Fax: (916) 263-2858

Arnold Schwarzenegger, Governor



Certificate #C0524

July 23, 2008

Chris Tomasiak
Assistant Director of Public Works/Utilities Manager
City of Benicia Corporation Yard
2400 East Second Street
Benicia, CA 94510

GOLDEN GATE PARTNERSHIP RECOGNITION

Dear Ms. Tomasiak:

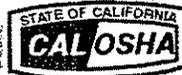
Congratulations, your company has been recognized by the Cal/OSHA Consultation Service for its effort in implementing and maintaining an effective Injury and Illness Prevention Program (IIPP) during the Cal/OSHA Consultation Service visit on July 23, 2008.

Golden Gate recognition was developed to provide motivation and support to employers who proactively work with their employees and the Cal/OSHA Consultation Service. During our consultative visit to your company, your managers and employees demonstrated a commitment to continuously improve the effectiveness of its workplace safety and health management system. This commitment to workplace safety and health is being commended by the Cal/OSHA Consultation Service. Thank you for taking an active participation in occupational safety and health in your workplace.

Sincerely,


Richard DaRosa,
Area Manager


Marisela Bonilla,
Health Consultant



This letter does not exempt your company from future enforcement activities, nor does this letter mean that your workplace is free from potential workplace safety and health hazards. The Cal/OSHA Consultation Service is available to provide advice and assistance in reducing workplace safety and health hazards and improving your safety and health management systems.

IV-A-43

Arnold Schwarzenegger, Governor

State of California
Department of Industrial Relations
Cal/OSHA Consultation Service
2424 Arden Way #410
Sacramento, CA 95824
Phone: (916) 263-0704
Fax: (916) 263-2858



Certificate #C0525

July 24, 2008

Chris Tomasiak
Assistant Director of Public Works/Utilities Manager
City of Benicia Wastewater Treatment Plant
614 East Fifth Street
Benicia, CA 94510

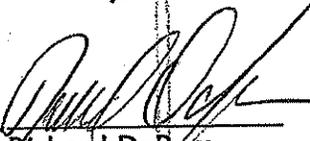
GOLDEN GATE PARTNERSHIP RECOGNITION

Dear Ms. Tomasiak:

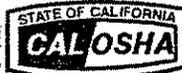
Congratulations, your company has been recognized by the Cal/OSHA Consultation Service for its effort in implementing and maintaining an effective Injury and Illness Prevention Program (IIPP) during the Cal/OSHA Consultation Service visit on July 24, 2008.

Golden Gate recognition was developed to provide motivation and support to employers who proactively work with their employees and the Cal/OSHA Consultation Service. During our consultative visit to your company, your managers and employees demonstrated a commitment to continuously improve the effectiveness of its workplace safety and health management system. This commitment to workplace safety and health is being commended by the Cal/OSHA Consultation Service. Thank you for taking an active participation in occupational safety and health in your workplace.

Sincerely,


Richard DaRosa,
Area Manager


Marisela Bonilla,
Health Consultant



This letter does not exempt your company from future enforcement activities, nor does this letter mean that your workplace is free from potential workplace safety and health hazards. The Cal/OSHA Consultation Service is available to provide advice and assistance in reducing workplace safety and health hazards and improving your safety and health management systems.

IV-A-44

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF TRIYA LEONG AS THE YOUTH
COMMISSION REPRESENTATIVE TO THE PARKS, RECREATION AND
CEMETERY COMMISSION**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Triya Leong as the Youth Commission Representative 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 16th day of September, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**MEMO FROM DIRECTOR OF PARKS &
COMMUNITY SERVICES**



Parks and Community Services
MEMORANDUM

DATE: September 4, 2008

TO: Jim Erickson
City Manager

FROM: Michael Alvarez
Director of Parks and Community Services

SUBJECT: APPROVAL OF TRIYA LEONG TO SERVE AS THE YOUTH COMMISSIONER TO THE PARKS, RECREATION AND CEMETERY COMMISSION

Per the Youth Commission By Laws, the Youth Commission shall elect from its membership, a Chairperson to serve for a one (1) year term, and recommend to the Mayor the appointment of the Chairperson to serve as a voting member on the Parks, Recreation & Cemetery Commission. Provided below is a bio on Triya Leong, who was selected by the Youth Commission.

Triya Leong is a seventeen-year-old senior at Benicia High School. This is her fifth year serving on the Benicia Youth Commission. She feels honored to be elected by her peers as the 2008-09 Youth Commission Chair, and is excited to become the new voice of Benicia's youth.

In addition to BYC, Triya is a member of the California Scholarship Federation (CSF), Key Club, and is looking forward to her first year as a Link Crew Leader at Benicia High School (BHS). Although all four organizations are different, they each provide her with a meaningful and rewarding experience. Seeing the success and joy others attain as a result of their experiences from programs she helps facilitate are a continuous reward for Triya.

Triya's goals as BYC Chair are to create a strong group of teens that are eager to plan and organize events that will keep the youth of Benicia safe while having fun. Triya will play an integral role in planning the Fall Festival at Community Park on November 7, 2008, three tentative dances, numerous community service projects, and hopefully reintroduce the Youth Conference in April 2009.

Triya feels it is extremely important for the Benicia Youth Commission to have representation on the Parks, Community Services, and Cemetery Commission. Through Triya, the youth of Benicia have the opportunity to voice their opinions on decisions that affect them. As Chair, Triya will use her positive energy to create a fun and welcoming environment for Benicia youth. She looks forward to another year of fun, learning, and growing, as well as gaining new personal skills as a leader. Please ask the Mayor to consider this nomination for the Council meeting scheduled for September 16, 2008.

IV-B-3

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ANNOUNCEMENTS AND PROCLAMATIONS

DATE : August 21, 2008
TO : City Manager
FROM : Director of Public Works
SUBJECT : **PROCLAMATION - POLLUTION PREVENTION WEEK**

RECOMMENDATION:

- 1) Schedule the attached proclamation regarding Pollution Prevention Week on the agenda of the September 16, 2008 City Council meeting. This proclamation has been announced on an annual basis for the past thirteen years as part of the state-mandated Pollution Prevention Program.
- 2) Mayor make the following announcement regarding the Pollution Prevention display at the Library.

***** ANNOUNCEMENT *****

To highlight the State-wide Pollution Prevention Week celebration, the Public Works Department will have a pollution prevention display in the Library beginning September 15 and ending September 25, 2008. The exhibit includes posters, pollution prevention handouts, and recycled products (such as bookmarks, rulers, and pencils). The Public Works Department will also participate in Coastal Clean-up Day, scheduled for September 20, 2008.

This display is part of the City's Pollution Prevention Program education effort to increase public awareness of environmental problems and to call attention to efforts to reclaim the purity of the air, water, and living environment.

*****END*****

IV-D-1-1

SUMMARY:

The Pollution Prevention Program is a way of correlating pollution prevention activities such as recycling, reducing hazardous materials use and waste reduction with an increased public consciousness of how their activities impact the environment. Municipal pollution prevention programs are mandated by the Regional Water Quality Control Board. The emphasis of the City's program is heightened public awareness and education of pollution prevention

Attachment:

- Proclamation



P R O C L A M A T I O N
POLLUTION PREVENTION WEEK
September 15 - 21, 2008

WHEREAS, the City of Benicia is in favor of a clean and safe environment and reduction of plastic pollution in the ocean; and

WHEREAS, pollution prevention is a successful approach to environmental protection that focuses on waste prevention, and is therefore the most favorable and progressive strategy for protecting our environment; and

WHEREAS, pollution prevention can increase efficiency and save government and businesses money by decreasing disposal costs and by reducing present and future liability associated with generation of wastes; and

WHEREAS, pollution prevention offers both environmental protection and increased competitiveness; and

WHEREAS, by focusing attention on pollution prevention, the City of Benicia will meet the challenges of the new millennium for economic competitiveness and environmental protection; and

WHEREAS, Pollution Prevention Week is an opportunity for government, industry, and environmental groups to celebrate the potential of pollution prevention and to work together to plan for a prosperous and sustainable future; and

WHEREAS, the City of Benicia will support and incorporate pollution prevention in its day-to-day operations.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, do hereby designate September 15 through September 21, 2008 as "Pollution Prevention Week."

Elizabeth Patterson, Mayor
CITY OF BENICIA
September 16, 2008

IV-D-1-3



PROCLAMATION AMATEUR RADIO PUBLIC AWARENESS DAY

WHEREAS, the City of Benicia has more than 100 licensed Amateur Radio operators who have demonstrated their value in public assistance by providing emergency radio communications; and

WHEREAS, the Benicia Amateur Radio Club operators serve the Benicia Fire Department, in partnership with the Benicia Emergency Response Team (BERT); and

WHEREAS, these operators maintain the two emergency radio repeaters, and staff and maintain the Ham Radio Station located in the downtown Fire Station; and

WHEREAS, these Amateur Radio operators participate in the Solano County Sheriff's Office of Emergency Services *Auxiliary Communications Service* and assist the Sheriff's Office when called upon; and

WHEREAS, these Amateur Radio operators provide public safety communication for organized bike rides and parades; and

WHEREAS, these Amateur Radio operators are on the alert for any emergency, local or worldwide, and practice their communication skills during drills and exercises throughout the year; and

WHEREAS, during the course of a year, as Federal Communication Commission accredited examiners, these operators conduct Amateur Radio examinations and periodic radio classes; and

WHEREAS, these volunteer Amateur Radio operators donate their services free of charge to the City, in the interest of the citizens of the City and County; and

WHEREAS, AMATEUR RADIO PUBLIC AWARENESS DAY is September 20, 2008.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, do hereby declare September 20, 2008 as AMATEUR RADIO PUBLIC AWARENESS DAY in recognition of this important emergency preparedness service, and call upon all citizens to pay tribute to the Amateur Radio Operators of our City.

Elizabeth Patterson, Mayor
September 16, 2008



PROCLAMATION

WELCOMING EXCHANGE STUDENT, TUA HALLSTROM

WHEREAS, Tua Hallstrom is a 17-year old exchange student from Leksand, Sweden;
and

WHEREAS, Tua is participating in the Rotary Youth Exchange Program; and

WHEREAS, this program allows Tua to attend Benicia High School for the school year and acquire enough credits to graduate in the spring; and

WHEREAS, she will be participating on several Rotary organized trips around Northern California that include a trip to San Francisco and Tahoe, as well as to several other locations;
and

WHEREAS, Tua enjoys singing in the school choir, reading, paper handicrafts and playing her violin.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor, on behalf of the City of Benicia, do hereby welcome Tua to Benicia and wish you the best of luck! We hope you will enjoy being part of our community for this school year.

Elizabeth Patterson, Mayor
September 16, 2008

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
SEPTEMBER 2, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:01 p.m. on Tuesday, September 2, 2008, 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:

Mayor Patterson 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).

INFORMATIONAL ITEMS:

Review status of plans and financing options for Library and Community Center Projects:
Jim Erickson, City Manager, introduced the agenda item and reviewed the staff report and a PowerPoint presentation on the titled 'Project Funding Options' (hard copy on file).

Community Center Project:

Mike Alvarez, Parks and Community Services Director, introduced the Benicia Community Center Project. Mario Giuliani, Management Analyst, reviewed a PowerPoint presentation titled 'Benicia Community Center' (hard copy on file).

Council and Staff discussed the current lease options for the Mills Elementary School site, current agreements between the City and the Boy Scouts and Girl Scouts, the work that has been done at the Mills site to date, original estimate for renovations that needed to be done at the Mills site, why the cost jumped from \$1 million to over \$4 million, moving the Parks and Community Services department to the Community Center, vehicular traffic concerns, infill development, parking costs, opportunities for transit to the Community Center, the need to provide parking for the Community Center, the need to adopt regulations for the Community Center (including noise regulations), LEED Certification, the need for plans for the current Youth Activity Center, and inquiries regarding financing and interest.

Library Basement Project:

Diane Smikahl, Library Director, reviewed the staff report.

Rob Sousa, Finance Director, and Mark Pressman, Wulff, Hansen & Co., reviewed a PowerPoint presentation titled 'Financing Options' (hard copy on file).

Council and Staff discussed the budget, how much money has been spent to date (approximately \$36,000), Utility User's Tax, revenue bonds, the need for additional time to review this agenda item, having the Audit and Finance Committee take a look at this issue, and the possibility of looking at a combination of funding options.

OPPORTUNITY FOR PUBLIC COMMENT:
WRITTEN:

PUBLIC COMMENT:

1. Marilyn Bardet – Ms. Bardet discussed the cultural vision of the projects and the project costs.
2. Rick Ernst – Mr. Ernst discussed the lack of a comprehensive transportation plan, the possibility of swapping the Mills site and Robert Semple Elementary School site for the Community Center project, parking concerns, concerns over raising taxes, and the suggestion to finish the Library Basement Project.

Council and Staff discussed creating an ad hoc subcommittee that would include the stakeholders and two Council Members, which Council Members should be on the ad hoc subcommittee (Mayor Patterson and Council Member Schwartzman), the budgeted costs for the Community Center Project, the recent recommendation of the Audit and Finance Committee regarding financing the project, the inclusion of LEED Certification and solar, the need to solicit more information from an informed public, and the need to conduct the meetings in the evenings.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council directed Staff to complete the preparation of plans and specification for the Community Center Project, including LEED Certification, on roll call by the following vote:

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

Noes: None

On motion of Mayor Patterson, seconded by second by Vice Mayor Campbell, Council approved the formation of an ad hoc subcommittee comprised of Staff, Mr. Pressman, and two Council Members, on roll call by the following vote:

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

Noes: None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:06 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 2, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 8:12 p.m. on Tuesday, September 2, 2008, 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:

Charlie Knox 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:

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to January 31, 2011
- Economic Development Board:
One full term to July 31, 2012

APPOINTMENTS:

RESOLUTION 08-95 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF RON MYSKA TO THE ECONOMIC DEVELOPMENT BOARD
TO A FULL TERM ENDING
JULY 31, 2012

The above Resolution was adopted, on roll call by the following vote:

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

Noes: None

PRESENTATIONS:

None

PROCLAMATIONS:

- Recognition of Celebration Days at the Benicia Historical Museum from September 5-7, 2008:
- Recognition of Bonnie Weidel Taylor, Benicia Community Arts:
- Recognition of Literacy Awareness Day – September 8, 2008:

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Heather McLaughlin, City Attorney, addressed the written public comment submitted by the Green Gateway Group. The Seeno public hearing has been closed. Written public comment could not be used in Council's decision-making process, except to the extent that it relates to traffic. She cautioned Council earlier about meeting with individuals about the Seeno Project, since that could leave the City vulnerable to legal challenge.

Council and Staff discussed the submission of the information, legal issues regarding Council using the information to make decisions on the Seeno Project, having this issue as a specific point to discuss at the October meeting, clarifying what is new and what has been consolidated into a single document of information that was received, and Council Members' ability to recuse themselves during public comment.

PUBLIC COMMENT:

1. Kimble Goodman – Mr. Goodman discussed the upcoming Benicia Bicycle Club race and events and thanked City Staff for their assistance in setting up the race.
2. Roger Straw, Green Gateway Group – Mr. Straw discussed the information Green Gateway Group submitted to the City (hard copy on file).
3. Susan Street, Green Gateway Group – Ms. Street discussed the information Green Gateway Group submitted to the City (hard copy on file).

Council asked Ms. Street if the Green Gateway Group had met with Discovery Builders (it had not). Council discussed backroom politics, and the suggestion to save the discussion on this until after the Seeno item is heard.

4. Rick Ernst - Mr. Ernst discussed concerns regarding increasing taxes to finance capital projects.
5. Nicole Byrd – Ms. Byrd discussed the issue of specific plans.
6. Marilyn Bardet – Ms. Bardet announced an upcoming public forum that will be held by Benicia First.

Council asked Ms. Bardet if Benicia First had sent Discovery Builders an invitation to the forum (they had not yet, but will be doing so.)

7. Joe Kearns – Mr. Kearns discussed recent interactions and concerns regarding the Benicia Police Department.

CONSENT CALENDAR:

Council pulled items VII-A and VII-F.

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

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

Noes: None

ORDINANCE 08-05 - AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) AND SECTION 4.20.010 (OPEN GOVERNMENT COMMISSION) OF CHAPTER 4.20 (OPEN GOVERNMENT COMMISSION) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO STANDARDIZE THE GENERAL RULES FOR BOARDS AND COMMISSIONS

ORDINANCE 08-06 - AN ORDINANCE ADDING A NEW CHAPTER 12.52 (NEWSRACKS), TO TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE

RESOLUTION 08-98 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO INCLUDE NEWSRACK PERMIT FEES

ORDINANCE 08-07 - AN ORDINANCE AMENDING CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) IN ITS ENTIRETY OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-08 - AN ORDINANCE AMENDING CHAPTER 15.04 (CALIFORNIA BUILDING CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-09 - AN ORDINANCE AMENDING SECTION 15.08.010 (ADOPTION BY REFERENCE) AND SECTION 15.08.020 (COPIES ON FILE) OF CHAPTER 15.08 (CALIFORNIA MECHANICAL CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-10 - AN ORDINANCE AMENDING CHAPTER 15.12 (CALIFORNIA PLUMBING CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-11 - AN ORDINANCE AMENDING SECTION 15.16.010 (ADOPTION BY REFERENCE) AND SECTION 15.16.020 (COPIES ON FILE) OF

CHAPTER 15.16 (CALIFORNIA ELECTRICAL CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-12 - AN ORDINANCE DELETING CHAPTER 15.18 (UNIFORM HOUSING CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-13 - AN ORDINANCE DELETING CHAPTER 15.20 (UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-14 - AN ORDINANCE DELETING CHAPTER 15.22 (ADMINISTRATIVE CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-15 - AN ORDINANCE AMENDING CHAPTER 15.24 (WORK/LIVE OCCUPANCY CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-16 - AN ORDINANCE AMENDING CHAPTER 15.26 (BUILDING PERMIT FEES AND OTHER FEES) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

RESOLUTION 08-96 - A RESOLUTION DECLARING THE CITY'S INTENTION TO VACATE A PORTION OF WEST K STREET RIGHT-OF- WAY ADJACENT TO 1356 WEST K STREET AND SETTING THE PUBLIC HEARING DATE FOR OCTOBER 7, 2008

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of Minutes of August 19, 2008:

Mayor Patterson requested her comments explaining her vote on the transit item be added to the minutes.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, the Minutes of August 19, 2008 were approved as presented, on roll call by the following vote:

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

Noes: None

Approval of change orders for Commandant's Rehabilitation Project:

Vice Mayor Campbell asked for clarification on change order #8.

Staff discussed the six-foot beam that cracked in half, causing more pressure on the second six-foot beam, which caused the floor to sag. The change order was for the replacement of the two six foot beams.

RESOLUTION 08-97 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & COMMUNITY SERVICES TO EXECUTE CONTRACT CHANGE ORDERS WITH PACIFIC COAST RECONSTRUCTION & BUILDING INC. FOR THE COMMANDANT'S REHABILITATION PROJECT, AFFIRMING STAFF-AUTHORIZED CHANGE ORDERS AND APPROPRIATING \$94,333 FROM THE CONTINGENCY OF THIS PROJECT

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

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

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Valero Improvement Project Settlement - continued from August 19, 2008 City Council Meeting:

Charlie Knox, Community Development Director, reviewed the staff report.

Council and Staff discussed the Lighting and Landscaping District's need for plants, equipment, irrigation, etc.

Public Comment:

1. Chris Howe, Valero Refinery, Benicia – Mr. Howe thanked everyone on the Good Neighbor Steering Committee for their efforts. He briefly discussed Valero's idea on what the money should be spent on and the importance for using the money to improve the community and make a positive impact,
2. Dana Dean – Ms. Dean asked for clarification on the agenda item previously being listed as an informational item which was continued and has become an action item, the process that the Good Neighbor Steering Committee went through with regards to the VIP, and the need for public input on how the money is spent.

Council and Ms. Dean discussed the agreement between Valero and the Good Neighbor Steering Committee, how the Good Neighbor Steering Committee envisioned the plan for the money being spent, accountability, reporting, Good Neighbor Steering Committee's expectation to participate in the community process, the need to explore what form of public input would work best, possibly having a sustainability conference, Valero's positive reputation, using a timed released approach, accountability, public access to information, and routine reporting through the Citizens Advisory Panel (CAP).

3. Marilyn Bardet – Ms. Bardet discussed the Good Neighbor Steering Committee, air monitoring, the importance of deciding how the monies should be spent, drip irrigation, low flow toilets, ways to engage the citizens in programs for water conservation.
4. Bob Craft – Mr. Craft discussed his confidence in Valero, Ms. Dean, and Ms. Bardet, and the need for including Ms. Dean and Ms. Bardet in the process for deciding how the money is spent.
5. Joe Kearns – Mr. Kearns discussed concerns and ideas regarding how the money should be spent.

Council and Staff discussed the need for a public process, forming a committee with Staff, Council, and the Good Neighbor Steering Committee, climate action plan, loans for solar panels, purple pipes, synthetic field at BHS, reporting to the Bay Area Air Quality Management District, monitoring costs, the need to thank and recognize the parties involved, not taking action on the agenda item tonight, bringing the item back after taking the various comments into consideration, and the need to involve the community in this issue.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council directed Staff to meet with the Good Neighbor Steering Committee (and possibly Valero) and come back to Council with a formal process that ensures public process, on roll call by the following vote:

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

Noes: None

Authorize exclusive negotiating rights agreement with the Olson Company for the City-owned E Street lot:

Council Member Schwartzman recused himself due to a conflict of interest.

Amalia Lorentz, Economic Development Manager, reviewed the staff report.

Council and Staff discussed the desire to add ‘cultural’ to the list of possible uses for the project, including cultural and wetlands on the project work plan, adding LEED and/or Low Impact Development standards for the project, the lack of Downtown parking spaces, use permits, and compliance with State and local regulations regarding low income housing.

Public Comment:

1. John Reichel, Olson Company – Mr. Reichel discussed the Olson Company’s eagerness to work with the City.

Council, Staff, and Mr. Reichel discussed the issue of public parking, zoning, the Downtown Mixed Use Master Plan, and the issue of having a community process.

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council authorized the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA) with the Olson Company to act as its development partner and lead the community involvement process for the City-owned E Street lot, as amended, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Schwartzman

Reaffirm the purpose of the Sky Valley Open Space Committee:

Charlie Knox, Community Development Director, informed Council that the Sky Valley Open Space Committee Chair was unable to attend the Council meeting due to an illness in the family. He requested the agenda item be continued to the next meeting.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council agreed to continue this item to a future agenda, on roll call by the following vote:

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

Noes: None

Approval of AT&T permit application and review process for U-Verse service (Project Lightspeed):

Dan Schiada, Public Works Director, reviewed the staff report.

Council Member Hughes disclosed ex parte communications.

Council and Staff discussed the placement process for the cabinets, and clarification on the benefits of the cabinets to the community.

Mr. Tim Ray, AT&T, discussed the benefits that this technology would provide to the community and the level of noise the cabinets would generate.

Council, Staff, and Mr. Ray discussed the technology, competition, rates, public notification process, using door hanger notices, and the process for contacting property owners.

Public Comment:

1. Jackie Klare – Ms. Klare discussed concerns regarding big ugly boxes being placed near her property, current City ordinances regarding above ground utility boxes, and her options if she does want this to be placed on her property.
2. Eldon Peterson – Mr. Peterson discussed concerns regarding the installation of the boxes in Benicia, installing underground technology, a recent article in the Contra

Costa Times newspaper (copy on file), and the need for high speed internet in the Benicia Industrial Park.

3. Rick Ernst – Mr. Ernst discussed concerns regarding the installation of the boxes in Benicia, getting high speed internet in the Benicia Industrial Park, and the issue of noticing.
4. Bob Craft – Mr. Craft inquired where the boxes would be installed throughout the City.
5. Marilyn Bardet – Ms. Bardet inquired where the ten units would be installed that they have applied for the permit for.
6. Gene Doherty – Mr. Doherty discussed the advantage of fiber to the premise as opposed to fiber to the node, faster internet speed, and the need for high speed internet in the Benicia Industrial Park.

Council and Staff discussed the Benicia Industrial Park, the size of the cabinets, notification process, the existing ordinance regarding underground utility boxes, cleaning up the language on the existing ordinance, and why the current ordinance was enacted.

Public Comment:

1. Mr. Ray, AT&T – Mr. Ray discussed the lack of ability to install such devices underground, what types of technology could be installed underground, graffiti proof coating for the boxes, size of the boxes, and noticing requirements.

Council, Staff, and Mr. Ray discussed identifying the location of the proposed 60 boxes (AT&T would make the information available to the City in the next few weeks.), the lack of high speed internet in the Benicia Industrial Park, having five test spots in the Benicia Industrial Park, welcoming competition, the need for more information, and the need to move slower with this issue.

Mayor Patterson suggested continuing this item so that Staff could look into San Francisco's situation – to see what authority they are using, to revisit the City's code and provide a legal defense in a staff report, to add removal provisions, to come back with a map, to get specific proposed locations, and the need for an aesthetic solution to the boxes.

INFORMATIONAL ITEMS:

Reports from City Manager:

Continued

Update from the Police Chief regarding public safety statistics and comparisons –

Continued from August 19, 2008 City Council Meeting:

Continued

Analysis of the Graffiti Ordinance:

Continued

DRAFT

COMMENTS FROM COUNCIL MEMBERS:

Request to agendaize discussion of the need for an ordinance regarding properties in foreclosure:

Continued

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:31 p.m.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
CONSENT CALENDAR

DATE: September 3, 2008

TO: City Manager

FROM: Community Development Director

SUBJECT: **SUPPORT FOR ABAG FOCUS PROGRAM PRIORITY DEVELOPMENT AREA APPLICATION**

RECOMMENDATION:

Adopt a resolution supporting the designation of Downtown Benicia as a Priority Development Area under the FOCUS program.

EXECUTIVE SUMMARY:

The Community Development Department has submitted an application to the Association of Bay Area Governments (ABAG) to participate in the FOCUS program by establishing a Priority Development Area (PDA) in Benicia. The proposed PDA consists of 145 acres from N Street to the First Street Pier between West Second and East Third Streets. Approval of the application would make the City eligible for technical assistance and grants for transit, housing, parks and infrastructure projects that support the FOCUS program goals of reducing traffic, protecting the environment and enhancing existing neighborhoods.

BUDGET INFORMATION:

No impacts to the City budget are anticipated.

ENVIRONMENTAL REVIEW:

The application is exempt from the California Environmental Quality Act per CEQA Guidelines Section 15306, which applies to resource evaluation activities.

SUMMARY:

FOCUS is a development and conservation strategy involving ABAG, the Metropolitan Transportation Commission, the Bay Area Air Quality Management District and the Bay Conservation and Development Commission to channel population growth in areas near transit in established communities to conserve the region's natural resources. Participation in the program by a city requires establishing one or more PDAs, which must be:

- 100 acres or larger,
- within the area of a specific or area plan
- subject to plans to increase affordable and mixed use housing
- within ½-mile of a rail station, ferry terminal, or high frequency bus or rapid transit corridors

The proposed PDA for Benicia, which includes City Park – site of park-and-ride improvements proposed by City staff, extends south along First Street to the pier, which could someday serve as a water transit location. This area satisfies the PDA criteria, including by being almost entirely within the area of the Downtown Mixed Use Master Plan and containing potential affordable housing sites.

There are 84 PDAs thus far, including five in Solano County (in Fairfield and Vallejo). PDAs approved by ABAG qualify to compete for technical and financial assistance; examples are shown in Table 1.

Table 1. Example of Tools and Incentives Package for Designated Areas

TECHNICAL ASSISTANCE	FINANCIAL ASSISTANCE
Policy Development	New Area or Specific Plans
Photo Simulations	Update Area or Specific Plans
Local Workshops, Tours	CEQA Review
	Transportation Projects (including pedestrian and bicycle)
	Housing Projects
	Water/Sewer Capacity
	Parks and Urban Greening
	Streetscape Improvements

The ABAG Executive Board is expected to reach a decision on the Benicia PDA application by late November, as shown in Table 2.

Table 2. Timeline for Priority Development Area Designation

FOCUS PDA DESIGNATION TIMELINE	DATE
Application Deadline	September 12, 2008
Review by regional agency staff	By September 30, 2008
ABAG Regional Planning Committee endorsement to Executive Board	October 1, 2008
City Council Resolution Deadline	October 31, 2008
ABAG Executive Board approval	November 20, 2008

Attachments:

- Draft Resolution
- Exhibit A – Map of Proposed PDA

RESOLUTION

RESOLUTION NO. 08-

A RESOLUTION OF THE BENICIA CITY COUNCIL AUTHORIZING THE DESIGNATION OF DOWNTOWN BENICIA AS A PRIORITY DEVELOPMENT AREA UNDER THE FOCUS PROGRAM

WHEREAS, the Association of Bay Area Governments and the Metropolitan Transportation Commission in coordination with the Bay Area Air Quality Management District and Bay Conservation and Development Commission have undertaken a regional planning initiative called FOCUS; and

WHEREAS, FOCUS program goals support a future regional development pattern that is compact and connected; and

WHEREAS, the regional agencies seek local government partners to create specific locations where growth can be appropriately accommodated, known as Priority Development Areas; and

WHEREAS, a Priority Development Area must meet all of the following criteria: (a) within an existing community, (b) near existing or planned fixed transit (or served by comparable bus service) and (c) planned or planning for more housing; and

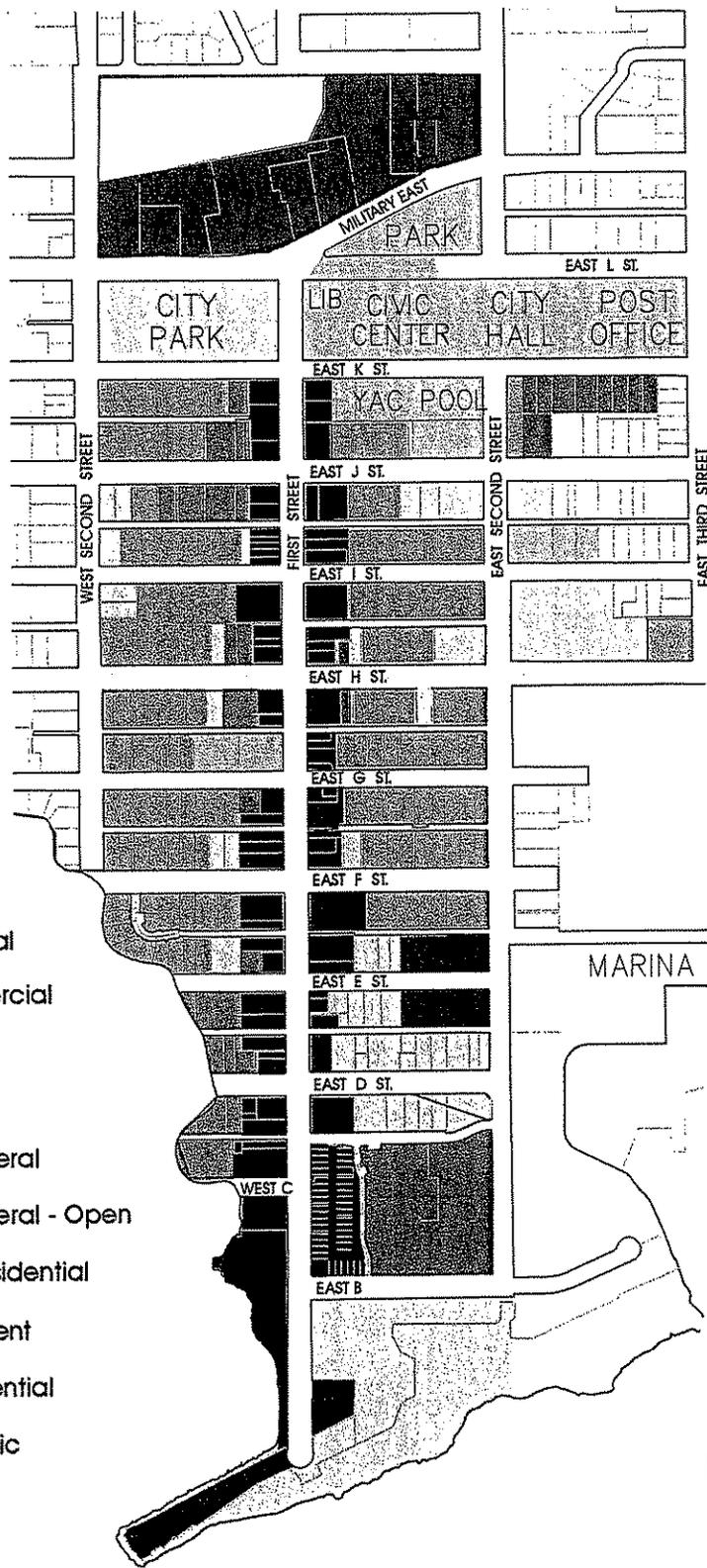
WHEREAS, local governments in the nine-county San Francisco Bay Area are eligible to apply for designation of an area within their community as a priority development area; and

WHEREAS, the regional agencies are committed to securing incentives and providing technical assistance to designated priority development areas so that positive change can be achieved in communities working to advance focused growth.

NOW, THEREFORE, BE IT RESOLVED, THAT the City Council of the City of Benicia hereby supports designation of Downtown Benicia (as depicted in Exhibit A) as a Priority Development Area under the FOCUS program.

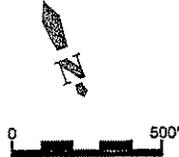
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EXHIBIT A
MAP OF PROPOSED PDA



Zoning Key

- General Commercial
- Community Commercial
- Town Core
- Town Core -Open
- Neighborhood General
- Neighborhood General - Open
- Medium Density Residential
- Planned Development
- Single Family Residential
- Public & Semi - Public
- Open Space



**Downtown Benicia
Priority Development Area
VII-B-6**

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
CONSENT CALENDAR

DATE : September 3, 2008

TO : City Manager

FROM : Finance Director

SUBJECT : **GRANTING OF AUTHORITY TO THE CITY TREASURER
FOR DEPOSITING AND WITHDRAWING OF CITY
MONIES IN THE LOCAL AGENCY INVESTMENT FUND**

RECOMMENDATION:

Adopt the resolution authorizing the deposit and withdrawal of City monies in the Local Agency Investment Fund (LAIF) by the elected City Treasurer.

EXECUTIVE SUMMARY:

The attached resolution grants authority to the elected City Treasurer to deposit and withdraw City monies in the LAIF.

BUDGET INFORMATION:

There is no budget impact to the City by adopting the resolution.

Attachment:

- Resolution

RESOLUTION

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY
INVESTMENT FUND**

WHEREAS, pursuant to Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated herein as in the best interests of the City of Benicia and in accordance with the City's investment policy.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby authorize the deposit and withdrawal of City monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated herein, and verification by the State Treasurer's Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED THAT the following City officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

Robert Sousa
(Name)

Abigail M. Urrutia
(Name)

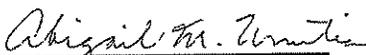
Margaret Bidou
(Name)

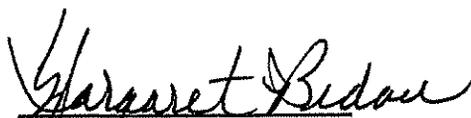
Finance Director
(Title)

Asst. Finance Director
(Title)

Treasurer
(Title)


(Signature)


(Signature)


(Signature)

On motion of _____, seconded by _____,
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 16th day of September, 2008, and adopted by the
following vote:

Ayes:

Noes:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ACTION ITEM**

DATE: August 14, 2008
TO: City Manager
FROM: Community Development Director
SUBJECT: **REAFFIRM THE PURPOSE OF THE SKY VALLEY OPEN SPACE COMMITTEE**

RECOMMENDATION:

Adopt a resolution reaffirming the purpose of the Sky Valley Open Space Committee.

EXECUTIVE SUMMARY:

Established in 2004, the Sky Valley Open Space Committee is charged with protecting agricultural uses and the watershed north of Lake Herman Road. Since that time, the Committee has completed a work program/scope of services for a possible watershed and recreation management plan, and is now focusing on creating partnerships to acquire land and/or obtain conservation easements in the area. Committee Chair Scott Shepard will make a brief presentation on the history of the committee, its mission and purpose, what has been done to date, and current efforts.

BUDGET INFORMATION:

No budget impacts are anticipated.

ENVIRONMENTAL REVIEW:

No environmental review is associated with this action. The proposed action is related to environmental protection and conservation.

BACKGROUND:

The Sky Valley open space area consists of an approximately 5,500-acre patchwork of publicly and privately held land north Lake Herman Road, bounded by the city limit and the city's Sphere of Influence boundary. The area, a watershed for Lake Herman and Sulphur Springs Creek, is comprised of unique wetlands, native oak savannah and open grassland that makes up potential habitat for the Callippe silverspot butterfly and California red-legged frog, as well as a number of other special status plant and wildlife species, including but not limited to the burrowing owl,

golden eagle, Townsend's and Pallid bats. Additionally, the area provides an important buffer between the city of Benicia and its neighbors, which doubles as an aesthetic feature.

The Committee was formally established by the City Council on May 18, 2004, in response to the threat of residential development in the Sky Valley area, and the perceived inability of natural resources in the watershed to withstand such development. Specifically, the committee is charged with protecting agricultural uses and the watershed north of Lake Herman Road through pursuit of conservation easements and other arrangements.

SUMMARY:

During its policy and priority setting process in January 2008, the City Council requested a review of the purpose and accomplishments of the Sky Valley Open Space Committee.

Since 2004, the committee has primarily focused on developing a *Watershed and Recreation Management Plan*. In consultation with Frank Kennedy of Kennedy and Associates, the committee created a Work Program/Scope of Services that provides a set of policies and goals for the watershed management plan, includes applicable General Plan Policies, identifies stakeholders, and provides a framework of next steps. The committee approved a final draft of the Work Program/Scope of Services in July 2008.

The committee has also assessed the feasibility of such a plan, given that the planning area is outside of the City's jurisdiction. Concerned about funding and County support, the committee decided to re-focus its efforts on creating partnerships to acquire land and obtain conservation easements in the area. A conversation has been initiated with the California Rangeland Trust, a possible conservation partner with a strong background in agricultural land preservation. The Sky Valley Committee seeks Council support to continue to focus its efforts on pursuing such partnerships.

Attachments:

- ❑ Resolution
- ❑ Original Resolution (5/18/04)
 - Resolution No. 04-68
 - Exhibit A
- ❑ Work Program/Scope of Services: Watershed and Recreation Management Plan

RESOLUTION

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
REAFFIRMING THE PURPOSE OF THE SKY VALLEY OPEN SPACE COMMITTEE**

WHEREAS, the City Council of the City of Benicia recognizes that the Sky Valley Open Space planning area is comprised of unique wetlands, native oak savannah and open grassland habitat that represents the natural, geographic and cultural heritage of our community and provides a scenic Mediterranean landscape that buffers the City from its neighbors; and

WHEREAS, the City of Benicia General Plan contains goals and policies to further open space, agricultural and rangeland preservation in areas adjacent to the existing City; and

WHEREAS, the 5,500-acre Sky Valley Open Space area is bounded by the city limit to the south and by the City's Sphere of Influence boundary to the north, east and west; and

WHEREAS, on May 18, 2004, in response to the threat of residential development in the Sky Valley area and the perceived inability of natural resources in the watershed to withstand such development, the Benicia City Council established the Sky Valley Open Space Committee for the purpose of protection and enhancement of agricultural uses and the watershed north of Lake Herman Road and to pursue conservation easements and land acquisition through partnerships; and

WHEREAS, the Benicia City Council is committed to protection and enhancement of agricultural land, watersheds and open space, particularly in the area north of Lake Herman Road.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Benicia hereby reaffirms the purpose and importance of the Sky Valley Open Space Committee and specifically directs the Committee to pursue conservation easements and land acquisition through partnerships.

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 2nd day of September, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

ORIGINAL RESOLUTION

RESOLUTION NO. 04-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
ESTABLISHING THE SKY VALLEY OPEN SPACE COMMITTEE

WHEREAS, the Benicia City Council is committed to protection and enhancement of open space, particularly the area north of Lake Herman Road; and

WHEREAS, the City of Benicia General Plan contains goals and policies to further open space preservation in areas adjacent to the existing City; and

WHEREAS, the Sky Valley Open Space Committee, which formerly existed under the title Northern Area Open Space Committee, seeks to protect agricultural uses and the watershed north of Lake Herman Road.

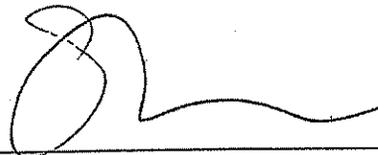
NOW, THEREFORE, the City Council of the City of Benicia hereby establishes the Sky Valley Open Space Committee as outlined in Exhibit A and authorizes City staff to proceed with advertisement for the five Committee member positions currently available.

On motion by Council Member Smith, seconded by Vice Mayor Patterson, 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 18th day of May, 2004, and adopted by the following vote:

Ayes: Council Members Campbell, Patterson, Smith, Whitney and Mayor Messina

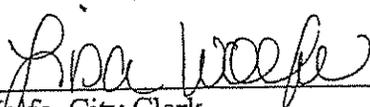
Noes: None

Absent: None



Steve Messina, Mayor

Attest:



Lisa Wolfe, City Clerk

EXHIBIT A

Sky Valley Open Space Committee Purpose Statement, Objectives, Membership Requirements, Staff Resources, Meeting Schedule

1. Purpose Statement

The Sky Valley Committee exists to protect agricultural uses and the watershed north of Lake Herman Road, and to pursue conservation easements and other arrangements that would help protect that watershed.

2. Objectives

- a. To liaison with Tri-City and County Open Space Cooperative Planning Group and Friends of Solano County Regional Park District to share information, learn about the successes and failures encountered by the Tri-City/County group and ensure the Committee does not duplicate efforts of the other open space/park district groups.
- b. To develop a dialogue with property owners about the economic and other benefits associated with conservation easements.
- c. To develop a conceptual management plan of the City-owned parcels north of Lake Herman Road.
- d. To partner with an outside source to initiate conservation easements with interested property owners in the Sky Valley area.
- e. To protect the Sky Valley area from encroachment from other cities and from inappropriate development under the County.
- f. To ensure that the City's LAFCo Sphere of Influence, which encompasses the Sky Valley Area, remains intact.
- g. To pursue incorporation of the Sky Valley Area into the Tri-City and County Open Space Area.

3. Membership Requirements

- a. Committee shall consist of seven (7) members.
- b.
- c. Two (2) members shall be Council Members.
- d. Five (5) members shall be citizens-at-large.

- e. City residency is not necessary for committee membership.
- f. The five (5) citizens-at-large members should have expertise, if possible, in at least one of the following areas:
 - 1) agricultural operations
 - 2) watershed management
 - 3) natural vegetation/habitat management
 - 4) real estate law
 - 5) planning principles and practices
- g. Their terms shall be four (4) years. To establish staggering in the expiry of terms, the terms for the initial citizens-at-large appointments shall be as follows: three shall be for four (4) years and two shall be for two (2) year terms.

4. Staff Resources

Existing staff resources will be used at this time. An estimated 10 hours per month of staff time is budgeted for this committee. This new committee will affect, to some extent, completion of the Department's strategic projects. If additional staff time is required above the estimated 10 hours, it may further increase time needed to complete other department work items. No use of outside consultants is anticipated at this time.

Staff will be responsible for setting the meeting date/time/place; preparing and distributing the agenda; noticing the meeting as required by law; taking, preparing and distributing the minutes; and providing materials requested by the Committee. Committee members could also assume responsibility for taking and preparing the minutes.

5. Meeting Schedule

The full Committee should determine the meeting schedule.

