

October 18, 2005

The Benicia City Council meets the 1st and 3rd Tuesday of each month at 7:30 p.m. in the Council Chambers. Copies of Council Agendas are available in the City Clerk's office at the end of the business day on the Wednesday before the Council meeting.

Benicia City Council Agenda

BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

October 18, 2005

7:30 P.M.

- I. CALL TO ORDER:
  - A. ANNOUNCEMENT OF CLOSED SESSION (IF ANY)
- II. CLOSED SESSION:
  - A. NONE
- III. CONVENE OPEN SESSION:
  - A. ROLL CALL
  - B. PLEDGE OF ALLEGIANCE
  - C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC
- IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:
  - A. ANNOUNCEMENTS:
    1. Announcement of action taken at Closed Session, if any.
    2. Openings on Boards & Commissions:
      - Open Government Commission: 5 terms ranging from 1-4 years
      - Housing Authority Board of Commissioners - 2 tenant terms - 12/31/05 to 12/31/07
      - Library Board of Trustees - 1 term - 12/31/05 to 12/31/08
    3. 1st Street Peninsula Improvement Project - Announcement of Recent Improvements
    4. Bay Area Ridge Trail Dedication - October 29, 2005 at 10:00 am at the Marina Pavilion
    5. Amtrak Thurway Celebration - November 3, 2005 at noon - City Park
  - B. APPOINTMENTS:
    - [Youth Commissioner to the Parks, Recreation & Cemetery Commission](#) - Haley Benson
  - C. PRESENTATIONS:
    - Caltrans 780 Tree Removal Project - Art Yee, Office Chief, Office of Landscape Architecture, Caltrans District 4
    - Linking Land Use Policy to Nutrition & Health - Lisa Feldstein, Senior Policy Director, Public Health Law Program, Nutrition and Land Use Program

- Update on People Using Resources Efficiently (PURE) Committee Activities - Bob Craft, Chair, PURE Committee

D. PROCLAMATIONS:

- [Red Ribbon Week](#) - Officer Jeff Harris, Police Department
- [Domestic Violence Awareness and Prevention Month](#) - Jesy Yturalde, SafeQuest Solano

V. ADOPTION OF AGENDA:

VI. COMMUNICATIONS:

1. WRITTEN

2. PUBLIC COMMENT

VII. CONSENT CALENDAR:

- [Approval of Minutes of October 4, 2005.](#) (City Clerk)
- A. Denial of claims against the City and referral to insurance carrier. (City Attorney)
  - 0. [Samuel Paggi: This claim was submitted by Liberty Mutual for Mr. Paggi for reimbursement of workers' compensation benefits arising from a trip and fall.](#)
  - 1. [Liberty Mutual: This claim was submitted by Liberty Mutual reimbursement of workers' compensation benefits paid to Mr. Paggi arising from a trip and fall.](#)

Recommendation: Deny the claims against the City by Liberty Mutual and Samuel Paggi.

- 3. [Approve the July 1, 2005 to June 30, 2006 amendments to the Labor Agreement with the Benicia Police Management Group.](#) (Human Resources Director)

The City concluded negotiations with the Benicia Police Management Group on September 15, 2005. The Benicia Police Management Group consists of three incumbents. This group is comprised of our Police Lieutenant and Police Captain positions. The attached resolution outlines the amendments to the Agreement. A complete copy of the Agreement between the City of Benicia and the Benicia Police Managers with the amendments is attached.

Recommendation: Adopt the resolution approving the July 1, 2005 through June 30, 2006 amendments to the Labor Agreement with the Benicia Police Management Group.

- 4. [Approval of purchase and installation of a new police and fire computer-aided dispatch and records storage computer.](#) (Police Chief)

Based on staff's evaluation of our public safety operation systems (communications and computers), staff recommends replacement of the antiquated police and fire computer aided dispatch and records storage computer (AS400 midframe computer). This computer provides our 911 center staff with an automated management system for all public safety operations. City Council approved staff's request in the 2005/06 budget for \$82,300. Staff now recommends the purchase and installation of the computer and other associated costs for approximately \$34,580.62 from a sole source provider (HTE VAR, L.L.C.). The proposal from THE VAR, L.L.C. is included in the agenda packet.

Recommendation: Adopt the resolution approving the purchase and installation of a new

police and file computer aided dispatch and records storage computer (AS400 midframe computer) and appropriating the funds from the equipment replacement fund.

5. [Approval of request to CalPERS to allow David Golick to work in excess of 960 hours this year.](#) (City Attorney)

This action will allow the City to continue to use the services of David Golick. Mr. Golick previously retired from a PERS agency and so is limited in the number of hours he can work for another PERS agency. This action will allow Mr. Golick to continue to work for the City.

Recommendation: Adopt the resolution requesting CalPERS authorize David Golick to work as Community Development Director in excess of 960 hours this calendar year.