6. Further City Council Authority Required

The Committee shall obtain further City Council approval to increase demands on City staff time to more than an average of 10 hours per month or to meet more frequently than once a month.

**WORK PROGRAM/SCOPE OF SERVICES:
WATERSHED AND RECREATION
MANAGEMENT PLAN**

Scope of Services – Developing a Watershed Management Plan

I Goals

Develop a set of policies and goals for the watershed management plan and include applicable General Plan Policies. Through consensus, work toward an environmentally and economically healthy watershed that benefits all that have a stake in it. Work with the City of Benicia Sky Valley Open Space committee to identify and engage stakeholders. Assist in the establishment of a set of bylaws to ensure a consensus based method of operation and reporting back to the representative's constituency.

II Phases

Develop a plan for a phased approach to the Watershed Management Plan with the partners. Pull together as much information as possible about the watershed.

This process may be broken into three or more phases:

- The first phase, Commenting on this Scope of Work for alignment with latest approaches and funding, Defining Problems, Identifying Challenges to Dealing with the Problems, and Identifying Objectives: uncovering concerns, gathering and analyzing information and data, defining challenges/opportunities, developing objectives, and documenting data and decisions.
- The second stage, Developing an Overall Plan: developing a plan for addressing the objectives, selecting the best watershed management alternative(s) for each objective, listing ways (strategies) for implementing the selected alternative(s), and determining how to measure progress.
- The third stage, Implementing the Plan and Evaluating Efforts through Performance Measures.

II.A Commenting on Scope of Work

Review the scope of work provided herein and provide comments to align it with the latest approaches and funding sources.

II.B Defining Challenges and Objectives, Opportunities and Constraints

II.B.1 Uncovering Concerns

Guide and facilitate identifying concerns/problems, seeking relevant data, analyzing the data and establishing objectives.

- Monitor and prepare notes of discussions to see that all concerns are explored and to see if there is, in fact, a real problem.
- Confirm that everyone with a stake in the watershed is involved from the beginning when developing the list of concerns to be explored.
- Advise the group in considering how the group might envision future generations using the natural resources within the watershed.
- Assist in considering the major economic forces.
- Surface all concerns, regardless how minor.

II.B.1.1 Water Use Designations

Identify appropriate water uses and designations that may influence (directly affect) the plan such as:

- Aquatic life
- Fish for consumption
- Drinking water supply
- Swimming and other high contact recreation
- Boating and other minimal contact recreation
- Agricultural (irrigation/livestock)
- Industrial
- Mining

II.B.2 Seeking and Analyzing Data.

Once stakeholders have listed all concerns facilitate combining similar subjects. Seek information and data about the concerns for group evaluation. Seek and use any existing monitoring data, including data from local, state and federal resources. This is to serve as a baseline for comparison later. Provide recommendations on other potential materials for a baseline.

II.B.2.1 Data Assembly

Guide and supplement the assembly of necessary map(s) and information including but not limited to:

- Parcels
- Boundaries
- Terrain
- Water bodies
- Soil types
- Roads
- Land uses
- Recreational uses
- Fish and game surveys
- Development trends
- Employment trends
- Education trends
- Climate Change
- Avian (Pacific flyway data)

Assist in the assembly of a technical advisory team and provide team members as needed if interested volunteers are not available. Develop a plan for regular meetings at a neutral location.

II.B.2.2 Technical Team

Many watershed partnerships have a team of advisors (technical team) who assists the group with technical questions. Identify and recommend appropriate assistance from a team of experts including representatives of:

- Water departments
- Conservation districts
- Planning department

- Public Works department
- Fish and game departments
- Universities

Forestry agency
Science teachers
Conservation groups
Chambers of commerce
Bank officials
Economics teachers
Natural resource agencies (government and non-government)
Industrial leaders
Realtors
Meteorological experts
State and federal resources
others

II.B.3 Prioritize Challenges/Opportunities.

After listing concerns and exploring them by gathering and analyzing data, facilitate the surfacing of challenges and opportunities and document the challenges and opportunities that surface. If necessary, make recommendations on processes and facilitate those processes in striving for consensus on prioritizing which problems / opportunities to pursue. Prioritize problems by establishing criteria. The common goal and common theme of the prioritizing process is to arrive at a durable and sustainable watershed management plan. Criteria might include:

- **No regrets approach.** Look for first opportunities that bring best early results (low hanging fruit)
- **Ability to influence change.** Is anything the group can do to influence the changes needed to overcome the challenges, or is the ability to influence beyond the reach of the group.
- **Delay between actions and results.** What is the amount of time between when changes occur and when results can be seen? For example, it may take decades to see results from changes on the land that ultimately affect a deep aquifer, but changes near a stream bank may quickly affect the quality of the stream's water.
- **Willingness to change.** Are the reasons strong enough to motivate and if those who will need to change would be willing to do so.
- **Cost/benefit ratio.** Are the costs, based on life cycle, sustainability or other defined standard, going to outweigh the benefits or are the benefits going to outweigh the costs?
- **Determine critical areas.** Critical areas within a watershed have the greatest impact. Determining critical areas can be done by looking at the landscape. Water quality in critical areas may be affected by "point source" and/or "non-point source" discharges. The goal in determining critical areas is to match resource needs with targeted efforts to get the greatest benefits.
- **Historic and social/cultural considerations.** Are their physical facts, historical and cultural information, such as important history of the founders, landowners and residents of the watershed area?

II.B.4 Documenting challenges, opportunities and constraints.

Correctly identify and document challenges (an obstacle to change) and opportunities (condition that can be created to make a positive effect). Develop challenge and opportunity statements. Document both the resource being affected and the existing condition (quantity or quality).

II.B.4.1 Other Documentation.

In addition to problem/opportunity statements, all data and other information gathered during this initial phase needs to be recorded. Maps will also need to be included.

II.B.5 Establishing Objectives.

After challenges (problems)/opportunities have been defined, prioritized and documented, establish objectives to clarify the goals. When establishing objectives aid in the establishment of criteria such as:

- Consider all views and arrive at a consensus.
- Consider legal and institutional constraints.
- Describe the objective in measurable terms

All views of those with a stake in the watershed must be considered and consensus reached on how the group envisions the health of the watershed to be in the future. Existing legal constraints need to be considered. Describe the objective in measurable terms. Advise of the need to change the objective later as more information. Keep objectives acceptable and achievable. Work with the Partners to see if they can live with the objective and if they think it is achievable. Develop and analyze alternatives, then come to consensus on a game plan that everyone in the partnership can live with.

II.C. Developing an Overall Plan

Identify the parts of the game plan and develop a process to select among alternatives. Parts may include:

- **Selecting management alternatives.** These are some watershed management alternatives your partners will explore with the goal of selecting one or more to implement.
- **Developing the Action Plan.** These are the ways the partnership will promote the use of the management alternative(s) selected.
- **Determining how to measure progress (performance measures).** This will enable the group to measure progress toward the objective(s).

II.C.1. Addressing the Objectives.

The main purpose for establishing objectives is to clarify the goals of the group. Develop a process to address the objectives. The process should consider:

- All views of those with a stake in the watershed.
- Using consensus on how the group envisions the health of the watershed to be in the future.
- Existing legal constraints and institutional barriers.
- Objective may change later as more information
- Keep objectives acceptable and achievable.
- Can the partners live with the objective and if they think it is achievable.

II.C.2 Process for Selecting Management Alternatives for Each Objective.

1. Develop a "long list" of management alternatives.
2. Determine the effectiveness of each of the alternatives.
3. Consider economic, social, and environmental factors.

Develop a group exercise for selecting management alternatives such as:

1. List an alternative on a sheet of paper and tape to the wall. Do this for each of the alternatives.

2. Below each alternative, list advantages/disadvantages. The partnership may want to consider the following factors: economic, environmental, social.
3. Using consensus, rate each alternative giving consideration to the likelihood of its success. (You may wish to list some implementation strategies for several of the top alternatives before you do this.)

II.C.3 Developing an Action Plan.

Develop a methodology to make the selected alternatives a reality. Prepare an Action Plan of the alternatives the group decides to do, who is responsible and when it's to be done.

The methodology should consider:

- List all objectives. Under each objective, list the selected management alternatives.
- Actions, responsibilities and time periods. Select the top three to five choices for each of the selected alternatives. An individual or small group needs to become responsible for the action.
- Set a timetable for the action

Potential types of actions may include:

Information/education. Few people will make changes without understanding what changes need to occur,

Technical assistance. Many people need more than just information about the change, but also require some type of assistance.

Funding. In some cases change will cause an economic hardship

Regulatory. Occasionally local ordinances, zoning or other types of regulation are necessary.

II.C.4 Funding Your Actions.

Some of the actions selected will require little, if any, money to do. Often actions require donated time or materials from local individuals, organizations, businesses or industry. Some actions—like cost-share incentives or compensation—do require funding. Explore funding options and provide a list of funding opportunities such as assessment, grants and bonding that is current and can be acted upon. Make recommendations on whether obtaining financial assistance should be an action item. Responsible individuals or groups are assigned and a time frame agreed upon.

Due to the time and paperwork associated with federal and state funding, prioritize the potential funding sources. Local utilities, non-profit organizations, and others may be willing to fund watershed management actions.

II.C.5 Prioritize actions.

Assist the group will to prioritize the actions. When establishing prioritizing criteria, be sure to consider the following:

- Funds available
- Return on funds to be invested
- Time and other non-financial resources
- Ability to get the action done
- Early successes motivate more action
- Some actions rely on other actions for success

Make recommendation on the appropriate inclusion of an advisory team in this process.

II.C.6 Measure & report progress.

In addition to establishing a baseline prior to implementation, assist in establishing performance

measures that show demonstrable change to evaluate the effectiveness of the plan and the progress toward the objective. Assist in the development of metrics to measure progress

II.D Implementation

II.D.1 Implementation Plan

Assist the implementation of the prioritized management alternatives (actions) to achieve objectives and establishing a recommended schedule for the completion of various action item milestones.

II.D.2 Review the plan.

As seasons go by, the watershed partnership will need to review the plan. Assist in establishing a set of question to aid in the annual evaluation of the plan.

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ACTION ITEM**

DATE : August 28, 2008

TO : City Manager

FROM : Police Chief

SUBJECT : **INTRODUCTION OF AN ORDINANCE AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) TO CHANGE THE TITLE OF CHAPTER 9.28 FROM (NIGHT CURFEW) TO (YOUTH PROTECTION) AND ADD ARTICLE 2 (DAYTIME CURFEW) TO CHAPTER 9.28 (YOUTH PROTECTION) OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

1. Introduce the ordinance adding a daytime youth curfew.
2. Encompass the new daytime and the existing nighttime curfew ordinances under the umbrella of a chapter title of "Youth Protection."

EXECUTIVE SUMMARY:

The Benicia Police Department, in full cooperation with the Benicia Unified School District, recommends the adoption of a daytime curfew ordinance. The involvement of juveniles in criminal and non-criminal activity or calls for service during school time impacts the ability of School Resource Officers to attend to the needs of their assigned campus and the ability of patrol officers to focus on community needs. Additionally, truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. The proposed ordinance would prohibit unauthorized school age children from being present in public on school days during daytime curfew hours.

FISCAL IMPACT:

Minimal staffing costs associated with enforcement and processing curfew violations can be absorbed by the Police Department. In addition, it is anticipated that this ordinance would have a positive financial impact on the Benicia Unified School District's budget as increasing attendance also increasing ADA (Average Daily Attendance) funding.

DISCUSSION:

Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal and non-criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business, as well as public property, become targets of the delinquent

behaviors of truants when they should be in school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the City. Regular school attendance promotes employability upon graduation and reduces delinquency, as well as the potential for future dependence upon public assistance. The community as a whole suffers when a minor student is not attending school. Truancy often leads to vandalism, petty theft, daytime burglaries, and other criminal and non-criminal activity.

The Police Department finds that responding to crimes caused by juveniles imposes a burden on the resources of the Police Department. Juveniles that are taken into custody or detained for crimes they commit must be supervised in an unsecured area of the police department until they are released to a guardian or taken to Juvenile Hall for incarceration. Police officers who are assigned to supervise juveniles who have been detained or arrested are then unavailable to carry out other police duties in the field. This decreases the level of police presence in the community and school campuses, thereby decreasing overall public safety.

According to BPD Patrol Lieutenant Oettinger, juveniles are regularly found loitering at various locations such as shopping centers, restaurants, and parks during school hours. Officers have responded to complaints of juveniles drinking alcohol and using drugs in our parks when they were supposed to be in school. Additionally, School Resource Officers regularly deal with juveniles from other cities that come to Benicia High School during school hours. These juveniles often create problems on the high school campus and contribute to our truancy problem by encouraging such behavior.

In July, 1996, the U.S. Department of Education in cooperation with the U.S. Department of Justice issued a "Manual to Combat Truancy." The manual speaks of truancy as "the first sign of trouble," and "a gateway to crime." It encourages communities to involve parents, ensure that students face firm sanctions for truancy, create meaningful incentives for parental responsibility, establish ongoing truancy prevention programs in school, and involve local law enforcement in truancy reduction efforts. The manual then goes on to describe what it calls "successful models of new anti-truancy initiatives" in communities across the nation. Statistics are provided that hold up truancy prevention efforts beside crime reduction figures.

Traditionally under the jurisdiction of local governments, curfews are commonplace in cities and towns across America, according to the U.S. Conference of Mayors. In a December 1995 survey of 1,000 cities with populations of more than 30,000, the conference found that 70 percent, or 270 of the 387 cities responding, have a curfew ordinance in place. An additional 6 percent, or 23 cities, were considering adopting curfew legislation, according to the survey. Cities that have enacted new curfew ordinances or have amended existing curfew legislation since 1994 include Arlington, VA; Austin, TX; Baltimore, MD; Buffalo, NY; Phoenix, AZ; Oklahoma City, OK; and San Jose, CA.

Locally, the following cities have adopted daytime curfew ordinances; Antioch, Fremont, Newark, Hayward, Pittsburg, and Fairfield. Additionally, Hercules recently had a second reading of their proposed ordinance which will be adopted soon.

The proposed ordinance is modeled after the ordinance adopted by the City of Monrovia, CA. Monrovia's ordinance was chosen as a model because it has been in place for twelve years and has served as a model for local legislation in some 70 California cities. Moreover, the Monrovia ordinance has successfully withstood legal challenge and according to a 1997 article in the Los Angeles Times titled "Small-Town Success", Monrovia's ordinance adoption was followed by a 32 percent decline in residential burglaries.

According to the California Department of Education, the truancy rate of a school is determined by the number of students in a school who are classified as truants pursuant to *Education Code* Section 48260 during the school year compared to the enrollment of the school as reported to the California Basic Educational Data System (CBEDS) in October of that school year. For example, if the school has an enrollment of 600 students, it will have a 50 percent truancy rate if it has 300 students classified as truants during the year.

A habitual truant is defined as (*Education Code* Section 48262) any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261.

The following graph shows the 2007-2008 truancy rates for the Benicia High School, Benicia Middle School, and Liberty High School:

Benicia High School	58% Truancy Rate	25% Habitual Truant
Benicia Middle School	10% Truancy Rate	1% Habitual Truant
Liberty High School	100% Truancy Rate	100% Habitual Truant

To address the problem of juvenile truancy and to promote the safety and well-being of the city's youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities and to be victimized by older perpetrators of crime, staff (in cooperation with the Benicia Unified School District) proposes that the City Council adopt the Daytime Curfew Ordinance.

SUMMARY OF RECOMMENDED ORDINANCE:

It shall be unlawful for any minor of school age on school days subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home during the minor's regular scheduled school time. This prohibition will not apply when:

- (1) the minor is accompanied by his or her parent, guardian, or other adult person having care or custody of the minor;
- (2) the minor is on an emergency errand directed by his or her parent or guardian, or other adult person having care or custody of the minor;
- (3) the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment;
- (4) the minor is on a scheduled lunch break or verified school-related activity;

- (5) the minor is going or coming directly to or from a school approved or school related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as work study or work experience program, subject to verification by a proper school authority;
- (6) the minor is exempt by law from compulsory education or compulsory continued education;
- (7) the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law; or
- (8) the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor.

Staff proposes that the City adopt the following fines for violation of the daytime curfew (during the minors regular scheduled school time) of the Youth Protection Ordinance:

- \$50.00 for the first offense
- \$100.00 for a second offense within one year of the first offense
- \$200.00 for the third and consecutive offense(s) within one year of the second offense

Citations issued as infractions will follow the same court process as juvenile traffic citations when contested by the juvenile recipient. Parents would receive notification and the juvenile would be promptly returned to their respective school.

IMPLEMENTATION PLAN:

Staff will work with the school district on the operational implementation plan, including providing student and parent education on the new ordinance. After the public education period has been completed, ordinance enforcement can begin, which is projected for January 2009.

Attachment:

- Proposed Ordinance

PROPOSED ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 08-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) TO CHANGE THE TITLE OF CHAPTER 9.28 FROM (NIGHT CURFEW) TO (YOUTH PROTECTION) AND ADD ARTICLE 2 (DAYTIME CURFEW) TO CHAPTER 9.28 (YOUTH PROTECTION) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Title 9 (Public Peace, Morals and Welfare) of the Benicia Municipal Code is amended by changing the title of Chapter 9.28 to (Youth Protection), and by dividing the Chapter into Article 1 (Nighttime Curfew) and adding a new Article 2 (Daytime Curfew) to read as follows:

Chapter 9.26

YOUTH PROTECTION

Article 1. Nighttime Curfew

Sections:

9.28.010	Purpose and Intent.
9.28.020	Definitions.
9.28.030	Offenses.
9.28.040	Defenses.
9.28.050	Enforcement.
9.28.060	Penalties.

Article 2. Daytime Curfew

Sections:

9.28.070	Purpose and Intent.
9.28.080	Definitions.
9.28.090	Offenses.
9.28.100	Lawful defenses for absence from school.
9.28.110	Enforcement.
9.28.120	Penalties.

9.28.070 Purpose and intent. State law requires all persons between the ages of six and eighteen to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the city. Regular school attendance promotes employability upon graduation and reduces delinquency as well as the potential for future dependence upon public assistance.

The community as a whole suffers when a minor student is not attending school. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business as well as public property become targets of the delinquent behaviors of truants when they should be in school. This is not intended to abridge or interfere with the lawful rights of parents or legal guardians or to contravene or supersede the laws of the state of California dealing with such matters.

9.28.080 Definitions. For the purpose of this chapter, the following terms shall be defined as follows:

A. "Curfew hours" shall mean the period of the minor's regular scheduled school time on school days.

B. "Emergency" shall mean any unforeseen combination of circumstances or a situation that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident, explosion, or any condition requiring immediate action to prevent serious bodily injury or loss of life.

C. "Establishment" shall mean any privately owned place of business operated for profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

D. "Guardian" shall mean (1) a person who, under court order, is the guardian of a minor; or (2) a public or private agency with whom a minor has been placed by a court.

E. "Loiter" shall mean to delay an activity, errand, or journey with aimless idle stops and purposeless distractions, to remain in a place in an idle manner, to hang around aimlessly or without real necessity.

F. "Minor" shall mean any person under 18 years of age.

G. "Operator" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any establishment.

H. "Parent" shall mean a person who is a natural parent, adoptive parent or step-parent of a minor.

I. "Public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

J. "Remain" shall mean (1) to stay behind while others withdraw, to tarry, to stay, or (2) to fail to leave the premises when requested to do so by a peace officer, the owner, operator or other person in control of the premises.

K. "Responsible adult" shall mean a person at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

L. "Serious bodily injury" shall mean bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

9.28.090 Offenses. It is unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home between the hours of eight a.m. and two p.m. when absent from school within the city without lawful defense as defined herein in Section 9.28.040.

9.28.100 Lawful defenses for absence from school.

A. When the minor is accompanied by his or her parent, guardian, or other adult person having care or custody of the minor.

B. When the minor is on an emergency errand directed by his or her parent or guardian, or other adult person having care or custody of the minor.

C. When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment.

D. When the minor has permission to leave for lunch or school-related activity.

E. When the minor is going or coming directly to or from a school approved or school related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority.

F. When the minor is exempt by law from compulsory education or compulsory continued education.

G. When the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law.

H. When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor.

9.28.110 Enforcement--Penalties. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place or on the premises of an establishment during curfew hours. The officer shall not issue a citation or detain a minor under this chapter unless the officer reasonably believes that an offense has occurred and based upon the minor's response(s) and other circumstances, no defense under BMC 9.28.040 appears present or applicable.

9.28.120 Penalties. Any person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed or continued. Any person who violates the offenses described in this chapter shall be guilty of an infraction.

The fine for this violation shall be fifty dollars for the first offense, one hundred dollars for the second offense within one calendar year of the first offense, and two hundred dollars for the third and consecutive offense(s) within one year from the second offense.

Section 2.

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

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

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the _____, 2008, and adopted at a regular meeting of the Council held on _____, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

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(;

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ACTION ITEM**

DATE : September 9, 2008

TO : City Manager

FROM : Economic Development Manager

SUBJECT : **ADOPTION OF A RESOLUTION ACCEPTING THE EMISSIONS INVENTORY REPORT AND APPROVING GREENHOUSE GAS REDUCTION TARGETS**

RECOMMENDATION:

Adopt a resolution accepting the Greenhouse Gas Emissions Inventory Report and approving its greenhouse gas reduction targets, to be re-evaluated after the Climate Action Plan's completion in Spring 2009.

EXECUTIVE SUMMARY:

Benicia's communitywide greenhouse gas emissions in 2000 were about four million metric tonnes, of which just .2% was attributable to the City's municipal operations. While the community emissions grew to 4.2 million tonnes in 2005, the City's declined almost 20%, to 7400 tonnes. Under a business as usual scenario, the community's emissions in 2010 will increase by 9% from 2005 (to 4.6 million tonnes), and in 2020, the forecasted increase is 21% (to 5.1 million tonnes). To prevent this growth, the recommended reduction targets are:

- 25% below 2000 level in 2010 for City Operations;
- Maintain 2005 level in 2010 for the Community;
- 33% below 2000 level in 2020 for City Operations;
- 10% below 2000 levels by 2020 for the Community.

BUDGET INFORMATION:

There is no budget impact at this stage.

DISCUSSION:

The State of California has placed itself in the forefront of the issue of greenhouse gas (GHG) reduction and climate change prevention, and as a result, awareness has been raised. State Assembly Bill 32 (AB 32) is the omnibus legislation from 2006 establishing formal reduction targets for the state, setting the stage for changing the way California does "business as usual".

“Reducing our carbon footprint” is one of the City’s 2007-09 Strategic Plan goals. In 2007, Benicia adopted a resolution to act on climate protection and officially joined ICLEI’s Cities for Climate Protection Campaign. The City received a Climate Change Protection Grant award for 2008-09 from the Bay Area Air Quality Management District (BAAQMD) to fund an emissions inventory, among other activities. Benicia’s emissions inventory was conducted by City staff using Clean Air Climate Protection (CACP) software provided by ICLEI.

The attached full report details the inventory, forecasts, and reduction targets. ICLEI’s “Five Milestones” process (attached), which Benicia is following, states that communities should (in this order): do the emissions inventory, set the reduction targets, develop a Climate Action Plan, implement the plan’s measures, and finally, monitor results. This approval completes the first and second Milestones and sets the stage for the third to begin.

City Inventory

The inventory examined the City’s GHG impact in the areas of vehicle fleet, waste, buildings, streetlights, employee commute, water/wastewater systems, and other. The “Other” category covers permitted emissions through BAAQMD for certain operations at the Corporation Yard, etc. In 2000, the City’s total emissions were 9209 carbon dioxide equivalent metric tonnes (CO₂EMT), dropping almost 20% to 7423 CO₂EMT in 2005, likely due to energy-efficient equipment upgrades.

Community Inventory

The community emissions inventory surveyed the sectors of Transportation, Waste, Residential, and Commercial/Industrial/Other activities. (The City data is contained within some of these different sectors within Community Activities, and is not a mutually exclusive data set.) The community inventory showed a total of 4,022,702 CO₂EMT in 2000, rising to 4,247,875 in 2005 (a 5.6% increase). Most of the emissions were in the Commercial/Industrial/Other (business) sector, at 95% of total emissions in 2005.

Reduction Targets

In setting the recommended reduction targets, the City is primarily guided by existing agreements (Kyoto Protocol/U.S. Mayors Climate Protection Agreement¹) and the state target (AB 32). These two guidelines applied to the unique makeup of Benicia’s emissions profile lead to a community target in line with AB 32, and a City target exceeding both Kyoto and AB 32. Kyoto recommends deeper reductions than AB 32. Kyoto calls for a 7% reduction in 1990 levels by 2012, and AB 32 calls for a reduction to 1990 levels by 2020. The guidelines are applied, translating the targets into tonnes of emissions, in the following chart.

¹ Mayor Patterson signed the U.S. Mayors Climate Protection Agreement, which recommends cities meet or beat the Kyoto Protocol, in April 2008.

Benicia Emissions Reduction Scenarios Compared to Kyoto Protocol and AB 32

	Business As Usual (tonnes)	Under Kyoto ² (tonnes)	Under AB 32 (tonnes)	Recommendation (tonnes)	Reason
City 2010	8300	7700 (by 2012)	9200	6900	Can be deeper because 2005 level dropped from 2000, already beating both Kyoto and AB 32
City 2020	9400	7700 (by 2012)	8300	6100	Can be deeper because 2005 level dropped from 2000, already beating both Kyoto and AB 32
Community 2010	4,600,000	3,348,000 (by 2012)	4,000,000	4,200,000	Can't be deeper so soon without more state regulation of key industries
Community 2020	5,100,000	3,348,000 (by 2012)	3,600,000	3,600,000	State regulation will have ramped up sufficiently for key industries to meet AB 32

Since the City's emissions dropped 20% between 2000 and 2005, its proposed reduction targets are able to go deeper than both Kyoto and AB 32, to 25% below 2000 levels by 2010, and 33% reduction by 2020. The recommended targets place the City in a leadership role for the community.

The community target is less deep, due to the lack of regulatory control at the local level over the majority of the community's emissions sources. The proposed community goal is to maintain the 2005 level in 2010, and drop 10% below 2000 levels by 2020. This is intended to approximate the State's AB 32 target for itself of achieving 1990 levels by 2020. This is achievable because the refinery, source of much of the community emissions, is going to be required by the State to meet AB 32 requirements. However, the AB 32 Scoping Plan, which will lay out how that will occur, has yet to be finalized, so meeting a deeper goal as early as 2010 is unlikely.

Attachments:

- Resolution
- ICLEI's Five Milestones for Climate Protection
- Greenhouse Gas Emissions Inventory Report, September 2008

² For the purposes of applying Kyoto and AB 32 standards, 1990 emissions levels are assumed to be 10% below 2000 levels, based on state-level analysis. See: State of California Air Resources Board, "California Climate Change Scoping Plan" (June 2008 draft), p. 8.

ATTACHMENTS

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
ACCEPTING THE EMISSIONS INVENTORY REPORT AND APPROVING
GREENHOUSE GAS REDUCTION TARGETS**

WHEREAS, in 2006, the State of California adopted Assembly Bill 32, the global warming omnibus bill, establishing climate change prevention as a priority and setting a statewide target of reducing emissions to 1990 levels by 2020; and

WHEREAS, in November 2007, the City Council authorized membership in ICLEI-Local Governments for Sustainability to indicate the City's commitment to climate change prevention; and

WHEREAS, the first two Milestones in ICLEI's Five Milestones process directs members to complete an emissions inventory and then adopt greenhouse gas reduction targets; and

WHEREAS, an emissions inventory report was completed in September 2008 covering both City Operations and the Community overall; and

WHEREAS, the inventory's findings suggest the following reduction targets, which meet or exceed those established by State Assembly Bill 32 for 2020:

- 25% below 2000 level in 2010 for City Operations;
- Maintain 2005 level in 2010 for the Community;
- 33% below 2000 level in 2020 for City Operations;
- 10% below 2000 level by 2020 for the Community; and

WHEREAS, these targets provide a preliminary framework for the upcoming Climate Action Plan process but can and should be re-evaluated following the completion of the plan to verify their appropriateness for Benicia;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Benicia accepts the emissions inventory report.

BE IT FURTHER RESOLVED, that the City Council of the City of Benicia approves the above-stated reduction targets as a sign of its commitment to climate change prevention.

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 16th day of September, 2008 and adopted by the following vote:

Ayes: Council Members

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

ICLEI's Five Milestones for Climate Protection

The Five Milestones provide a simple, standardized means of calculating greenhouse gas emissions, of establishing targets to lower emissions, of reducing greenhouse gas emissions and of monitoring, measuring and reporting performance.

The methodology underlying the Five Milestones provides a simple, standardized means of calculating greenhouse gas emissions, of establishing targets to lower emissions, of reducing greenhouse gas emissions and of monitoring, measuring and reporting performance. ICLEI has developed a software tool, Clean Air Climate Protection (CACP), that helps cities comply with the methodology.

ICLEI's Five Milestone Methodology for setting and meeting your climate mitigation goals:

1. Conduct a baseline emissions inventory and forecast

The city first calculates greenhouse gas emissions for a base year (e.g., 2000) and for a forecast year (e.g., 2015). The calculations capture emissions levels from all municipal operations (e.g., city owned and/or operated buildings, streetlights, transit systems, wastewater treatment facilities) and from all community-related activities (e.g., residential and commercial buildings, motor vehicles, waste streams, industry). This inventory and forecast provide a benchmark for planning and monitoring progress.

2. Adopt an emissions reduction target for the forecast year

The city passes a resolution establishing an emission reduction target for the city. The target is essential. It both fosters political will and creates a framework that guides the planning and implementation of measures.

3. Develop a Local Climate Action Plan

The local government then develops a Local Climate Action Plan, ideally with robust public input from all stakeholders. The plan details the policies and measures that the local government will take to reduce greenhouse gas emissions and achieve its emissions reduction target. Most plans include a timeline, a description of financing mechanisms, and an assignment of responsibility to departments and staff. In addition to direct greenhouse gas reduction measures, most plans also incorporate public awareness and education efforts.

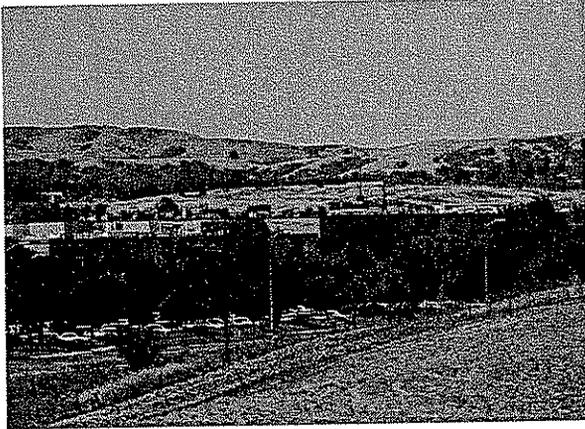
4. Implement policies and measures

The city implements the policies and measures contained in their Local Climate Action Plan. Typical policies and measures include energy efficiency improvements to municipal buildings and water treatment facilities, streetlight retrofits, public transit improvements, installation of renewable power applications, and methane recovery from waste management.

5. Monitor and verify results

Monitoring and verifying progress on the implementation of measures to reduce or avoid greenhouse gas emissions is an ongoing process. Monitoring begins once measures are implemented and continues for the life of the measures, providing important feedback that can be used to improve the measures over time. ICLEI's software provides a uniform methodology for cities to report on measures.

City of Benicia Greenhouse Gas Emissions Inventory Report



Mayor Elizabeth Patterson
Vice Mayor Tom Campbell
Council Member Mark Hughes
Council Member Mike Ioakimedes
Council Member Alan Schwartzman

City Manager Jim Erickson

September 2008



Funded by the Bay Area Air Quality Management District's Climate Protection Grant Program

City of Benicia Emissions Inventory Report

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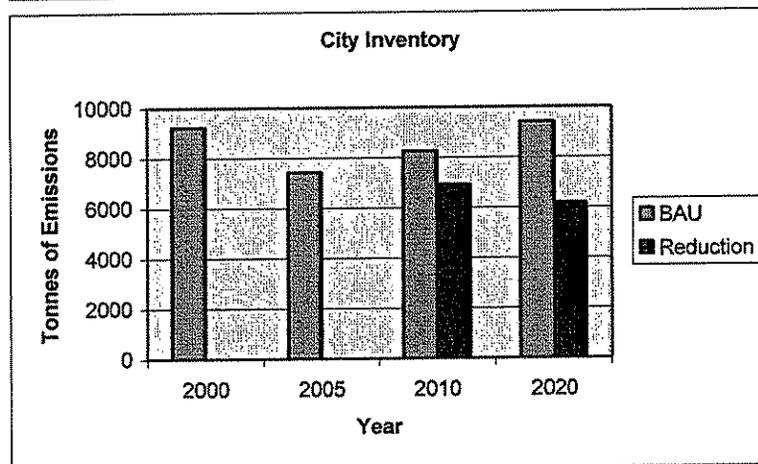
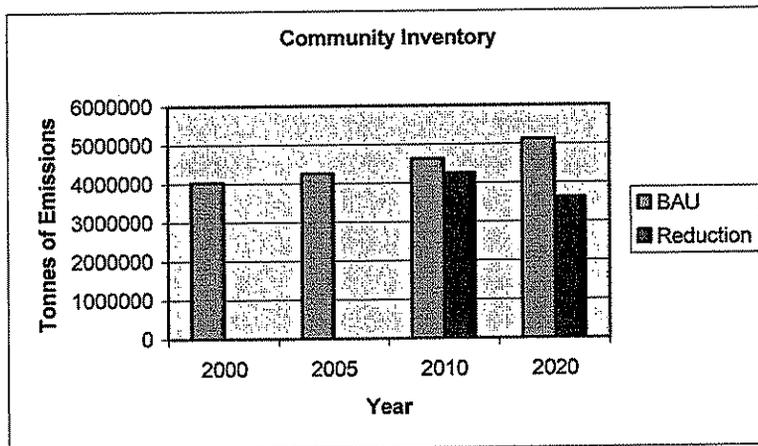
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Executive Summary

Benicia’s communitywide greenhouse gas emissions total in 2000, the baseline year, was about four million metric tonnes of carbon dioxide-equivalent emissions. Of that, only .23% was attributable to the City’s own municipal operations, which totaled about 9200 tonnes¹. In 2005, the City’s emissions dropped almost 20% to about 7400 tonnes, while the community emissions increased to about 4.2 million tonnes. These numbers reflect an extremely thorough approach to calculating emissions, including many that other cities our size have omitted in their inventories.

Under a forecasted business as usual scenario, the Community’s emissions in 2010 will increase by 9% from 2005 (to 4.6 million tonnes), and in 2020, the forecasted increase is 21% (to 5.1 million tonnes). For the City, business as usual (BAU) would create about 8300 tonnes of emissions in 2010 and 9400 tonnes in 2020. However, the City is proactively designating reduction targets that meet or exceed the State of California’s goals for itself:

- 25% below 2000 level in 2010 for City Operations;
- Maintain 2005 level in 2010 for the Community;
- 33% below 2000 level in 2020 for City Operations;
- 10% below 2000 level by 2020 for the Community.



¹ “Tonnes” are metric tons, the measurement of greenhouse gas emissions in the software program used by Benicia.

Introduction to Benicia, the Inventory, and This Report

From its creation as a ranching land grant, through iterations as a military compound, waterfront tanneries and canneries, a factory town, and a suburban hamlet – the community of Benicia has evolved since its founding over 150 years ago, and will certainly continue to change. Today’s seven million square foot industrial park, anchored by a petroleum refinery and a deep-water port, hosts a number of corporate headquarters, while the charming downtown offers boutiques, salons, and dining where rough-and-tumble saloons once stood. It’s also a town with a preponderance of middle-income and high-income households, very low crime by Bay Area standards, and a strong affinity for the “small town” lifestyle, with big parades, festivals, and neighborly greetings in the street.

Also part of the Benicia lifestyle, as everywhere else in the industrialized world – high per capita levels of greenhouse gas emissions. The State of California has placed itself in the forefront of the issue of greenhouse gas (GHG) reduction and climate change prevention, and as a result, awareness has been raised. California is the fifteenth largest emitter of greenhouse gases on the planet, representing about 2% of worldwide emissions.² State Assembly Bill 32 (AB 32) is the omnibus legislation from 2006 establishing formal reduction targets for the state, setting the stage for changing the way California does business as usual.

Locally, awareness is also on the rise. “Reducing our carbon footprint” is one of the City’s 2007-09 Strategic Plan goals. In 2007, Benicia adopted a resolution to act on climate protection and officially joined ICLEI’s Cities for Climate Protection Campaign. (ICLEI-Local Governments for Sustainability is an international climate change prevention non-profit organization.) The City was fortunate to receive a Climate Change Protection Grant award for 2008-09 from the Bay Area Air Quality Management District (BAAQMD) to fund: 1) an emissions inventory, 2) a subsequent Climate Action Plan, and 3) concurrent staff training in climate change prevention and greenhouse gas reduction.

Benicia’s emissions inventory was conducted by City staff using the Clean Air Climate Protection (CACP) software provided by ICLEI. There are actually two inventories, one for City Operations and one for the Community; both survey a range of activity sectors. The inventory data itself is in a database format accessible using the software.

AB 32, CACP, and this inventory report address the main greenhouse gas, carbon dioxide (CO₂), along with methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs), all expressed as CO₂-equivalent (CO₂E) metric tonnes (CO₂EMT) in the inventory and report. “A metric tonne is equivalent to 2,205 pounds and one pound of CO₂ can fill

The inventory calculations are based on estimates from a variety of sources (around 20 different data sources were researched although not all were ultimately used), thus it must be emphasized that the figures are approximations based on the best data available during spring and summer 2008, when the inventory was researched. In most cases, the figures are best estimates and should not be read as exact.

² State of California Air Resources Board, “California Climate Change Scoping Plan” (June 2008 draft), p. 6.

about 120 party balloons. This means that one CO₂EMT could fill over 264,500 party balloons.”³

This report covers Benicia’s emissions in a narrative format, providing the total emissions for baseline year 2000 (the earliest year for which enough reliable data was available) and interim year 2005. The purpose of inventorying two separate years is to identify trends over the five-year period.

Reduction Targets

The inventory then projects emissions under “business-as-usual” (BAU) scenarios for interim target year 2010 and target year 2020. Following ICLEI’s “Five Milestones” process⁴, the inventory’s estimates and forecasts lead to reduction goals for both the City and the Community, which the subsequent Climate Action Plan will break down into implementation measures. The recommended reduction targets are:

- 25% below 2000 level in 2010 for City Operations;
- Maintain 2005 level in 2010 for the Community;
- 33% below 2000 level in 2020 for City Operations;
- 10% below 2000 levels by 2020 for the Community (this approximates 1990 levels).

These targets are inspired by a constellation of earlier targets set by pacesetting agreements, including: a 7% reduction in 1990 levels by 2012 (Kyoto Protocol), 2000 levels by 2010 (AB 32), 1990 levels by 2020 (AB 32), and an 80% reduction in 1990 levels by 2050 (California Executive Order S-3-05). **Benicia’s reduction targets are intended to meet the AB 32 2020 goal for the Community and exceed it for City Operations.**

The recommended targets don’t go beyond 2020 because “10-15 years is about the longest timeframe over which defensible assumptions can be made about the impact on future emissions of things like technological change, future growth in population and housing, and future local, state, and federal legislation.”⁵ However, the targets may be re-evaluated following the completion of the Climate Action Plan in Spring 2009, to verify their feasibility.

Further discussion of the targets is contained in the City and Community sections.

³ City of Fort Bragg, California, “Greenhouse Gas Emissions Inventory” (August 2007), p. 7.

⁴ See <http://www.iclei-usa.org/action-center/getting-started/iclei2019s-five-milestones-for-climate-protection>.

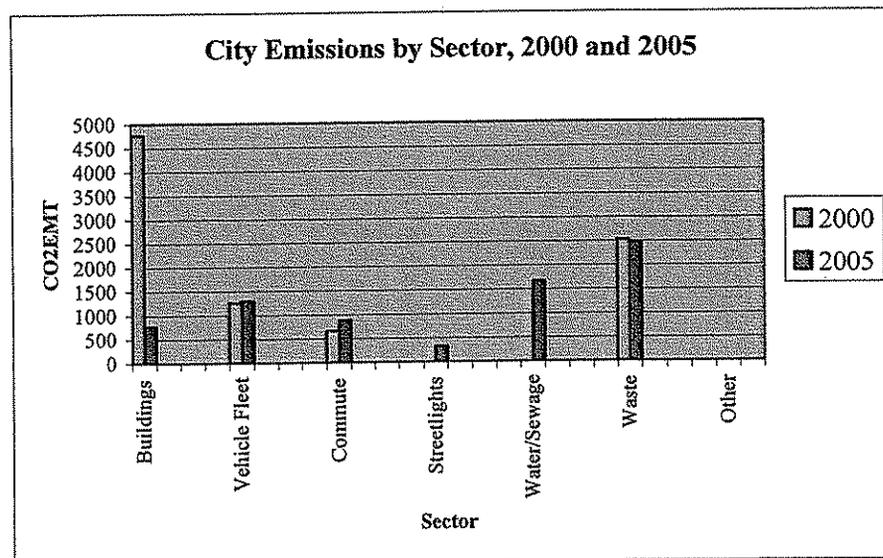
⁵ City of Berkeley, California, “Climate Action Plan” (January 2008 draft), p. 18.

City Government Operations Inventory and Analysis

Benicia is a full-service City with over 200 full-time employees. As home to a wastewater treatment plant and a water treatment plant, with the full range of City departments, many parks and facilities, plus an intercity bus system, the City's own emissions were thoroughly surveyed for this inventory. The inventory examined the City's GHG impact in the sectors of vehicle fleet, waste, buildings, streetlights, employee commute, water/wastewater systems, and other. The City's total emissions were 9229 CO₂EMT in 2000, dropping almost 20% to 7423 CO₂EMT in 2005.

Of the surveyed areas, the greatest GHG sectors were Buildings in 2000, responsible for 52% of the City's emissions, and Waste (solely wastewater treatment plant sludge) in 2005, at 33%.⁶

Because of difficulty in obtaining the data, the City inventory does not include many indirect emissions resulting from municipal activities (such as employee and contractor travel on City business outside of City limits, employee and contractor travel within City limits in private vehicles, and supply chains of purchased products, among other emission-generating activities).



Buildings

For 2000, this sector includes aggregated gas and electric usage from all the City-owned buildings and facilities, which included a few residential properties, and some miscellaneous parks facility-related items like irrigation and ballfield lights. One City department, Parks and Community Services Department provides building maintenance services for most civic buildings as well as maintains the parks and other recreational facilities.

Data available for 2005 was received in a different, non-aggregated format; as a result, certain facilities could be attributed to their appropriate sector in CACP, most notably, streetlights and the water and wastewater treatment plants. The two plants use the most energy of all the City facilities.

⁶ Throughout this report, all estimates of GHG emissions for 2000 and 2005 for the City and Community inventories, and forecasts for the City in 2010 and 2020, are derived from CACP outputs generated by City staff. Forecast estimates for the Community in 2010 and 2020 are derived from a separate set of formulas provided by ICLEI as applied by City staff. See Appendix B for more information on the software and calculations.

However, even accounting for that change in classifications between 2000 and 2005, this sector realized a more significant decrease in emissions, which staff attributes to older equipment like boilers, air conditioning units, and irrigation systems being replaced by newer, more energy-efficient equipment. With the classification changes and efficiency improvements, Buildings' share of the total City emissions dropped to 10% of the total City emissions in 2005, down from 52% in 2000.

Employee Commute

Employees' home cities were used to estimate commute mileage. A six-mile round trip commute was assumed for the many employees who live within Benicia. Commutes for both full-time employees, at an estimated five round trips per week, and part-time employees, at an estimated three round trips per week, were calculated for 47 weeks per year (accounting for holidays and leave). This number increased 33% between 2000 (658 tonnes) and 2005 (876 tonnes); the number of employees also increased. The commute was 7% of the City emissions total in 2000 and 12% in 2005.

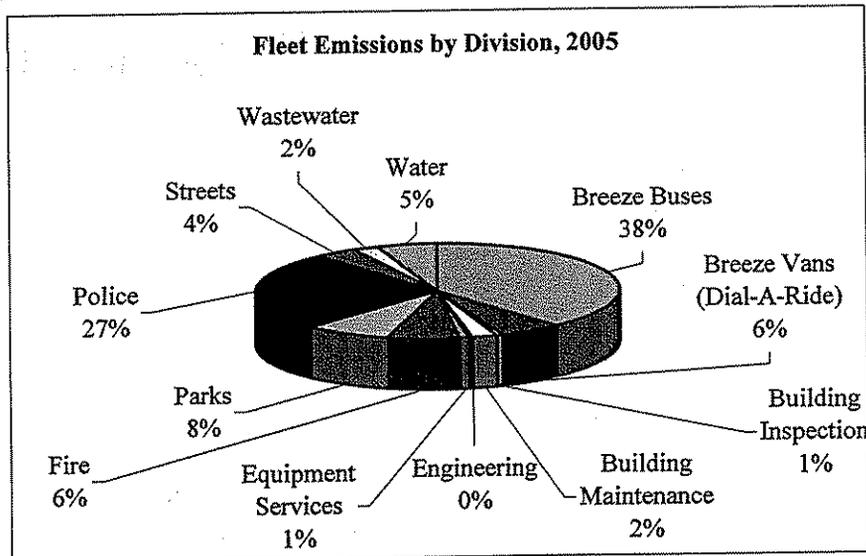
Streetlights

Streetlight electricity usage is aggregated under Buildings for 2000, but available as a stand-alone total for 2005. Streetlights were 4% of the government emissions total in 2005.

Vehicle Fleet

Emissions from this sector increased slightly from 1258 CO₂EMT in 2000 (14% of the Citywide total) to 1298 CO₂EMT (18% of the total) in 2005. Data was available by department, and included the City's bus system, Benicia Breeze, which has intercity routes.

The Breeze was the largest contributor in this sector, with the buses and vans comprising almost half the fleet's emissions in 2005. Police vehicles were the next highest emitters, followed by the other divisions at lower percentages.



Waste

For waste, only wastewater sludge (sludge, a.k.a. biosolids, is residual material left over after processing) is included in Benicia's inventory, because municipal solid waste data was not available as a stand-alone account. The sludge made Waste the largest contributor in the government inventory for 2005 at 33%, although the emissions in this sector decreased from 2525 CO₂EMT in 2000 to 2483 CO₂EMT in 2005.

Water/Sewage

The water and wastewater treatment plants, along with their lift stations and pumps (including the few located outside City limits), were aggregated under Buildings for 2000, but available as a stand-alone category for 2005. As a result, Water/Sewage was 23% of the government emissions total in 2005.

Other

This category reflects 1 tonne of GHG-generating activity (paint shop, generators, etc.) by various departments in the regular course of business under the terms of permits from BAAQMD in 2005. The same figure was also used for 2000, with the assumption that there were no major changes in the City operations that generated these emissions. This sector had a negligible GHG impact, just above 0% of the City emissions.

Benicia in Context

The City's impact overall in 2000 was 53 CO₂EMT per full-time employee. By 2005, this had fallen to 34 tonnes per employee. Of communities in our size range (30,000 or less population) in Northern California that have completed emissions inventories (a small pool, none of which are equivalent to Benicia in both population and service level), this falls on the high end of the spectrum.

The emissions total illustrates that as a truly full-service city, Benicia's emissions reflect the range of services provided to the community in a way that other small cities do not. For example, in 2005, Benicia's bus system alone generated more CO₂EMT than did Albany's entire vehicle fleet.

Given that the inventories were conducted in various years, estimates are used by necessity in many cases, and differences in interpretation of data are unavoidable, these are not perfect comparisons. Instead, they are presented for context and to show the wide scope of Benicia's inventory.

Municipal Emissions Comparison Among Selected California Cities Under 30,000 Population

City	Year	Pop.	Employees (full time)	Municipal Emissions (CO2EMT)	CO2EMT per Employee	Notes
Benicia	2000	26,895	173	9229	53	Incl. employee commute, two plants, City bus system; did not include gov't solid waste
	2005	26,459	217	7423	34	
Albany ⁷	2004	16,877	95	966	10	Only fleet, buildings, and waste; did not incl. employee commute, streetlights; no plants, no transit, etc.
Arcata ⁸	2000	17,558	118	2064	17	Did not incl. employee commute; no transit; incl. small sewage plant and offsets from managed forest
El Cerrito ⁹	2005	25,000	100	2300	23	Incl. employee commute (largest sector); no transit or plants
Fort Bragg ¹⁰	FY 02-3	6890	67	1059	16	Incl. employee commute; no transit, smaller plants
	FY 05-6	6877	67	1181	18	
Menlo Park ¹¹	2005	30,000	240	2183	9	Did not incl. employee commute or Fire Dept. (contract); no plants or transit

Benicia's bus system, water treatment plant, and wastewater treatment plant are unusual features for a small city. If those three elements were removed from the 2005 total, the City of Benicia would have generated only 2699 CO2EMT, or 12 tonnes per employee, ranking it at the low end in the basket of comparison cities.

Again, due to the various methods by which inventories are prepared, these should not be interpreted as perfectly controlled comparisons. For example, one obvious variable is in the accounting of employee commutes. For those communities that are willing and able to document it, employee commute is clearly a significant source of GHG emissions. Fort Bragg even conducted an employee commute survey as part of its inventory, which revealed that while the average commute distance was only three miles, 84% of employees drove to work.

City Efforts Underway

Since 2000 and particularly in the years since an energy audit was conducted in 2003, City staff has started implementing facility improvements designed to improve performance and energy efficiency.

⁷ City of Albany, California "Baseline Greenhouse Gas Emissions Inventory Report" (December 2006). See also e-mail from Aaron Walker, City of Albany, to Teri Davena, August 25, 2008 (on file).

⁸ City of Arcata, California "Community Greenhouse Gas Inventory and Forecast" (August 2002).

⁹ E-mails from Garth Schultz, City of El Cerrito, to Amalia Lorentz, August 7, 2008 (on file).

¹⁰ City of Fort Bragg, California "Greenhouse Gas Emissions Inventory" (August 2007).

¹¹ City of Menlo Park, California "Greenhouse Gas Emissions Analysis" (rev. February 2008). See also message from Glen Cramer, City of Menlo Park, to Teri Davena, August 27, 2008 (on file).

A lighting retrofit was completed in early 2008, encompassing almost all the main City buildings. Motion sensors are being installed on an ongoing basis. Staff has replaced about 75% of old air conditioning units on failure with high efficiency units. The Parks and Community Services Department (PCS), which handles building maintenance, has been installing vending misers on the vending machines in City buildings. At James Lemos Pool, staff replaced two inefficient boilers, and replaced all the pool blankets. In the parks, PCS installed solar irrigation clocks; in restrooms, more environmentally friendly paper products are being stocked.

The Public Works Department has improved its facilities' energy performance in a variety of arenas. They include pumps and motors (switching to 70% more efficient variable frequency drives and solid state soft starts, replacing less efficient motors, using gravity flow at the Wastewater Treatment Plant instead of pumps at low tide, and adjusting pumping schedules to non-peak hours when possible), lighting (switched to all fluorescent lighting), traffic signals (switched to 20-watt light emitting diodes compared to 100-watt conventional), and Wastewater Treatment Plant operations. Those changes include taking one aeration basin out of service when possible, using methane to operate the boilers as a means of cogeneration, and using the 1,000-kilowatt (kW) natural gas generator to get off the grid when needed.

The California Air Resources Board's "Fleet Rule" requires the City to reduce diesel particulate matter emissions from fleet vehicles beginning in 2007. The Fleet Rule applies to on-road, heavy-duty, diesel-fueled vehicles, like dump trucks and utility service trucks, although fire trucks and low usage vehicles are exempt from the regulations. The vehicles must have their engines re-powered with compliant engines, be retrofitted with best available emission control technology, be replaced with 2007 (or later) vehicle models, or be retired from the fleet and sold or scrapped out of state. The first deadline was December 31, 2007 when at least two (or 20%) of our diesel fleet had to be in compliance, which was achieved. The FY 2007-2009 budget included \$32,000 for retrofitting two vehicles, a patch truck and a bucket truck, which both got emissions controls. Public Works staff estimates an average of \$16,800 per vehicle retrofit. The entire fleet must be compliant by December 31, 2011.

Public Works is developing a fuel efficiency and emissions plan for gasoline vehicles (to be completed in late 2008). In the meantime as opportunity arises, fuel-efficient vehicles such as gasoline-electric hybrids are purchased when non-police sedans are replaced. Two additional vehicles were retired from the diesel fleet and replaced by high-efficiency gasoline trucks this budget cycle.

These types of changes undoubtedly contributed to the City's almost 20% drop in emissions between 2000 and 2005. The City formed an interdepartmental Green Team that began meeting in March 2008 to provide support for further sustainable practices. Team members also have access to training funds through the BAAQMD grant for climate change prevention-related workshops in 2008-09.

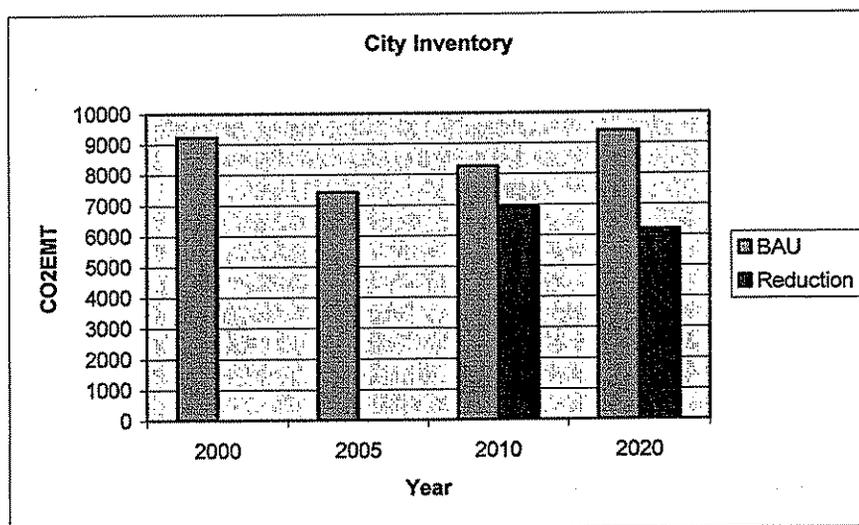
Forecasts and Goals for the City Organization

The forecasts for the City's emissions in 2010 and 2020 used the 2005 emissions estimates as a starting point. Under the BAU 2010 scenario, the City emissions will increase by 11% from

2005 to 8255 CO₂E_{MT}. From there, it would rise by another 14% in 2020, to 9402 CO₂E_{MT}. The forecast incorporates adding Mills Community Center as a heavily-used City facility. Otherwise, the forecast assumes most 2000-05 trends remain steady, with one exception. Buildings' downward trend was not assumed to continue. Because some "low-hanging fruit" was already picked in the area of energy efficiency by 2005, this sector had a modest increase applied.

Given all these improvements completed or underway, as well as the recent formation of the Green Team committed to developing new initiatives, a reasonably assertive target for the short-term is to **decrease 25% from the City's 2000 emissions level in 2010**. This number is based on the fact that, despite having already achieved a 20% reduction from the 2000 level in 2005, the City should strive for a greater impact. This target is a 16% reduction from BAU, and a more aggressive goal than that proposed for the Community sector (as the next section will detail). However, it is achievable if the organization maintains a commitment to change in normal operations, beyond the "low-hanging fruit", to prioritize greenhouse gas reductions. It is appropriate for the City to lead the effort, and exercise all possible ways to make change in everything under its control.

The proposed **2020 reduction target for the City is to reduce emissions by 33% from the 2000 level**, which would also be about a 33% reduction from 2020's forecasted BAU emissions. (Although the City decreased emissions between 2000 and 2005, the BAU forecast shows emissions rising back to the 2000 level by 2020.) According to the State of California's calculations of its own emissions, a 10% decrease in emissions from 2000 would roughly approximate 1990 levels¹², which is the AB 32 goal. Thus this target exceeds AB 32's target reduction. Meeting this goal is also estimated to exceed the target reduction proposed by the U.S. Mayors Climate Protection Agreement, which the City's Mayor signed in April 2008¹³.



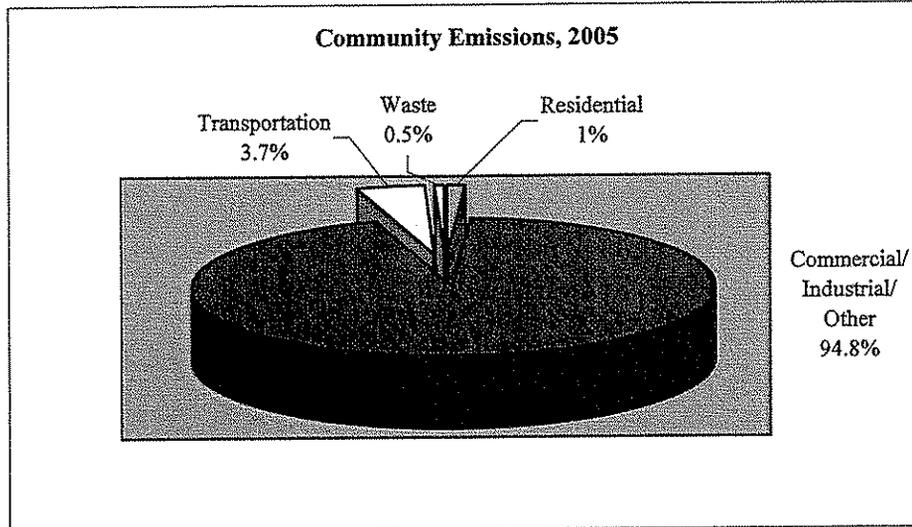
¹² The State estimated its 1990 emissions as almost 10% less than 2002-04's estimated levels. State of California Air Resources Board, "California Climate Change Scoping Plan" (June 2008 draft), p. 8.

¹³ That target reduction was a 7% decrease in 1990 levels by 2012, the Kyoto Protocol standard.

Community Activities Inventory and Analysis

The Community emissions inventory surveyed the sectors of Transportation, Waste, Residential, and Commercial/Industrial/Other¹⁴ activities. The Community inventory showed a total of 4,022,702 CO₂EMT in 2000, rising to 4,247,875 in 2005, a 5.6% increase in emissions.

The greatest GHG sector in both years was Commercial/Industrial/Other (businesses), at more



than 94%, although in absolute numbers, Transportation, Residential, and Waste all slightly decreased in 2005. The City Operations data is contained within these different sectors within the Community estimates, and is not a mutually exclusive data set.

What is and isn't Included in the Community Analysis

Data availability limited to a small extent the breadth of the Community Analysis, particularly relating to individual businesses and non-vehicle transportation.

Benicia has hundreds of industrial businesses, engaging in a variety of activities from pipe organ manufacturing to nuclear power plant inspection. Surveying them all individually to determine what emissions they may generate was not possible within the scope of this project. Data provided by the BAAQMD identified CO₂E emissions from Benicia sources with an air district permit. These emissions are included in the Commercial/Industrial/Other sector. However, emissions resulting from business activities without a permit (because one is not required or not obtained) are not.

Supplemental data estimates received from two of the largest industrial businesses holding air district permits, Valero Refining Company and Ampports, which operates the Port of Benicia, are included in the aggregated inventory under Commercial/Industrial/Other. However, there were data limitations for the information on each operation. For Valero, data was unavailable on the indirect emissions related to its PG&E usage. For the Port, which has a variety of activities on its property on land and sea, fuel type and use information was not available for ships, tugs, and

¹⁴ The format of the data received in these sectors led to the decision to join them for reporting purposes, although they are separate categories in CACP. PG&E supplied aggregate data for Commercial/Industrial that was not possible to separate, while the Other data was almost all related to self-reported or air district-permitted emissions by various businesses.

barges, but was for the majority of its trucks and cars. Without fuel information, it isn't possible to accurately determine the amount of GHGs produced. Cargo handling and maintenance equipment was also not included for the Port.

Rail transportation isn't included in the inventory, although given the main line and many spurs in Benicia, there are undoubtedly rail-related emissions in the community. Marine transportation emissions, from both small craft at the Benicia Marina and large ships at the Port of Benicia (as noted above), are excluded. Emissions from activities very near but not within the City limits are excluded (reserve fleet, Syar facility, etc.). Air transportation overhead is not included. Any emissions resulting from underground activities, like pipelines through the City, are not included. Activities by citizens beyond City limits is not included, although the impact of driving the community's waste to landfills outside the City limits is included for 2005 (for which year the data was available).

One important inclusion to note is that emissions from power production sources, wherever they are located, are included where power usage data was provided by PG&E.

Business Emissions (Commercial/Industrial/Other)

This sector measures business and government's emissions from natural gas and electricity use, and from industrial and commercial processes generating CO₂E emissions within the purview of BAAQMD.

Given Benicia's large industrial park, it is perhaps not surprising that business-generated emissions are by far the greatest sector in the inventory. Businesses, including the Valero Refinery, generated 3,785,114 CO₂EMT in 2000, increasing 6% to 4,026,460 CO₂EMT in 2005. In both years, this was about 94-95% of the Community total emissions.

Residential Emissions

Although the business sector is the largest contributor to communitywide emissions, the residential sector (emissions from home energy use) played a small role too, accounting for about 1% of the total Community emissions. This sector is comprised of emissions from residential gas and electric use.

It dropped 11% to 41,071 CO₂EMT in 2005, from 45,984 CO₂EMT in 2000, probably due to the rise in energy-efficient home appliances.

Transportation

Transportation was responsible for 167,954 CO₂EMT in 2000 and 158,346 CO₂EMT in 2005. This data includes estimates of all trips on public roadways within the City, including I-680, I-780, City streets, and roads within the Benicia State Recreation Area, plus vehicle trips on Port of Benicia property and Allied Waste Services' mileage associated with residential and commercial garbage and recycling (the latter for 2005 only). The emissions from this sector were about 4% of the Community total in both years. The slight drop of 6% between 2000 and

2005 is mainly due to Caltrans reporting a decrease in freeway vehicle miles traveled in Solano County.¹⁵

Waste

Waste was responsible for 23,650 CO₂EMT in 2000, falling to 21,998 CO₂EMT in 2005. This data includes all Benicia's residential and commercial/industrial waste picked up and hauled by franchise holder Allied Waste Services, the City's refuse hauler in both years, as well as an estimate of the Benicia Unified School District's waste. The City's own waste, as well as the wastewater treatment plant sludge, are included in this amount. Composted green waste is an offset against these waste subtotals. The 8% drop could be related to increases in both recycling, which removes tonnage from the waste stream, and green waste.

Waste comprised about .5% of the Community total emissions in 2005, slightly down from almost .6% in 2000.

Forecasts and Goals for the Community

The community is unquestionably a larger challenge than the City in terms of making reductions. The City is directed by one body, the City Council, who ultimately has authority over all its actions, although they only generated .23% of the community's total emissions in 2000 and even less in 2005. Conversely, the community's other 99%+ of emissions are generated by almost 28,000 individuals and about a thousand businesses, going about their daily activities which are regulated by a variety of sources. From making a profit to graduating from high school, community goals are diverse – and while not necessarily incompatible with climate change prevention, not oriented to that either. Besides leading by example, the City has an obligation to regulate GHG reductions to the extent possible, and provide encouragement for additional reductions. The forthcoming Climate Action Plan will delve into those reductions strategies.

Under a BAU scenario, the Community emissions in 2010 will increase by 9% from 2005, to 4,617,756 CO₂EMT. In 2020, the forecasted increase from 2005 is 21%, to 5,120,184 CO₂EMT.

The forecast incorporates holding most 2000-05 trends steady, with in some cases available 2006 data used to project forward. The forecast also assumes that the Benicia Business Park project is approved and fully built out by 2020, under current standard building practices – that is, without any green building or special energy-efficient features.

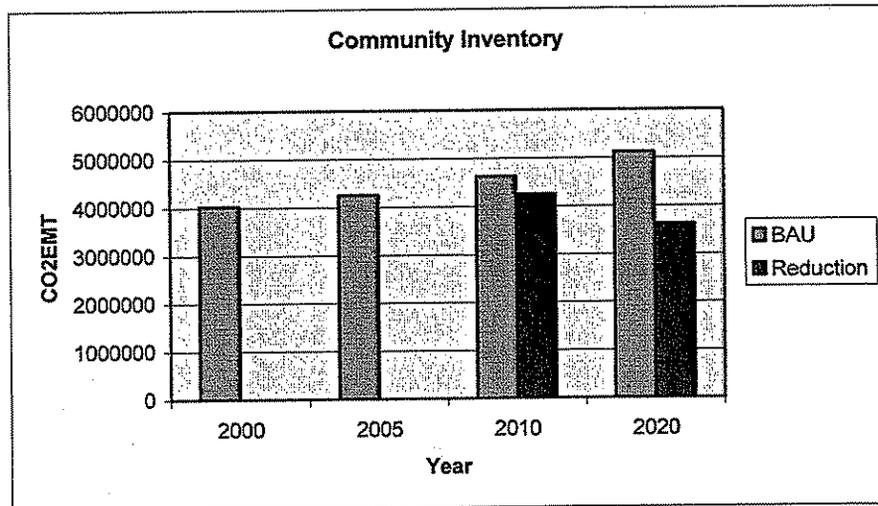
In setting the Community's reduction targets, AB 32's goals are the guiding spirit. The expectation for the interim communitywide target is to **maintain the 2005 emissions level in 2010 - 4,247,875 CO₂EMT**. This is less assertive than the City's goal of decreasing 25% below its 2000 emissions level, because of the lack of local control over most of the business activities

¹⁵ While there were likely more fuel-efficient cars on the road in 2005 than 2000, it was unable to be quantified for the inventory.

that generate emissions, and those are the majority of Benicia's communitywide total. This is also less aggressive than AB 32's 2010 goal of decreasing to the 2000 level.

However, by 2020, AB 32's goal is more achievable. That lack of local control should be offset not only by higher cultural awareness about GHGs among both residents and businesses, but technological solutions for industrial processes should be far more advanced and accessible. Just one example of a new market-driven industrial solution: Within five years, Nippon Oil Corporation will commercialize a solar power system for cargo ships - like those servicing the Port of Benicia - which will cut their CO₂ emissions by 1-2% annually.¹⁶ As a result of that sort of innovation and awareness, it should be possible for the community to reach the same approximate target as AB 32: **10% below 2000 levels in 2020 – 3,620,432 CO₂EMT.**

This goal is within reach because, in the coming decade, there will be change in everybody's BAU practices, thanks to California's aggressive reduction goals. In particular, the State will have imposed further regulations on all refineries, including the Valero Benicia facility, to meet AB 32 requirements – a



reduction to 1990 levels by 2020. This by itself has the potential to address much of the Community's reduction target.

To meet that same AB 32 goal, BAAQMD and the California Air Resources Board are already working on requirements for port inventories and marine emissions standards. The State also appears poised to encourage more regional cooperation for vehicle trip reduction and land use planning¹⁷, which should ultimately result in fewer single occupancy vehicles on the freeways and fewer car trips overall. These large-scale policy changes should directly affect local emissions for the better.

Thus, the BAU scenario is somewhat misleading in that the State has already provided direction that there will be required reductions in high GHG-generating businesses, like the largest of those in Benicia's Commercial/Industrial sector. In other words, the BAU scenario is extremely unlikely. However, it is provided to illustrate the need for the emissions-reductions directives, especially on the state level, that are underway or appear to be forthcoming.

¹⁶ *Wired*, "Toyota's Solar Car Carrier", Keith Barry, Sept. 3, 2008. <http://blog.wired.com/cars/2008/09/boatopia-toyota.html>.

¹⁷ Namely through Senate Bill 375, awaiting the Governor's signature as of the time of writing of this report.

Of the five cities in our size range in Northern California that have completed inventories as discussed earlier, only three have adopted reduction goals so far, and each of the three is different in terms of the reduction, the baseline year, and the target year. Their three different reduction goals are 15%, 20%, and 25%. As before, it is not practical to make direct comparisons among communities whose only commonality may be population; this information is provided for context and to illustrate that there are no “right” or “wrong” reduction targets.

**Community Emissions Reduction Targets
 Among Selected California Cities Under 30,000 Population**

City	Pop.	Year Target Adopted	Baseline Year	Target Year	Percentage Reduction	Notes
Benicia	26,895	2008 (proposed)	2000	2020	10%	Aligned with AB 32; separate (greater) goal of 33% reduction for City emissions; refinery and port
Albany ¹⁸	16,877	2007	2004	2020	25%	Approval cites recommendation from ICLEI (which conducted Albany’s inventory)
Arcata ¹⁹	17,558	2002	2000	2010	20%	Previously adopted a “7% (reduction in 1990 levels) by ‘07” target
Fort Bragg ²⁰	6877	2007	2006	2015	15%	Separate (greater) goal of 30% reduction for City emissions

¹⁸ City of Albany, California Council Agenda Report and Minutes, Meeting of March 19, 2007.

¹⁹ City of Arcata, California “Community Greenhouse Gas Inventory and Forecast” (August 2002).

²⁰ City of Fort Bragg, http://city.fortbragg.com/pdf/Community_Workshop_Presentation_7-31-2008.pdf.

Action From This Point Forward

The City has already contracted with Cal Poly-San Luis Obispo to develop a Climate Action Plan (CAP) that will recommend implementing measures to meet the reduction targets in the Inventory. Preparation of the CAP is another BAAQMD grant-funded activity. The CAP process is anticipated to begin following the Council's review of this inventory and adoption of the reduction targets. Development of the CAP will be almost like an audit of the reduction targets – if the measures that are supported by the CAP do not align with the reduction targets from the inventory, amending the targets is always an option at that time.

The CAP will be completed by June 2009, and its implementation will proceed quickly thereafter because of funding availability - in addition to the possibility of including funding in the City's 2009-11 budget, an agreement with Valero, which operates the petroleum refinery and asphalt plant in Benicia, will provide up to \$200,000 annually for three years of CAP-related projects.

Meanwhile, the City should plan to conduct an updated inventory in 2011-12 to assess performance for interim year 2010. A thorough five-year inventory is a significant commitment to staff and resources, but is the best way to assess comprehensive progress. Depending on those results, at that time a decision can be made about selecting a new interim year like 2015, thus committing to another interim inventory in 2016-17. This leads up to 2020, the target year of reckoning for California, for which an inventory should be done in 2021-22. The City will need to budget and plan for these inventories, but they are essential to keeping the City and community on track with the reduction targets.

Appendix A. Acknowledgements

Completing the greenhouse gas emissions inventory was a significant project that required a large team effort. The emissions inventory was conducted in-house by the City Manager's Office, led by City Manager Jim Erickson. The project was managed and the report written by Economic Development Manager Amalia Lorentz, researched, shaped, and assisted in every way by Senior Administrative Clerk Kathleen Hart, and supported by Administrative Secretary Teri Davena.

This project was funded from a Climate Protection Grant from the Bay Area Air Quality Management District. Grant program manager Abby Young was helpful throughout the process.

Completing the inventory was greatly assisted by the support of many staff members at ICLEI-Local Governments for Sustainability, especially Ayrin Zahner, Micah Lang, Xico Manarolla, and Jonathan Strunin.

Staff from City departments Public Works, Parks and Community Services, City Manager's Office/Human Resources, Community Development, Fire, and Finance helpfully contributed data and other information to the inventory. Garage Supervisor Bernie LuVisi and IT Manager Bill Guggemos were particularly helpful.

Of the many outside agencies and companies that provided data and assistance to the inventory, Susan Hurl from Allied Waste Services, Jim Triplett from Amports (Port of Benicia), and Chris Howe from Valero were notably generous with information.

Appendix B. Calculations

About the Clean Air and Climate Protection Software

“The Clean Air and Climate Protection (CACP) Software ... [was] developed by the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), the International Council for Local Environmental Initiatives (ICLEI), and Torrie Smith Associates...

The Clean Air and Climate Protection (CACP) Software calculates the greenhouse gases and criteria air pollutants produced by energy use and solid waste disposal, and helps you quantify measures designed to reduce these emissions. While the software can help you complete an emissions inventory, you may also enter inventory data from another source directly into the software... The software takes data you provide on energy use and energy use reductions and converts it to emissions using specific emission factors (coefficients) that relate the emissions of a particular pollutant (e.g., carbon dioxide) to the quantity of the fuel used (e.g., kilograms of coal).

For electricity, the emission factors are based on end-use energy consumption, meaning that emissions per kilowatt hour (kWh) are based on kWh consumed, not produced. This way a jurisdiction can account for emissions resulting from its consumption patterns and therefore be in a better position to design effective strategies to alter or reduce these emissions.”

From “Clean Air and Climate Protection (CACP) Software User’s Guide” (June 2003), available through ICLEI. (p. 5)

“The emissions coefficients and methodology employed by the software are consistent with national and international inventory standards established by the Intergovernmental Panel on Climate Change (1996 Revised IPCC Guidelines for the Preparation of National GHG Emissions Inventories), the U.S. Voluntary Greenhouse Gas Reporting Guidelines (EIA form 1605), and, for emissions generated from solid waste, the U.S. EPA’s Waste Reduction Model (WARM).

The CACP software has been and continues to be used by over 200 U.S. cities and counties to quantify the reduction in their greenhouse gas emissions. However, it is worth noting that, although the software provides cities/counties with a sophisticated and useful tool, calculating emissions from energy use with precision is difficult. The model depends upon numerous assumptions, and it is limited by the quantity and quality of available data. With this in mind, it is useful to think of any specific number generated by the model as an approximation, rather than an exact value.”

From the City of Albany, California’s “Baseline Greenhouse Gas Emissions Inventory Report” (December 2006), ICLEI. (p. 6)

About the Community Forecasts for 2010 and 2020

Based on a recommendation from ICLEI staff, the business as usual Community Forecasts for 2010 and 2020 were not generated through CACP directly, but through Excel-based formulas provided by ICLEI, starting from Benicia’s 2005 estimates generated in CACP. A compounded

annual growth rate formula was applied to each sector using inputs on population, household, and job growth from the Association of Bay Area Governments' "Projections 2007" document. (The job growth estimate corresponds with the staff estimate of employment at the Benicia Business Park, assuming full buildout in 2020.) The exception to this calculation method is that, for the purposes of establishing the business as usual forecast, the refinery was assumed to have a 1% annual growth rate in emissions, based on the percentage change between 2005's non-certified estimate and 2006's certified estimate.

Appendix C. Data Collection Notes and Sources

Government 2000

Buildings

This includes all the City's commercial and residential accounts. The Association of Bay Area Governments (ABAG) reported them use for 2000. KWh is estimate based on the assumption that the ratio of electricity use to gas use remains similar year-to-year. Ratio was taken for the two uses for 2003, 2004, and 2005, averaged and applied to 2000. All PG&E data from detailed reports for Benicia, 2003 and 2005, sent by Lynn Galal, Project Manager, Customer Energy Efficiency Third Party and Partnership Implementation.

Vehicle Fleet

Fleet data diesel totals are from a fuel report for 2000 provided by Bernie LuVisi, Garage Supervisor, Public Works Dept. Earliest available figures for gasoline totals are from 2003 fuel report. These figures are being used for 2000 because there were no significant changes to the fleet between 2000 and 2003 and use of vehicles remained at a constant level. Total gasoline and diesel gallons in fleet are each entered by department under one vehicle type per department. The type chosen is based on the predominant vehicle type for the department group (Bernie LuVisi, Garage Supervisor). Approximately 4176 gallons of diesel was used for off road equipment such as mowers, backhoes, or pressure pumps (Equipment Services, 20 gal.; Streets, 1321 gal.; Parks, 1724 gal.; Wastewater, 493 gal.; Water, 618 gal.) Specific emissions coefficients for each type of equipment were not used. The coefficient for the predominant vehicle type in that department (for instance, light trucks for Parks) was used to estimate GHG emissions.

Employee Commute

Assumptions: All 173 full-time employees drove gasoline vehicles, none carpooled, and each employee drove five round trips per week for 47 weeks. All 89 part-time employees drove gasoline vehicles, none carpooled, and each employee drove three round trips per week for 47 weeks. Employee counts and home cities provided by Kim Imboden, Human Resources.

Waste

City waste data is not available as a stand-alone account, per Fire Chief Gene Gantt (solid waste contract manager); it is included with Community Analysis. Carrie Wenslawski, Management Analyst, Public Works, provided information on sludge from the Water and Wastewater Treatment plants. No methane recovery was done on this waste. All Benicia waste goes to Keller Canyon Landfill, built in 1992. It is the last landfill built in California. Enough methane has now been generated so that Allied Waste can begin methane recovery. Beginning in November 2008 the gas will be recovered and used by the cities of Palo Alto and Alameda (Susan Hurl, Allied Waste, 8/19/2008).

Other

These are small emissions from the Fire Station, Police, Corporation Yard and the Water Treatment plant. These facilities all have power generators and the Corporation Yard has a paint

booth for painting vehicles. 2005 emissions (earliest available) reported from Bay Area Air Quality Management District are being used as estimates for 2000 emissions.

Government 2005

Buildings

This includes the City's total commercial gas account, and for electricity, it includes primarily buildings, misc. park facilities, unclassified pumps, the pistol range and other miscellaneous. PG&E is further broken out into residential, streetlights, traffic signals, water and wastewater facilities and irrigation and sprinkler use. All PG&E data from detailed reports for Benicia, 2003 and 2005, sent by Lynn Galal, Project Manager, Customer Energy Efficiency Third Party and Partnership Implementation.

Vehicle Fleet

Fleet data gasoline and diesel totals are from a fuel report for 2005 provided by Bernie LuVisi, Garage Supervisor, Public Works Dept. Total gasoline and diesel gallons in fleet are each entered by department under one vehicle type per department. The type chosen is based on the predominant vehicle type for the department group (Bernie LuVisi, Garage Supervisor). Approximately 2749 gallons of diesel was used for off road equipment such as mowers, backhoes, or pressure pumps (Equipment Services, 44 gal.; Streets, 489 gal.; Parks, 1690 gal.; Wastewater, not reported; Water, 526 gal.). Specific emissions coefficients for each type of equipment were not used. The coefficient for the predominant vehicle type in that department (for instance, light trucks for Parks) was used to estimate GHG emissions.

Employee Commute

Assumptions: All 217 full-time employees drove gasoline vehicles, none carpooled, and each employee drove five round trips per week for 47 weeks. All 211 part-time employees drove gasoline vehicles, none carpooled, and each employee drove three round trips per week for 47 weeks. There was a large increase in the number of employees between 2000 and 2005 because the Parks Dept. greatly expanded its program (Kim Imboden, Human Resources).

Waste

City waste data is not available as a stand-alone account, per Fire Chief Gene Gantt (solid waste contract manager). City data is included with Community Analysis. Carrie Wenslawski, Management Analyst, provided information on sludge from the Water and Wastewater Treatment plants. No methane recovery was done on this waste. All Benicia waste goes to Keller Canyon Landfill, built in 1992. It is the last landfill built in California. Enough methane has now been generated so that Allied Waste can begin methane recovery at Keller Canyon. Beginning in November 2008 the gas will be recovered and used by the cities of Palo Alto and Alameda (Susan Hurl, Allied Waste, 8/19/2008).

Other

These are small emissions from the Fire Station, Police, Corporation Yard and the Water Treatment plant reported from Bay Area Air Quality Management District. These facilities all have power generators and the Corporation Yard has a paint booth for painting vehicles.

Government 2010

Emissions estimates from 2005 were used as the starting point for all forecasts unless otherwise noted.

Buildings

For 2010, a 5% growth rate to account for additional employees and an estimated 76480 kWh and 5593 therms to account for the new Mills Center were added. This includes the City's total commercial gas account, and for electricity it includes primarily buildings, miscellaneous park facilities, unclassified pumps, the pistol range, and other miscellaneous facilities. PG&E is further broken out into residential (0% increase expected), streetlights (0.3% increase), traffic signals (2% increase), water and wastewater facilities, and irrigation and sprinkler use (6.6% increase). Commercial and industrial square footage will increase by about 6.6%, resulting in more street trees and landscaping districts, so this percentage was applied to growth in irrigation/sprinkler electricity use.

Vehicle Fleet

Based on a 1% fuel increase between 2000 and 2005, a 1% increase in fuel use from 2005 is expected for 2010. Benicia Breeze route changes begun in 2008 were not accounted for.

Employee Commute

Assumptions: All 235 full-time employees (number of employees is the approved positions in the 2007-09 Budget) will drive gasoline vehicles, none will carpool, and each employee will drive five round trips per week for 47 weeks. The additional 18 employees (from 2005) will add an estimated 116,060 annual vehicle miles traveled to the commute. All 211 part-time employees (no increase expected) will drive gasoline vehicles, none will carpool, and each employee will drive three round trips per week for 47 weeks.

Waste

A 5% increase is estimated to account for population growth and increase in the number of households and commercial/industrial activities.

Other

These are small emissions from the Fire Station, Police, Corporation Yard and the Water Treatment plant. No increase is expected.

Government 2020

Buildings

For 2020 unless otherwise noted, a 13% growth rate to account for additional employees and the estimated 76480 kWh and 5593 therms to account for the new Mills Center were added to the 2005 numbers. This includes the City's total commercial gas account, and for electricity it includes primarily buildings, miscellaneous park facilities, unclassified pumps, the pistol range and other miscellaneous. PG&E is further broken out into residential (no increase expected), streetlights (2% increase), traffic signals (100% increase), water and wastewater facilities (15% increase), and irrigation and sprinkler use (34% increase). Commercial and industrial square

footage will increase by about 34% (assuming full build-out of the Benicia Industrial Park), resulting in more street trees and landscaping districts; this percentage was applied to growth in irrigation/sprinkler electricity use.

Vehicle Fleet

A 2% increase in fuel use from 2005 is assumed for 2020 as City vehicles travel the Benicia Business Park roadways. Benicia Breeze route changes begun in 2008 were not accounted for.

Employee Commute

Assumptions: All 245 full-time employees (staff estimate of number of employees) will drive gasoline vehicles, none will carpool, and each employee will drive five round trips per week for 47 weeks. The additional 28 employees (from 2005) will add an estimated 180,490 annual vehicle miles traveled to the commute total. Part-time employees will drive gasoline vehicles, none will carpool, and each employee will drive three round trips per week for 47 weeks. The number of additional part-time employees is unknown, so 5% was added to the 2005 figure.

Waste

A 15% increase is estimated to account for population growth and increase in the number of households and new commercial/industrial activities.

Other

These are small emissions from the Fire Station, Police, Corporation Yard and the Water Treatment plant. No increase is expected.

Community 2000

Residential

2003 PG&E numbers were used for 2000 residential because there was 0% population growth rate in Benicia between 2000 and 2003. All PG&E data is from a detailed report for Benicia 2003 sent by Lynn Galal, Project Manager, Customer Energy Efficiency Third Party and Partnership Implementation.

Indicators: 10328 households, population 26,865, per Census 2000.

Commercial/Industrial

Contains all commercial and industrial PG&E use that was not from direct access accounts. The earliest figures available for gas and electric use were for 2003. The 2003 figures were multiplied by 93% to account for fewer commercial and industrial establishments in Benicia in 2000 (per 2005 U.S. Census Business Patterns) to estimate use in 2000.

Therm use is estimated commercial share from ABAG total reported for 2000 (commercial and residential = 122,893 therms). To estimate electricity, the ratio of therms to kWh was averaged for 2003, 2004, and 2005, and then the ratio was applied to the 2000 therms. This method assumes that the rate of gas-to-electricity use for the City's commercial accounts is similar, year-to-year.

Commercial Indicators: Number of establishments (543) from 2005 U.S. Census Business Patterns. Floor space: ABAG 1998 estimate for Benicia in 2000 was 1,258,000 square feet. Breakdown of employees between industrial (6000) and commercial (6733) is staff estimate.

Industrial Indicators: Number of establishments (285) from 2005 U.S. Census Business Patterns. Floor space: ABAG 1998 estimate for Benicia in 2000 was 9,407,000 square feet.

City air district-permitted emissions: BAAQMD data for 2005 emissions (earliest available) are being used as estimates for 2000 emissions. These are small emissions from Fire Station, Police, Corporation Yard and the Water Treatment plant. These facilities all have power generators and the Corporation Yard has a paint booth for painting vehicles.

Commercial and Industrial air district-permitted emissions: BAAQMD data for 2005 emissions (earliest available) are being used as estimates for 2000 emissions, minus businesses that did not exist in 2000. The asphalt plant, purchased in 2001 by Valero, is included in the 2000 industrial total.

Valero: Estimates provided by Chris Howe, Valero, 8/19/08. (Valero did not own the asphalt plant in 2000, so those emissions are not counted in the Valero total but are included in the total for industrial/commercial air district permits in this section.) This is a non-certified estimate; only data from 2006 forward have been certified by a third party and conform to California Climate Action Registry (CCAR) General Reporting Protocol 2.2, March 2007. Note: CO₂E estimated at 0.15% CO₂. Indirects resulting from direct purchase of PG&E gas/electricity are excluded (data not available). However, that number likely dropped between 2000 and 2005 as the refinery began some co-generation processes, which are included in the 2005 estimate.

Transportation

City streets: Daily vehicle miles (times 330, to account for lower traffic on weekends) from 2000 CA Public Road Data, CA Department of Transportation, Division of Transportation System Information, Sept. 2001. Figure is total annual vehicle miles traveled (VMT) broken down into passenger vehicle (gasoline) and heavy truck (diesel). The Metropolitan Transportation Commission uses a breakdown of 84.4% passenger cars and 15.6% heavy trucks for vehicles on the road in the Bay Area.

Port Transportation: Data reports were provided by Jim Triplett, Port of Benicia, August 14, 2008. Traffic was primarily within port facility. There is very little overlap with city street mileage (per Ron Chamberlain, Port, August 20, 2008). Data includes movement of imported cars around the facility.

State Highways: Benicia highway miles provided by Michael Throne, City Engineer. DVMT for Solano County highways provided by 2005 California Public Road Data, Dept. of Transportation, Sept. 2006. 7.3 miles is 4.6% of the 158.27 highway miles in Solano County. This percentage was multiplied times the DVMT figures given, then 365, then times 84.4% for passenger vehicles and 15.6% for heavy trucks (diesel).

State Park Roads: Daily vehicle miles (times 365) from 2000 California Public Road Data, California Department of Transportation, Division of Transportation System Information, Sept. 2001. State Park 109.5 annual VMT.

Waste

Benicia Unified School District: 224 tons of cardboard and 185.46 tons of mixed paper were recycled. Data from Allied Waste Services report "Benicia Unified School District Solid Waste and Recycle Service Levels 2000," provided by Susan Hurl, Allied Waste.

Sludge tonnage from Wastewater and Water treatment plants from Carrie Wenslawski, Management Analyst, Public Works.

Residential greenwaste: Data from Allied Waste Services reports "Residential and Commercial Summary of Recycling Statistics 2000" and "Benicia Summary Solid Waste and Recycle Service Levels 1992 - 2005," provided by Susan Hurl.

Commercial waste, including City: 306.88 tons recycled of 15,666.88 tons collected. Data from Allied Waste Services reports "Residential and Commercial Summary of Recycling Statistics 2000" and "Benicia Summary Solid Waste and Recycle Service Levels 1992 - 2005," Susan Hurl.

Residential: Percentage by materials in Benicia waste stream taken from California Integrated Waste Management Board Solid Waste Characterization Database, which includes 1999 estimates on composition. 2024.29 tons recyclables collected of 8515.48 total tons collected. Data from Allied Waste Services reports "Residential and Commercial Summary of Recycling Statistics 2000" and "Benicia Summary Solid Waste and Recycle Service Levels 1992 - 2005," provided by Susan Hurl.

Community 2005

Residential

All PG&E data from detailed report for Benicia, 2005 sent by Lynn Galal, Project Manager, Customer Energy Efficiency Third Party and Partnership Implementation.
Indicators: Association of Bay Area Governments (ABAG) "Projections 2007" for number of households (10,640).

Commercial/Industrial/Other

Contains all commercial and industrial PG&E use that was not from direct access accounts.
Commercial Indicators: Floor area: Data from City Building Division staff. New building permits 2000-2005 added to ABAG estimate for 2000 for a total of 1,269,840 SF of commercial space. (1,920 SF added to commercial was for non-profit (church) floor space.) City economic development staff estimate for number of commercial sector employees (6436). 2005 U.S. Census Business Patterns data for number of commercial establishments (568).

Industrial Indicators: 2005 U.S. Census Business Patterns data for number of industrial establishments (324). Floor area: New building permits 2000-2005 added to ABAG estimate for

2000 for total of 10,460,610 SF. (Approximately 52,425 SF of industrial space is storage/warehouse.) City economic development staff estimate for number of industrial employees (6,335).

City air district-permitted emissions: 2005 BAAQMD permits. These are small emissions from Fire Station, Police, Corporation Yard and the Water Treatment plant. These facilities all have power generators and the Corporation Yard has a paint booth for painting vehicles.

Commercial and Industrial air district-permitted emissions: 2005 BAAQMD permits.

Valero: Estimates provided by Chris Howe, Valero, 8/19/08; estimate includes emissions from asphalt plant. This is a non-certified estimate; only data from 2006 forward have been certified by a third party and conform to CCAR General Reporting Protocol 2.2, March 2007. Note: CO₂E estimated at ~ 0.15% CO₂. Indirects resulting from direct purchase of PG&E gas and electricity are excluded (data not available). However, that number likely dropped between 2000 and 2005 as the refinery began some co-generation processes, which are included in the 2005 estimate.

Transportation

State Parks: Daily vehicle miles (times 365) from CA Public Road Data, CA Dept. Transportation, Div. Transportation System Information. Figure is total annual vehicle miles traveled (VMT) broken down into passenger vehicle (gasoline) and heavy truck (diesel).

City Streets: Daily VMT Figures (times 330, to account for lower weekend traffic) from 2005 CA Public Road Data, CA Dept. Transportation, Div. Transportation System Information Sept. 2006. Figure is total annual VMT broken into 15.6% for trucks/diesel and 84.4% for passenger vehicles/gasoline (Metropolitan Transportation Commission percentages for Bay Area).

Port transportation, including imported car movements: Data reports were provided by Jim Triplett, Port of Benicia, August 14, 2008. Traffic was primarily within port facility. There is very little overlap with city street mileage (Ron Chamberlain, Port, August 20, 2008).

State Highways: Benicia centerline highway miles provided by Michael Throne, Benicia City Engineer. 2005 California Public Road Data, Dept. of Transportation includes figures for 158.27 state highway miles in Solano County. 7.3 miles is 4.6% of 158.27 miles. This percentage was multiplied times the DVMT figures given, then 365, then times 84.4% for passenger vehicles and 15.6% for heavy trucks (diesel).

Waste disposal trucks: Miles per year is based upon round trips to Contra Costa Transfer Station in Martinez for garbage, recycle, and yard waste and to various disposal sites for other commodities (dirt, construction, concrete, etc.). 2005 data from Allied Waste, Susan Hurl. (There is likely some duplication of emissions already accounted for under heavy trucks on city streets.)

Waste

Benicia Unified School District: Ruthie Gomez, Benicia Unified School District (BUSD), reported waste dumped at Contra Costa Transfer Station, Acme Fill Corporation and Potrero Hills Landfill, Inc. CCL Organics reported 40 tons from BUSD in 2005.

Information for City Water and Wastewater treatment plants came from Carrie Wenslawski, Management Analyst, Public Works, Benicia.

Commercial, including City: 1390.02 tons recyclables collected of total 14,960 tons collected. Data from Allied Waste Services reports "Recyclable Materials Breakdown 2005" and "Benicia Summary Solid Waste and Recycle Service Levels 1992 - 2005," provided by Susan Hurl. To date, there has been no methane recovery. All Benicia waste goes to Keller Canyon Landfill, built in 1992. It is the last landfill built in California. Enough methane has now been generated so that Allied Waste can sell the gas rights to a third party, Ameresco. Beginning in November 2008 the gas will be recovered and used by the cities of Palo Alto and Alameda (Susan Hurl, Allied Waste, 8/19/2008).

Residential: 2561.40 tons of recycling collected of total 6444 tons collected. Data from Allied Waste Services reports "Recyclable Materials Breakdown 2005" and "Benicia Summary Solid Waste and Recycle Service Levels 1992 - 2005," provided by Susan Hurl.

Community 2010 and 2020

Emissions estimates from 2005 were used as the starting point for all forecasts unless otherwise noted. A compounded annual growth rate formula was applied to each sector using inputs on population, household, and job growth from the Association of Bay Area Governments' "Projections 2007" document. (The job growth estimate corresponds with the staff estimate of employment at the Benicia Business Park, assuming full buildout in 2020.) The exception to this calculation method is that, for the purposes of establishing the business as usual forecast, the refinery was assumed to have a 1% annual growth rate in emissions, based on the percentage change between 2005's non-certified estimate and 2006's certified estimate.

Community 2010

Residential

The annual growth rate generated was 0.336%, with a 1.7% change by 2010.

Commercial/Industrial/Other

The annual growth rate generated was 4.936%, with a 27.2% change by 2010. For Valero, a 1% annual growth rate was used, based on Valero figures for 2006, with a 5.1% change by 2010.

Transportation

The annual growth rate generated was 1.552%, with an 8.0% change by 2010.

Waste

The annual growth rate generated was 1.073%, with a 5.5% change by 2010.

Community 2020

Residential

The annual growth rate generated was 0.402%, with a 6.2% change by 2020 from 2005.

Commercial/Industrial/Other

The annual growth rate generated was 2.393%, with a 42.6% change by 2020 from 2005. For Valero, a 1% annual growth rate was used, based on Valero figures for 2006, with a 16.1% change by 2020 from 2005.

Transportation

The annual growth rate generated was 1.509%, with a 25.2% change by 2020 from 2005.

Waste

The annual growth rate generated was 0.685%, with a 10.8% change by 2020 from 2005.

Appendix D. Definitions

AB 32	Assembly Bill 32, approved in 2006, which set GHG reduction goals for California in 2010 and 2020
ABAG	Association of Bay Area Governments, the regional planning agency
BAAQMD	Bay Area Air Quality Management District
BAU	Business as usual; for forecasting purposes, an assumption that GHG-reducing strategies are not taken
BTU	British thermal unit, a measurement of energy often used for natural gas 3412 BTUs = 1 kWh; 100,000 BTUs = 1 therm
CACP	Clean Air Climate Protection, the name of the software provided by ICLEI that was used throughout the inventory
CARB	California Air Resources Board
CO2EMT	Carbon dioxide-equivalent metric tonnes, used to measure GHGs
DVMT	Daily vehicle miles traveled
GHG	Greenhouse gases
ICLEI	Local Governments for Sustainability (formerly International Council for Local Environmental Initiatives), an international non-profit organization
KWh	Kilowatt hour, a unit of energy often used for electricity
Metric tonnes	Unit of measurement equal to 2,205 pounds
Mbtu/MMBtu	One million British thermal units, equivalent to 1000 cubic feet of natural gas
MTC	Metropolitan Transportation Commission, the Bay Area's regional transportation planning agency
PCS	Parks and Community Services Department, City of Benicia
Therm	Unit of energy equivalent to 100 cubic feet of natural gas.
VMT	Vehicle miles traveled

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
ACTION ITEM**

DATE : September 10, 2008
TO : Mayor & City Council
FROM : City Manager
SUBJECT : **ENDORSMENT OF SOLANO COUNTY MEASURE T ON THE
NOVEMBER 4, 2008 GENERAL ELECTION BALLOT**

RECOMMENDATION:

To consider the resolution endorsing Solano County Measure T on the November 4, 2008 General Election Ballot, and to consider authorizing a letter to the Solano County Board of Supervisors urging strict adherence to the “city-centered growth” policy contained therein.

EXECUTIVE SUMMARY:

The 2008 Solano County Final General Plan will come before the voters as Measure T on the November ballot in order to comply with the requirements of the Orderly Growth Initiative. The Solano County Board of Supervisors introduced and adopted Ordinance #2008-01 that places on the November 5, 2008 ballot a proposed amendment to the 1994 Orderly Growth Initiative that would update certain provisions of the Solano County General Plan relating to agriculture and open space policies and land use designations, and extend the amended initiative until December 31, 2028.

Specifically, Measure T will extend the provisions of the Solano County Orderly Growth Initiative until December 31, 2028, focusing urban growth into Solano County’s cities. Additionally, the measure will confirm the policies of a new Agricultural Chapter in the Solano County General Plan, which will give family farmers the tools to remain competitive in the global economy for another generation. Measure T will also create zoning for clean, renewable energy development that will reduce dependency on fossil fuels and reduce our carbon footprint.

Notwithstanding Measure T’s commitment to “maintain the current development strategies of city-centered growth” – to wit, “what is urban shall be municipal,” certain exceptions to this policy appear to be included in the measure, most significantly, near Vacaville. On the north side of the intersection of I-505 and Midway Road, the proposed plan calls for 250 acres of Limited Industrial (not restricted to agricultural-related industry) and over 30 acres of service and highway commercial. This proposed designation appears to be a significant contradiction to the proposed intended “city-centered growth” policy. The land is outside of the City’s newly adopted urban growth boundary. This contradiction has been a major point of controversy over

the last several months and has not been resolved to Vacaville's satisfaction in the proposed plan. Nonetheless, at the September 9 meeting of the Vacaville City Council, the Council voted 4-1 to take a neutral position regarding Measure T. The prevailing sentiment seemed to be that Vacaville would not stand in the way of what otherwise is beneficial to the County as a whole and particularly benefits the maintenance of a strong agricultural industry in the County.

The City of Benicia requested the County change the land use designation in area north of Lake Herman Road from A-20 to A-160 minimum size in order to assure the viability of agriculture (grazing). This request was not approved and the land remains A-20 in Measure T.

BUDGET INFORMATION:

No impacts to the City budget are associated with this action.

Attachments:

- Resolution
- Memo – County of Solano General Plan Update
- Solano County Ordinance #2008-01
- Vacaville Staff Report
- I-505/I-80 Commercial and Industrial Sites
- Vacaville Reporter Article dated 09/10/08

RESOLUTION

RESOLUTION NO. 08-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ENDORSING SOLANO COUNTY MEASURE "T" ON THE NOVEMBER 4, 2008 GENERAL ELECTION BALLOT

WHEREAS, the citizens of Benicia are committed to protecting the open space that makes Solano County unique among the nine Bay Area Counties and the agriculture that provides locally grown healthy foods, and

WHEREAS, the citizens of Benicia are committed to supporting renewable energy and reducing society's impact on global warming, and

WHEREAS, Measure T on the November ballot will extend the provisions of the Solano County Orderly Growth Initiative until December 31, 2028, focusing urban growth into Solano County's cities, and

WHEREAS, Measure T will confirm the policies of a new Agricultural Chapter in the Solano County General Plan that will give family farmers the tools to remain competitive in the global economy for another generation, and

WHEREAS, Measure T will create zoning for clean, renewable energy development that will reduce dependency on fossil fuels and reduce our carbon footprint.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia does hereby support and endorse Solano County Measure "T" on the November 4, 2008 General Election Ballot.

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 16th day of September, 2008 and adopted by the following vote:

Ayes:
Noes:
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

**MEMO – COUNTY OF SOLANO
GENERAL PLAN UPDATE**

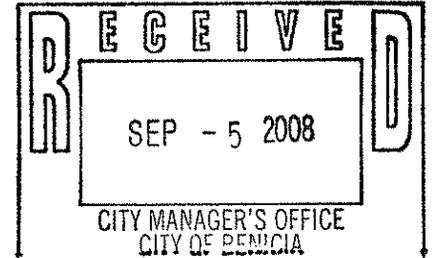


COUNTY OF SOLANO GENERAL PLAN UPDATE

Department of Resource Management
675 Texas St., Suite 5500
Fairfield, CA 94533
(707) 784-6765 / (707) 784-4805

MEMORANDUM:

TO: Interested Parties
FROM: Jim Louie, Senior Planner
DATE: September 4, 2008
RE: 2008 Solano County Final General Plan



The 2008 Solano County General Plan was provisionally adopted by the Board of Supervisors on August 5, 2008. The 2008 General Plan will come before the voters as Measure T in the November general election in order to comply with the requirements of the Orderly Growth Initiative.

The 2008 General Plan is available for downloading on the County's General Plan website: www.solanocountygeneralplan.net. Copies of the 2008 General Plan are available for review at Solano County Department of Resource Management, 675 Texas St., Suite 5500, Fairfield, CA 94533 or at any public library in the county. The General Plan is also available on CD and can be requested through the Department of Resource Management by calling 707-784-6765.

SOLANO COUNTY ORDINANCE #2008-01

ORDINANCE NO. 2008-01

AN ORDINANCE OF THE PEOPLE OF THE COUNTY OF SOLANO, ADOPTING AN AMENDMENT TO THE 1994 ORDERLY GROWTH INITIATIVE TO UPDATE CERTAIN PROVISIONS OF THE GENERAL PLAN LAND USE AND CIRCULATION ELEMENT RELATING TO AGRICULTURE OR OPEN SPACE POLICIES AND LAND USE DESIGNATIONS, AND TO EXTEND THE AMENDED INITIATIVE, INCLUDING THE VOTER APPROVAL REQUIREMENT, UNTIL DECEMBER 31, 2028

The people of the County of Solano ordain as follows:

Section 1. Purposes and Findings

- A. In December 1980, the Solano County Board of Supervisors adopted a General Plan Land Use and Circulation Element that established a development policy of city-centered growth. Under the 1980 General Plan, urban development was to be confined to patterns that did not conflict with essential agricultural lands, while rural and suburban development was to be confined to non-essential marginal agricultural lands. The 1980 General Plan was intended to provide policy guidance for shaping growth and development within the unincorporated areas of Solano County, and for protecting its agricultural and natural resources, until the year 1995.
- B. Proposition A, an initiative measure passed by the voters of Solano County in June 1984, reaffirmed the General Plan's cornerstone policies of city-centered growth and farmland protection, and imposed strict limitations on the County Board of Supervisor's ability to allow new residential, commercial, or industrial development in agricultural and open-space areas. Proposition A was a limited-term measure that was to expire in December 1995.
- C. In 1994, the voters of Solano County proposed the Orderly Growth Initiative in order to extend the protections of Proposition A until December 31, 2010. In response to broad public support for that proposal, the Solano County Board of Supervisors adopted the Orderly Growth Initiative as its Resolution No. 94-170 on July 26, 1994.
- D. For 28 years, the 1980 General Plan, Proposition A, and the Orderly Growth Initiative have protected working farms, ranches, and watershed areas in Solano County by directing urban growth and development into our cities. The cornerstone policies of city-centered growth and farmland protection have:
 - Provided each city in Solano County the opportunity to develop with its own unique character;
 - Reduced flood risks, improved air quality, and protected our water quality;
 - Prevented poorly-planned growth and development; and
 - Assured the continued preservation of working farms, ranches, and watershed areas between the cities of Solano County.

- E. Although the 1980 General Plan was originally intended to be updated in 1995, the Orderly Growth Initiative prevents the County from adopting a comprehensive update to the 1980 General Plan unless the voters amend the language of the land use and development policies set forth in the Orderly Growth Initiative.
- F. Solano County's current General Plan does not accurately reflect existing and planned land uses of Solano County's seven cities, nor does it adequately provide for modern farming practices that Solano County's farmers need to employ in order to survive in today's regional, national, and global economies. Solano County cannot effectively plan and manage 21st century land uses and development if its guiding policy document is a 20th century General Plan.
- G. Solano County has completed a multi-year process of updating its General Plan. This process was necessary to keep the General Plan current to comply with state law and with changing conditions. The new 2008 General Plan reaffirms the County's commitment to a city-centered development pattern and the protection of agricultural and open-space area. The new 2008 General Plan is intended to serve as the guide for both development and conservation within the unincorporated portion of Solano County through the year 2030.
- H. While the 1980 General Plan divided Solano County's agricultural area into two large regions, identified as "Extensive Agriculture" and "Intensive Agriculture," the new 2008 General Plan identifies ten distinct agricultural regions based on soil types and farming practices, and establishes unique development policies for each region. In addition, the new General Plan allows for agricultural processing service uses in areas northeast of the City of Dixon to serve the farming community, and limited industrial development adjacent to the City of Vacaville, but restricted to uses that cannot be accommodated in city industrial areas.
- I. The Solano County General Plan's Land Use and Circulation Map, as reaffirmed by Solano County voters as part of the Orderly Growth Initiative in 1994 and as amended since then consistent with policies of that Initiative, is shown in Exhibit A to this ballot measure. The Solano County 2008 General Plan's Land Use Diagram is shown in Exhibit B to this ballot measure.
- J. Solano County's 2008 General Plan involves only minor amendments to the Orderly Growth Initiative, as reflected in Exhibits C and D to this ballot measure.
- K. This ordinance will continue to protect Solano County's working farms, ranches and watershed areas by extending the essential provisions of the Orderly Growth Initiative for the anticipated duration of the new 2008 Solano County General Plan. This measure will:
- Readopt the Orderly Growth Initiative's policies that strictly limit the Board of Supervisor's ability to change the designation of "Agriculture" or "Open Space" lands through the year 2028.
 - Update the Orderly Growth Initiative's density standards for development of "Agriculture" or "Open Space" lands and extend the effect of those density standards through the year 2028. This will prevent poorly planned growth in the unincorporated lands of Solano County.

L. This ordinance and the 2008 Solano County General Plan will:

- Maintain the current development strategy of city-centered growth;
- Retain the overall function of the Orderly Growth Initiative, while updating and refining the Initiative's policies and land use designations;
- Protect and support agriculture as an important component of Solano County's economy and quality of life;
- Provide an opportunity for farm-based, businesses, such as wineries, to develop successfully within Solano County;
- Encourage the location of need new industrial and agricultural processing facilities;
- Sustain and enhance Solano County's natural environment, including its diverse species, watersheds, natural communities, and wildlife corridors;
- Ensure sufficient opportunities for residential, commercial, and industrial development within areas served by the cities, in order to provide all Solano County's residents with a vibrant economy and affordable housing options;
- Protect the health, safety, and welfare of Solano County's residents by avoiding more air pollution, water pollution, water shortages, traffic congestion, noise and other adverse environmental impacts from urban sprawl;
- Prevent costly and inefficient extensions of urban services and infrastructure to rural areas of the County;
- Permit Solano County to continue to bear its fair share of regional growth and provide safe, decent affordable places for people to live in our cities;
- Prevent piecemeal amendments of the Solano County General Plan that would allow development on agricultural and open space lands;
- Help increase our supply of good jobs by encouraging job development in our growing agriculturally-based industries; and
- Allow the County to update and amend its General Plan periodically as necessary to comply with State law and changing conditions, while requiring that any such amendments be consistent with the cornerstone policies of city-centered growth and protection of farmlands and open space.

Section 2. Orderly Growth Initiative Amendment

The Solano County Land Use and Circulation Element, as amended by the 1994 Orderly Growth Initiative, as part of the Solano County General Plan, is amended as follows:

- A. Development Strategy Policy No. 16 (General Plan Land Use and Circulation Element, Chapter II, page 23,) is renumbered as Land Use Policy LU.P-2 and amended to read:

A cornerstone principle of this General Plan is the direction of new urban development and growth toward municipal areas. In furtherance of this central goal, the People of Solano County, by initiative measure, have adopted and affirmed the following provisions to assure the continued preservation of those lands designated Agriculture," "Watershed", "Marsh", "Park & Recreation", or "Water Bodies & Courses": **Land Use Policy LU.P-3; Agricultural Policies AG.P-31, AG.P-32, AG.P-33, AG.P-34, AG.P-35, and AG.P-36.** The General Plan may be reorganized, and individual goals and policies may be renumbered or reordered in the course of ongoing updates of the General Plan in accord with the requirements of state law, but the provisions enumerated in this paragraph shall continue to be included in the General Plan until December 31, **2028**, unless earlier repealed or amended by the voters of the County.

- B. Development Strategy Policy No. 17 (General Plan Land Use and Circulation Element, Chapter II, page 23a) is renumbered as Land Use Policy LU.P-3 and amended to read:

The designation of specific lands and water bodies as "Agriculture," "Watershed," "Marsh," "Park & Recreation," or "Water Bodies & Courses" on the Solano County Land Use **Diagram**, adopted by the Solano County Board of Supervisors on December 19, 1980, and as amended subsequently consistent with Proposition A **and the Orderly Growth Initiative**, shall remain in effect until December 31, **2028**, except lands designated "Agriculture" may be re-designated pursuant to the procedure specified in **Agricultural Policies AG.P-32 through AG.P-36** (providing for re-designation upon the making of specific findings, or as necessary to comply with state law requirements regarding provision of low and very low income housing, or permitting certain re-designations to open space).

In addition, these agricultural and open space lands may also be re-designated after a final judgment by a court of competent jurisdiction determining that the absence of a re-designation would constitute an unauthorized taking of private property or is otherwise unconstitutional, but only to the minimum geographical extent and intensity of use necessary to avoid such unconstitutional result. Any such re-designation shall be designed to carry out the goals and provisions of this policy to the maximum extent possible.

Further, the precise boundaries of land use designations may be subject to minor adjustment and refinement prior to development, or upon request of an affected landowner, provided such refinements reflect the overall boundaries indicated on the General Plan Land Use *Diagram* and are consistent with all other General Plan policies, in particular, the General Plan policies prohibiting piecemeal conversions of agricultural lands to non-agricultural uses.

- C. Agricultural Lands Policy 9 (General Plan Land Use and Circulation Element, Chapter III, pp. 37-37a) is renumbered as Agriculture Policy AG.P-31 and amended to read:

Define parcel size of Agriculture designated lands based on the "Agriculture Regions" section as described in this chapter and presented in Table AG-3.

One residence and a permitted secondary unit may be built on a lot of record existing as of January 1, 1984, designated "Agriculture" provided however that (i) the owner demonstrates compliance with all other applicable County requirements, and (ii) before such exemption is granted, the lot has first been merged with contiguous parcels to the maximum extent possible consistent with State law.

- D. Table AG-3, as referenced in Agricultural Policy AG.P-31, is added:

**Table AG-3
Agricultural Regions**

Agricultural Region	Minimum Lot Size	General Uses
Winters	40 acres	Provides for agricultural production, agricultural processing facilities, facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Dixon Ridge	40 acres	Provides for agricultural production, agricultural processing facilities, and agricultural services
Elmira and Maine Prairie	40 acres – northwest portion (Elmira) 80 acres – southeast portion (Maine Prairie) See Figure AG-5	Provides for agricultural production, agricultural processing facilities, and agricultural services
Montezuma Hills	160 acres	Provides for agricultural and energy production
Ryer Island	80 acres	Provides for agricultural production

Agricultural Region	Minimum Lot Size	General Uses
Suisun Valley	20 acres	Provides for agricultural production, agricultural processing facilities, facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Green Valley	20 acres	Provides for agricultural production. A future Specific Plan required for Middle Green Valley will further detail desired agricultural uses and lot sizes
Pleasants, Vaca, and Lagoon Valleys	40 acres – Parcels with current A-40 zoning 20 acres – Parcels with current A-20 zoning See Figure AG-6	Provides for agricultural production and facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Jepson Prairie	160 acres	Provides for agricultural production
Western Hills	160 acres – West of Pleasants Valley Road 20 acres – East of Pleasants Valley Road and in the Tri-City and County area See Figures AG-7 and AG-8	Provides for agricultural production and tourist services that are ancillary to agricultural production

- E. Agricultural Lands Policy 10 (General Plan Land Use and Circulation Element, Chapter III, pp. 37a-37b) is renumbered as Agriculture Policies AG.P-32 and amended to read:

Lands within the "Agriculture" designations as shown on the Land Use *Diagram* may be re-designated to a more intensive agricultural designation, or to a rural residential designation (with a maximum density of one unit per 2.5 to 10 acres) if the Board of Supervisors makes each of the following findings:

- (a) That the approval will not constitute part of, or encourage, a piece-meal conversion of a larger agricultural area to residential or other non-agricultural uses, and will not alter the stability of land use patterns in the area;
- (b) That no land proposed for re-designation is prime agricultural land as defined pursuant to California Government Code section 51201 (the California Land Conservation Act of 1965, also known as the Williamson Act);

- (c) That the subject land is unsuitable for agriculture due to terrain, adverse soil conditions, drainage, flooding, parcel size or other physical facts, such that it has no substantial market or rental value under the "Agriculture" designation;
- (d) That the use and density proposed are compatible with agricultural uses and will not interfere with accepted farming practices;
- (e) That the land is immediately adjacent to existing comparably developed areas and the applicant for the re-designation has provided substantial evidence that the Fire District, School District, County Sheriff, *the area road system, and the proposed water supplier* have adequate capacity to accommodate the development and provide it with adequate public services; and
- (f) That annexation to a city or incorporation is not appropriate or possible based on the following factors: nearby cities' designated sphere of influence boundaries, cities' general plan growth limits and projections, and comprehensive annexation plans.

All re-designations pursuant to this policy shall be limited to a maximum of 160 acres for any one landowner in any calendar year. Landowners with any unity of interest are considered one landowner for purposes of this limitation.

- F. Agricultural Lands Policy 11 (General Plan Land Use and Circulation Element, Chapter III, p. 37b) is renumbered as Agriculture Policy AG.P-33 and amended to read:

To comply with state law regarding the provision of low and very low income housing, as those terms are or may be defined by state law, lands within the "Agriculture" designations on the Land Use *Diagram* may be changed to a residential designation. No more than 50 acres of land may be re-designated for this purpose in any calendar year. Such re-designation may be made only upon each of the following findings:

- (a) The findings stated in subparagraphs (e) and (f) in Policy *AG.P-32*, above, are met;
- (b) Use of the land re-designated under this policy will be limited to low and very low income housing development, pursuant to a legally valid Housing Element of this General Plan;
- (c) There is no existing residentially designated land available for the low and very low income housing; and
- (d) The re-designation of lands, and construction of low and very low income housing on those lands, is required to comply with state law requirements for provision of such housing.

Section 3. Policies of the Orderly Growth Initiative Not Being Amended

The 1994 Orderly Growth Initiative provides that its policies may be renumbered and that such renumbering shall not constitute an amendment of the Initiative. The policies identified in this section are being renumbered without amendment in the 2008 Solano County General Plan as follows:

- A. Agricultural Lands Policy 12 (General Plan Land Use and Circulation Element, Chapter III, p. 37c) is renumbered as Agriculture Policy AG.P-34. That policy provides as follows:

Lands within the "Agriculture" designations may be re-designated to "Park & Recreation" only for public recreation and public open space uses and only if the uses permitted by the new designation will not interfere with or be in conflict with agricultural operations.

- B. Agricultural Lands Policy 13 (General Plan Land Use and Circulation Element, Chapter III, p. 37c) is renumbered as Agriculture Policy AG.P-35. That policy provides as follows:

Lands within the "Agriculture" designations may be re-designated to "Watershed" or "Marsh."

- C. Watershed Lands Policy 2 (General Plan, Land Use and Circulation Element, Chapter III, page 39) is renumbered as Agriculture Policy AG.P-36. That policy provides as follows:

Lands designated Watershed.

- a. Within the "Watershed" land use designation, the maximum permitted residential density is one dwelling unit per one hundred sixty (160) acres.
- b. Notwithstanding the preceding paragraph, one residence may be built on a lot of record existing as of January 1, 1984, designated "Watershed" provided however that (i) the owner demonstrates compliance with all other applicable County requirements, and (ii) before such exemption is granted, the lot has first been merged with contiguous parcels to the maximum extent possible consistent with state law.

Section 4. Effective Date

This ballot measure shall take effect ten days after the date on which the election results are declared by the Solano County Board of Supervisors. Upon the effective date of this ordinance, and not sooner, the 2008 Solano County General Plan becomes effective, provided it includes amendments to the various policies of the 1994 Orderly Growth Initiative as set forth in Sections 2 and 3 of this ordinance.

Section 5. Exemptions for Certain Projects

This ordinance shall not apply to any of the following: (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law; (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution. Nothing in this ballot measure shall be applied to preclude the County's compliance with housing obligations under state law or the use of density bonuses where authorized by state law.

Section 6. Severability and Interpretation

This ordinance shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of it. The voters declare that this ordinance, and each section, sub-section, sentence, clause, phrase, part, or portion of it, would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application. This ordinance shall be broadly construed in order to achieve its purposes.

Section 7. Amendment or Repeal

Except as otherwise provided, only the voters of Solano County may amend or repeal the policies set forth in Sections 2 and 3 of this ordinance.

This ordinance was passed by a vote of the people of the County of Solano, on November 4, 2008, by the following vote:

Yes: _____

No: _____

The vote on this ordinance was declared by the Board of Supervisors on _____, 2008.

John F. Silva, Chair
Solano County Board of Supervisors

Attest:
Michael D. Johnson, Clerk
Board of Supervisors

By: _____
Patricia J. Crittenden, Chief Deputy Clerk

Ordinance No. 2008-01

Exhibits:

Exhibit A: Solano County Land Use and Circulation Map, a part of the 1980 Solano County General Plan.

Exhibit B: Solano County Land Use Diagram, figure LU-1 of the 2008 Solano County General Plan.

Exhibit C: Agricultural and Open Space Land Use Designation Changes from 1980 General Plan.

Exhibit D: Sections 2 and 3 of Ordinance No. 2008-01 with revised text.

VACAVILLE STAFF REPORT

TO: Honorable Mayor and City Council
Attention: David J. Van Kirk, City Manager

FROM: Laura C. Kuhn, Assistant City Manager

SUBJECT: **RESOLUTION OPPOSING THE COUNTY GENERAL PLAN UPDATE AND
MEASURE T – A BALLOT MEASURE TO AMEND THE 1994 ORDERLY
GROWTH INITIATIVE**

DISCUSSION:

On August 5, 2008 the County Board of Supervisors approved the General Plan Update and has forwarded Measure T to the voters. If approved, Measure T would approve certain elements of the General Plan Update and extend the 1994 Orderly Growth Initiative to 2028. On July 22, 2008, the City Council reviewed a status report and directed staff to prepare a letter to the County Board of Supervisors regarding various issues associated with the proposed General Plan Update. At that time, the Council directed that staff bring back this matter for discussion of the City Council taking a formal position on the ballot measure if the County did not incorporate the City's proposed amendments. A letter was sent to the County on July 28, 2008 (Attachment 1).

Background:

The City has consistently attended the various public meetings held by the County where the General Plan has been discussed. Initially, the proposed General Plan Update did not respect the City's adopted Sphere of Influence and the Citizen's Advisory Committee recommended broadening the Confined Animal Facility policies. Eventually several meetings between elected officials of the City and County resulted in changes to the General Plan Update. Because of these discussions, the City's Sphere of Influence is respected, and the Confined Animal Facility policy remains unchanged. Further, the rural residential proposals north of Vacaville were greatly reduced to a level which is no longer of concern to the City.

The County General Plan does include new policies that are of great benefit to the agricultural industry. The City has wholeheartedly supported the General Plan Update's new policies to strengthen the local agricultural industry's ability to process and sell their products. The City's support to improve the land use policies to reduce regulations associated with agricultural uses was clear in 2006 when the City Council formally opposed Measure J, which proposed to extend the Orderly Growth Initiative. The City has been fully supportive of the new agricultural policies, yet concerned by the new urban growth proposals in the unincorporated County area located around the City of Vacaville. The City's concerns are viewed by some as not supporting the agricultural industry. Yet this is not the case.

To fully understand the history of the issues and the City's concerns, a detailed chronology of the County General Plan has been developed. This chronology is provided as an attachment to this report (Attachment 3). Throughout the County General Plan Update process, several proposals to introduce new urban development have been made. Most of these proposals surrounded the City of Vacaville and Dixon. These proposals weaken the long standing, mutually agreed to policy between the County and the cities that "what is urban shall be municipal." The City has shown that there are adequate lands to provide sites for job-producing businesses. In Vacaville alone, there are over 1,200 acres of vacant industrial and business park lands and over 300 vacant acres of commercial land. In addition, additional job-producing development can be accommodated within the City's newly adopted Urban Growth Boundary.

Both Vacaville and Dixon are affected by new urban land uses at their borders. Vacaville has been the most vocal about these concerns because new urban development proposals are included at each of our three gateways. These proposals include a total of 359 acres as follows:

1. Twenty-four (24) acres at I-80 and Cherry Glen Road (the "Pierson Property");
2. Forty (40) acres east and west of I-80 at Midway Road;
3. Forty-five (45) acres located southeast of I-80/north of Midway Road (the "Bray Property");
4. Two hundred and fifty (250) acres east of I-80 and north of Midway Road.

For comparison purposes, the total acres of land is similar in size to the area north of I-80 and east of I-505 from the intersection of the highways up to Kaiser and Genentech. Further, all of the proposals, except the Pierson property, are located just beyond the City's newly adopted Urban Growth Boundary. This boundary was intended to limit growth within these limits for the next 20 years. These proposals greatly diminish the value of the Urban Growth Boundary by proposing new urban development just beyond the limit.

Concerns with County Urban Development Proposals

The City of Vacaville's concerns with the urban development proposals are based primarily on the lack of urban services to support the proposals. Each of the sites proposed for development are near I-80 or I-505, but lack utility services sufficient to support urban development. New manufacturing facilities often rely on water service to produce products, cool equipment, wash products and most importantly provide adequate fire flow for fire fighting purposes. Without municipal utility services, the new development would rely on wells to provide water service and septic tanks and/or package systems to treat wastewater. Wells and wastewater treatment facilities require separation from one another to ensure that the groundwater is not contaminated. Also, groundwater sources, if contaminated or stressed, may not be a reliable source of significant amounts of water. The City relies on the Tehama Aquifer which could be impacted by the proposed development north of Midway Road near I-505. The Tehama Aquifer provides a minimum of one-third of the water supply to the City.

Late in the process, the County also discussed the need for a truck stop. The Bray and Pierson properties, both being changed to allow Highway Commercial, were identified as sites where a truck stop could be located. Further, the land designated for Highway Commercial at Midway and I-505 could be redeveloped into a truck stop as well. While there are no specific proposals for a truck stop on these parcels, both are significant gateway locations to Vacaville. Further, truck stops can generate a host of new land use concerns, ranging from traffic to crime. The County agreed that the Bray site should not allow a truck stop due to its proximity to the Veterans Cemetery. The Pierson site included a provision for annexation to the City for Highway Commercial development. This provision was later stipulated that the site could be annexed to Vacaville; or, if not annexed in three years, the site could be developed for commercial uses in the County. Completing the annexation process within the stipulated three years will be difficult, even with the property owner's participation.

Other issues that have been identified include the impact of the County's new urban development on City services. The City of Vacaville provides Emergency Medical Services (EMS) to the I-505 and Midway area, and is often a first responder to fires in the unincorporated areas just beyond our borders. Other issues related to traffic and transportation were identified as well. At the end of the process, however, the County did approve the Final Environmental Impact Report (EIR), even though the City had identified remaining concerns and cited the lack of adequate time to review the volumes of information released in late July. A letter concerning the Final EIR was transmitted to the Board on August 5th.

City Proposes Compromise

During the process, the City of Vacaville provided input and options to the County for their consideration. Initial opposition to the urban development proposals was forwarded to the County in December 2007. The Council then considered a compromise to the County's proposals and provided support to the urban development proposals through use of a zoning program to ensure that the new development proposals on our borders would be designed to be consistent with City

standards. This compromise was submitted in February 2008, with no response. Ultimately, however, the County met with the City in late June to discuss this proposal and others. Additional changes resulted from that process, including the proposal to include a zoning program (a Policy Plan) to ensure consistency with City Standards. The City agreed to this proposal, but has raised the concern that these policies could later be removed without City consent. Therefore, the City requested that the details needed to be worked out before Board approval so that the newly proposed policies would be included in the ballot measure submitted to the voters. On July 29th, the City forwarded this proposal to the Board. Ultimately, however, there wasn't enough time to work out the issues. In the end, the Board did not accept the language offered by the City (see Attachment 1).

Another issue that developed late in the process was the matter of the Policy Plan requirements for the area at I-505 and Midway. The initial compromise reached in June included a policy to require the formulation of a policy plan for this area, which would ensure that all future development would be consistent with Vacaville development standards. However, the policy was changed by the Board to allow businesses from the Peabody Road area near the future train station to relocate to this area prior to development of the policy plan. This new provision significantly dilutes the ability of the City and County to ensure that any new uses in the area are developed consistent with City standards.

On August 5th, the Board of Supervisors adopted an Ordinance (see Attachment 5). Based upon the final action of the Board to adopt the General Plan Update without resolving the issues with the City of Vacaville, the matter is being returned to the City Council for consideration of taking a formal position. A resolution has been prepared which opposes Measure T. This resolution reflects the comments of the City Council at the July 22, 2008 meeting.

RECOMMENDATION:

By simple motion, to adopt the subject resolution.

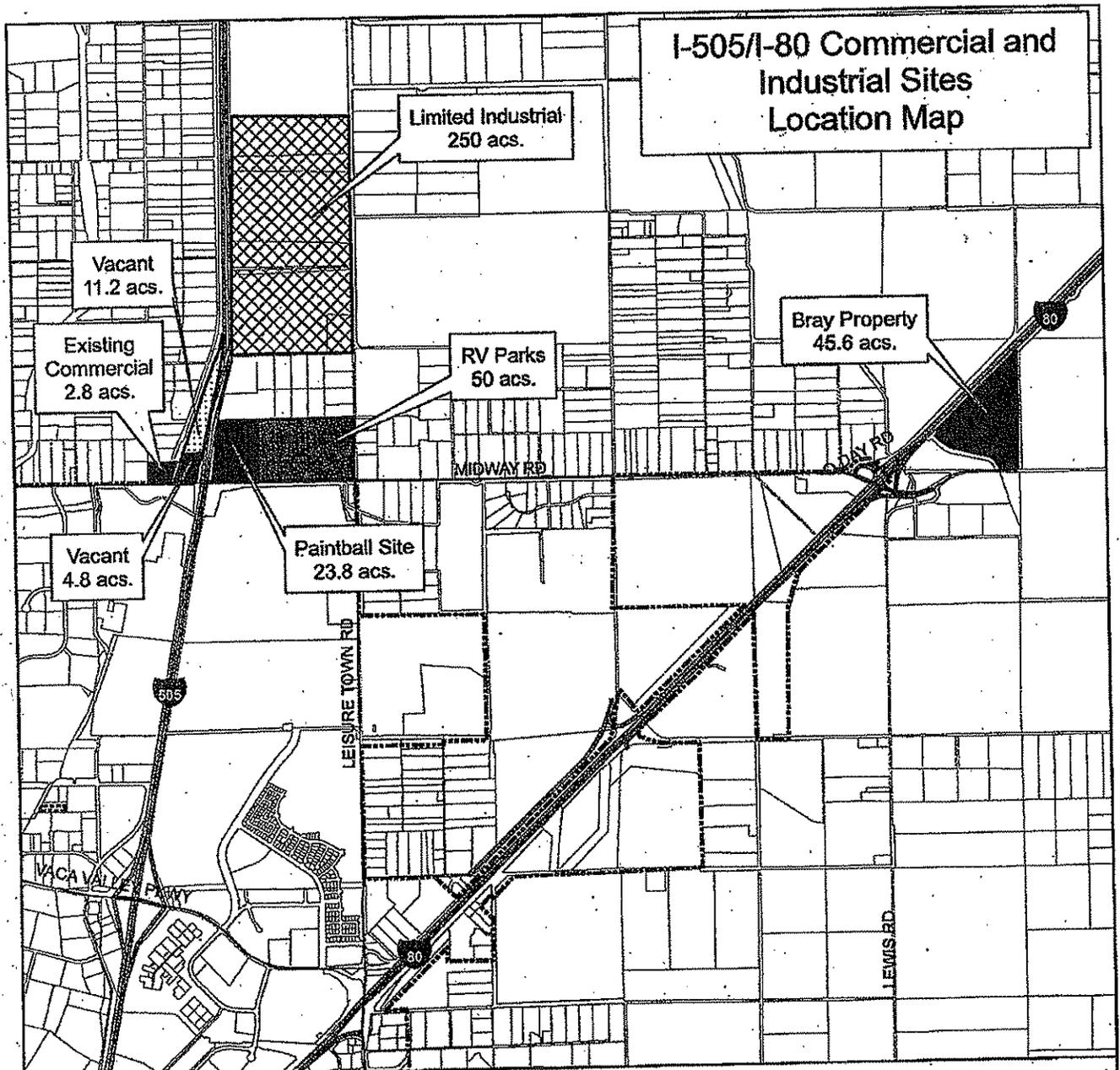
Resolution (action item)

Attachments:

1. July 28, 2008 Letter from Mayor to Board of Supervisors, includes Exhibit 1 with proposed policy language
2. July 22, 2008 City Council Staff Report
3. Chronology of Events
4. August 5, 2008 Letter from Scott Sexton to the Board of Supervisors
5. August 5, 2008 Ordinance Adopted by the Board of Supervisors

**I-505/I-80 COMMERCIAL
AND INDUSTRIAL SITES**

ATTACHMENT H



Proposed County General Plan Land Uses

-  Service Commercial
-  Limited Industrial
-  Highway Commercial
-  Commercial Recreation
-  Parcel Lines
-  Vacaville City Limits

City Of Vacaville
Community Development Department



0 1,000 2,000 4,000 Feet



**VACAVILLE REPORTER ARTICLE
DATED 09/10/08**



Vacaville to remain neutral on Measure T

Solano's General Plan update, backed by the chamber and area farmers, will go before voters Nov. 4.

By Melissa Murphy

Article Launched: 09/10/2008 06:30:35 AM PDT
 Vacaville City Council members will remain neutral on the decision to oppose or to agree to the update of the Solano County General Plan.

The update is set to go before voters Nov. 4 and council members are hoping that not opposing the update will encourage a better relationship with the Solano County Board of Supervisors.

Tuesday evening, the council voted 4 to 1 to remain neutral, Councilwoman Pauline Clancy dissented and said she was not a neutral person and that the county had singled out Vacaville.

Several farmers showed in full force, complete with tractors, in support of Measure T, the proposition that the city staffers have been objecting to for months.

Joe Martinez, president of the Solano County Farm Bureau, said that opposing the update would send a message to businesses in the county that they're not welcomed anymore.

Gary Tatum, president of the Chamber of Commerce told the council that, "To not consider the vast benefits of this plan over the differences is akin to tossing the baby out with the bath water and I firmly believe this is not the intent of the council."

All the council members agreed that if the county had listened to the city, it would not be in the predicament that it's in now.

"We wanted to work with them in January, but they acted like we didn't exist," Clancy said. "They wouldn't respond to our letters."

Vice Mayor Chuck Dimmick agreed.

"We were met with stony silence," he said. "It's very frustrating for us. It left a pretty bad taste in my mouth. If they had listened to us back in January we wouldn't be here tonight."

The council had asked the Board of Supervisors repeatedly to adopt several proposals Vacaville made during the general plan hearings.

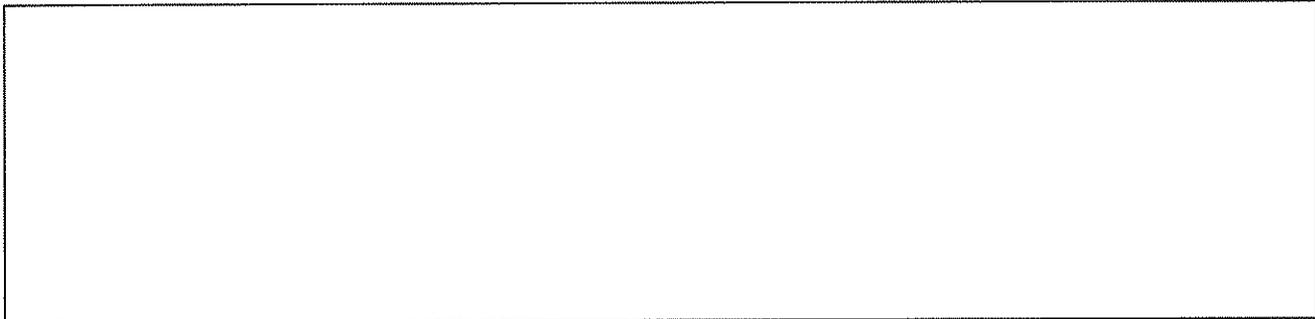
Vacaville wanted the area north of the city to be subject to a policy-specific plan that would include all new industrial and commercial areas rezoned as part of the 2008 General Plan.

The city still would like to see the county require all development adjacent to the city meet Vacaville development standards including, but not limited to, fire flow, water-service standards, traffic- and roadway-design standards, public utilities standards and related city requirements.

Although the council does not necessarily agree with the general proposal, most council members agreed that opposing the update would do more harm than good.

"All we want to do is protect the land adjacent to Vacaville," Dimmick said. "I would rather remain neutral and work with the county. By voting no, I see it as burning a bridge. ... At this point opposing it would be futile."

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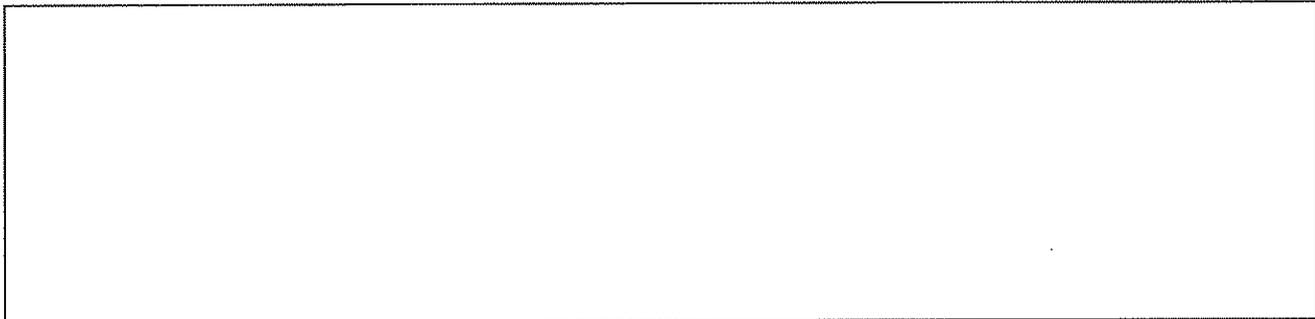
Councilman Curtis Hunt agreed.

"It's a very difficult decision," he said. "Opposing the general plan is too much of a risk. We should try to develop a relationship with the county."

Clancy believes that's not possible and pointed to several concerns, one being about providing fire and police services to the possible developed properties just outside of Vacaville, noting that the city's services are already strained.

"You can't build a relationship with people (who) don't want a relationship," she said. "Vacaville has been singled out because we don't lick boots. I'll be asking the voters to oppose it, it's extremely harmful to the city."

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**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
INFORMATIONAL ITEM**

DATE : August 6, 2008
TO : Mayor & City Council
FROM : City Manager
SUBJECT : **UPDATE FROM THE POLICE CHIEF REGARDING PUBLIC SAFETY STATISTICS AND COMPARISONS**

RECOMMENDATION:

This is an informational report, no action is necessary.

EXECUTIVE SUMMARY:

The Police Chief will present a summary of the 2007 and 2008 (year-to-date) Uniform Crime Reports for Benicia. An overview of Benicia's policing philosophy will also be provided by the Chief, along with a summary of important crime prevention strategies.

Attachment:

- Memo from Police Chief

MEMO



Police Department
MEMORANDUM

Date: August 1, 2008
To: Jim Erickson, City Manager
From: Sandra Spagnoli, Police Chief
Subject: **2007 Benicia Uniform Crime Reporting Statistics/
2008 Year-to-date Benicia Uniform Crime Reporting Statistics**

Background

The Benicia Police Department reports crime according to the FBI's Uniform Crime Reporting (UCR) Program. The UCR program is a national system of uniform crime statistics that uses standardized offense definitions for seven main offense classifications known as Part I crimes. The seven Part I offense classifications include the violent crimes of murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, and the property crimes of burglary, larceny-theft, and motor vehicle theft. Based on the information provided in this report, we can compare the crime rate in Benicia to other cities. Benicia continues to be one of the safest cities to live and work.

Benicia Crime Statistics and Comparisons

Index crime rates are calculated relative to each jurisdiction's population. Rates are expressed as index crimes per 100,000 residents. The number of FBI index crime per 100,000 residents is a standard measure used throughout the law enforcement community.

As you can see below, the overall crime rate in the City of Benicia has declined 4% during the 2007 calendar year, despite some high profile incidents that occurred during this time period. This decline is encouraging, even more so, when compared to the other cities in Solano County. 4 of the 8 jurisdiction's crime rates in Solano County actually increased. Additionally, when comparing Part 1 crimes on a per capita basis with nearby cities of like populations, the City of Benicia enjoys the lowest crime rate of the group at nearly 40% below the group average.

Uniform Crime Report- 2007

Offense	Benicia PD	Dixon PD	Hercules PD	Pleasant Hill PD	Solano CO SO	Suisun City PD
Homicide	1	1	0	1	2	0
Rape	5	9	5	10	8	11
Robbery	22	14	24	48	25	42
Aggravated Assault	28	43	109	65	143	87
Burglary	154	115	129	218	161	181
Larceny	262	603	267	1178	244	462
Auto Theft	61	83	95	205	13	129
Arson	13	3	*	13	23	*
TOTAL	546	871	629	1738	619	912
Per Capita	19.55	49.36	26.35	52.72	30.75	32.59
Population	27,916	17,644	23,864	32,964	20,125	27,980
* Unavailable data						

Uniform Crime Report- 2006 and 2007 comparison

The below chart compares Benicia's Uniform Crime Statistics from 2006 and 2007 to other cities.

	Benicia PD			Dixon PD			Fairfield PD	
	2006	2007		2006	2007		2006	2007
Homicide	0	1	Homicide	0	1	Homicide	7	7
Rape	7	5	Rape	8	9	Rape	36	36
Robbery	13	22	Robbery	12	14	Robbery	241	221
Aggravated Assault	47	28	Aggravated Assault	48	43	Aggravated Assault	363	326
Burglary	116	154	Burglary	104	115	Burglary	745	698
Larceny	308	262	Larceny	423	603	Larceny	2915	2830
Vehicle theft	72	61	Vehicle theft	75	83	Vehicle theft	706	680
Arson	8	13	Arson	13	3	Arson	35	33
Crime Down 4%			Crime Up 28%			Crime Down 4%		
State UCR Totals *	571	546	State UCR Totals *	683	871	State UCR Totals *	5048	4831

	Rio Vista	
	2006	2007
Homicide	0	0
Rape	0	0
Robbery	0	3
Aggravated Assault	0	41
Burglary	21	50
Larceny	39	62
Vehicle theft	12	12
Arson	0	0
Crime Up 133%		
State UCR Totals *	72	168

	Solano SO	
	2006	2007
Homicide	0	2
Rape	7	8
Robbery	12	25
Aggravated Assault	137	143
Burglary	243	161
Larceny	200	244
Vehicle theft	16	13
Arson	23	23
Crime Down 3%		
State UCR Totals *	638	619

	Suisun PD	
	2006	2007
Homicide	2	0
Rape	14	11
Robbery	30	42
Aggravated Assault	101	87
Burglary	180	181
Larceny	376	462
Vehicle theft	137	129
Arson	N/A	N/A
Crime Up 9%		
State UCR Totals *	840	912

	Vacaville PD	
	2006	2007
Homicide	1	5
Rape	25	25
Robbery	112	83
Aggravated Assault	142	147
Burglary	320	289
Larceny	1733	1473
Vehicle theft	331	274
Arson	32	37
Crime Down 13%		
State UCR Totals *	2696	2333

	Vallejo PD	
	2006	2007
Homicide	7	15
Rape	20	25
Robbery	399	362
Aggravated Assault	347	1400
Burglary	1037	1330
Larceny	3074	2898
Vehicle theft	1426	1354
Arson	N/A	N/A
Crime Up 17%		
State UCR Totals *	6310	7384

Benicia arrests by Year- 3 year comparison

The below chart reflects arrests over a 3-year period, reflecting an increase of 20% in arrests over the last year. Arrests are one of several strategies used to control criminal behavior.

	2007	2006	2005
Adult Arrests			
Misdemeanor	633	435	571
Felony	260	235	288
Totals	893	670	859
Juvenile Arrests			
Misdemeanor	136	137	106
Felony	60	73	58
Totals	196	210	164

The following 4 charts provides a historical perspective of Benicia crime statistics between 1980 and 2007, taking into consideration the relationship between population and crime.

Uniform Crime Reports and Index of Crime in Benicia in the State of California enforced by Benicia Police from 1985 to 2007

Number of Violent Crimes Reported by Benicia Police by Year and Total						
Year	Population	Murder/ Man- slaughter	Rape	Robbery	Aggravated Assault	Total Violent Crime
2007	27,916	1	5	22	28	56
2006	26,597	0	7	13	47	67
2005	27,006	0	3	14	36	53
2004	27,252	1	5	10	52	68
2003	27,444	1	3	8	26	38
2002	27,852	0	4	14	28	46
2001	27,364	1	2	19	16	38
2000	26,865	0	6	14	31	51
1995	27,161	2	6	17	45	70
1990	24,437	0	3	11	30	44
1985	18,974	0	4	11	23	38
1980	15,075	0	3	5	33	41

Number of Property Crimes Reported by Benicia Police by Year and Total					
Year	Population	Burglary	Larceny Theft	Vehicle Theft	Total Property Crime
2007	27,916	154	262	61	477
2006	26,597	116	308	72	496
2005	27,006	160	303	87	550
2004	27,252	150	246	84	480
2003	27,444	169	292	92	553
2002	27,852	139	309	58	506
2001	27,364	146	308	47	501
2000	26,865	129	288	70	487
1995	27,161	205	525	82	812
1990	24,437	189	594	120	903
1985	18,974	215	577	43	835
1980	15,075	179	476	35	690

Benicia Violent Crime Index base upon 100,000 People

Year	Population	Murder/ Man- slaughter	Rape	Robbery	Aggravated Assault	Total Violent Crime
2007	27,916	3.6	17.9	78.8	100.3	200.6
2006	26,597	0.0	26.3	48.9	176.7	251.9
2005	27,006	0.0	11.1	51.8	133.3	196.3
2004	27,252	3.7	18.3	36.7	190.8	249.5
2003	27,444	3.6	10.9	29.2	94.7	138.5
2002	27,852	0.0	14.4	50.3	100.5	165.2
2001	27,364	3.7	7.3	69.4	58.5	138.9
2000	26,865	0.0	22.3	52.1	115.4	189.8
1995	27,161	7.4	22.1	62.6	165.7	257.7
1990	24,437	0.0	12.3	45.0	122.8	180.1
1985	18,974	0.0	21.1	58.0	121.2	200.3
1980	15,075	0.0	19.9	33.2	218.9	272.0

Benicia Property Crime Index per 100,000 People

Year	Population	Burglary	Larceny Theft	Vehicle Theft	Total Property Crime
2007	27,916	551.7	938.5	218.5	1,708.7
2006	26,597	436.13	1,158.0	270.7	1,864.9
2005	27,006	592.5	1,122.0	322.2	2,036.6
2004	27,252	550.4	902.7	308.2	1,761.3
2003	27,444	615.8	1,064.0	335.2	2,015.0
2002	27,852	499.1	1,109.4	208.2	1,816.7
2001	27,364	533.5	1,125.6	171.8	1,830.9
2000	26,865	480.2	1,072.0	260.6	1,812.8
1995	27,161	754.8	1,932.9	301.9	2,989.6
1990	24,437	773.4	2,430.7	491.1	3,695.2
1985	18,974	1,133.1	3,041.0	226.6	4,400.8
1980	15,075	1,187.4	3,157.5	232.2	4,577.1

The chart on the following page reflects our current year to date crime statistical performance. Currently the City of Benicia is on target to continue to have a 4% decrease in crime from 2006 and even with 2007.

Monthly State UCR Totals

July 2008

Classification	Offenses			% Change Up/(Down)	Offenses Cleared		
	Current Month	Y-T-D	2007 Y-T-D		Current Month	Y-T-D	2007 Y-T-D
Homicide	0	1	0	100%	0	0	0
Rape	1	3	3	0%	0	2	2
Robbery	1	7	16	(56%)	0	1	6
Aggravated Assault	4	25	17	47%	3	19	8
Burglary	16	85	102	(17%)	1	8	15
Larceny	22	183	159	15%	3	18	28
10851	3	38	41	(7%)	0	3	1
Arson	1	6	9	(33%)	0	3	1
State UCR Totals *	48	348	347	0%	7	52	61

Benicia policing philosophy and crime prevention strategies

There are often many social causes of crime. The police department continues to embrace a community policing philosophy, including working with other city departments and city resources (service providers) to address issues related to crime and quality of life. Social conditions such as unemployment, state of the economy, drug abuse are factors that can have an impact on crime. These factors are impacting cities on a regional bases, and not specific necessarily to Benicia. I have summarized our policing philosophy and crime prevention strategies.

BPD Community Policing Approach

The Benicia Police Department has developed a community-oriented policing service that uses a synergistic approach to meeting the safety and security needs of the community we serve. Our goal is to be more accessible to, and accepted by, our community, while providing more efficient and effective services. Community policing is a philosophy, management style, and organizational strategy that promotes pro-active problem solving and police-community partnerships to address the causes of crime and fear as well as other community issues.

Principles of BPD Community Policing

- Respects and protects human rights
- Creates understanding and trust between the police and the community
- Shares responsibility and decision making
- Solves problems in consultation with the community and consistently strives to improve responsiveness and to identify and prioritized community needs
- Educates police personnel and members of the community to enable constructive participation in addressing the problems of safety and security

X-A-1-8

- Resolves conflict between and within community groups in a manner that enhances peace and stability
- Enhances accountability of the police
- Sustains commitment from both the police and the community to safety and security

Strategies for Community Policing at BPD

- Participation by all members of the Benicia Police Department in community policing and problem solving initiatives
- Commitment from police managers and supervisors to develop new skills through training that incorporates problem solving, networking, mediation, facilitation, conflict resolution, and community involvement
- Encouragement for police officers to assume responsibility for addressing safety and security problems within their areas of responsibility; to promote initiative, creativity, and pride in achievement; and to promote self-disciplined and motivated personnel
- Identification and mobilization of community resources and organizations to assist in addressing safety and security concerns
- Development of honest, open, and effective communication between the police and the community to enhance the consultative roles of the police and the community in general
- Development of a dedicated traffic unit to enhance service and directly address the most frequently reported community concern- traffic related problems

Strategies for Crime Prevention

- Analyze crime to identify crime patterns or serial crime
- Coordinate criminal investigations with local and county law enforcement agencies
- Provide crime prevention through community education and awareness and neighborhood watch programs
- Enforce narcotics crimes as a means to impact community safety, as narcotics offences are often associated with other crimes
- Assertively pursue and investigate serious crimes and arrest / prosecute offenders
- Coordinate services between the police and other city service providers
- Add officer staffing to patrols or undercover operations as necessary
- Long term problem solving to resolve issues resulting in crime, disorder and calls for police service

Conclusion

In summary, Benicia continues to be one of the safest communities in the greater Bay Area due to our efforts in:

- Supporting prevention and intervention programs
- Proactively pursuing law violators,
- Establishing best practices and environmental strategies, and
- Building community relationships and partnerships

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
INFORMATIONAL ITEM**

DATE : August 26, 2008
TO : Mayor & City Council
FROM : City Manager
SUBJECT : **ANALYSIS OF THE GRAFFITI ORDINANCE**

RECOMMENDATION:

Review and provide direction to staff.

EXECUTIVE SUMMARY:

The Police Chief will present an analysis of the City's current graffiti ordinance, which includes recommended changes to the ordinance and associated cost implications.

Attachment:

- Memo from Police Chief

MEMO



Police Department
MEMORANDUM

Date: July 30, 2008
To: Jim Erickson, City Manager
From: Sandra Spagnoli, Police Chief
Subject: Analysis of Benicia Graffiti Ordinance

Recommendation

Modify existing graffiti ordinance in an effort to increase accountability of criminal offenders and reduce graffiti throughout the city.

Executive Summary

Currently, Benicia's graffiti ordinance encompasses several best practices (see attached comparison chart). However, the current ordinance could be improved by incorporating the components listed below:

1. Reduce graffiti clean up time, when practical, from 72 hours to within 48 hours
2. Establish a reward program for reporting graffiti which leads to the arrest and conviction on a graffiti artist
3. Consider design and/or anti-graffiti strategies for surfaces, structures and property
4. Allow for seizure of all property used during this crime
5. Set higher removal standards (matching paint/ cover graffiti completely)
6. Require businesses to post state law related to sales of aerosol paint

Background

Predominately there are two types of graffiti; gang-related and tagging. In recent months, the City of Benicia, along with adjoining communities throughout the county, experienced a heightened awareness regarding graffiti. Graffiti is a crime and can be prosecuted through the authority of State law. This authority is used specifically for prosecution but does nothing towards other efforts such as clean-up, removal standards, business restrictions, environmental design, etc. Additionally, a more refined and contemporary ordinance would better define the role of each city department to better coordinate a unified effort.

Discussion

Key elements to the graffiti abatement program include:

1. **Prevent** graffiti by removing it rapidly, planting shrubs to cover flat walls, utilizing anti-graffiti surface treatments, increase lighting, encourage community involvement, work with retailers who sell graffiti products and coordinate awareness campaigns.

2. Report graffiti and graffiti vandals immediately. Citizen involvement increases the likelihood of apprehension and successful prosecution. Appropriately documenting and tracking graffiti will assist in building a package for prosecution.

3. Remove graffiti immediately. Graffiti encourages additional graffiti and other nuisance activity.

Key elements to an effective ordinance include:

1. Swift graffiti removal: Encourage prompt removal of graffiti **24- 72 hours**, and require mandatory abatement following proper notice.

2. Business Responsibility:

- a. Reaffirm California Law of unlawful possession for any person under the age of eighteen (18) years to purchase (possess) any graffiti implement (also outlined in Penal Code 594)
- b. Lock spray paint and/or markers and/or have items under the control of employee(s)
- c. Post signage regarding restrictions

3. Penalties:

- a. Establish a penalty for conviction
- b. Crime classification for municipal code violation- Infraction and/or Misdemeanor

4. Graffiti removal standards: Sets standards for graffiti removal to include complete covering to render graffiti inconspicuous using paint that matches the original color, and/or completely repainting.

5. Community Education: Implement programs designed to educate the community about graffiti prevention.

6. Seizure of Property used in the crime: Impose the seizure of property (such as vehicles) belonging to graffiti suspects, when the property was used during or incidental to the crime.

7. Cost Recovery: Establish the ability to recover costs associated with the abatement and prosecution of graffiti suspects. In the case where a minor applies graffiti, the parents or legal guardian of the minor shall be jointly liable for the payment of civil damages resulting from the minor's misconduct.

8. Reward: Offer a reward to persons who report graffiti, which leads to the successful conviction of a graffiti suspect.

9. Civil Responsibility-businesses: Require any business who sells, displays or stores graffiti tools, to be liable for any and all costs incurred by any party in connection with the removal of graffiti, or the repair of any property containing graffiti, caused by any person who shall use such graffiti implement in violation of the provisions of California Penal Code Section 594, and for all attorney's fees and court costs incurred in connection with the civil prosecution of any claim for damages.

10. License suspension or delay driving privileges: Petition the sentencing court to suspend existing driving privileges or delay the issuance of driving privileges in accordance with California Vehicle Code section 13202.6, for each conviction of a person aged 13 to 21 for violation of Section 5 783(a) of this Part or any state law pertaining to vandalism of property with a graffiti implement.

11. PREVENTION PROVISIONS

- a. **Design of New Anti-Graffiti-Attracting Surfaces:** Set standards for design review approval, conditional use permit, temporary activity permit, land development permit, site plan approval, planned development approval, development agreement, or other form of development or building permit, to the extent deemed feasible, to have designs of any building structures visible from any public or quasi-public place in such a manner as to consider prevention of graffiti, including, but not limited to, the following: (1) use of additional lighting; (2) use of nonsolid fencing, where permitted; (3) use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; and (4) use of architectural design to break up long continuous walls or solid areas.
- b. **Retrofit Existing Graffiti-Attracting Surfaces.** In the case where an area or surface of a structure has been defaced more than four times in six months, the City can propose that retrofitting is necessary to prevent further instances of graffiti. This may include anti-graffiti strategies or measures defined above in "Anti-Graffiti-Attracting Surfaces." This should be at the cost of the property owner, with such features or qualities to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient graffiti removal.

FISCAL IMPACT:

Recommend staff develop a tracking procedure that provides greater accounting of actual costs associated with abating graffiti.

Other long-term costs associated with modifying the current City Ordinance including the following:

- Personnel costs associated with graffiti abatement and education programs, a portion of which has been allocated and approved under the Public Works Department with the mid-year (FY 08/09) budget adjustments (\$30,000 staffing costs for graffiti removal.)
- Maintenance costs associated with graffiti abatement
- Educational materials related to a graffiti awareness campaign
- Establishing a reward program for the apprehension of graffiti suspects

Graffiti Ordinance Comparison Chart

Key Ordinance Components:	Time for graffiti removal	City removal authorized	Offender Penalties	Parent Liability for Minor	Seizure of property used in crime	Cost Recovery	Sales of paint/markers to minors	Reward to report graffiti	Civil Responsibility for businesses	Signage at businesses	License suspension for conviction
*Stockton	48 hours	Yes	-\$200.00 first offense -\$500 subsequent -Infraction or misdemeanor	Yes	Yes	Yes	-Items must be in view -no sales to minors -furnish/posses a crime	Yes	Yes	Yes	Yes
Benicia	72 hours	Yes	\$1000.00 fine-misdemeanor	Yes	No	Yes	-Purchase/furnish/posses a crime	None	None	Not required	Yes
Vacaville	None stated	Yes	None	None stated	No	Yes	None stated	None	None	None	None
Pleasant Hill	72 hours after notice	Yes	None	None stated	No	Yes	None stated	None	None	None	None
Concord	10 days after notice	Yes	None	None stated	No	Yes	-No retail sales to minors -business signage required	None	None	Yes	None
San Diego	None stated	Yes	None	None stated	No	Yes	-Paint enclosed cabinet	Yes-\$500	None	None	None
Fairfield	None stated	No	None	None stated	No	Yes	None stated	None	None	None	None
Suisun	Nuisance code only- includes graffiti but non specific										

X-A-2-6

Rio Vista and Dixon do not have a current graffiti ordinance.

*Stockton has additional requirements under preventions provisions as follows:

- Under design review, when possible, consider anti graffiti measures and surfaces.

2. If convicted in an attempt, a fine in 2 months cannot exceed \$1000 (anti graffiti measures at the current ordinance)

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008
TO : Mayor Patterson
FROM : City Manager
SUBJECT : **MAYORS' COMMITTEE MEETING**

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

The Mayors' Committee meetings are held on the third Wednesday of each month at 6:00 pm. The August 20, 2008 meeting was cancelled. The next meeting is scheduled for September 17, 2008. The agenda for that meeting is not yet available.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 9, 2008

TO : Mayor Patterson
Vice Mayor Campbell

FROM : City Attorney 

SUBJECT : **ABAG COMMITTEE MEETING**

The following information is provided for your committee report at the September 16, 2008 council meeting:

- The ABAG Fall General Assembly will be held on Friday, October 24th at the Oakland Marriott City Center from 8:30 a.m. to 2:30 p.m.
- The focus will be "Regional Water-Land Use Planning: The Delta Connection"
- Topics explored will include water-land conservation, efficiency, sustainability, and the resilience of our Delta and water system infrastructure. Invited speakers include Senate President pro Tempore-elect Darrell Steinberg.
- A full agenda listing expert speakers and panels will be mailed and posted online around mid-September. Online registration will be available at that time with an October 20th final registration deadline. For more information, call 510-464-7922.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 8, 2008

TO : Vice Mayor Campbell
Council Member Schwartzman

FROM : Finance Director

SUBJECT : **AUDIT AND FINANCE COMMITTEE**

The following information is provided for your committee report at the September 16, 2008 Council meeting.

The committee met on September 5, 2008 at 8 a.m. in the Commission Room. The *Draft* Minutes are attached for your review. The next meeting will be held on Friday, October 10, 2008.

**AUDIT & FINANCE COMMITTEE
REGULAR MEETING DRAFT MINUTES
SEPTEMBER 5, 2008 - 8:00 AM**

1. Call to Order at 8:05am.

Attended by Committee Chair Ralph DeJesu, Vice-Mayor Tom Campbell, Council Member Alan Schwartzman, Treasurer Teddie Bidou, BIPA Representative Dan Miceli and Citizen Rick Ernst. Staff present included Finance Director Robert Sousa and Assistant Finance Director Abby Urrutia. Consultant present: Vikki Rodriguez, Maze & Associates, CPAs.

2. Notice to the Public

3. Approval of Minutes from the Regular Meeting held on August 8, 2008 by consensus.

4. Previous Month Warrant Register Review for August 2008.

Finance Director Sousa noted that an invoice payment from previous month's register for Kitty Hammer is for payment of review services for the Valero Improvement Project plan and specifications.

Member Schwartzman:

- a. Invoice from Victoria's Designs – plant given by the City to his wife after a short illness.

Member Bidou inquired about:

- a. Invoice from Benicia Unified School District for Sprint and Verizon rent – Finance Director Sousa explained that the City leases cell towers at the Middle School. This payment is the School District's share of rent.

BIPA Rep Miceli inquired about:

- a. Invoice from Highland Products Group for benches. Finance Director Sousa will review the invoice and follow-up on the next meeting.
- b. Invoice from HDR Engineering for Transit analysis. Finance Director Sousa explained that the City has a \$30,000 grant to analyze the City's transit system route that the City of Vallejo will take over in the next month.

Chair DeJesu inquired about:

- a. Invoices from AT&T/MCI. Finance Director Sousa explained that this payment is for the monthly city-wide land line services.
- b. Invoice from Department of Motor Vehicle for registration. Finance Director Sousa explained that sales taxes had to be paid by the City for the purchase of two fire trucks.

Warrant register was approved by consensus.

5. Auditor Interviews of Committee Members and Staff

Vikki Rodriguez, a partner from Maze & Associates, CPAs gave a presentation about the new audit standards, SAS 114 & SAS 99. SAS 114 establishes standards and provides guidance to an auditor on matters to be communicated with those charged with governance. It requires auditors to have an audit planning meeting with clients and their audit committees to discuss the audit process. The audit scope, timing, management representations and fraud considerations were discussed. SAS 99 establishes standards

on consideration of fraud in a financial statement audit. The City Manager and Finance Director have been interviewed to discuss concerns, issues and susceptibility of fraud.

GASB 45, Other Post-Employment Benefits was also discussed. The only post-employment benefits offered by the City to its retirees is allowing retirees to be enrolled in the City's health, dental and vision programs, with retirees paying their own premiums. As a result, the City has an implied liability in the program, which increases the premium rates charged by health providers. An actuarial study is being conducted currently and the final report will be available by next month.

The Finance Director is to research Building Permits collection procedures and IT System controls, including password administration and data security.

6. Review Long Range Calendar

Future AFC agenda topics will include:

- a. Landscape & Lighting Districts
- b. Budget update – ten-year model with updates as they are received by Finance Director Sousa
- c. Current status of BUSD field improvements
- d. Valero Capital Improvement Project updates

5. Public Comment

Rick Ernst mentioned the Planning Commission's meeting and discussion with the CDD Director regarding Valero's CIP and the financial impact it will have on the City. However, without final taxable numbers, the impact to the City is still unknown.

6. Adjournment at 10am.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008
TO : Mayor Patterson
Council Member Schwartzman
FROM : City Manager
SUBJECT : **LEAGUE OF CALIFORNIA CITIES**

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

The 2008 League of California Cities Annual Conference will be held at the Long Beach Convention Center from September 24-27, 2008. For additional information, visit the League's website at www.cacities.org.



**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

DIVISION OFFICERS

PRESIDENT
JACK GINGLES
MAYOR-CALISTOGA

FIRST VICE PRESIDENT
SHAWN MARSHALL
MAYOR - MILL VALLEY

SECOND VICE PRESIDENT
STANLEY COHEN
COUNCIL MEMBER- SONOMA

PAST PRESIDENT
LEN AUGUSTINE
MAYOR- VACAVILLE

LEAGUE DIRECTOR
MICHAEL SEGALA
COUNCIL MEMBER - SUISUN CITY

LEAGUE STAFF
AMY O'GORMAN
REGIONAL PUBLIC AFFAIRS MANAGER

MARY CREASEY
PUBLIC AFFAIRS ANALYST

YOU ARE INVITED!

Please join the
NORTH BAY DIVISION

**General Membership Meeting and
Installation Luncheon at
Annual Conference**

**Friday, September 26, 2008
12:00 to 1:30 p.m.**

**Alegria Cocina Latina
115 Pine Avenue, Long Beach**

**Please join Members of the North Bay Division as we
swear-in our incoming officers for 2009!**

Shawn Marshall, President - Mayor, Mill Valley
Gary Plass, First Vice President - Council Member, Healdsburg
Curtis Hunt, Second Vice President - Council Member, Vacaville
Jack Gingles, Past President - Mayor, Calistoga
Alice Fredericks, Division Director - Vice Mayor, Tiburon

Luncheon Menu

First Course
Calamari El Fuego & Tapas Frias
Alegria Salad

Second Course
Choice of:
Vegetarian Lasagna
Chicken Enchiladas con Mole
El Gaucho

(Argentinean style grilled beef with roasted potatoes and spinach)

Dessert
Classic Tiramisu

\$15 per person

Questions? or to RSVP: Please contact
Mary Creasey at (916) 658-8243 / mcreasey@cacities.org or
Amy O'Gorman at (707) 291-3270 / aogorman@cacities.org

Payment will be accepted at door.
Checks payable to North Bay Division, LOCC
C/O: Su Sneddon, City of Calistoga
1232 Washington Street, Calistoga, CA 94515

X-B-4-2

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008

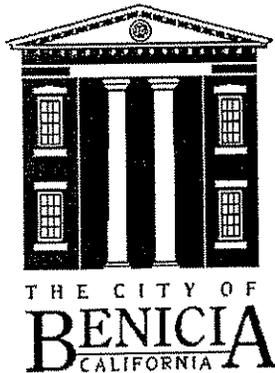
TO : Council Member Ioakimedes
Council Member Hughes

FROM : City Manager

SUBJECT : **CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE**

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

This committee meets quarterly in the Benicia Unified School District meeting room. The next meeting date has not yet been determined. The agenda from the August meeting follows.



• Since 1849 •

AGENDA

BENICIA CITY COUNCIL/SCHOOL BOARD LIAISON COMMITTEE

District Board Room

350 East K St

August 28, 2008 8:30-10:00am

- I. Call to Order and Pledge of Allegiance**
- II. Reference to the Fundamental Rights of the Public and Public Comment**
- III. Consent Calendar**
 - A. Approval of Minutes of the Regular Meeting March 13, 2008**
- IV. Business Items**
 - A. Update on the Benicia High School Traffic Signal and Circulation System Improvement Project**

At the request of Dan Schiada, Public Works Director, the committee will hear an update on the Benicia High School Traffic Signal and Circulation System Improvement Project.
 - B. Discussion of the Upgrades for the Benicia High School and Mary Farmer Softball Fields**

At the request of Janice Adams, Superintendent of BUSD, the committee will discuss the BHS and Mary Farmer softball fields.
 - C. Report and Discussion on Student Resource Officers**

At the request of Janice Adams, Superintendent of BUSD, the committee will discuss expanding the Student Resource Officers
 - D. Discussion on the Youth Protection Ordinance**

At the request of Andrew Bidou, Deputy Chief of the Benicia Police Department, the committee will discuss the Youth Protection Ordinance.
 - E. Discussion on Water Usage at the Mills Facility**

At the request of Janice Adams, Superintendent of BUSD, the committee will discuss the water usage at the Mills facility.
 - F. Update on the Mills Site**

At the request of Jim Erickson, City Manager, the committee will hear an update on the Mills Elementary Site.

X-B-5-2

AGENDA

Benicia City Council / School Board Liaison Committee
Benicia Unified School District Board Room
350 East K St

G. Report and Discussion on Traffic Studies for the "Seeno" Project

At the request of Jim Erickson, City Manager, the committee will hear a report and then discuss the traffic studies for the "Seeno" project.

V. Future Agenda Items

VI. Adjournment

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 Superintendent.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Betty Jensen, the ADA Coordinator, at (707) 748-2611. Notification 48 hours prior to the meeting will enable the District 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 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: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : September 9, 2008

TO : Vice Mayor Campbell
Council Member Ioakimedes

FROM : City Manager

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the September 16, 2008 Council meeting.

On September 2, 2008, Sky Valley Committee Chair Scott Shepard formally requested that his presentation to update Council on the activities of the Sky Valley Open Space Committee be postponed until the September 16th. This update on September 16th will consist of a brief Powerpoint presentation on the history of the committee, its mission and purpose, what has been done to date including the final work program for a possible Watershed and Recreation Management Plan, and what can be expected in the future. Additionally, Council will be presented with a draft resolution reaffirming the purpose and importance of the Sky Valley Open Space Committee.

The next regular committee meeting of the Sky Valley Open Space Committee is scheduled for October 1, 2008. A draft meeting agenda for that meeting is unavailable at this time.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 8, 2008

TO : Mayor Patterson
Council Member Ioakimedes

FROM : Jim Erickson, City Manager

SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the September 16, 2008 Council meeting:

The last Solano Economic Development Corporation Board of Directors meeting was held on Thursday, July 24, 2008. The agenda for that meeting was previously issued. The minutes are attached.

The next Board of Directors meeting is scheduled for Thursday, September 25, 2008 at 9:00 am at Jelly Belly Candy Company. The agenda for that meeting is attached/not yet available.



**SOLANO EDC BOARD OF DIRECTORS MEETING
JULY 24, 2008, 9:00 AM**

CALL TO ORDER

Chairman Reynolds called the meeting to order at 9:05 am at Jelly Belly Candy Company.

Attending were:

Mike Ammann	Len Augustine	Barry Cavanna	Elaine Crombie	Kay Draisin
Joanie Erickson	Gerry Fisher	Bruce Gondry	Daryl Halls	Nancy Huston
John Onsum	Sandy Person	Tom Recknagel	Scott Reynolds	Michael Segala
Patsy Van Ouwerkerk		Michael Wilson		

Absent were:

Dee Alarcon	Robert Bloom	Rebecca Brandt	Bill Eisenhardt	Kevin English
Kevin Finger	David Garland	Dick Hassel	Norm Hattich	Steve Huddleston
Bill James	Bill Kelly	Curt Johansen	Albert Lavezzo	Steve Lessler
Gregg McConnell	John Mraz	Elizabeth Patterson		Brooks Pedder
Sean Quinn	John RayMike Reagan	Ron Rhea	Debra Russo	
Robert Simpson	Mike Smith	Jim Sperring	Sue Vaccaro	David VanKirk

APPROVAL OF MINUTES

Chairman Reynolds called for approval of minutes of the May 30, 2008 meeting.

Upon motion duly made (Draisin) and seconded (Van Ouwerkerk) it was

RESOLVED, that the minutes of the May 2008 meeting of the Solano EDC Board of Directors be accepted as submitted.

TREASURERS REPORT

Treasurer Onsum presented the financial report for the month of June 2008.

Upon motion duly made (Segala) and seconded (Recknagel) it was

RESOLVED, that the Treasurer's Report be accepted.

MEMBERSHIP COMMITTEE

Vice-President Person announced Syar Concrete joined in July. Partnership HealthPlan, HRA Engineering and Staybridge Suites joined in June.

MARKETING TASK FORCE

Director Draisin noted Earl Parker, Solano EDC's Public Relations is working on a healthcare op-ed for publication in the East Bay Business Times. Mike Ammann recently attended BIO2008 in San Diego along with representatives from the City of Dixon, Fairfield, Vacaville and Touro University. Solano EDC's new website is up and running with the "Plant your Business" theme.

TRANSPORTATION UPDATE

Director Halls provided an update on transportation activities and projects which include summary of STA's work plan; I-80 resurfacing project; I-80 HOV lane project; North Connector; Jepson Parkway Project; Truck Scales; Jamison Canyon; truck climbing lane and Highway 12 Safety Project.

Michael S. Ammann
President
mike@solanoedc.org

Sandy Person
Vice-President
sandy@solanoedc.org

Patricia Uhrich
Office Manager
pat@solanoedc.org

Andy Turba
Special Projects
andy@solanoedc.org

Address:
360 Campus Lane, Suite 102
Fairfield, CA 94534

Phone:
707.864.1855

Fax:
707.864.6621

Toll Free:
888.864.1855

Website:
www.solanoedc.org

TRAVIS COMMUNITY CONSORTIUM

Director Huston noted the Large Fire Crash Rescue Station project has been approved for funding. The C-5 modernization project and the housing privatization project on Travis Air Force Base are both moving forward.

PRESIDENT'S UPDATE

President Ammann reviewed the prospect report. He reported the Index and the Cluster Study reports with Collaborative Economics are moving forward. Mike announced Team California recently held a 2-year strategic planning meeting at the Solano EDC office with representatives from state agencies along with economic developers from across the state. Mike announced he is celebrating his 5 year anniversary with the Solano EDC.

Calendar items were discussed. The meeting was adjourned at 10:35 am.

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008

TO : Mayor Patterson
Council Member Schwartzman

FROM : Dan Schiada, Director of Public Works

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY**

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

The agenda for the September 10, 2008 Board meeting follows, along with the minutes of the July meeting (there was not an August Board meeting). The next STA Board meeting is on October 8, 2008.



Solano Transportation Authority

One Harbor Center, Suite 130
Suisun City, California 94585

Area Code 707
424-6075 • Fax 424-6074

MEETING NOTICE

Wednesday, September 10, 2008

**STA Board Meeting
Suisun City Hall Council Chambers
701 Civic Center Drive
Suisun City, CA 94585**

Members:

- Benicia
- Dixon
- Fairfield
- Rio Vista
- Solano County
- Suisun City
- Vacaville
- Vallejo

**5:30 p.m. Closed Session
6:00 p.m. Regular Meeting**

MISSION STATEMENT – SOLANO TRANSPORTATION AUTHORITY
To improve the quality of life in Solano County by delivering transportation system projects to ensure mobility, travel safety, and economic vitality.

Times set forth on agenda is an estimate. Items may be heard before or after the times designated.

ITEM

BOARD/STAFF PERSON

**I. CLOSED SESSION:
(5:30 - 6:00 p.m.)**

PERSONNEL CLOSED SESSION pursuant to California Code Section 549547 et seq.; Executive Director Performance Review

**II. CALL TO ORDER – CONFIRM QUORUM
(6:00 p.m.)**

Chair Woodruff

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF AGENDA

**V. OPPORTUNITY FOR PUBLIC COMMENT
(6:00– 6:05 p.m.)**

Pursuant to the Brown Act, public agencies 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. Comments are limited to no more than 3 minutes per speaker. Gov't Code §54954.3(a). 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 agency.

This agenda is available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act 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.

STA BOARD MEMBERS

Ed Woodruff Chair City of Rio Vista	Jim Spering Vice Chair County of Solano	Elizabeth Patterson City of Benicia	Mary Ann Courville City of Dixon	Harry Price City of Fairfield	Pete Sanchez City of Suisun City	Len Augustine City of Vacaville	Osby Davis City of Vallejo
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STA BOARD ALTERNATES

Jan Vick	Mike Reagan	Alan Schwartzman	Jack Batchelor, Jr.	Chuck Timm	Mike Segala	Steve Wilkins	Tom Bartee
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The complete STA Board Meeting Packet is available on STA's Website at www.solanolinks.com

X-B-8-2

VI. EXECUTIVE DIRECTOR'S REPORT
(6:05 – 6:10 p.m.)
Pg. 1

VII. COMMENTS FROM CALTRANS, THE METROPOLITAN TRANSPORTATION
COMMISSION (MTC), AND STA
(6:10 – 6:50 p.m.)

- A. Caltrans Report:
Statewide Perspective on High Occupancy Toll
(HOT) Lanes and Corridor Management Jim Bourgart, Business,
Transportation, and Housing (BT&H)
- B. MTC Report:
Proposed Regional HOT Lanes Network Andrew Fremier, MTC/BATA
Doug Kimsey, MTC
- C. STA Report:
1. Southern California Project Tour Janet Adams
 2. Legislative Update Gus Khouri
 3. SolanoExpress Ridership Report for
FY 2007-08 Liz Niedziela
 4. SNCI Program Year-End Report for
FY 2007-08 Judy Leaks
 5. State Route (SR) 12 Safety Plan Update Robert Macaulay

VIII. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(6:50 – 6:55 p.m.)

- A. STA Board Meeting Minutes of July 9, 2008 Johanna Masiclat
Recommendation:
Approve STA Board Meeting Minutes of July 9, 2008.
Pg. 5
- B. Review TAC Draft Minutes for the Meeting of Johanna Masiclat
August 27, 2008
Recommendation:
Receive and file.
Pg. 17
- C. Emergency Ride Home Program Contract Amendments Judy Leaks
Recommendation:
Authorize the Executive Director to execute amendments to
extend the term of the existing contracts to deliver the Solano
Emergency Ride Home (ERH) Program with Budget Car and
Truck Rental of Fairfield and Veteran Corporation for two years
with a two-year extension option.
Pg. 21

- D. **STA Marketing Consultant Services for Fiscal Year (FY) 2008-09, Moore Iacofano Goltsman (MIG) Contract Amendment** Elizabeth Richards
Recommendation:
Approve Contract Amendment No. 2 with Moore Iacofano Goltsman (MIG) for FY 2008-09 for an amount of \$80,000 for services as outlined in the Scope of Services (Attachment A)
Pg. 23
- E. **Contract Amendment for the I-80/I-680/State Route (SR) 12 Interchange Environmental Document - Mark Thomas/Nolte Joint (MTCO/Nolte) Venture** Janet Adams
Recommendation:
Authorize the Executive Director to execute a contract amendment with the MTCO/Nolte Joint Venture to complete the EIR/EIS and perform detailed preliminary engineering for the I-80/I-680/SR12 Interchange for an amount not-to-exceed \$6,000,000.
Pg. 27
- F. **State Route (SR) 12 Jameson Canyon Co-Project Manager Contract Amendment** Janet Adams
Recommendation:
Authorize the Executive Director to execute a contract amendment with Cordoba Consulting Inc. to continue Project Management services on the SR 12 Jameson Canyon project for an amount not-to-exceed \$240,000 for an additional two year term.
Pg. 29
- G. **North Connector Phase 1 Project - Award of Construction Contract** Janet Adams
Recommendation:
Approve Resolution No. 2008-07 for the construction of the North Connector Phase 1 (Abernathy/I-80) Project in the amount \$710,000.
Pg. 31
- H. **Jepson Parkway Project Contract Amendment** Janet Adams
Recommendation:
Authorize the Executive Director to amend the contract with PBS&J for \$500,000 for the additional work necessary to support completing the Final EIR/EIS.
Pg. 37

I. North Connector Project – Right of Way Acquisition and Relocation

Janet Adams

Recommendation:

Authorize the Executive Director to make payments for the right of way acquisition and relocation costs associated with the East End of the North Connector Project for a total amount not to exceed \$7.0 million.

Pg. 41

J. State Legislative Advocacy Services Contract Award

Jayne Bauer

Recommendation:

Authorize the Executive Director to execute a contract for State Lobbying Consultant Services between the Solano Transportation Authority and Shaw/Yoder, Inc. for specified state legislative advocacy services between October 1, 2008 through September 30, 2010 for an annual amount not to exceed \$46,500.

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IX. ACTION FINANCIAL ITEMS

A. Staff Report to be Distributed after Closed Session – Proposed Compensation Changes for Executive Director

Charles Lamoree

Recommendation:

Approve compensation changes as specified in Attachment A: Amendment No. 9 to Executive Director's Employment Agreement.

(6:55 – 7:00 p.m.)

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B. State Transit Assistance Funds (STAF) for Fiscal Year (FY) 2008-09 Regional Paratransit Allocation

Elizabeth Richards

Recommendation:

Approve the list of FY 2008-09 Regional Paratransit projects as specified in Attachment A.

(7:00 – 7:05 p.m.)

Pg. 49

C. State Transit Assistance Funds (STAF) for Fiscal Year (FY) 2008-09 Status and Allocation Amendment

Elizabeth Richards

Recommendation:

Approve Amendment No. 1 to the allocation of State Transit Assistance funds for FY 2008-09 as specified in Attachments B and C.

(7:05 – 7:10 p.m.)

Pg. 53

**D. 2007-09 Job Access Reverse Commute (JARC) Lifeline
Transportation Funding Program**

Elizabeth Richards

Recommendation:

Approve the following:

1. The 2008 Solano JARC Lifeline Project Funding Plan as specified in Attachment B; and
2. Authorize the Executive Director to submit the Lifeline Project Funding Plan to MTC.

(7:10 – 7:15 p.m.)

Pg. 63

X. ACTION NON-FINANCIAL ITEMS

A. Legislative Update

Jayne Bauer

Recommendation:

Approve the specified positions on the following items:

- HR 6052 (Oberstar) The Saving Energy Through Public Transportation Act of 2008 - Support
- HR 6495 (Blumenauer) Transportation and Housing Choices for Gas Price Relief Act of 2008 – Watch
- S 3380 (Clinton) The Saving Energy through Public Transportation Act of 2008 - Support

(7:15 – 7:20 p.m.)

Pg. 69

B. Update to STA's Joint Powers Agreement

Charles Lamoree

Recommendation:

Authorize the Executive Director to forward the draft update of the STA's Joint Powers Agreement to the eight member agencies as specified in Attachment B.

(7:20 – 7:30 p.m.)

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XI. INFORMATIONAL ITEMS

**A. Fiscal Year (FY) 2008-09 and FY 2009-10 Approved Budget
Summation**

Susan Furtado

Informational

(7:30 – 7:35 p.m.)

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NO DISCUSSION NECESSARY

**B. Regional Transportation Impact Fee Feasibility Study
Update**

Janet Adams

Informational

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- | | | |
|----|--|-----------------|
| C. | Regional Transportation Plan (RTP) T2035 Update
<u>Informational</u>
Pg. 161 | Robert Macaulay |
| D. | Comprehensive Transportation Plan (CTP) Update
<u>Informational</u>
Pg. 167 | Robert Macaulay |
| E. | STA Annual Awards Program
<u>Informational</u>
Pg. 173 | Jayne Bauer |
| F. | SolanoExpress Annual Ridership Update
<u>Informational</u>
Pg. 183 | Liz Niedziela |
| G. | Lifeline Call for Projects
<u>Informational</u>
Pg. 189 | Liz Niedziela |
| H. | Solano Napa Commuter Information (SNCI) Program
Fiscal Year (FY) 2007-08 Year-End Report
<u>Informational</u>
Pg. 201 | Judy Leaks |
| I | STA's Conflict of Interest Code for Designated Positions
<u>Informational</u>
Pg. 207 | Charles Lamoree |
| J. | State Route (SR) 113 Major Investment and Corridor Study
Update
<u>Informational</u>
Pg. 209 | Robert Guerrero |
| K. | State Route (SR) 12 Status Update
<u>Informational</u>
Pg. 211 | Robert Macaulay |
| L. | Project Delivery Update
<u>Informational</u>
Pg. 213 | Sam Shelton |
| M. | Funding Opportunities Summary
<u>Informational</u>
Pg. 217 | Sara Woo |

N. **STA Board Meeting Schedule for 2008**
Informational
Pg. 221

Johanna Masiolat

XI. **BOARD MEMBERS COMMENTS**

XII. **ADJOURNMENT**

The next regular meeting of the STA Board is scheduled for **Wednesday, October 8, 2008, 6:00 p.m., Suisun City Hall Council Chambers.**



SOLANO TRANSPORTATION AUTHORITY
Board Minutes for Meeting of
July 9, 2008

I. CLOSED SESSION

Closed session to discuss Executive Director Performance Review. Chuck Lamoree, Legal Counsel, indicated that the annual evaluation process for the Executive Director has been completed. He stated that a request to approve the contract amendment, as specified in the staff report, will be discussed under Agenda Item IX.A, Proposed Compensation Changes for Executive Director.

II. CALL TO ORDER

Chair Woodruff called the regular meeting to order at 6:20 p.m. A quorum was confirmed.

MEMBERS

PRESENT:

Eddie Woodruff (Chair)	City of Rio Vista
Jim Spering (Vice Chair)	County of Solano
Elizabeth Patterson	City of Benicia
Mary Ann Courville	City of Dixon
Harry Price	City of Fairfield
Pete Sanchez	City of Suisun City
Len Augustine	City of Vacaville
Osby Davis	City of Vallejo

MEMBERS

ABSENT:

None.

STAFF

PRESENT:

Daryl K. Halls	Executive Director
Charles Lamoree	Legal Counsel
Johanna Masielat	Clerk of the Board
Janet Adams	Director of Projects
Robert Macaulay	Director of Planning
Elizabeth Richards	Director of Transit and Rideshare Services
Liz Niedziela	Transit Manager/Analyst
Susan Furtado	Financial Analyst/Accountant
Robert Guerrero	Senior Planner
Sam Shelton	Assistant Project Manager
Sara Woo	Planning Assistant

ALSO

PRESENT: *In Alphabetical Order by Last Name:*
Danny Bernardini The Reporter
Nicole Byrd Greenbelt Alliance
Brigitta Corsello County of Solano
George Fink City of Fairfield
Dan Kasperson City of Suisun City
Gary Leach City of Vallejo
Wayne Lewis City of Fairfield
Rod Moresco City of Vacaville
Dale Pfeiffer City of Vacaville
Dan Schiada City of Benicia
Mike Segala City of Suisun City

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF AGENDA

On a motion by Board Member Augustine, and a second by Board Member Price, the STA Board approved the agenda with the exception to add the following:

- Agenda Item IX.A, Proposed Compensation Changes for Executive Director
- Agenda Item IX.E, Right-of-Way Relocation Services for the North Connector Project.

V. OPPORTUNITY FOR PUBLIC COMMENT

None presented.

VI. EXECUTIVE DIRECTOR'S REPORT

Daryl Halls provided an update on the following topics:

- Consideration of STA Budget for FY 2008-09 and FY 2009
- STA Engages the Public on Forthcoming Projects
- Fairfield City Council Considers Moving Train Station Site
- North Connector TLC Plan
- Jepson Parkway Project Implementation Plan
- Solano Paratransit Funding Agreement Process Reveals Need for Follow-up Assessment Study
- Ferry Riders Embrace SolanoExpress/Regional Measure 2 Marketing Plan
- CBO Studies Identify Lifeline Program Priorities

VII. COMMENTS FROM METROPOLITAN TRANSPORTATION COMMISSION (MTC), CALTRANS, AND STAFF:

A. MTC Report:
None presented.

B. Caltrans Report:
None presented.

C. STA Report :

1. Chair Woodruff presented a Proclamation of Appreciation to City of Vacaville's Retiring Public Works Director Dale Pfeiffer.
2. State Route (SR) 12 Safety Plan Update was presented by Robert Macaulay.
3. Status Update of Options to Address Vallejo Transit's Request for Assistance in Addressing Operations Shortfalls for the Baylink Ferry and Local Transit was presented by Daryl Halls.
4. SolanoExpress Route 30 Service Changes were presented by Liz Niedziela, STA and George Fink, Fairfield and Suisun Transit (FAST).

VIII. CONSENT CALENDAR

On a motion by Vice Chair Spering, and a second by Board Member Augustine, the STA Board approved Consent Calendar Items A thru L.

- A. STA Board Meeting Minutes of June 11, 2008**
Recommendation:
Approve STA Board Meeting Minutes of June 11 2008.
- B. Review TAC Draft Minutes for the Meeting of June 25, 2008**
Recommendation:
Receive and file.
- C. Pedestrian Advisory Committee (PAC) By-Laws**
Recommendation:
Approve amending the PAC by-laws from:
A quorum shall consist of the majority of the PAC members of the Cities, the County, member at large, and organizational members. (As presently in the by-laws)
To:
A quorum shall consist of the majority of the PAC members of the Cities, the County, and Members at Large. (As recommended by the BAC/PAC subcommittee)
- D. Solano Pedestrian Advisory Committee (PAC) Member Appointments**
Recommendation:
Appoint City of Benicia's Carol Day and City of Fairfield's Erica Gallegos to the Pedestrian Advisory Committee for a three-year term.
- E. Fiscal Year (FY) 2008-09 Indirect Cost Allocation Plan (ICAP) Application**
Recommendation:
Approve the ICAP Rate for FY 2008-09 and authorize the Executive Director to submit the ICAP application to Caltrans.
- F. Fiscal Year (FY) 2008-09 Transportation Development Act (TDA) Matrix Status – June 2008**
Recommendation:
Approve the June 2008 TDA matrix for Fiscal Year (FY) 2008-09 as specified in Attachment A.

G. Lifeline Program Call for Projects

Recommendation:

Approve the following:

1. Authorize the Executive Director to issue a call for Lifeline Projects; and
2. Authorize the STA Chair to appoint two Lifeline Advisory Committee members who represent the child care community and the Paratransit Coordinating Council.

H. Solano Napa Commuter Information (SNCI) Fiscal Year (FY) 2008-09 Work Program

Recommendation:

Approve the Solano Napa Commuter Information Work Program for FY 2008-09.

I. State Route (SR) 12 Jameson Canyon Bicycle and Pedestrian Corridor Plan - Bay Area Ridge Trail Grant Application

Recommendation:

Approve the following:

1. Authorize the Executive Director to enter into an agreement with the California Coastal Conservancy to accept the Bay Area Ridge Trail Grant;
2. Authorize the Executive Director to issue a Request for Proposals for the SR 12 Jameson Canyon Bicycle and Pedestrian Corridor Plan; and
3. Authorize the Executive Director to enter into an agreement with selected consultant for an amount not to exceed \$55,000.

J. Federal 5310 Program

Recommendation:

Adopt Resolution No. 2008-06 authorizing the Executive Director to sign and certify that no non-profit corporations or associations are readily available in the service area to provide the propose service.

K. DKS Associates Contract Amendment for a Financial Assessment of Vallejo Transit

Recommendation:

Authorize the Executive Director to amend the consultant contract with DKS Associates in an amount not to exceed \$24,900 with a contract time extension until January 31, 2009 for the purpose of completing a Financial Assessment of Vallejo Transit.

L. Comprehensive Transportation Plan (CTP) Subsidiary Studies Scope of Work

Recommendation:

Approve the CTP Subsidiary Studies Scope of Work as shown in Attachments A, B, and C.

IX. ACTION – FINANCIAL ITEMS

A. Proposed Compensation Changes for Executive Director

Charles Lamoree addressed the STA Board that in reporting out from the Closed Session, the Board did not complete the evaluation of the Executive Director therefore the item will be continued at the September 10, 2008 meeting.

- B. Fiscal Year (FY) 2008-09 Budget Revisions and Proposed Budget FY 2009-10**
Daryl Halls provided an overview of STA's FY 2008-09 Budget Revision prepared by Susan Furtado that included changes to the approved budget from \$11.01 million to \$33.24 million and proposed budget for FY 2009-10 of \$36.38 million. He cited that the increase is due to a combination of anticipated amount of funds carryover from FY 2007-08 for the continuation of projects and project delivery and schedule modifications that have been approved by the STA Board.

Public Comment:

None presented.

Board Comment:

Board Member Patterson noted some suggestions she would like from staff to include in the next Budget report. They are as follows:

1. Consider performance measures approach to match the budget with STA's current policies;
2. Develop metrics for improved and enhanced mobility in the county; and
3. Show percentages of expenses in project and planning

After discussion, the STA Board concurred to forward the suggestions made by Board Member Patterson to the Executive Committee.

Daryl Halls cited that staff would bring this item back at a future meeting for a mid-year budget check.

Recommendation:

Approve the following:

1. Adopt FY 2008-09 Budget Revision as shown in Attachment A;
2. Adopt FY 2009-10 Proposed Budget as shown in Attachment B;
3. Approve the 3.0% COLA for STA staff for FY 2008-09 as included in the budget; and
4. Approve the following modifications to STA Job Classifications:
 - a. Modifying Job Classification and Salary Range of Director of Projects to Deputy Director/Director of Projects;
 - b. Modification of Salary Range for Director of Transit and Rideshare Services;
 - c. Establishment of a Project Manager Position; and
 - d. Establishment of a Part-time Marketing Assistant Position.

On a motion by Board Member Augustine, and a second by Board Member Patterson, the STA Board unanimously approved the recommendation.

- C. Authorization to Initiate Feasibility Study for Regional Transportation Impact Fee**
Daryl Halls recommended the STA Board to consider authorizing STA staff to move forward with the feasibility study for regional traffic impact fees. He cited that the direction at the May follow-up meeting of the SR 12 Steering Committee and SR 113 Steering Committee was for the feasibility study to include an assessment of issues, future growth impacts to be addressed, potential projects to be funded to address these impacts, projected revenues to be raised, a range of fee options, and options for participation at either a corridor, sub-regional or countywide level.

Public Comments:

None presented.

Board Comments:

After discussion, the STA Board approved the recommendations as listed below.

Recommendation:

Approve the following:

1. Authorize the Executive Director to initiate a feasibility study to examine potential options and benefits regarding the initiation of a regional traffic impact fee;
2. Authorize the Executive Director to issue a Request for Qualifications to conduct a feasibility study;
3. Authorize the Executive Director to enter into an agreement with selected consultant for an amount not-to-exceed \$75,000; and
4. Authorize the STA Chair to form an advisory committee comprised of members of Arterials, Highways and Freeways Committee, the SR 12 Steering Committee, and the SR 113 Steering Committee.

On a motion by Vice Chair Spering, and a second by Board Member Patterson, the STA Board unanimously approved the recommendation.

D. Solano Paratransit Funding and Services Agreement and Solano Paratransit Assessment Study

Elizabeth Richards outlined and reviewed each recommendation listed below.

Public Comments:

None presented.

Board Comments:

Board Member Courville expressed that she would have preferred knowing the specific amount each jurisdiction was going to pay and how that related to the usage of Solano Paratransit. Elizabeth Richards responded that the individual cost amounts were provided to staff and that the number of Solano Paratransit trips by residents of each jurisdiction was one of the cost factors. Daryl Halls responded that the recommendation is a status quo from last year and that staff should have included the cost break out by agency.

Recommendation:

Authorize the Executive Director to:

1. Extend the agreement for FY 2008-09 with the City of Fairfield to operate Solano Paratransit;
2. Allocate \$192,000 of FY 2008-09 STAF funds for Solano Paratransit operating costs;
3. Apply the existing cost-sharing formula for FY 2008-09;
4. Direct staff to initiate a study to evaluate the existing Solano Paratransit service and to identify and evaluate alternate service delivery options to be completed by January 2009;
5. Allocate \$60,000 of STAF/Solano funds for the Solano Paratransit Assessment and Alternatives Feasibility Study; and

6. Release a Request for Proposals for the Solano Paratransit Assessment and Alternatives Feasibility Study and execute a contract with a consultant for the Solano Paratransit Assessment and Alternatives Feasibility Study for an amount not to exceed \$60,000.

On a motion by Vice Chair Spering, and a second by Board Member Sanchez, the STA Board unanimously approved the recommendation.

E. Addendum

Right-of-Way Relocation Services for the North Connector Project

Janet Adams reviewed the proceedings of the implementation for the North Connector Project. She noted that since the EIR for the North Connector has been certified, right-of-way acquisition is proceeding for the East Segment. She cited the right-of-way acquisition will be completed in two phases, with the East Segment proceeding first and the West Segment right-of-way acquisition not proceeding until full funding has been secured.

Public Comments:

None presented.

Board Comments:

None presented.

Recommendation:

Authorize the Executive Director to:

1. Issue a Request for Qualifications (RFQ) to retain a consultant firm to provide right-of-way relocation services for the North Connector Project; and
2. Enter into an agreement with the selected consultant firm for an amount not to exceed \$50,000.

On a motion by Board Member Price, and a second by Vice Chair Spering, the STA Board unanimously approved the recommendation.

X. ACTION – NON-FINANCIAL ITEMS

A. Community Based Transportation Plans (CBTP) – Vallejo and Cordelia/Fairfield/Suisun City

Liz Niedziela distributed and provided a report on the draft CBTP plans for Vallejo and Cordelia area communities. She stated that three separate stakeholders' meetings have been held for each CBTP. She indicated that at these meetings, key concerns were discussed and suggestions were obtained about the best way to conduct the community outreach. She added that the priority projects were identified through the CBTP process and will be eligible to apply for future Lifeline funding. She also specified that the STA will be responsible for programmatic and fiscal oversight of Lifeline Projects.

Public Comments:

None presented.

Board Comments:
None presented.

Recommendation:

Approve the following:

1. Adopt the Vallejo Community Based Transportation Plan; and
2. Adopt the Cordelia/Fairfield/Suisun City Community Based Transportation Plan.

On a motion by Board Member Price, and a second by Board Member Sanchez, the STA Board unanimously approved the recommendation.

B. North Connector Transportation for Livable Communities (TLC) Corridor Concept Plan

Robert Guerrero provided an overview of the development of the Concept Plan of the North Connector TLC Corridor. He noted that staff is seeking direction regarding the theme of the corridor. He stated that after consulting with the County of Solano and the City of Fairfield public works and planning departments, staff is recommending Theme 2 (Stone and Wood Option). He indicated that the chosen corridor theme will be used to guide improvement designs on the North Connector Project.

Public Comments:
None presented.

Board Comments:

Vice Chair Sperring and Board Member Patterson commented on bicycle and pedestrian countywide way-finding signage to differentiate the projects (i.e. Jepson) for consistency.

Recommendation:

Approve the following:

1. Adopt the North Connector Transportation for Livable Communities (TLC) Corridor Concept Plan;
2. Select Theme 2 – Stone and Wood option for as the North Connector design theme as illustrated in Attachment C; and
3. Authorize STA staff to assist the County of Solano and City of Fairfield to adopt and implement the North Connector Transportation for Livable Communities Corridor Concept Plan.

On a motion by Board Member Price, and a second by Vice Chair Sperring, the STA Board unanimously approved the recommendation with the way finding signage amendment to differentiate projects.

C. Jepson Parkway Project – Implementation Plan

Janet Adams reviewed the development process of the Jepson Parkway Project Implementation Plan. She indicated that to help guide this plan, there is currently in-place a technical advisory working group which is comprised of STA TAC members from each jurisdiction (the cities of Suisun City, Fairfield, Vacaville, and the County of Solano) and the STA Jepson Parkway Committee which is comprised of Board members from each of these jurisdictions.

Public Comments:
None presented.

Board Comments:
None presented.

Recommendation:
Authorize the Executive Director to develop the Jepson Parkway Project Implementation Plan.

On a motion by Board Member Augustine, and a second by Vice Chair Spering, the STA Board unanimously approved the recommendation.

D. Legislative Update

Robert Macaulay provided an overview on five (5) bills and recommended the specified positions to the following :

- Oppose: AB 2546 (De La Torre), Air Toxics “Hot Spots” Information and Assessment Act of 1987; Railyards ;
- Support with Amendments: AB 2558 (Feuer), Climate change mitigation and adaptation fee;
- Watch: SB 303 (Ducheny), Local government; land use planning;
- Support: SB 1422 (Lowenthal), High Speed Rail Authority; and
- Watch: SB 1429 (Perata), Bay Area State-Owned Toll Bridges.

Public Comments:
None presented.

Board Comments:
After further discussion, the STA Board approved the following positions as listed below:

Recommendation:
Approve the specified positions on the following items:

- AB 2546 (De La Torre), Air Toxics “Hot Spots” Information and Assessment Act of 1987; Railyards – Oppose

On a motion by Vice Chair Spering, and a second by Board Member Courville, the STA Board approved the oppose position on AB 2546 (De La Torre), Air Toxics “Hot Spots” Information and Assessment Act of 1987; Railyards.

- AB 2558 (Feuer), Climate change mitigation and adaptation fee - *Support with-Seek* amendments –

On a motion by Vice Chair Spering, and a second by Board Member Augustine, the STA Board approved the position on AB 2558 (Feuer), Climate change mitigation and adaptation fee as amended shown above in *strikethrough bold italics*.

- SB 303 (Ducheny), Local government; land use planning – Watch

On a motion by Vice Chair Spering, and a second by Board Member Price, the STA Board approved the watch position on SB 303 (Ducheny), Local government; and use planning.

- SB 1422 (Lowenthal), High Speed Rail Authority – Support

On a motion by Vice Chair Spering, and a second by Board Member Price, the STA Board approved the support position on SB 1422 (Lowenthal), High Speed Rail Authority.

- SB 1429 (Perata), Bay Area State-Owned Toll Bridges – Watch

On a motion by Vice Chair Spering, and a second by Board Member Price, the STA Board approved the watch position on SB 1429 (Perata), Bay Area State-Owned Toll Bridges.

- E. Comprehensive Transportation Plan (CTP) Committee Meeting Report**
Robert Macaulay provided a report on the three committees (Alternative Modes, Arterials, Highways and Freeways, and Transit) that have met in May, June, and June 2008. He noted that at the committee meetings a number of fundamental policy issues have been for the STA Board to decide. He cited that the next committee meetings for the Transit and Arterials, Highways and Freeways committees are planned for September 2008, and they will begin to review some of the subsidiary studies, and individual policies and performance measures.

Public Comments:
None presented.

Board Comments:
None presented.

Recommendation:

Approve the following:

1. Adopt the Purpose Statement and Goals for the Transit Element included as Attachment D; and
2. Adopt the Purpose Statement and Goals for the Arterials, Highways and Freeways Element included as Attachment E.

On a motion by Board Member Sanchez, and a second by Board Member Augustine, the STA Board unanimously approved the recommendation.

XI. INFORMATIONAL ITEMS – NO DISCUSSION

- A. SolanoExpress Route 30 Service Change
- B. Regional Transportation Plan (RTP) T 2035 Priorities
- C. I-80 Construction Public Outreach
- D. Capitol Corridor – Quarterly Report

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008

TO : Mayor Patterson
Vice Mayor Campbell

FROM : Dan Schiada, Director of Public Works

SUBJECT : **SOLANO WATER AUTHORITY**

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

The agenda for the Solano Water Authority (SWA) Board of Directors meeting of September 11, 2008 follows. The August meeting minutes are also attached. The next SWA meeting is on October 9, 2008.

The SWA also has a newly formed Delta Committee which will meet for the first time on September 11, 2008 from 6:00 – 7:00 pm, directly before the regular SWA meeting. The agenda for that meeting follows.

SOLANO COUNTY WATER AGENCY



BOARD OF DIRECTORS MEETING

DATE: Thursday, September 11, 2008

TIME: 7:00 p.m.

PLACE: Solano Irrigation District
508 Elmira Road
Vacaville, CA 95687

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENT

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. CONSENT ITEMS

- (A) Minutes: Approval of the Minutes of the Board of Directors meeting of August 14, 2008 is recommended.
- (B) Expenditure Approvals: Approval of the August checking account register and list of checks \$500 and over to be paid is recommended.
- (C) Procurement Policy: Approval of a Procurement Policy for the Water Agency is recommended.
- (D) Organic Carbon Treatment Study: Authorization for Chairman to execute an amendment to the agreement with MWH Americas for Organic Carbon Treatment Study is recommended. Amendment increases the cost of project by \$58,000 to \$88,000.
- (E) Biennial Review of Conflict of Interest Code: Approval of the Conflict of Interest Code for the Solano County Water Agency is recommended.

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-9-2

6. **BOARD MEMBER REPORTS**

RECOMMENDATION: For information only.

7. **GENERAL MANAGER'S REPORT**

RECOMMENDATION: For information only.

8. **FINANCIAL RESERVE DESIGNATION**

RECOMMENDATION: Approve allocation of financial reserves for Fiscal Year 2008-2009.

9. **INTEGRATED REGIONAL WATER MANAGEMENT PLANNING**

RECOMMENDATION: Hear report from General Manager on the status of Integrated Regional Water Management Planning in the context of future Proposition 84 funding. Provide direction to staff.

10. **DELTA COMMITTEE**

RECOMMENDATION: Hear report from Delta Committee and staff on current Delta water activities. Approve comment letter to Delta Vision Blue Ribbon Task Force.

11. **LEGISLATION**

RECOMMENDATION: Hear report on AB2175 and Water Bond Legislation. Provide direction to staff.

12. **LOWER PUTAH CREEK FLOWS**

RECOMMENDATION: Hear report from staff on meeting flow criteria in Lower Putah Creek.

13. **TIME AND PLACE OF NEXT MEETING**

Thursday, October 9, 2008 at 7:00 pm at the Solano Irrigation District offices.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

Sept.2008.bod.agd.doc

Any materials related to items on this agenda distributed to the Board of Directors of Solano County Water Agency less than 72 hours before the public meeting are available for public inspection at the Agency's offices located at the following address: 6040 Vaca Station Road, Building #84, Elmira, CA 95625. These materials are also available on the Agency's website at www.scwa2.com/boardmeetings.html. Upon request, these materials may be made available in an alternative format to persons with disabilities.

**SOLANO COUNTY WATER AGENCY
BOARD OF DIRECTORS MEETING MINUTES**

MEETING DATE: August 14, 2008

The Solano County Water Agency Board of Directors met this evening at the Solano Irrigation District. Present were:

Mayor Elizabeth Patterson, City of Benicia
Mayor Len Augustine, City of Vacaville
Mayor Harry Price, City of Fairfield
Mayor Eddie Woodruff, City of Rio Vista
Mayor Pete Sanchez, City of Suisun City
Mayor Mary Ann Courville, City of Dixon
Supervisor Barbara Kondylis, Solano County District 1
Supervisor Jim Spering, Solano County District 3
Supervisor Mike Reagan, Solano County District 5
Director Everett Whiting, Reclamation District 2068
Director Bob Bishop, Solano Irrigation District
Manager Don Holdener, Maine Prairie Water District

CALL TO ORDER

The meeting was called to order at 6:33 pm by Chair Eddie Woodruff.

APPROVAL OF AGENDA

General Manager Okita requested that Agenda Item No. 11 be withdrawn from the agenda. On a motion by Mayor Courville and a second by Mayor Price the Board unanimously approved the agenda.

PUBLIC COMMENT

No public comment was received.

CONSENT ITEMS

On a motion by Mayor Price and a second by Mayor Courville the Board unanimously approved the following consent items, including the addendum to agenda item (B), Additional Expenditure Approvals:

- (A) Minutes
- (B) Expenditure Approvals
- (C) Appropriation Adjustment
- (D) Resolution to Tax Defer Service Credit Purchases
- (E) NBA Water Quality Research Facility Grant

BOARD MEMBER REPORTS

No reports were given.

GENERAL MANAGERS REPORT

In addition to the written report, General Manager Okita informed the Board of in-stream flow issues in Lower Putah Creek pursuant to the 2000 Settlement Agreement. The Agreement stipulates that the Water Agency must release enough water down Lower Putah Creek to maintain specified flow requirements for environmental protection. Farming diversions along Putah Creek are illegally pumping water from the creek jeopardizing our compliance with the Agreement. Staff is monitoring the situation closely and actively discussing the problem with diverters for voluntary action to reduce exposure for the remainder on this season. This outreach and education approach is producing good results. Staff will keep the Board informed of further developments and will work on long-term proactive solutions for next season.

AGREEMENT WITH DWR FOR NBA ALTERNATE INTAKE PROJECT

General Manager Okita outlined a funding agreement between the Department of Water Resources, Napa County Flood Control and Water Conservation District, and the Solano County Water Agency for costs of environmental analysis, planning and design of the North Bay Aqueduct Alternate Intake Project. Additionally, the Water Agency has hired a consultant to update the 2003 feasibility study of the project in support of this planning process to be implemented by the Department. The Board expressed interest that the selection of a preferred alternative includes the Tehama-Colusa Canal extension and a joint Yolo-Solano Intake as alternatives.

On a motion by Mayor Patterson and a second by Mayor Price the Board unanimously approved to execute a funding agreement with the California Department of Water Resources for the permitting and design of the North Bay Aqueduct Alternate Intake Project.

AB 2175: WATER CONSERVATION

General Manager Okita updated the Board on AB 2175 that is moving through the Legislature. The Board previously adopted an "oppose" position at the last meeting but the bill may still have enough support to be passed. Staff recommended maintaining the "oppose" position but asked if the Board was interested in staff providing last minute amendments if it becomes apparent that the bill was going to pass.

A motion was made by Mayor Augustine to maintain the "Oppose" position on AB 2175. The motion was seconded by Mayor Price. Upon further discussion, an amendment to the motion was offered by Mayor Patterson for staff to provide amendments should the bill move forward. The amendment was not accepted by Mayor Augustine. A second amendment to the motion was offered by Supervisor Reagan for staff to submit a letter to Governor Schwarzenegger requesting that he veto the bill if it reaches his desk. The second amendment was accepted by Mayor Augustine and Mayor Price. On an 11 to 1 vote, the Board approved the amended motion for staff to maintain an "Oppose" position on behalf of the Agency and to send a letter to Governor Schwarzenegger requesting a veto of the bill. Supervisor Kondylis opposed the amended motion.

DELTA ISSUES

General Manager Okita updated the Board on the development of the Lower Yolo-Bypass Planning Forum, a regional collaborative effort to discuss concerns regarding habitat conservation efforts in the By-pass. The Water Agency is participating as a stakeholder which may be beneficial toward advocating local concerns.

Staff recommended that a Delta Committee be formed. The Committee could meet once a month, preferably before the Board meeting, and more frequently when a hot topic

arises, to facilitate more detailed discussion of Delta issues. The Committee would summarize the discussions for the Board.

On a motion by Mayor Courville and a second Director Whiting the Board unanimously approved the recommendation for the Chairman to form a committee to meet and discuss delta issues and provide monthly reports to the Board. The Delta Committee is comprised of Mayor Patterson, Supervisor Reagan, Manager Hardesty, Supervisor Kondylis, Mayor Woodruff and Mayor Augustine.

TIME AND PLACE OF NEXT MEETING

Thursday, September 11, 2008 at 7:00 p.m. at the Solano Irrigation District offices.

ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned at 7:11 p.m.

David B. Okita, General Manager
and Secretary to the Board of Directors of the
Solano County Water Agency

SOLANO COUNTY WATER AGENCY



SCWA BOARD OF DIRECTORS DELTA COMMITTEE

DATE: Thursday, September 11, 2008

TIME: 6:00 p.m. – 7:00 p.m. (prior to SCWA Board meeting)

PLACE: Solano Irrigation District Board Room
508 Elmira Road
Vacaville

MEMBERS: Supervisor Reagan, Supervisor Kondylis, Mike Hardesty, Mayor Woodruff, Mayor Patterson, and Mayor Augustine.

1. Status of Bay Delta Conservation Plan and Memorandum of Agreement between DWR, USBR and Water Contractors
2. Recommend SCWA comments on third Staff Draft of Delta Vision Strategic Plan to Board of Directors
3. Status Report on Organic Carbon and Delta Economic Studies
4. Report on Lower Yolo Bypass Planning Forum
5. Discussion on Water Bond Legislation – recommend bond language to Board of Directors
6. Future Meetings

If you have any questions contact David Okita at 455-1103.

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-9-7

Draft SCWA Comments on third draft of DVBRF Strategic Plan

1. The Strategic Plan must support long standing protections of "Areas of Origin" and priority water rights system in California law. Public trust and 'reasonable and beneficial use" concepts must not be used to undermine Area of Origin and water rights priorities. To do otherwise will start a North-South water war that is an unproductive exercise that will doom any cooperative effort to implement the Strategic Plan. (pg 4 last paragraph; pg 15 last paragraph; pg 91)
2. Make protection of Delta communities and Delta public agencies from intended and unintended consequences of Strategic Plans as third co-equal value. Provide for full mitigation for impacts to Delta communities from physical and economic changes resulting from the Strategic Plan. In particular the conversion of agricultural lands to tidal, wetland and open water habitat. (pg 47-48; pg 58)
3. CDEW Council must include Delta local government representatives as members. (pg 14; pg 72)
4. Support recommendations regarding need to relocate intake of the North Bay Aqueduct of the State Water Project. Suggest changing wording to say provide for an "alternate intake" to the North Bay Aqueduct. The existing intake may still be utilized when water quality and fish problems are not a concern. (pg 44-45)
5. Do not regulate water conservation on per capita basis (except possibly on a statewide basis). Per capita regulation does not accurately portray local water use efficiency because the amount of Commercial, Industrial and Institutional (CII) use compared to residential use in local agencies varies tremendously. A per capita regulation is unfair to local areas with higher CII use. There must be separate goals and measurements of residential, CII and agricultural water use. Maintain California Urban Water Conservation Council principle of BMP exemptions for non-locally cost effectiveness. Increasing price of water over time will automatically increase the amount of conservation without adverse local economic impacts. (pg 29 footnotes; Strategy 1 – pages 31-34; pg 81 #4)
6. SCWA support comments made by Solano County.

Traffic, Pedestrian and Bicycle Safety (TPBS) Committee

**The agenda for the October 16, 2008 meeting is being finalized.
The minutes from the July 17, 2008 meeting are not yet available.**

Meetings begin at 7:00 pm and the meeting schedule for 2008 is listed below:

January 17, 2008

April 17, 2008

July 17, 2008

October 16, 2008

AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 9, 2008

TO : Vice Mayor Campbell
Council Member Hughes

FROM : City Manager

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP**

The following information is provided for your committee report at the September 16, 2008 Council meeting.

The last meeting of the Citizens Advisory Committee (CAC) was Wednesday August 20, 2008. At the meeting, Committee Members selected Dan Smith as their Chairperson replacing Kathy Hoffman. Chris Abess of the Solano Land Trust gave an update on fundraising efforts as it pertained to the Lynch Canyon Trail Run. Mel Jordan, representing the Vallejo City Unified School District, also attended the CAC meeting and updated the group on the Hiddenbrooke School issue.

The Governing Board met Monday September 8, 2008 at the Mare Island Conference Center in Vallejo. A final meeting agenda (with attachments) for the September 8th Governing Board meetings are attachments to this staff report.



TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP
Cities of Benicia, Fairfield, and Vallejo
County of Solano

AGENDA
GOVERNING BOARD
Monday, September 8, 2008
7:00 p.m.
Mare Island Conference Center
375 "G" Street
(Tennessee Street Bridge)
Vallejo, CA

- 1. Roll Call**
- 2. Introductions**
- 3. Public Comment**
- 4. Minutes: Approval of Joint Minutes of May 5, 2008**
- 5. Approve 2008-2009 Budget**
- 6. Update on Hiddenbrooke School (Mel Jordan, VCUSD)**
- 7. Update on Lynch Canyon (Solano Land Trust)**
- 8. Upcoming Agenda Topics**
- 9. Adjourn**

Staff Agenda Report September 8, 2008

5. 2008-2009 Budget. No significant changes in program line items are proposed for the 2008-2009 Budget. The primary focus continues to be supporting the programs sponsored by the Solano Land Trust in the Cooperative Planning Area (including Lynch Canyon).

The Land Trust has largely completed its master planning program for the area, so this line item will be deleted from the budget.

6. Update on Hiddenbrooke School. Staff has also requested a presentation from the School District on the status of the project. The school project is currently proceeding, with the School District negotiating with resource agencies to address habitat and other environmental issues.

7. Update on Lynch Canyon. The Land Trust will provide an update on the activities at Lynch Canyon, including the first Lynch Canyon Trail Run this past summer, which included over 240 runners and support from throughout the community.

8. Upcoming Agenda Topics. Upcoming agendas will include updates from Solano Land Trust, further updates on the School at Hiddenbrooke, and the 2008-2009 Budget.



TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP
Cities of Benicia, Fairfield, and Vallejo & County of Solano

GOVERNING BOARD/CITIZENS ADVISORY COMMITTEE
JOINT MEETING
MINUTES
May 5, 2008

1. Call Meeting to Order

Governing Board Members Present: Harry Price
Governing Board Members Absent: Erin Hannigan, Tom Campbell, Jim Spering
Managers' Group present: None
Staff Present: Brian Miller, Bill Tuikka, Matt Walsh, Mike Marcus
Citizens Advisory Committee: Karlyn Lewis, Kathy Hoffman, Bob Berman, Teri Booth,
Jim Syar, Brian Travis, Mark Morris, Dan Smith
Others Present: Sue Wickham and Marilyn Farley Solano Land Trust)

2. Introductions

At the request of Kathy Hoffman, everyone in the room introduced themselves

3. Public Comment

None

4. Minutes: Approval of Governing Board Minutes of March 24, 2008

Continued due to lack of quorum.

5. Status of Solano County General Plan (County Staff)

Brian Miller informed the Committee and the Board that there would be no formal presentation by County Staff on the Draft General Plan. The County is relying on its already established process and schedule of public hearings to obtain public input on the new General Plan.

Brian Miller then reviewed the staff report, discussing the issues pertaining to the Tri City and County Cooperative Planning Area.

Bob Berman then discussed his concerns, which focused primarily on the vagueness of the Draft General Plan in relation to open space and recreational planning. He advocated a stronger, clearer set of policies supporting open space planning, including funding for the establishment of a regional open space program. He also expressed concern about the County's reliance on the 2003 County Park Plan, which he notes contains programs which have not been implemented. He also noted a lack of clarity in certain terms and designations, including the Resource Conservation Overlay.

The Citizens Advisory Committee directed staff to work with Bob Berman and Kathy Hoffman to prepare a letter to the full Governing Board, with copies to the Board of Supervisors and the County Planning Commission, outlining the concerns of the Citizens Advisory Committee.

6. Update on Hiddenbrooke School (Staff)

Brian Miller noted that Mel Jordan had not responded to the request to attend the meeting and provide an update to the Cooperative Planning Group on the school project. He then reviewed the staff summary of the environmental document (Mitigated Negative Declaration) prepared by LSA Consulting for the School district.

Bob Berman expressed concern about the vagueness of some of the mitigation measures proposed by the consultants. Sue Wickham and Marilyn Farley agreed, noting that recreation and fire access were not fully addressed by the document.

The Citizens Advisory Committee directed staff to work with Bob Berman and Kathy Hoffman to prepare a letter to the full Governing Board, with copies to the City of Vallejo and the School Board, to address these issues.

7. Priority Conservation Area Program (Information)

Brian Miller and Matt Walsh provided a brief introduction to the regional planning program (Focus), which includes designation of the Cooperative Planning Area as a regional "Priority Conservation Area." PCA status may enable the County to obtain planning and capital improvement funding from the regional agencies in the future.

8. 2008 Event at Lynch Canyon with Solano Land Trust

Marilyn Farley and staff provided a brief overview of the events scheduled for Saturday. The Cooperative Planning Group will be meeting near the old homestead at noon.

9. Upcoming Agenda Topics

Brian Miller reviewed the upcoming agendas, which will include an update from the Land Trust and the 2008/2009 budget.

10. Adjourn

8:35 p.m.

2008-2009

2007-2008

	Carryover Funds 2006-2007	New Funds 2007-2008	Total Funds 2007-2008	Actual 2007-2008	Carryover From 2007/2008 FY	New Funds	Total Funds
REVENUES							
Annual Contributions from Members	-	\$20,000.00	\$20,000.00	\$20,000.00		\$20,000.00	\$ 20,000.00
Interest Income		\$2,000.00	\$2,000.00	\$2,311.00		\$2,000.00	\$ 20,000.00
Total Revenues		\$22,000.00	\$22,000.00	\$22,311.00		\$22,000.00	\$ 22,000.00
EXPENDITURES							
Legal Services (Shute Mihalj)	\$7,820.00	-	\$7,820.00	\$2,507.00	\$5,313.00	-	\$ 5,313.00
Public Access: Capital Improvements	\$6,560.00	\$10,000.00	\$16,560.00	\$6,363.00	\$10,197.00	\$10,000.00	\$ 20,197.00
Sky Valley/Cordelia Hills Master Plan (SLT)	\$1,435.00	-	\$1,435.00	\$2,449.00	-	-	-
Bay Area Ridge Trail	\$5,872.00	\$2,128.00	\$8,000.00	-	\$8,000.00	-	\$ 8,000.00
Bay Area Open Space Council Dues	\$600.00	-	\$600.00	-	\$600.00	-	\$ 600.00
Website and Public Outreach	\$2.70	\$7,090.00	\$7,092.70	\$10,292.00	-	\$8,000.00	\$ 8,000.00
Acquisition Planning-Santa Clara Property (SLT)	\$10,000.00	-	\$10,000.00	-	\$10,000.00	-	\$ 10,000.00
Miscellaneous	\$804.00	\$2,000.00	\$2,804.00	\$48.00	\$2,756.00	-	\$ 2,756.00
Total Expenditures	\$33,093.70	\$21,218.00	\$54,311.70	\$21,659.00	\$36,866.00	\$18,000.00	\$ 54,866.00
BALANCE:							
NET REVENUE (EXPENSE)						NET REVENUE (EXPENSE)	\$(32,866.00)
BEGINNING CASH 7/01/08 (Est.)						BEGINNING CASH 7/01/08 (Est.)	\$ 48,035.00
ENDING CASH 6/30/08 (Actual)	\$48,035					ENDING CASH 6/30/09	\$ 15,169.00

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AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008
TO : Council Member Hughes
FROM : Gene Gantt, Fire Chief
SUBJECT : **VALERO COMMUNITY ADVISORY PANEL (CAP)**

The following information is provided for your committee report at the September 16, 2008 Council meeting.

The CAP meets quarterly at 6:30 p.m. at the refinery at 610 Industrial Way. The next CAP meeting is on Thursday, Sept. 25, 2008 at 6:30 p.m.

**AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS**

DATE : September 8, 2008

TO : Mayor Patterson
Council Member Mike Ioakimedes
Council Member Schwartzman

FROM : Youth Action Coalition

SUBJECT : Youth Action Coalition

The following information is provided for your committee report at the September 16, 2008 City Council meeting.

The next meeting of the Youth Action Coalition is Wednesday, September 24, 2008 at 3:30 p.m. in the Commission Room at City Hall. The agenda is not yet available.

The minutes from the August 27, 2008 meeting are not yet available.

**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

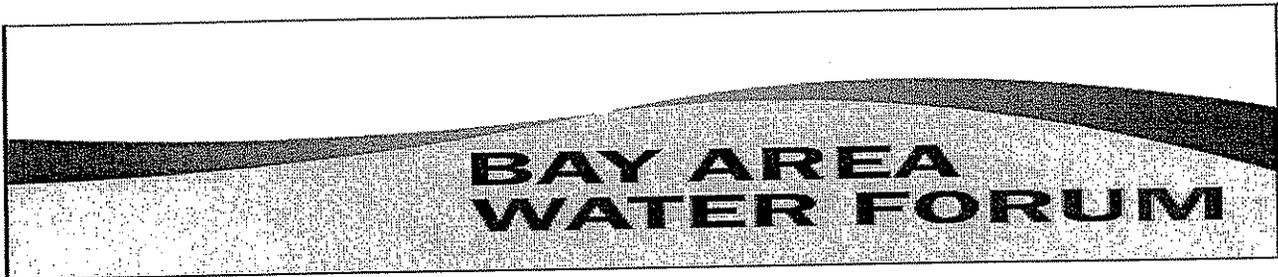
The following action items were discussed and finalized.

- 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: SEPTEMBER 16, 2008
COUNCIL MEMBER COMMITTEE REPORTS

DATE : September 10, 2008
TO : City Council
FROM : Mayor Patterson
SUBJECT : **ABAG/CAL FED TASK FORCE/BAY AREA WATER FORUM**

The next meeting date of the Water Forum is on September 22, 2008. The agenda for that meeting is not yet available. Please see the following page for the announcement.



SAVE THE DATE:

**BAWF Meeting:
California's Climate Actions & their Implications
For Bay Area Water Management
Monday, September 22nd**

**10:00 a.m. - 12:30 p.m. (note new time!)
Room 12, Elihu Harris State Building
1515 Clay Street, Oakland, CA**

John Andrew of the Department of Water Resources, member of the Governor's **Climate Action Team**, will discuss what the latest developments in California's efforts to respond to impending climate change mean for the water community. He will talk about the Team's work, the state's AB 32 Scoping Plan containing major strategies for reducing greenhouse gases, and the impacts on water-related energy use and water management.

We'd like to thank **Ken Schwarz**, Principal of **Horizon Water and Environment**, for sponsoring lunch for the Sept. 22nd meeting.

Please RSVP to Charlotte Chorneau at cchorneau@ccp.csus.edu to reserve lunch.

For more information, contact Mary Selkirk at mseirk@ccp.csus.edu

The Bay Area Water Forum serves as a venue for encouraging regional cooperation, education and exchange of ideas on critical Bay area water issues. Monthly meetings are open to all interested parties. The Forum is sponsored by numerous Bay area water agencies along with the State Coastal Conservancy.

CITY COUNCIL MEMBER

REQUEST FOR ITEM ON COUNCIL AGENDA

Please submit this request by the Friday preceding the agenda packet distribution day, or 12 calendar days prior to the meeting. (For example, for a Council meeting on March 21st, please submit the request by March 10th.)

Requested by:

Mayor Patterson

Requested Council Meeting Date:

September 2, 2008 – Continued to September 16, 2008

While every effort will be made to include your item on the requested date, please note that depending on the number of items already on an agenda, it may be placed on the subsequent meeting date.

Agenda Item Name:

Request to agendize discussion of the need for an ordinance regarding properties in foreclosure.

Description of Item (i.e., the text that will go on the agenda as the middle paragraph, between the title and recommendation):

U.S. cities are passing ordinances related to properties in foreclosure in an effort to recover costs related to abandoned properties. Homes that are being foreclosed often sit vacant and unmaintained for long periods of time. This has a negative effect on surrounding properties and may lead to devaluation of the area and increased criminal activity. California cities such as Stockton, Chula Vista, and San Jose have adopted ordinances that require registration and maintenance of the vacant properties. See attached ordinances and articles.

If you would like any attachments regarding your item included in the packet, please note them below and forward them via email to acardwell@ci.benicia.ca.us, if possible, along with this completed form. If attachment(s) are not available via email, please describe the attachment(s) desired and any information you may have on where to locate (website, etc.) so they can be included in the packet.

A copy of this completed form will be included in the packet, followed by any attachments you note above. Thank you!



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Planning and Building Department

- Planning & Building ▾
- Building Division ▾
- Code Enforcement ▾
- Vehicle Abatement
- Report Potential Violation
- Abandoned Residential Property Program

Featured Links

- ▶ Development Services Center
- ▶ General Plan Update
- ▶ Rapid Review

Abandoned Residential Property Program

- ▶ FAQ's
- ▶ Registration Form
- ▶ CVMC 15.60
- ▶ Code Enforcement Complaint Form

Over the last decade, the City of Chula Vista has been among the fastest growing communities in the State. As such, we have experienced an increase in the number of single-family homes built each year. The cooling housing market has lead to an increase in financially distressed properties. Foreclosures are increasing in number and those that are vacant are having a negative impact on the surrounding neighborhood and community as a whole.

It is not unusual for homes that are in the foreclosure process, to sit vacant and unmaintained for months on end. These properties can discourage potential buyers of adjacent maintained properties and can devalue neighboring properties by thousands of dollars. This impact destabilizes neighborhoods and can lead to neighborhood blight and reduced property values.

The **Abandoned Residential Property Registration Program** is intended to address those properties that are vacant and financially distressed. The program requires mortgage lenders to inspect defaulted properties to confirm that they are occupied. If a property is found to be vacant, the program requires that the lender exercise the abandonment clause within their mortgage contract, register the property with the City and immediately begin to secure and maintain the property to the neighborhood standard.

They must also hire a local company to inspect the property on a weekly basis. The property must be posted with the name and 24-hour contact number of the company responsible for the weekly inspection, maintenance and security of the property. This will remove the City's Code Enforcement Section from spending limited resources to act as the property manager. It also allows neighbors to have direct contact with a responsible party. It is hoped that the combination of observant neighbors and an accessible local responsible party will deter and arrest any potential deterioration of the property and thus preserve the neighborhood.



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ORDINANCE NO. 3080

ORDINANCE OF THE CITY OF CHULA VISTA REQUIRING
THE REGISTRATION OF ABANDONED RESIDENTIAL
PROPERTIES

1. RECITALS

WHEREAS, the presence of vacant, abandoned residences can lead to neighborhood decline; and

WHEREAS, the presence of vacant, abandoned residences can create an attractive public nuisance; and

WHEREAS, the presence of vacant abandoned residences can contribute to lower property values; and

WHEREAS, the presence of vacant abandoned residences can discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, many vacant abandoned residences are the responsibility of out of area, out of state lenders and trustees; and

WHEREAS, in many instances the lenders and trustees fail to adequately maintain and secure these vacant residences; and

WHEREAS, the city has an obligation to protect its residential neighborhoods from decline and devaluation; and

WHEREAS, on June 11, 2007 the Board of Appeals and Advisors met, reviewed and discussed the proposed ordinance; and

WHEREAS, the Board of Appeals and Advisors voted unanimously to recommend passage of the proposed ordinance to the City Council.

NOW, THEREFORE, THE CITY COUNCIL of the City of Chula Vista does hereby ordain as follows:

Section 1. That the proposed Vacant Abandoned Residential Property Registration ordinance be enacted as follows:

15.60 ABANDONED RESIDENTIAL PROPERTY REGISTRATION

15.60.010 PURPOSE/SCOPE

It is the purpose and intent of the Chula Vista City Council, through the adoption of this

Chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

15.60.020 DEFINITIONS

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means a property that is vacant and is under a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/breached gate, fence, wall etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Agreement" means any agreement or written instrument, which provides that title to residential property, shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

"Assignment of Rents" means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

"Beneficiary" means a lender under a note secured by a deed of trust.

"BuYer" means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

"Dangerous building" means any building/structure that is violation of any condition referenced in CVMC Chapter 15.18.

"Days" means consecutive calendar days.

"Deed of Trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. Used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust i.e.: 2nd trust deed, 3rd trust deed, etc.

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the

beneficiary of the deed of trust.

"Default" means the failure to fulfill a contractual obligation, monetary or conditional.

"Distressed" means a property that is under a current Notice of Default and/or Notice of Trustee's Sale and/or pending Tax Assessor's Lien Sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a Deed in lieu of Foreclosure/sale.

"Evidence of vacancy" means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

"Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

"Local" means within forty (40) road/driving miles distance of the subject property.

"Neighborhood standard" means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the three hundred (300) foot radius, shall not be counted toward the simple majority.

"Notice of Default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of forty (40) road/driving miles distance of the subject property.

"Owner" means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

"Owner of record" means the person having recorded title to the property at any given point in time the record is provided by the San Diego County Records Office.

"Property" means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

"Residential building" means any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.

"Securing" means such measures as may be directed by the Director of Planning and Building or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/pad locking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

"Trustee" means the person, firm or corporation holding a Deed of Trust on a property.

"Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Vacant" means a building/structure that is not legally occupied.

15.60.030 RECORDATION OF TRANSFER OF LOAN/DEED OF TRUST/ASSIGNMENT OF RENTS

Within ten (10) days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record, with the San Diego County Records Office, an Assignment of Rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust.

15.60.040 REGISTRATION

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Chula Vista, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a Notice of Default with the San Diego County Records Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the Director of Planning and Building or his or her designee on forms provided by the City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until 1) The trustor or party remedies the default or 2) It is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the Director of Planning and Building or his designee on forms provided by the City.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P. O. Boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out of area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31 of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

15.60.050 MAINTENANCE REQUIREMENTS

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed

granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes, but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscaped and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any Covenants Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the property.

15.60.060 SECURITY REQUIREMENTS

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage) gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the property is owned by a corporation and/or out of area beneficiary/trustee/ owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18" X 24" and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

15.60.070 ADDITIONAL AUTHORITY

In addition to the enforcement remedies established in Chapters 1.20, 1.30 and 1.41, the Director of Planning and Building or his or her designee shall have the authority to

require the beneficiary/trustee/owner and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

15.60.080 FEES

The fee for registering an Abandoned Residential Property shall be set by resolution of the City Council.

15.60.90 ENFORCEMENT

Violations of this chapter may be enforced in any combination as allowed in Chapters 1.20, 1.30 and 1.41.

15.60.100 APPEALS

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapter 1.40.

[5.60.] 10 VIOLATION/PENALTY

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under Chapters 1.20 and [4].

15.60.120 SEVERABILITY

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

ORDINANCE NO _____

AN ORDINANCE OF THE CITY OF INDIO ADOPTING CHAPTER 95D, SECTIONS 95D.101-95D.111 OF TITLE IX OF THE MUNICIPAL CODE PERTAINING TO THE REGISTRATION AND MAINTENANCE OF ABANDONED PROPERTIES.

WHEREAS, the presence of vacant, abandoned real property can lead to neighborhood decline; and

WHEREAS, the presence of vacant, abandoned real property can create an attractive public nuisance; and

WHEREAS, the presence of vacant abandoned real property can contribute to lower property values; and

WHEREAS, the presence of vacant abandoned real property can discourage potential buyers from purchasing a home adjacent to or in neighborhoods with vacant abandoned residences; and

WHEREAS, many vacant abandoned real properties are the responsibility of out of area, out of state lenders and trustees; and

WHEREAS, in many instances the lender and trustees fail to adequately maintain and secure these vacant residences; and

WHEREAS, the City has an obligation to preserve the health, safety and welfare of residents and the community, and to the extent possible, protect neighborhoods from declining property values, aesthetic decay, and loss of character.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIO HEREBY ORDAINS AS FOLLOWS:

Section 1: Chapter Adopted

Chapter 95D, sections 95D.101 – 95D.111 of Title IX of the Code of Indio is hereby adopted as follows:

Chapter 95D

Registration and Maintenance of Abandoned Properties

Sections:

95D.101	Purpose
95D.102	Definitions
95D.103	Duty to Record Assignment of Rents
95D.104	Registration
95D.105	Maintenance Requirements
95D.106	Security Requirements
95D.107	Additional Authority
95D.108	Fees
95D.109	Enforcement
95D.110	Appeals
95D.111	Severability

95D.101 PURPOSE

It is the intent of the City Council, through the adoption of this chapter, to establish a mechanism to protect residential neighborhoods from becoming blighted through the lack of maintenance and security of abandoned properties; to establish an abandoned property registration program and to set forth guidelines for the maintenance of abandoned properties.

95D.102 DEFINITIONS

Certain words and phrases in this chapter are defined, when used herein, as follows:

ABANDONED. Any building, structure or real property that is vacant or occupied by a person without a legal right of occupancy, and subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a deed in lieu of foreclosure/sale.

ABATEMENT ORDER. A Hearing Officer's "Order to Abate" issued pursuant to section 95A.113 or a Nuisance Abatement Appeals Board's written final order decision issued pursuant to section 95A.120, if any.

ACCESSIBLE PROPERTY. Real property that is accessible to the public, either, in general or through a open and unsecured door, window, gate, fence, wall, etc.

ACCESSIBLE STRUCTURE. A building or structure that is not secured or is open in such a way as to allow public or unauthorized access to the interior.

ADMINISTRATIVE PENALTY PAYMENT DUE DATE. The date that is the eleventh (11th) day after the issuance of a Hearing Officer's issuance of a written "Order to Abate" pursuant to section 95A.113, or the Nuisance Abatement Appeals Board's issuance of a final order decision pursuant to section 95A.120, if any.

AGREEMENT. Any written instrument that transfers or conveys title to residential real property from one owner to another after a sale, trade, transfer or exchange.

ASSIGNMENT OF RENTS. An instrument that transfers the beneficial interest under a deed of trust from one lender or entity to another.

BENEFICIARY. A lender participating in a real property transaction that holds a secured interest in the real property in question identified in a deed of trust.

BUYER. Any person, partnership, association, corporation, fiduciary or other legal entity that agrees to transfer anything of value in consideration for real property *via* an "agreement" as that term is defined in this Section 95D.102.

DANGEROUS BUILDING. Any building or structure reasonably deemed by qualified City staff to represent a violation of any provision specified in Code of Indio chapter 95B.

DAYS. Calendar days.

DEED OF TRUST. An instrument whereby an owner of real property, as trustor, transfers a secured interest in the real property in question to a third party trustee, said instrument relating to a loan issued in the context of a real property transaction. This definition applies to any and all subordinate deeds of trust *i.e.*, 2nd trust deed, 3rd trust deed, *etc.*

DEED IN LIEU OF FORECLOSURE. A recorded instrument that transfers ownership of real property between parties to a particular deed of trust as follows - from the trustor, *i.e.*, borrower, to the trustee upon consent of the beneficiary, *i.e.*, lender.

DEFAULT. The material breach of a legal or contractual duty arising from or relating to a deed of trust, such as a trustor's failure to make a payment when due.

DISTRESSED. Any building, structure or real property that is subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or any real property conveyed *via* a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed *via* a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right of occupancy.

ENFORCEMENT OFFICIAL. The City Manager, the Building Official, the Chief of Police and/or any employee or agent of the City of Indio designated and/or charged with enforcing the Code of Indio including but not limited to applicable codes adopted by reference therein.

EVIDENCE OF VACANCY. Any real property condition that independently, or in the context of the totality of circumstances relevant to that real property would lead a reasonable enforcement official to believe that a property is vacant or occupied by a person without a legal right of occupancy. Such real property conditions include but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; and/or statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

FORECLOSURE. The process by which real property subject to a deed of trust is sold to satisfy the debt of a defaulting trustor, *i.e.*, borrower.

LOCAL. Within forty (40) driving miles of the building, structure or real property in question.

NEIGHBORHOOD STANDARD. The condition of real property that prevails in and through the neighborhood where an abandoned building, structure or real property is located. When determining the neighborhood standard no abandoned or distressed building, structure or real property shall be considered.

NOTICE OF DEFAULT. A recorded instrument that reflects and provides notice that a default has taken place with respect to a deed of trust, and that a beneficiary intends to proceed with a trustee's sale.

OUT OF AREA. In excess of forty (40) road or driving miles of the subject property.

OWNER. Any person, partnership, association, corporation, fiduciary or other legal entity having a legal or equitable title or any interest in real property.

OWNER OF RECORD. The person holding recorded title to the real property in question at any point in time when Official Records are produced by the Riverside County Recorder's Office.

PROPERTY. Any unimproved or improved real property, or portion thereof, including but not limited to buildings or structures located on said real property, regardless of condition.

RESIDENTIAL BUILDING. Any improved real property, or portion thereof, designed or permitted to be used for dwelling purposes, including buildings and structures located on such improved real property. This includes any real property being offered under any circumstances for sale, trade, transfer, or exchange as "residential," whether or not said property is legally permitted and zoned for such use.

SECURING. Such measures as may be directed by an enforcement official that assist in rendering real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining/pad locking gates, the repairing or boarding doors, windows or other openings. Such measures shall be implemented in conformance with all applicable standards of the United States Department of Housing and Urban Development.

TRUSTEE. Any person, partnership, association, corporation, fiduciary or other legal entity holding a Deed of Trust securing an interest in real property.

TRUSTOR. Any owner/borrower identified in a deed of trust, who transfers an interest in real property to a trustee as security for payment of a debt by that owner/trustor.

VACANT. Any building, structure or real property that is unoccupied or occupied by a person without a legal right of occupancy.

95D.103 DUTY TO RECORD ASSIGNMENT OF RENTS

Within ten (10) days of a property transaction involving a change in the identity of an owner or the owner of record, or alternatively a transfer/assignment of a loan or deed of trust secured by residential property, each beneficiary and trustee engaged in said transaction or transfer/assignment shall record, via the Riverside County Recorder's Office, an Assignment of Rents, or similar instrument. This instrument shall reflect the identity, mailing address and telephone number of the trustee and beneficiary responsible for receiving payments associated with the loan or deed of trust in question. This duty/obligation shall be joint and several among and between all trustees and beneficiaries and their respective agents.

95D.104 REGISTRATION

- (A) Each beneficiary and trustee, who holds a deed of trust on a property located within the City of Indio, shall perform an inspection of the property in question prior to recording a Notice of Default or similar instrument with the Riverside County Recorders Office. If the property is found to be vacant or shows evidence of vacancy, as defined by the chapter, it is hereby deemed to be abandoned.
- (B) Within ten (10) days of identification of any abandoned property, the beneficiary and trustee must register the property with the City of Indio Police Department on specified forms.
- (C) If the property is occupied but distressed, the trustee and beneficiary or a designee shall inspect the property on a monthly basis until:
 - (1) the trustor or another party remedies the default; or
 - (2) the property is found to be vacant or shows evidence of vacancy, deemed abandoned and rendered subject to section 95D.104(B).
- (D) The registration pursuant to section 95D.104(B) shall contain the identity of the beneficiary and trustee, the direct mailing address of the beneficiary and trustee and, in the case of a corporate or out of area beneficiary or trustee, the local property management company, if any, responsible for the security, maintenance and marketing of the property in question.
- (E) The registration pursuant to section 95D.104(B) shall be renewed annually.
- (F) An annual registration fee, adopted in conformance with Section 95D.108, shall accompany the submission of each registration form. The fee and registration shall be valid for one (1) year from the date of registration. Registration fees will not be prorated.
- (G) This section shall also apply to properties that have been the subject of a foreclosure sale wherein title has been transferred to the beneficiary of a deed of trust involved in the foreclosure, and to any properties transferred under a deed in lieu of foreclosure or sale.

- (H) Properties subject to this chapter shall remain subject to the annual registration requirement, security and maintenance standards of this chapter as long as they remain vacant.
- (I) Any person, partnership, association, corporation, fiduciary or other legal entity that has registered a property under this chapter must make a written report to the Indio Police Department of any change of information contained in the registration within ten (10) days of the change.
- (J) The duties/obligations specified in this section 95D.104 shall be joint and several among and between all trustees and beneficiaries and their respective agents.

95D.105 MAINTENANCE REQUIREMENTS

It is declared a public nuisance for any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to the to the registration requirement contained in section 95D.104, to cause, permit, or maintain any property condition contrary to any provision of this chapter. Consequently, the following maintenance requirements as to any property subject to the to the registration requirement contained in section 95D.104 are adopted.

- (A) Any property subject to this section must comply with the requirements of Indio Municipal Code chapter 95A.
- (B) In addition, the property shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper, circular, flyers, notices (except those required by federal, state or local law), discarded personal items including but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- (C) The property shall be maintained free of graffiti, tagging or similar marking. Any removal or painting over of graffiti shall be with an exterior grade paint that matches the color of the exterior of the structure.
- (D) Visible front and side yards shall be landscaped and maintained to the neighborhood standard.
- (E) Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.
- (F) Landscaping does not include weeds, gravel, broken concrete, asphalt, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.
- (G) Pools and spas shall be kept in working order so that water remains clear and free of pollutants and debris, or alternatively shall be drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

- (H) Adherence to this section does not relieve the beneficiary/trustee or property owner of obligations set forth in any Covenants Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the property.
- (I) The duties/obligations specified in this section 95D.105 shall be joint and several among and between all trustees and beneficiaries and their respective agents.

The sole exception to these maintenance requirements shall, within the sole reasonable discretion of a duly authorized enforcement official, apply to property subject to the registration requirement contained in section 95D.104 that is under construction and/or repair, not less than three (3) business days per week, undertaken in compliance with all applicable law including but not limited to City permitting requirements.

95D.106 SECURITY REQUIREMENTS

- (A) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (B) Secure manner includes but is not limited to closing and locking of windows, doors (walk-through, sliding and garage) gates and any other opening that may allow access to the interior of the property and or structure(s). In the case of broken windows securing means re-glazing or boarding the window.
- (C) If the property is owned by a corporation and/or out of area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.
- (D) The property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18" X 24", shall be of a font that is legible from a distance of forty-five (45) feet, and shall contain the following verbiage: "THIS PROPERTY MANAGED BY _____," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)".
- (E) The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street of the front of the property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.
- (F) The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter. If the property management company determines the property is not in compliance, it is the company's responsibility to bring the property into compliance.

- (G) The duties/obligations specified in this section 95D.106 shall be joint and several among and between all trustees and beneficiaries and their respective agents.

95D.107 ADDITIONAL AUTHORITY

In addition to the enforcement remedies established in this Chapter, the City shall have the authority to require the beneficiary, trustee, owner or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including but not limited to, securing any and all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to secure and reduce the visual decline of the property.

95D.108 FEES

The fee for registering and re-registering an abandoned property shall be set, from time to time, by resolution of the City Council. The amount of the fee charges shall not exceed the cost of administering the provisions of this chapter.

95D.109 ENFORCEMENT

- A. Any violation of this chapter shall be treated as a strict liability offense; a violation shall be deemed to have occurred regardless of a violator's intent.
- B. Any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to the to the registration requirement contained in section 95D.104, and causes, permits, or maintains a violation of this chapter as to that property, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 10 of this Code.
- C. This section 95D.109 is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the Code of Indio. Above and beyond the violation and penalty specified in this section 95D.109, the City Attorney or a duly authorized Enforcement Official may pursue any other right or remedy permitted by the Code of Indio, including but not limited to commencement of any civil action, or administrative action to abate the condition of a property as a public nuisance pursuant to Chapter 95A.
- D. In the event that the City takes administrative action to abate the condition of a property subject to the to the registration requirement contained in section 95D.104, above and beyond the rights and remedies specified in Chapter 95A, the following administrative penalties shall apply.
- a. On the administrative penalty due date, each party subject to an abatement order shall pay an administrative penalty of one thousand dollars (\$1,000.00).
 - b. In the event that a violation of this chapter addressed by an abatement order has not been abated, cured, remedied and/or eliminated to the reasonable satisfaction of a duly authorized enforcement official by the

thirtieth (30th) day after the administrative penalty due date, each party subject to said abatement order shall pay a supplemental administrative penalty of five thousand dollars (\$5,000.00).

- c. In the event that a violation of this chapter addressed by an abatement order has not been abated, cured, remedied and/or eliminated to the reasonable satisfaction of a duly authorized enforcement official by the sixtieth (60th) day after the administrative penalty due date, each party subject to said abatement order shall pay a second supplemental administrative penalty of twenty-five thousand dollars (\$25,000.00).
- E. In each instance when a party becomes subject to an administrative penalty specified in section 95D.109D, an enforcement official shall issue an order providing written notice of that party's obligation to make payment of said administrative penalty. Each such order shall constitute a special assessment against the property in question having the same legal status as an order determining the cost of abatement of a public nuisance pursuant the provisions of section 95A.122.
- F. In each instance when a party becomes subject to an administrative penalty specified in section 95D.109D, and the order providing for said administrative penalty issues when that party is either seeking to perfect its interest in the subject property subsequent to the recordation of a notice of default, or is the property's owner of record, that party is not relieved of its obligation to pay any administrative penalty based upon the sale of the property in question to another.

95D.110 APPEALS

Any person aggrieved by any of the requirements of this chapter may appeal a determination made hereunder in the manner specified with respect to appeals under Chapters 11 and 95A of the Code of Indio.

95D.111 SEVERABILITY

If any section or provision of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this chapter shall remain valid. The City Council hereby declares that it would have adopted this chapter, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

Section 2:

The City Council finds that the above recitals are true and correct, and constitute the findings of the City Council in this matter.

Section 3:

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause a summary of same to be published once in the Desert Sun, a newspaper of general circulation, printed, published and circulated within the City of Indio and the same shall be in force and effect thirty days after its adoption.

PASSED, APPROVED, AND ADOPTED this _____ day of February, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

LUPE RAMOS-WATSON, MAYOR
City of Indio, California

ATTEST:

CYNTHIA HERNANDEZ
City Clerk, CMC

Chapter 17.38 NEGLECTED VACANT HOUSES

Parts:

- 1 General Provisions
- 2 Standards
- 3 Enforcement

Part 1 GENERAL PROVISIONS

Sections:

- 17.38.010 Neglected vacant house.
- 17.38.020 Vacant house.
- 17.38.030 Director.
- 17.38.040 Compliance required.
- 17.38.050 Public nuisance.

17.38.010 Neglected vacant house.

- A. A neglected vacant house is a house which is vacant and is not maintained in accordance with the provisions of Part 2 of this chapter.
- B. A house which is vacant, but is maintained in a manner in which there is no material, repeated, or on-going violation of Part 2, is not neglected and shall not be subject to the monitoring program in Part 3 of this chapter.

(Ord. 24547.)

17.38.020 Vacant house.

- A. "Vacant house" means a residential building which has remained unoccupied for a period of more than thirty days. The definition includes manufactured housing or mobile homes located in a mobile home park.
- B. A house is not deemed to be vacant for purposes of this chapter if any of the following circumstances exist:
 1. Any unit or portion of the house is occupied;
 2. Any other house on the same lot is occupied;
 3. Construction or alteration in progress pursuant to a valid, unexpired building permit.
- C. A "lot" for purposes of subsection B.2. above means:
 1. With respect to mobile homes or manufactured housing located in a mobile home park, the mobile home lot on which the structure is located.
 2. With respect to all other types of housing, the parcel of land on which the structure is located.

(Ord. 24547.)

17.38.030 Director.

For purposes of this chapter, "director" means the director of neighborhood services. Except as otherwise provided herein, the director shall have the authority to enforce the provisions of this chapter.

(Ord. 24547.)

17.38.040 Compliance required.

It shall be unlawful for any person who owns, controls, or is the responsible agent designated in accordance with Section 17.38.230 of this chapter, a vacant house to maintain, or cause or permit the maintenance of the vacant house in a neglected condition.

(Ord. 24547.)

17.38.050 Public nuisance.

A neglected vacant house shall constitute a public nuisance.

(Ord. 24547.)

Part 2 STANDARDS

Sections:

- 17.38.110 Structural and building standards.
- 17.38.120 Fire safety.
- 17.38.130 Security standards.
- 17.38.140 Debris removal.
- 17.38.150 Appearance.

17.38.110 Structural and building standards.

A. All vacant houses shall be maintained in a structurally sound condition.

B. All electrical, natural gas, sanitary and plumbing facilities shall be maintained in a condition which does not create a hazard to public health or safety.

(Ord. 24547.)

17.38.120 Fire safety.

A. All vacant houses shall be maintained in a manner which does not create an unreasonable risk of fire, including the removal of weeds which may constitute a fire hazard.

B. No vacant house or portion thereof shall be used for the storage of flammable liquids or other materials which would constitute a safety or fire hazard.

C. Heating facilities or heating equipment in vacant houses shall either be removed or maintained in accordance with applicable codes and ordinances. If heating equipment is removed, any fuel supply shall be removed or terminated in accordance with applicable codes and ordinances.

(Ord. 24547.)

17.38.130 Security standards.

A. All vacant houses shall be maintained in a way which secures it from any unauthorized entry.

B. The owner or responsible agent of a vacant house which has suffered an unauthorized entry must provide security which meets the following minimum standards:

1. All windows and sliding doors shall provide either intact glazing or resistance to entry equivalent to or greater than that of a solid sheet of one-quarter-inch plywood, painted to protect it from the elements, cut to fit the opening, and securely nailed using 6D galvanized nails spaced not more than six inches on the center.
2. Doors and service openings with thresholds located ten feet or less above grade, stairway, landing, ramp, porch, roof or similarly accessible area shall provide resistance to entry equivalent to or greater than that of a closed single panel or hollow core door one and three-eighths inches thick equipped with a half-inch throw deadbolt.
3. Exterior doors, if openable, may be closed from the interior of the house by toe nailing them to the door frame using 10D or 16D galvanized nails.
4. There shall be at least one operable door into each house and into each housing unit. If an existing door is operable, it may be used and secured with a suitable lock such as a hasp and padlock or a one-half inch deadbolt or deadlatch.
5. All locks shall be kept locked. When a door cannot be made operable, a door shall be constructed of three-quarter-inch CDX plywood and shall be equipped with a lock as described above.

(Ord. 24547.)

17.38.140 Debris removal.

All vacant houses including all adjoining yard areas shall be maintained free of debris, combustible materials, litter and garbage.

(Ord. 24547.)

17.38.150 Appearance.

- A. All vacant houses must be maintained in a manner which minimizes the appearance of vacancy, including the prompt removal of graffiti.
- B. All exterior surfaces, including any boarded windows or doors shall be applied with sufficient paint, siding, stucco or other finish to weatherproof the vacant house and to create a sufficient appearance of repair to deter unauthorized occupation.
- C. The exterior of the vacant house property, including all landscaping, shall be kept in such condition as not to create the appearance of an unsecured, unoccupied structure or other hazard to public safety.

(Ord. 24547.)

Part 3 ENFORCEMENT

Sections:

- 17.38.210 Neglected vacant house monitoring program.
- 17.38.220 Registration.
- 17.38.230 Responsible agent.
- 17.38.240 Inspections.
- 17.38.250 Fees.
- 17.38.260 Appeals.
- 17.38.270 Remedies.

17.38.210 Neglected vacant house monitoring program.

- A. If a vacant house is neglected by being in material, repeated, or on-going violation of the provisions of Part 2 of this chapter, the director shall send a notice to the owner that the house shall be required to be registered in the neglected vacant house monitoring program within ten days of the date of the notice to register.
- B. The owner of a neglected vacant house may appeal the director's decision to place the house into the neglected vacant house monitoring program by filing a notice of appeal with the director within ten days of the date of the notice.
- C. If the director finds that a neglected vacant house which has been placed in the monitoring program has not been in further violation of the provisions of this chapter for more than six consecutive months, the director shall have the discretion to remove the vacant house from the monitoring program.

(Ord. 24547.)

17.38.220 Registration.

- A. The owner of a neglected vacant house which is required to register in the neglected vacant house monitoring program under Section 17.38.210 shall be registered in accordance with the requirements of this section.
- B. The registration information shall include:
 - 1. The address of the vacant house;
 - 2. The address and telephone number of the owner;
 - 3. The designation of a responsible agent and the address and telephone number of the responsible agent, if different from the owner;
 - 4. The date the house became vacant;
 - 5. The assessor's parcel number (APN) for the lot where the vacant house is located.
- C. Any change in the information provided pursuant to this section, including but not limited to a change in ownership, shall be filed with the director within fifteen days of the change.

(Ord. 24547.)

17.38.230 Responsible agent.

- A. The owner of any neglected vacant house which is subject to the registration requirements of this part shall designate a responsible agent for the house. Any owner who lives within sixty miles of the vacant house may designate himself or herself as the responsible agent.
- B. The owner of any vacant house who lives more than sixty miles from the house shall name a responsible agent who lives within or whose place of business is within the City of San José.
- C. The designation of responsible agent shall constitute an authorization by the owner to act on behalf of the owner with regard to all requirements under this chapter and may accept all notices, including all notices pursuant to this chapter, all notices of proposed abatements or summary abatements pursuant to Title 17 of this Code, and all compliance orders and administrative orders pursuant to Chapter 1.14 of Title 1 of this Code, on behalf of the owner.
- D. The owner's designation of a responsible agent shall not relieve the owner of any obligation to comply with the provisions of this chapter.

(Ord. 24547.)

17.38.240 Inspections.

A. The owner or responsible agent of a vacant house which is required to be registered in the neglected vacant house monitoring program shall inspect or cause the inspection of such vacant house not less than one time in every two-week period.

B. Such owner or responsible agent shall keep or cause to be kept a written log of all inspections. The log shall contain the following information:

1. The date and time of the inspection;
2. The name and signature of the person actually inspecting;
3. A notation of any problems identified and the steps taken to address them.

C. A copy of the log shall be provided to the city upon request of the director.

(Ord. 24547.)

17.38.250 Fees.

A. The owner of a neglected vacant house subject to registration shall pay the neglected vacant house registration fee as set forth in the schedule of fees adopted by resolution of the city council.

B. The fee shall be calculated on a quarterly basis and the entire fee shall be due and owing if the neglected vacant house is required to be registered for any portion of the quarter.

(Ord. 24547.)

17.38.260 Appeals.

A. The appeals hearing board shall have jurisdiction to hear appeals of the following:

1. The placement of the vacant house into the neglected vacant house monitoring program; or
2. The requirement to pay fees under this chapter.

B. A determination which is appealable under subsection A. may be appealed by the owner of the property to the San José appeals hearing board by filing written notice of appeal with the director within ten days of the action for which the appeal is taken. When a notice of appeal has been received by the director for filing:

1. The director shall, within ten days after receipt of the notice of appeal, file it with the secretary of the board.
2. The secretary of the board shall set the date for hearing and determination by the board which date shall not be less than ten days nor more than sixty days after the date on which the copy of the notice of appeal was filed with the secretary of the board.

C. Within a reasonable time after the board has concluded its hearing, it shall by resolution set forth its findings and decision. The decision of the board shall be final. The secretary of the board shall notify the director of the decision and shall mail a copy of the decision to the appellant at the address shown for such purpose on the notice of appeal.

(Ord. 24547.)

17.38.270 Remedies.

The provisions of this chapter may be enforced by any remedies provided for in this Code or otherwise available at law.

(Ord. 24547.)

//San Jose, California/CODE OF ORDINANCES SAN JOSE, CALIFORNIA Codified through Ordinance No. 28206, adopted December 18, 2007 (Supplement No. 11)/Title 17 BUILDINGS AND CONSTRUCTION*/Chapter 17.38 NEGLECTED VACANT HOUSES

ORDINANCE NO. 2008 -

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO
ESTABLISHING PROCEDURES FOR IMPOSING FINES PURSUANT TO CALIFORNIA CIVIL
CODE SECTION 2929.3 ON LEGAL OWNERS OF FORECLOSED RESIDENTIAL
PROPERTIES FOR FAILURE TO MAINTAIN SUCH PROPERTIES

WHEREAS, Senate Bill 1137 was signed by the Governor on July 8, 2008, and took effect immediately. Senate Bill 1137, in addition to protection for homeowners, adds section 2929.3 to the California Civil Code to allow cities to impose \$1,000 fines on mortgage companies and legal owners who have foreclosed on residential properties but fail to maintain them;

WHEREAS, the City Council finds and declares that it wishes to take advantage of the procedures set forth in Section 2929.3 in order to protect the neighborhoods of the City of San Pablo;

WHEREAS, Government Code section 36937 provides that an ordinance shall take effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety containing a declaration of the facts constituting the urgency, and it is passed by a four-fifths vote of the city council.

NOW, THEREFORE, the City Council of the City of San Pablo does ordain as follows:

Section I. The following procedures shall be available for implementation by the City's Code Enforcement Division in assessing fines against legal owners of vacant, residential foreclosed properties.

1. Legal Owner to Maintain Foreclosed Properties – Civil Fine

A. A legal owner shall maintain vacant residential property purchased by that owner at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. "Failure to maintain" means failure to care for the exterior of the property, including, but not limited to, permitting excessive foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers or squatters from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water, or other conditions that create a public nuisance under Chapter 8.02 of the San Pablo Municipal Code or any other law.

B. In any proceeding under this Ordinance, the Code Enforcement Division shall impose a civil fine of one thousand dollars (\$1,000) per day for each day that the owner fails to maintain the property, commencing on the day following the expiration of the period to remedy the violation established in the notice of violation.

2. Notice of Violation and Opportunity For Hearing

A. Whenever an enforcement officer determines that a violation of the maintenance obligation has occurred, the enforcement officer shall have the authority to issue a notice of violation which

shall include the information set forth in Section 1.10.040 of the San Pablo Municipal Code, and a notice of intent to assess a civil fine of \$1,000 per day if action to correct the violation is not commenced within a period of not less than 14 days and completed within a period of not less than 30 days. The notice shall also state that the legal owner shall be responsible for city abatement costs as set forth in Government Code Section 54988 and San Pablo Municipal Code section 1.08.070.

The notice shall be posted on the property and mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or, if none, to the return address provided on the deed or other instrument.

B. The legal owner shall be granted 30 days to remedy the violation prior to the imposition of a civil fine. However, a period of less than 30 days' notice to remedy a condition before imposing a civil fine may be imposed if it is determined that a specific condition of the property threatens public health or safety. The Notice of Violation shall specifically note such determination and the lesser time for compliance. The enforcement officer may establish different compliance periods for different violations, subject to the minimums set forth above.

C. The Notice of Violation shall notify the legal owner of the date, time and place of a hearing at which such owner shall be given an opportunity to contest any fine imposed. The hearing shall generally be approximately thirty (30) days following expiration of the compliance period set forth in the Notice, in which case the maximum fine imposed at this initial hearing would be \$30,000, in addition to assessment of abatement costs. The Notice shall also advise that the fines will continue to accumulate following the hearing if the violation is not abated; and that fines will continue to accrue unless and until the code enforcement division inspects the property and issues a compliance certificate which the legal owner must produce at the hearing. It is the responsibility of the legal owner to arrange for such inspection and obtain the compliance certificate.

D. The hearing may be continued for good cause shown.

E. Should the owner fail to appear at the hearing, the maximum fine shall be imposed by the hearing officer.

F. The hearing shall be conducted according to the procedures set forth in Section 1.10.120.B-D of the San Pablo Municipal Code.

3. Appeal Hearing

A. The Hearing Officer shall be designated as provided in Section 1.10.100 of the San Pablo Municipal Code. Failure to appear at the hearing shall constitute a failure to exhaust administrative remedies for purposes of judicial review.

B. In determining the amount of the fine, the hearing officer shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation.

C. The hearing officer shall notify the legal owner of his or her decision by written decision served as provided in Section 2.A of this Ordinance. If the hearing officer determines that the evidence supports a finding of violation, the decision shall state the evidence and the finding, and shall indicate the amount of the fine and the amount of any abatement fees, costs and charges to be imposed pursuant to the authority set forth in Government Code section 54988 and San Pablo Municipal Code section 1.08.070. The decision shall contain a statement that the decision is final and that judicial review may be sought within twenty (20) days pursuant to Government Code section 53069.4, provided administrative remedies have been exhausted. The decision shall advise that the total charges will become a lien against the property if not paid within forty-five days of the date of the decision.

D. The hearing officer's decision shall also notify the legal owner that fines will continue to accumulate if the violations are not abated following the hearing, and shall notify the owner of the time and place of a subsequent hearing at which additional fines under this ordinance may be imposed if the violation is not abated. At such hearing and any and all subsequent hearings, the hearing officer shall receive any additional evidence received from the enforcement officer and the legal owner, and shall render another decision in accordance with these procedures.

4. Liens and Special Assessments on the Property

Any initial or subsequent fine imposed by the hearing officer, together with any abatement fees, costs and charges, may become a lien on the property, and collected in the same time and manner as property taxes are collected, if not paid within forty-five days, in accordance with and following the procedures set forth in Section 1.08.070 of the San Pablo Municipal Code except to the extent modified herein. Notice of the lien hearing before the City Council may be mailed by certified and regular mail prior or subsequent to the date upon which the fine and costs become delinquent, so that the City Council may determine whether such lien should be confirmed as soon as possible after delinquency. Should the fine and costs be paid in whole prior to the hearing, the legal owner shall be advised that no hearing will be held. Notice of the lien hearing may be incorporated into the hearing officer's decision. In such a case, the written decision referred to in 3.C, above, shall be served by certified and regular mail.

Section II. Cumulative Remedies

The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law. All procedures herein are intended to obtain the abatement of public nuisances and compliance with those provisions of the city's code which are declared to be public nuisances. As such, recovery of administrative expenses and costs in pursuing the rights and remedies under these procedures are allowable pursuant to San Pablo Municipal Code section 1.08.070 as fees, costs and charges incurred by the City in the abatement of public nuisances.

Section III. Revenue

Fines and penalties collected pursuant to this ordinance shall be directed to the City's code enforcement budget for nuisance abatement purposes. The City may not impose fines under both this procedure and any other chapter of the San Pablo Municipal Code for the same violation.

Section IV. Severability

If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this ordinance. The City Council of the City of San Pablo hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the ordinance would be subsequently declared invalid or unconstitutional.

Section V. Expiration Date

This Ordinance shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute succeeding Civil Code section 2929.3, that is enacted before January 1, 2013, deletes or extends that date.

Section VI. CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

Section VII. Findings of Urgency

The City Council adopts this urgency ordinance for the immediate preservation of the public peace, health or safety. The Council finds that California is facing an unprecedented threat to its state economy and local economies because of skyrocketing residential property foreclosure rates in California. Residential property foreclosures increased sevenfold from 2006 to 2007. In 2007, more than 84,375 properties were lost to foreclosure in California, and 254,824 loans went into default, the first step in the foreclosure process. In addition to these findings the City Council incorporates by reference as though fully set forth herein all the findings set forth in Senate Bill 1137.

In the City of San Pablo, the code enforcement division conservatively estimates that they deal with seven to ten foreclosed properties every week, and that at least 15% to 20% of all houses in San Pablo has some kind of foreclosure activity. The main issues with such foreclosures are property

maintenance, trash, debris, weeds, broken windows and unsecured, vacant houses, all resulting in decreasing property values and decreased property tax revenue to the City. These properties violate numerous city ordinances regulating the upkeep of properties, and are considered public nuisances under the San Pablo Municipal Code. Neither owners, tenants nor the legal owners who foreclose upon such properties have been willing to expend the funds and time to remain good neighbors and keep such properties in good condition.

High foreclosure rates have adversely affected property values in California, and will have even greater adverse consequences as foreclosure rates continue to rise. According to statistics released by the HOPE NOW Alliance, the number of completed California foreclosure sales in 2007 increased almost threefold from 1,902 in the first quarter to 5,574 in the fourth quarter of that year. Those same statistics report that 10,556 foreclosure sales, almost double the number for the prior quarter, were completed just in the month of January 2008. More foreclosures means less money for public safety and other key services.

It is often very difficult to track down the bank or loan company that is responsible for the property. Some of the loan companies sell the loans, some go bankrupt and some are bought out by other loan companies. It sometimes takes six to eight weeks to find the right parties. Because of this delay, it is essential that the notification, fine and lien process set forth herein be expedited.

Passage of this ordinance as an urgency measure will enable the code enforcement division to notify the legal owners of such properties as soon as possible, thus reclaiming houses and neighborhoods as soon as possible to prevent public nuisances, neighborhood deterioration, and further decreases in property values.

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Section VIII. Effective Date.

This ordinance shall become effective immediately upon introduction upon a four-fifths vote pursuant to the authority set forth in Government Code section 36937(b). The ordinance shall be published once within fifteen (15) days in the West County Times, a newspaper of general circulation in the City of San Pablo.

First read at a regular meeting of the City Council of the City of San Pablo on August 4, 2008, and adopted at a regular meeting of the City Council held on August 4, 2008, by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

ATTEST:

APPROVED:

Ted J. Denney, City Clerk

Sharon J. Brown, Mayor

s/ce/resos/2008/foreclosure.fine.automatichearing.reso



CITY OF SAN PABLO
13831 San Pablo Avenue
San Pablo, CA 94806

Date:

Address:

Subject Property:
Parcel Number:
Case #:

**ORDER FOR PAYMENT OF CIVIL FINE
FAILURE TO MAINTAIN VACANT, FORECLOSED PROPERTY
(California Civil Code §2929.3; City of San Pablo Ordinance No. 2008- __)**

On _____, a duly noticed administrative hearing was held regarding failure to maintain the vacant, foreclosed, residential property located above. The property owner(s) did ___ did not ___ appear for this hearing. The undersigned Hearing Officer has considered all the evidence submitted and makes the following findings of fact:

1. Notice was mailed to the responsible legal owners of the property set forth in Civil Code section 2929.3 on _____, and was posted on the property on _____.
2. The subject property is a residential property. It was foreclosed upon and was vacant as of the date notice was mailed.
3. Owner was granted a period of ___ days to bring the property into compliance or face fines in the amount of \$1,000 per day for each day following the deadline that the property remained out of compliance. Pursuant to Ordinance 2008- __, the owner had the responsibility of arranging for an inspection and bringing to this hearing a certificate of compliance from the Code Enforcement Division to prove compliance.

A compliance certificate was ___ was not ___ produced at the hearing.

___ (if applicable) The compliance certificate shows a date of compliance of _____.

NOTICE OF FURTHER HEARING. As the property has not been brought into compliance by the hearing date, a new hearing date has been scheduled for (date, time and place: generally 30 days from date of notice). At

that time you will have the opportunity to contest any additional fine to be imposed. Daily fines will continue to accumulate following the hearing if all violations are not abated, and subsequent hearings will continue to be scheduled requiring your appearance. The maximum fine will be imposed if the legal owner fails to appear at the hearing. Failure to appear constitutes a failure to exhaust administrative remedies for purposes of judicial review of the decision.

4. In determining the amount of the fine, the hearing officer has taken into account any good faith and timely efforts to remedy the situation.

_____ Appellant has failed to produce substantial evidence that it has undertaken good faith and timely efforts to remedy the situation.

_____ The following good faith and timely efforts have been taken into account in fashioning the amount of the fine:

5. Based on the testimony of the code enforcement officer, photographs, and the code enforcement file produced at the hearing, it is found that the following conditions on the property constituted a public nuisance:

6. It is found that these public nuisance conditions violated the following statutes and ordinances:

7. The Code Enforcement Officer produced documentation showing that the City's costs in handling this matter, up to and through this hearing, in an attempt to obtain the abatement of the public nuisances on the subject property, amounted to \$_____.

IT IS THEREFORE ORDERED THAT THE PROPERTY OWNER SHALL PAY A CIVIL FINE IN THE AMOUNT OF _____, constituting \$___ per day for ___ days. IT IS FURTHER ORDERED THAT ABATEMENT FEES, COSTS AND CHARGES PURSUANT TO GOVERNMENT CODE SECTION 54986 AND SAN PABLO MUNICIPAL CODE SECTION 1.08.070 SHALL BE PAID, IN THE AMOUNT OF _____. An invoice for such costs is attached.

8.

NOTICE OF INVOICE AND LIEN
Notice of Public Hearing to Confirm Lien

The fine and assessed charges set forth above must be paid within 45 days of the date of this notice or they will become a lien and special assessment on the property. PLEASE TAKE NOTICE THAT A public hearing before the San Pablo City Council is scheduled for 7 p.m. on _____, at the City Council Chambers, 13831 San Pablo Avenue, San Pablo, CA 94806. At the time the Council will receive all evidence regarding the amount of such lien and will be asked to confirm such lien and place it on the property tax rolls as a special assessment.

THIS DECISION IS FINAL. JUDICIAL REVIEW MAY BE SOUGHT IN SUPERIOR COURT WITHIN 20 DAYS PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 53069.4 PROVIDED YOU APPEARED AT THE HEARING.

Kelsey D. Worthy
Hearing Officer

s/ce/forms/2929.3/hearingofficerDecision.doc

CITY OF SAN PABLO
NOTICE OF VIOLATION AND NOTICE OF HEARING
FAILURE TO MAINTAIN VACANT, FORECLOSED PROPERTY
(California Civil Code §2929.3; City of San Pablo Ordinance No. 2008- __)

To: [OwnerName]
[Address1]
[City], [State] [Zip]

Re: (Property Address in San Pablo and APN#); [Case No]

PLEASE BE ADVISED THAT, AS LEGAL OWNER OF THE ABOVE-DESCRIBED RESIDENTIAL PROPERTY, YOU WILL BE FINED \$1,000 PER DAY FOR EACH DAY THAT THE FOLLOWING PUBLIC NUISANCE VIOLATIONS ARE NOT CORRECTED FOLLOWING EXPIRATION OF THE DUE DATE LISTED BELOW.

- A. Address of Violation: [SiteAddress] San Pablo, CA 94806 APN [Site APN]
- B. Code Sections Violated/Description of Violations:
- C. **YOU WILL BE ASSESSED A CIVIL FINE OF \$1,000 PER DAY** if action to correct these violations is not commenced within 14 days of the date of this notice, and the violations are not corrected by the date listed below. You will be responsible for City abatement costs as set forth in Government Code section 54988 and San Pablo Municipal Code section 1.08.070. Unpaid fines and nuisance abatement costs may be collected through imposition of liens or special assessments against the property.

___ All violations must be corrected within 30 days of the date of this notice.

___ The following violations must be corrected within (14-29) days of this notice. This lesser period is imposed because it has been determined that the following specific conditions of the property threaten public health or safety:

When all violations are corrected, please advise the City's Code Enforcement Division at 510.215-3206 to obtain an inspection and compliance certificate. Fines Will Continue To Accrue Unless And Until A Compliance Certificate Is Produced At The Hearing.

- D. **NOTICE OF HEARING:** Your hearing is scheduled for (date, time and place: generally 60 days from date of notice). At that time you will have the opportunity to contest any fine to be imposed. Daily fines will continue to accumulate following the hearing if all violations are not abated, and a subsequent hearing will be scheduled

requiring your appearance. The maximum fine will be imposed if the legal owner fails to appear at the hearing. Failure to appear constitutes a failure to exhaust administrative remedies for purposes of judicial review of the decision.

PLEASE BE ADVISED that the hearing officer's decision imposing the fine constitutes an invoice for payment. Failure to pay in a timely manner will result in a hearing before the San Pablo City Council that may result in a lien and special assessment being placed on the property.

Date: [Today]

Linda Miller
Police Services Tech.
(510) 215-3019

s/c/forms/2929.3 1 notice*



Proposed New Ordinance— Registration of Vacant Buildings & Property

Scheduled for March 4, 2008 City Council Meeting

Proposed ordinance

On Tuesday, March 4, 2008, the Stockton City Council will consider the adoption of an ordinance to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant buildings and properties.

The ordinance is to address health and safety issues and will be considered for adoption on an urgency basis to become effective immediately.

The following is a summary of the proposed *Registration of Vacant Buildings and Property, Stockton Municipal Code, Section 14-520—14.522.*

Purpose of the ordinance

The purpose of the ordinance is to ensure that vacant and abandoned properties, and the costs associated with monitoring and upkeep, are the responsibility of the property owners and do not become a liability of the surrounding community. Vacant properties and buildings:

- Can attract transients and criminal activity and become a danger to children,
- Increase risk of fire for the building and adjacent properties,
- Often become a dumping ground for junk and debris and overgrown with weeds and vegetation,
- Attract vandals, encourage graffiti, and disrupt neighborhood stability,
- Retard appreciation of property values and discourage economic development, and
- Deny neighboring property owners and residents the full use and enjoyment of their property.

Stockton City Council Meetings are held at City Hall, 425 N. El Dorado St., 2nd floor. The meeting will begin at 5:30 p.m.

Requirements

Vacant properties under foreclosure must be registered within 10 days. All other vacant properties must be registered within 30 days of the vacancy. The registration fee is \$107 per property.

Registration must be:

- Renewed annually by the anniversary date of the original registration,
- Amended within 10 days of any change in the registration information, and
- Updated within 10 days of a transfer of ownership.

Property owners must actively monitor and maintain the exterior appearance of the property, in addition to all other Health and Safety Codes. Property must be secured and in good repair, including, but not limited to:

- Kept free of weeds, garbage, junk, debris, trash, and graffiti,
- Landscaped to the neighborhood standard, and
- With pools and spas in working order and security fencing maintained to State of California requirements.

Owners must comply with all laws and codes, including zoning, historic preservation, housing and building codes. Owners, trustees, beneficiaries, or corporations, that are "out-of-area" (in excess of 40 road miles) must contract with a local property management company to oversee the property and ensure compliance with all laws.

Owners must post vacant buildings with 24-hour owner or property management contact information.

- Owner's or company's name and telephone number(s) where the owner/company can be reached during business and non-business hours,

- 4" x 6" weather resistant sign, secured to building exterior, near the front door, and
- Worded, as follows, "This property managed by _____." To report problems or concerns, call _____."

Registration content

Registration forms will include the following information:

- Description of the property and buildings or structures
- Assessor's parcel number (APN)
- Name(s) and address(es) of owner(s), lien-holders, and all other parties with ownership interest
- Name and address of property manager
- Telephone number(s) where a responsible party can be reached 24-hours a day
- Name, address and telephone number of a natural person, 21 year of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court or administrative enforcement proceeding on behalf of the owner.

Registration submission

The registration form is available online at www.stocktongov.com. The form can be obtained by contacting the Stockton Police Neighborhood Services Section, (209) 937-8815. Forms and fees must be returned to:

City of Stockton
Neighborhood Services Section
22 E. Weber Ave., 3rd Floor,
Stockton, CA 95202

For a complete copy of the proposed ordinance, visit www.stocktongov.com, or, call (209) 937-8827.

Stockton Municipal Code

Chapter 14

Uniform Codes

Part V

**UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS
BUILDINGS**

Division 2

**MAINTENANCE, SECURITY AND REHABILITATION OF ABANDONED
AND VACANT PROPERTY**

SEC. 14-520. FINDINGS — DECLARATION OF PURPOSE:

The Council finds that neglected, vacant, and abandoned properties are a major source of blight in residential and non-residential neighborhoods, especially when owners or responsible persons fail to maintain and manage those properties in a manner that ensures they do not become a liability to the surrounding community. Vacant buildings often attract transients and criminals, including drug users and prostitutes. Use of vacant, unsecured buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the building and adjacent properties and presents a dangerous attractive nuisance to children. Vacant properties are often used as dumping grounds for drug paraphernalia, furniture, tires, garbage, junk and debris, and are frequently overgrown with weeds and vegetation. In addition, the presence of vacant buildings that are simply boarded up for long periods of time to prevent entry by transients or vandals very often discourages economic development and encourages graffiti, disrupting neighborhood stability, retarding appreciation of property values, and promoting blight conditions. As a result, neighboring property owners and occupants are denied full use and enjoyment of their property. The City currently expends vast resources monitoring and responding to the numerous

health, welfare, safety, and economic problems caused by neglected, vacant properties. Because there is already a significant cost to the City for monitoring these properties, as well as a substantial toll on the citizens who are affected by the nuisance conditions created, the City Council finds there is an urgent need to implement a process by which these buildings are monitored and the costs borne by the owners of these properties, rather than the community. (Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC.

14-521.

DEFINITIONS:

For the purposes of this chapter, the following terms shall have the meanings indicated below:

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

ABANDONED: Any residential property in the city that is vacant or shows evidence of vacancy and:

1. Is under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale; and/or
2. Was the subject of a foreclosure sale where the title was retained by the beneficiary or trustee of a deed of trust involved in the foreclosure who is the current owner of the property; and/or
3. Was transferred to the current owner under a deed in lieu of foreclosure or sale.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

DANGEROUS BUILDING: Any building or structure that is in violation of any condition referenced in chapter 14, article II, division 8, Uniform Code for the Abatement of Dangerous Buildings.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

DEFAULT: The failure to fulfill a contractual obligation, monetary or conditional.

EVIDENCE OF VACANCY: Any condition that on its own or combined with other conditions present leads any person authorized to enforce this Code, in his or her reasonable discretion, or would lead any other reasonable person to believe that the property is vacant. Such conditions include, but are not limited to: overgrown and/or

dead vegetation, accumulation of newspapers, circulars, flyers, and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.

OWNER: Any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

PROPERTY: Any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

RESIDENTIAL PROPERTY: Any improved real property, or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.

SECURING: Such measures as may be directed by the director of planning or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

VACANT: Any building or structure that is unoccupied or occupied by unauthorized persons whether or not it is secured or boarded.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-522. CLASSIFICATION OF NUISANCES:

The following acts and conditions, when performed or existing upon any lot or parcel within the city, are declared to be unlawful and are defined as and declared to be public nuisances per se that are injurious to the public health, safety, and welfare:

(a) Buildings or structures that are under construction or rehabilitation and are not completed during the term of a valid building permit or building permit extension issued by the director of planning or his or her designee.

(b) Unoccupied buildings or structures that have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements.

(c) Buildings or structures for human use or occupancy that have been left vacant for more than 180 days, unless one of the following applies:

1. The building or structure is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.

2. The building or structure complies with all codes adopted by the City of Stockton, does not otherwise constitute a public nuisance, is ready for use or occupancy and is actively being offered for sale, lease or rent.

3. The building or structure, including the premises on which it is located, does not otherwise constitute a public nuisance and is not likely to become a public nuisance because it is being actively maintained and secured pursuant to Sections 14-523 and 14-524 of this Code.

(d) Every owner, occupant or person having charge or control of a building, structure, or property is liable for violations of this chapter regardless of any contract or agreement with any third party.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-523. MAINTENANCE REQUIREMENTS:

Every owner, lessee, occupant, or person having charge or control of buildings, structures, or property within the city is required to maintain the building, structure or property subject to the following maintenance requirements:

(a) Any condition causing the property to constitute a dangerous building shall be immediately remedied.

(b) Properties must be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including,

but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(c) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(d) Visible front and side yards shall be mowed, landscaped and otherwise to the satisfaction of the director of planning or his or her designee. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf or sod designed specifically for residential installation. Weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar materials are not acceptable landscaping. Maintenance of landscaping includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.

(e) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris, or shall be drained and kept dry.

(f) The owner of any vacant building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the city, shall rehabilitate the boarded building for occupancy, in accord with all applicable codes and regulations, within 180 days after the building is boarded, except as provided in subsection 14 522(c)(3) of this Code. Adherence to this section does not relieve the property owner of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-524. SECURITY REQUIREMENTS:

Any property in the City of Stockton classified as abandoned or vacant shall be subject to the following security requirements:

(a) All windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s) shall be secured so as to prevent access by any unauthorized person. In

the case of broken windows, securing means the re-glazing or boarding of the window.

(b) Pools and spas shall be fenced or otherwise secured to prevent access or use by any unauthorized person.

(c) The property shall be posted with name and 24-hour contact phone number of a local property management company. The posting shall be no less than 4" x 6" and shall contain, along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY _____" and "TO REPORT PROBLEMS OR CONCERNS CALL _____." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather-resistant materials.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-525. INSPECTION:

The owner shall inspect the abandoned or vacant property on a monthly basis, or more frequently if required by the director of planning or his or her designee, to ensure that the property is in compliance with the requirements of this chapter and any other applicable laws.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-526. ADDITIONAL REQUIREMENTS:

(a) The owner shall comply with all applicable laws and codes, including zoning, historic preservation, housing, and building codes.

(b) If the owner of a vacant property is a corporation, limited liability company or similar entity or is an "out-of-area" beneficiary, trustee, or owner, the owner shall contract with a property management company to ensure that the requirements of this Division, and any other applicable laws, are being met.

(c) The Chief of Police or his or her designee(s) shall have the authority to require the

owner of any property subject to this chapter to implement additional maintenance and/or security measures including, but not limited to: securing any or all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property and prevent the maintenance of an attractive nuisance.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-527: OTHER ENFORCEMENT:

Nothing in this chapter shall preclude the City from demolishing any building on the property or taking any other action authorized by this Division, or other provisions of this Code, or applicable law.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-528: APPEALS:

Any person aggrieved by any of the requirements of this Division may appeal, in accordance with the provisions of Section 1-056.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-529: VIOLATION/PENALTY:

A violation of this Division shall be treated as a strict liability offense regardless of intent. Any person, firm, or corporation that violates any provision of this Division shall be subject to prosecution and administrative enforcement, in accordance with the provisions of Chapter 1.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

SEC. 14-530: SEVERABILITY:

If any section or portion of this ordinance shall be determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions

shall remain in full force and effect.

(Repealed and replaced Urgency Ordinance 009-08C.S., Effective August 19, 2008)

BREAKING NEWS

Cities Seek Recourse For Mortgage Foreclosure Costs

Nancy Potter, National League of Cities
July 7, 2008

U.S. cities are passing ordinances seeking to educate mortgage lenders and servicers, and filing lawsuits in an effort to recover costs for damages from foreclosures.

Some cities have passed ordinances requiring that title holders of foreclosed properties maintain the property. Other cities are attempting to educate mortgage lenders and servicers about their responsibilities for maintaining property. Other cities have filed suits in recent months under various legal theories in both state and federal courts. No rulings have been issued yet.

The Problems of Vacant Properties

Cities argue that they are losing tax revenue from foreclosed homes and have been forced to increase spending to deal with vacant properties. Cities' foreclosure costs are straining tax bases and services, like police and fire departments.

Vacant properties become beacons for rodents and pests, illegal dumping, metals theft, drug dealing and prostitution, leading to cycles of blight. Situations have a ripple-effect and lower the property value of surrounding homes, making neighborhoods less stable and less attractive to buyers.

Especially hard hit are cities in California, Florida, Nevada and Arizona, which combine to make up 25 percent of U.S. loans outstanding and 42 percent of U.S. foreclosure starts in the first quarter of 2008. The next highest states were Texas, Michigan and Ohio.

The cost of demolishing a home in Kansas City, Mo., costs at least \$8,000. According to Nathan Pare, manager of Kansas City's dangerous buildings department, the city is tearing down three homes each week, far exceeding the \$900,000 that is budgeted yearly for such demolition. The cost for such demolition is higher in other cities.

Outreach to Mortgage Lenders

The City of St. Paul, Minn., has, to date, stopped short of litigation and initiated contact with lenders about what it views as their legal duties. On April 8, the city sent letters demanding that lenders articulate a plan for fixing up and reoccupying the abandoned homes they own or control. The city said that only a small group of large lenders is responsible for neglecting abandoned properties and leaving them to deteriorate.

City Ordinances

Other cities are passing city ordinances requiring the upkeep of foreclosed properties regardless of who owns or holds title to the property. Chula Vista, Calif., passed an ordinance that holds lenders responsible for the condition of abandoned properties or financially distressed homes. Violators who fail to maintain properties can be fined up to \$1,000 for each day the property remains unkempt, leading eventually to a lien on the property. Boston has passed an ordinance requiring companies to register foreclosed properties with the city, identify who is responsible for maintenance, post their contact information on the property, and pay a \$100 annual fee on each vacant home.

Lawsuits

Baltimore was the first city to file suit in federal court. It is seeking to recover costs for injuries allegedly caused by racially discriminatory lending practices, under the Federal Fair Housing Act.

Most recently, cities have been filing suits in state courts, under state public nuisance laws and local property ordinances. These suits assert that lenders have a legal duty in the foreclosure process to either sell the property or bring it up to code. These suits target the specific actions of lenders after foreclosure and their legal duties as land owners, as opposed to the Baltimore suit that focuses more broadly on the actions of lenders during the lending process.

Cleveland had more than 7,500 foreclosures last year. In February, the city filed suit to recover damages for lost property tax revenue, as well as the cost of demolishing abandoned homes and policing neighborhoods plagued by foreclosure.

Buffalo, N.Y.'s suit relies on city and state nuisance laws, as well as the state property maintenance code. The suit, which had its first hearing in May, seeks damages to cover the demolition costs of 57 specific foreclosed homes, at \$26,000 each. Buffalo estimates it has 10,000 abandoned properties.

While Cleveland's suit names 21 defendants and Buffalo's 39, Minneapolis targets just one developer, responsible for 140 properties. Hawthorne, a municipality within Minneapolis, has filed suit against one lender, for one property. The suit, filed in January, claims improper lending and public nuisance.

In both Minneapolis and Hawthorne, the city seeks the appointment of an administrator to manage and clean up the properties, as well as damages.

Part of a Larger Response

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Cities, however, are not relying solely on litigation to address this problem. For example, St. Paul's plan includes providing foreclosure counselors to homeowners and using \$17 million of its Sales Tax Revitalization program money to address neighborhoods' foreclosure issues.

Baltimore and Cleveland have both started land banks that have the authority to acquire and sell abandoned property. Minneapolis is investing in a new public relations campaign, aiming to avoid more vacant homes by attracting buyers to the area.

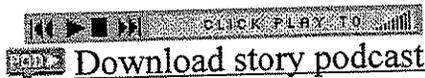
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Comments 0 | Recommend 0

Rialto ordinance would stress maintenance of abandoned properties



10:00 PM PDT on Monday, May 26, 2008

By MARY BENDER
The Press-Enterprise

Rialto has 778 bank-owned properties and another 970 in the pre-foreclosure stage.

City leaders say that's a recipe for suburban blight, and they hope to stem the tide.

Rialto is the latest Inland city to go after lenders and financial institutions as a tactic to force someone to be responsible for the upkeep of abandoned houses after distressed homeowners have packed up and moved away.

Murrieta and Lake Elsinore passed city ordinances to deal with the problem. Calimesa, Hemet and Temecula are pursuing similar avenues for halting the pace of residential eyesores.

The Rialto City Council will hold a public hearing June 3 to consider adding a chapter to the Municipal Code that would require vacant and abandoned properties to be registered with the city and maintained.

"We probably started seeing a big spike in foreclosures starting about the third quarter of 2007," John Dutrey, the city's housing program manager, said by phone.

"In Rialto, we had about 480 foreclosures in 2007," Dutrey said. "In 2008, the way things are going, we're going to have over 1,000 foreclosures."

The problem is pervasive, he said.

"It's happening in areas where new homes are being built. It's happening in the older neighborhoods," Dutrey said. "It's happening in the high-cost neighborhoods. It's happening in the low-cost neighborhoods."

The city's Code Enforcement Division and Redevelopment Agency are inspecting foreclosed properties. In a written report to the City Council last month, Dutrey said 25 percent of Rialto's vacant homes are poorly maintained.

"The presence of vacant buildings ... can lead to neighborhood decline, create attractive nuisances,

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contribute to lower property values and discourage buyers from purchasing properties adjacent to abandoned buildings," Dutrey said in his report. "Many of the homes are owned by lenders who fail to adequately maintain and secure these vacant buildings."

Under the proposed ordinance, Rialto would require lenders to inspect properties when a notice of default has been recorded, and to register the addresses once the structure has been vacated. The city also will require each site to be kept free of weeds, graffiti and trash, that pools are drained, gates secured and lawns watered.

Rialto's ordinance would mandate that the de facto owner -- such as a bank -- hire a property management company to inspect the property each week to make sure it doesn't lapse into disrepair or a haven for squatters.

To enforce the provisions, Rialto would assess a maximum penalty of \$1,000 per day on each abandoned home, and place a lien against the property so the city could collect the fines upon its eventual sale. The city will seek to declare vacant structures where violations persist public nuisances and ask for a court order to clean them up.

"Anything that's a threat to the health and safety of the neighborhood, we'll be able to immediately abate," Dutrey said.

Rialto patterned its ordinance after measures in Northern California and San Diego County -- in Manteca, Chula Vista and the city of San Diego, Dutrey said.

"Usually the foreclosure process takes about four of five months, from the time the notice is filed to the time the foreclosure sale takes place," Dutrey said.

Homeowners often move out before the sale.

"The problem is: Who's responsible for the house during this interim period?" Dutrey said. "The homeowner is gone. You can't find that person."

Rialto has about 20,000 single-family homes. The ordinance is meant to preserve property values for the homeowners who remain.

"We're going to (incur) about \$285,000 in abatement costs in 2008," Dutrey said.

Fines levied against the lenders will help recover those costs.

"We're not trying to generate revenue, which we'll be accused of," he said.

Reach Mary Bender at 909-806-3056 or mbender@PE.com

boston.com

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

City presses for upkeep of foreclosed properties

The Boston Globe

By Binyamin Appelbaum, Globe Staff | January 30, 2008

The City of Boston is pressuring mortgage companies to maintain the foreclosed, vacant, and often deteriorating homes that dot the city's neighborhoods in growing numbers.

City Councilor Robert Consalvo plans to introduce an ordinance today that would require companies to register foreclosed properties with the city, identify who is responsible for maintenance, post their contact information on the property, and pay a \$100 annual fee on each vacant home.

Consalvo said the city is spending thousands of dollars to maintain and secure vacant houses owned by companies that are not meeting their obligations as Boston property owners. He said problems include unlocked doors, undrained pools, unplowed walks, untrimmed hedges and lawn trash.

The vacant homes are both an eyesore and a safety hazard, he said.

"We shouldn't be footing the bill for these large mortgage companies," Consalvo said. "They should have to maintain them just like any other homeowner in this city."

Mayor Thomas M. Menino met last week with representatives of several of the largest companies that manage foreclosed properties in Boston, according to spokeswoman Dot Joyce. She said the companies agreed to post contact information on vacant buildings and to post "No Trespassing" signs to help police keep people out of the buildings.

The proposed ordinance, Joyce said, "is a step in the right direction. It's in line with what the mayor has been saying and doing in meeting with mortgage servicers."

Consalvo's proposal is modeled on similar laws recently passed in other cities. The problem is not just the rising number of foreclosures, but a slow real estate market that means homes are not easily resold. Instead, they sit vacant.

Boston requires all homeowners to maintain their properties. Most of the problems cited by Consalvo already are violations of city codes. But it is often difficult for the city to identify or contact the owners of foreclosed buildings.

A house on Chesterfield Street in Hyde Park was foreclosed in June 2006. It has been vacant since. But the pool out back was full of water until the city recently paid to drain it.

On Buckingham Street, one block away, the city spent \$1,737 in September to board up another vacant, foreclosed home, according to a lien filed against the former owner. In December, after calls from neighbors, city employees returned to clear the property of almost a full dumpster of trash.

Both homes remain empty, plastered with plywood boards and warning signs.

Glenn Preston, who lives nearby, said he and his wife tried to sell their home this fall, but the condition of the vacant home and its trashed yard made it difficult to attract a buyer. "We'd have an open house and people would drive down our street and they would just keep on driving," he said.

Kevin Cuff of the Massachusetts Mortgage Bankers Association said he questioned the need for new laws. Many foreclosed homes are well-maintained by mortgage companies eager to resell the properties. And Cuff said a state law passed this fall already created a database to help authorities track ownership of foreclosed

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properties.

"I see some redundancies in some of these actions that try to prevent activities at properties in foreclosure and to stabilize neighborhoods," Cuff said. "I'm not certain an additional ordinance is going to add something."

But cities increasingly are concerned about the impact of foreclosed homes on fragile neighborhoods. Consalvo said the subject was becoming one of the most common complaints council members hear from constituents.

"The police are responding to kids partying in there, people squatting, people using these houses to deal drugs," he said. "You've got sidewalks not shoveled. You have hedges that have grown so big that they block access on the sidewalk. You have pools that end up being filled with stagnant green water.

"Someone has to be held accountable."

Binyamin Appelbaum can be reached at bappelbaum@globe.com. ■

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Neighbors tend to foreclosures

Upkeep of empty homes falls to weary neighbors

By Paul Burgarino
East County Times
Article Launched: 07/25/2008 08:57:44 PM PDT

Every day, Kristen Hendricks walks by a vacant blue two-story home in her Antioch neighborhood. After months of seeing the front yard of the Deerfield Drive property turn into a suburban jungle of weeds and debris, she decided enough was enough.

Last month, Hendricks took matters into her own hands and started pulling weeds. As she started working, neighbor Karen Emory noticed.

"She asked if I had been hired to clean the yard," Hendricks said. "I told her it was just bothering me, and she felt the same way."

In Richmond's Richmore Village neighborhood, a small group of residents armed with weed wackers and lawn mowers are tackling the front yards of abandoned properties, cutting knee-high grass, pulling weeds and collecting trash. They amass enough trash to fill as many as 10 bags in about an hour. Their slogan: "if not us, who?"

"We understand we can't sit around and let people fix it," Richmond resident Kerry Moriarty said. "That would be nice, but it's not reality. We don't want our neighborhood to look like it's in decline."

In cities throughout Contra Costa County, residents are rolling up their sleeves to combat one of the many consequences of the nationwide mortgage meltdown — vacant homes with no one to care for them.

Countywide, lenders sent out 5,046 notices of default from April to June, a 118 percent increase from a year ago, according to numbers released this week by DataQuick Information Services, which tracks real estate trends.

In Richmond, the number of homes lost to foreclosure during that time jumped by 400 percent compared with the same period last year. The number of Antioch homes lost to foreclosure jumped 230 percent in the first four months of the year. Other East County cities saw similar jumps, though the number of Pittsburg homes lost to foreclosure jumped 566 percent over that time span.

Pride in ownership

With more empty homes popping up in neighborhoods, some fear that squatters will use abandoned properties for refuge, vandalism, drug use, metal theft and other abuses. Crime can jump 6.7 percent a year in an area with 100 homes in which two to three foreclose, Richmond police Chief Chris Magnus said, citing a study.

"Homes that look vacant become easy targets for criminals," Magnus said. "It starts with thefts of fixtures and it's a slippery slope from there. Every time a house goes vacant, it has a domino effect in terms of attracting crime and reducing property values."

Concerns also linger that property values will fall as neighborhood aesthetics suffer. The June median home price in the county dropped 37.2 percent to \$375,000 from the same month last year, according to DataQuick.

"Rather than let them languish and leave them open to squatters, we figured we'd make them at least fit in with the neighborhood," said Kate Sibley, one of Richmond's Richmore Village residents combating blight.

John Fuller, Pittsburg's public works director, said these concerns were heard constantly during the city's Neighborhood Improvement Team meetings this summer — with some residents saying they are taking it upon themselves to landscape abandoned homes.

"It's not something we encourage, but it's not something we discourage, either," he said.

The most common problems reported to Antioch police have been the theft of copper from vacant properties and signs outside of subdivisions, police Chief Jim Hyde said. Neighbors say other vacant properties on Deerfield have been hit by vandals.

Figuring out who should maintain a vacant home is often a moving target.

The problem with property maintenance generally starts when the owner becomes delinquent on payments and neglects property upkeep. Some in the industry say certain banks will avoid retaking the title quickly so they don't have the liability and responsibility of maintaining the properties or paying property taxes.

Even the fastest transfer of title back to the mortgage lender can take months.

Click photo to enlarge



Antioch homeowner Kristen Hendricks cleans up a foreclosed house in her neighborhood on...

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"There's no one responsible at that point; the property is literally in limbo," Fuller said.

On Deerfield Drive, a notice of default was put on the house Feb. 21. On June 19, the property was bought with Wells Fargo & Co. as a trustee.

Antioch code enforcement officials said they received complaints in early June, but the weeds were gone by the time they followed up.

Neighbors had complained about the property among themselves before someone contacted the city in June. The yard at one time was beautifully landscaped.

Many banks that own these homes are based on the East Coast — far removed from seeing local neighborhood impacts.

"There's no one person responsible for inspection or property upkeep," said East County real estate agent Anthony Davi.

Ron Tremblay, a senior vice president for Wachovia who specializes in repossessed real estate, said once the bank takes ownership of the property, it works "quickly and aggressively" to move properties it owns while "keeping up the appearance of the neighborhood."

Change in attitude

In general, cities have noticed a change in the attitudes of banks as the foreclosure problem continues.

Ryan Graham, coordinator of Antioch's Neighborhood Improvement Team, said he has seen better upkeep of vacant homes peppered throughout city neighborhoods. He credits a change in the attitudes of the banks along with tougher language in city codes and neighborhood involvement.

"Most of the banks have been pretty good," Hyde said. "They realize it's an investment, and the best way to sell their properties is to keep them looking decent."

"Foreclosure is a process that where absolutely no one wins, we're just trying to minimize the pain," Tremblay said. Wachovia maintains the exterior of a property once they obtain ownership, he said.

Real estate agent Marvin Remmich of Danville-based RAM Properties said national banks have become more aware of the local situation, hiring contractors to maintain the "yards, grass, weeds and little things like that."

City officials are trying to tackle the problem with a barrage of citations. In November 2006, Antioch put language into its municipal code that allowed the city to collect unpaid citations through taxes. Assessing citations through the tax roll, a practice used by many other cities, gave the city "more teeth" in getting compliance from homeowners, Antioch City Attorney Lynn Tracy Nerland said.

Richmond code enforcement team sends correction notices to owners of blighted homes, and puts liens on chronic problem properties for cleanups and administrative citations, said police Sgt. Darren Monahan. Liens are tied to a property, meaning a bank or whoever eventually buys it is responsible for paying it. Officials have compiled a list of bank-owned homes, and they are contacting the banks to try to get the properties maintained.

Last month, the city launched "One Block at a Time," in which officials and residents team up to clean messy areas. They tackled the Parchester Village neighborhood first, and hope to head into the Iron Triangle neighborhood this fall, Magnus added.

To engage residents in their community, Antioch leaders and real estate agents created an informal set of vacant property guidelines that suggest people call to report problems, said Brian Nunnally, a city economic development analyst.

Such information would have helped with the Deerfield Drive home, Hendricks said.

"I didn't know who to call; otherwise, I probably wouldn't have cleaned the place up," she said.

So far, the property on Deerfield has been maintained.

Last week, Hendricks said that six trash bags the neighbors had filled were taken from the property and the bank is doing a good job of maintaining the yard.

"I think I would discourage people from doing what we did, since it could be dangerous," she said. "It's our neighborhood. If we don't care for it, then who will?"

Reach Paul Burgarino at 925-779-7164 or pburgarino@bayareanewsgroup.com. Reach Katherine Tam at 510-262-2787 or ktam@bayareanewsgroup.com.

IS ANYBODY HOME?

If there are properties in a neighborhood that appear vacant, residents should

- Call the Realtor listed to verify that the property is vacant.
- Ask the Realtor about the property maintenance plan.
- Pick up litter and old newspapers along the sidewalk and street.
- Watch for and report suspicious activity.

If a crime is in progress (i.e. trespassing, theft, vandalism), residents should call the police. If there is blight on a property (i.e. garbage and debris, standing water, overgrown weeds), residents should call the Realtor first. In Antioch, the code enforcement department is the contact for garbage and debris, the Contra Costa Mosquito and Vector Control District is the contact for standing water, and the Contra Costa County Fire District is the contact for weed abatement.

Residents are also encouraged to join or form a Neighborhood Watch Program. In Antioch, call 925-779-6980 for more information. In Richmond, call 510-620-6538 for more information.

Source: City of Antioch

VACANT HOMES? WHOM TO CALL:

Delta Association of Realtors: 925-757-8283
 Antioch Police Dept. (nonemergency): 925-778-2441
 Richmond Police (nonemergency): 510-233-1214
 Antioch Code Enforcement : 925-779-7042
 Richmond Code Enforcement: 510-621-1279
 Contra Costa Mosquito and Vector Control District: www.ccmvcd.dst.ca.us
 or 925-685-9301
 Contra Costa County Fire District Weed Abatement Dept.: 925-941-3673
 Antioch Neighborhood Watch Program: 925-779-6980
 Richmond Neighborhood Watch/Crime Prevention Office: 510-620-6538

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AGENDA ITEM
CITY COUNCIL MEETING: SEPTEMBER 16, 2008
INFORMATIONAL ITEM

DATE : September 8, 2008
TO : City Manager
FROM : Economic Development Manager
SUBJECT : **SOLAR PROGRAMS INFORMATION**

RECOMMENDATION:

Receive additional information regarding municipal solar electric programs, and solar power as an alternative energy source generally; direct staff to include consideration of solar in the upcoming Climate Action Plan.

EXECUTIVE SUMMARY:

Solar electric residential installations are an alternative energy source, with financing available through a variety of avenues including Federal and state incentives. Local incentive programs are developing in some cities. The issue of solar power and its potential applicability on a larger scale in Benicia is likely to be thoroughly considered in the forthcoming Climate Action Plan.

BUDGET INFORMATION:

There is no budget impact.

DISCUSSION:

At the July 1, 2008 City Council meeting, following public comment about solar energy, the City Council asked for more information about solar generally and the specific possibilities for a solar electricity incentive program in Benicia.

Small-scale photovoltaic (PV) installations typically fit on a house's roof (occasionally elsewhere on a property), generating between 1-3 kilowatts. When sunlight hits the PV cells, a direct current (DC) is generated, then converted by the system into an alternating current (AC), which can be stored or used for domestic power. A residential installation cost is in the \$20,000+ range; larger systems can exceed \$30,000.

PV systems can be financed through a variety of means – cash, a home equity line, a mortgage refinance, or a consumer loan. The federal government offers an investment tax credit (the ITC, set to expire at the end of 2008) of up to \$2,000 for solar installations, although the credit is offset by any other government subsidy for solar. Additionally, the State of California's Go Solar Initiative provides a rebate of \$2.50 per watt for residential systems installed on existing houses through 2016.

Of California's fledgling local programs, San Francisco's rebate program was recently adopted, while Berkeley's assessment district loan program is still in the proposal stage. (Details on both are attached.) State law was changed earlier this summer to give general law cities like Benicia the ability to implement an assessment district for energy-efficient residential projects, in large part based on the positive publicity around Berkeley's proposal. The Berkeley City Council received direction from its citizens to implement programs like this through the approval of Measure G in 2006, which approved greenhouse gas reduction targets and developing an implementation plan.

The benefits of the assessment district approach are still emerging, and will to a large extent depend on the individual homeowner's financial position and his/her other options, as well as on variables that are still unknown because the Berkeley program isn't finalized. Those variables include the interest rate, if the Internal Revenue Service will deem the program a "government subsidy", and if so, to what extent it would cancel out the ITC. It is also not known if the ITC will be discontinued at the end of the year, continued as is, or continued at a higher level, like \$4000. Given these uncertainties and unknowns, one analysis concluded that Berkeley's program is most likely to benefit "residents who cannot access traditional home-backed forms of credit, and that otherwise might be inclined to use consumer loans to finance their PV system (or those residents who cannot use the ITC anyway, due to insufficient income tax liability)"¹.

The answer to the question of how much participation in an assessment district would cost the average homeowner depends on the size of the system and the final interest rate. While Berkeley plans to offer "below-market" loans, that rate is not yet announced. San Francisco had planned to offer 3% loans through its stalled loan program. For a \$20,000 installation at 3% interest, the annual assessment would be \$1,344. This does not account for any other incentives or tax implications.

Having the City assist citizens by reducing or waiving the cost of PV installation is another idea that has come up in this field. However, Benicia's solar panel permitting costs were estimated at \$125 in 2007, below both the Sierra Club's recommended reasonable threshold of \$300, and the regional average of \$224.² Thus, the permit costs don't seem to be a major local disincentive. Another help for homeowners is that most PV installations are exempt from property tax in California.

A burgeoning discussion around small-scale residential PV installations concerns their overall "energy-efficiency". The director of the University of California Energy Institute contends that the current PV technology and electricity market pricing combine to make residential solar a poor investment from both the consumer savings and greenhouse gas reduction perspectives.³

¹ "Property Tax Assessments as a Finance Vehicle for Residential PV Installations: Opportunities and Potential Limitations", Mark Bolinger. Berkeley Lab and the Clean Energy States Alliance (February 2008), pp. 7-8.

² "Solar Electric Permit Fees in Northern California", Carl Mills and Kurt Newick. Sierra Club, Loma Prieta Chapter (rev. March 2008), pp. 4, 11.

³ "The Market Value and Cost of Solar Photovoltaic Electricity Production", Severin Borenstein. University of California Energy Institute (January 2008).

It is very likely that local solar programs will be considered as part of Benicia's forthcoming Climate Action Plan process, scheduled to begin in late September. This will be an opportunity to explore some of the costs and benefits of increasing residential PV installations in our local setting, as well as receive additional public input on solar energy relative to other vehicles for greenhouse gas reduction.

Attachment:

- San Francisco and Berkeley Program Details

ATTACHMENT A

Municipal Solar Programs in Berkeley and San Francisco

Berkeley – Sustainable Energy Financing District

- Not yet operational; details not yet approved by City Council. Hope to launch pilot in September 2008.
- “The financing mechanism is loosely based on existing underground utility districts where the City serves as the financing agent for a neighborhood when they move utility poles and wires underground.”
- “Designed to allow property owners (residential and commercial) to install electric and thermal solar systems and make energy efficiency improvements to their buildings and pay for the cost over 20 years through property tax bills”.
- “Those who do have work done on their property would pay only for the cost of their project (including interest) and fees to administer the program. Individual property owners would contract directly with qualified private solar installers and contractors for energy efficiency and solar projects on their building. The City would provide the funding for the project from a (taxable) bond or loan fund that it repays through assessments on participating property owners’ tax bills for 20 years.”
- “Little upfront cost to the property owner.”
- “The total cost of the solar energy system and energy improvements should be comparable to financing through a traditional equity line or mortgage refinancing because the well-secured bond will provide lower interest rates than are commercially available.”
- “The obligation to pay the tax transfers with the property. Therefore, if you sell your property prior to the end of the 20-year repayment period, the next owner takes over repayment as part of their property tax bill.”

-City of Berkeley website, <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=22618>

San Francisco – “Go Solar SF” Solar Incentive Program

- Just approved by Board of Supervisors on June 10, 2008.
- Loosely based on the State’s rebate program.
- Establishes a 10-year, \$3,000,000 annual rebate pool for residents and businesses to install solar.
- Residents eligible for rebates up to \$6,000, businesses up to \$10,000.
- Separate but related pilot program to provide an additional \$1,500,000 for one year for low-income residents and non-profits (presumably with deeper subsidy).
- Ballot measure to create a below-market rate loan program to fund remainder of installation, which owners would repay through property tax assessments, is pending.

-City and County of San Francisco website,
http://www.sfgov.org/site/assessor_page.asp?id=72332