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

C. PUBLIC HEARINGS:

D. UNFINISHED BUSINESS:

- A. [Creation of the office of Benicia Poet Laureate - continued from October 4, 2005 City Council Meeting.](#)(Library Director)

A request was made from the Library Board of Trustees for additional time to review the information submitted by a citizen at the September 20, 2005 City Council meeting. Given that the Library Board of Trustees meeting was on October 11, 2005 and distribution of the City Council agenda packet on October 12th, this item is to be continued until the first November meeting to allow sufficient time for preparation of information for the agenda packet.

Recommendation: Continue this item to the November 15, 2005 City Council meeting.

- B. [Approval of lease agreement with Cingular Wireless for installation of communication facilities on City-owned property north of Lake Herman Road - Continued from October 4, 2005 City Council Meeting.](#)(Public Works Director)

This item was continued from the October 4, 2005 meeting to allow staff to further research and provide Council with additional information. Staff has requested, and is currently waiting for, a map and photo rendering of the PG&E tower on City property. It is expected that this information will be received and ready to provide to the City Council at the November 1, 2005 meeting.

Recommendation: Continue to November 1, 2005 City Council Meeting.

- C. [Approval of the proposed revisions to the Parks and Community Services Department Nutrition and Health Mission Statement - continued from September 20, 2005 City Council Meeting.](#) (Parks & Community Services Director)

Staff has made recommendations to revise the proposed language presented by City Council, based on the review of State Legislation SB12 and SB965. This legislation was presented by City Council on September 20, 2005.

Recommendation: Adopt the resolution approving the Parks and Community Services Nutrition and Health Mission Statement.

**D. [Approval of changes to the City of Benicia Investment Policy - Continued from September 20, 2005 City Council Meeting.](#) (Finance Director)**

The City Council recommended that staff research additional changes to the Investment Policy at the September 20, 2005 meeting. The changes related to the prioritization of the investment policy objectives and the placement of limitations on investment maturities. The revised policy contains the Council's recommendations. There is no impact on the City's budget by adopting this resolution.

**Recommendation:** Adopt the resolution revising the City's Investment Policy and Guidelines and confirming its adoption.

**E. [Policy for Noticing Planning and Building Applications - continued from October 4, 2005 City Council Meeting.](#) (City Manager)**

Consider various avenues for making the public more aware of current planning and building projects.

**Recommendation:** Discuss and provide direction to staff, as needed.

**F. [Discussion of policy for City assistance to disaster victims - continued from October 4, 2005 City Council Meeting.](#) (City Manager)**

Current policy authorizes assistance to disaster victims through official requests from the Federal Emergency Management Agency (FEMA) and the Office of Emergency Services (OES). This report will discuss pertinent issues related to allowing City employees to volunteer to be relief workers outside of a request by FEMA or OES to the City.

**Recommendation:** Discuss and provide direction to staff, as needed.

**E. NEW BUSINESS:**

**A. [Acceptance of a \\$15,000 donation from Syar Foundation for the purchase of Automatic External Defibrillators \(AED\).](#) (City Manager)**

The City has received a donation of \$15,000 from the Syar Foundation for the purchase of six (6) Automatic External Defibrillators (AED). The Fire Department will purchase and coordinate the initial training of the AEDs with Police Department personnel. Continuing required training will be incorporated into the Police Department's annual training program.

**Description:** Adopt the resolution accepting a \$15,000 donation for the purchase of Automatic External Defibrillators (AED) and the initial training of Police Department officers in the use of AEDs.

**B. [Consideration of Council Member Campbell's recommendations regarding the FY 2005-06 and FY 2006-07 Budgets - continued from October 4, 2005 City Council Meeting.](#) (Council Member Campbell)**

Council Member Campbell will make recommendations for amending the current two-year budget.

**Recommendation:** Discuss Council Member Campbell's recommendations and provide direction to staff.

C. Discussion of Vice Mayor Patterson's proposed Grading Ordinance amendments - continued from October 4, 2005 City Council Meeting. (Public Works Director/Community Development Director)

The Vice Mayor submitted proposed changes to the Grading Ordinance that would establish limits on grading, including building construction for hillsides with slopes greater than 25%. City staff requests direction from Council before proceeding with further analysis on these changes.

Recommendation: Discuss and provide direction to staff on proposed changes to the City of Benicia Grading Ordinance.

F. REPORTS FROM CITY MANAGER:

A. Review of proposed joint use agreements with Benicia Unified School District (BUSD) - continued from October 4, 2005 City Council Meeting. (City Manager)

The Superintendent and the City Manager are currently working on proposed recommendations for addressing differences in the proposed agreements for City maintenance of BUSD fields.

Recommendation: Status report, for information only.

G. REPORTS FROM CITY COUNCIL COMMITTEES:

A. Committee Reports:

1. Mayors' Committee Meeting (Mayor Messina)
  - Next Meeting Date: October 19, 2005
2. Arsenal Restoration Advisory Board (Council Member Campbell)
  - Next Meeting Date: November 16, 2005
3. Association of Bay Area Governments (ABAG) (Vice Mayor Patterson)
  - Next Meeting Date: October 27, 2005
4. Audit & Finance Committee (Council Member Campbell and Vice Mayor Patterson)
  - Next Meeting Date: November 4, 2005
5. Carquinez Strait Preservation Trust (Council Member Smith)
  - Next Meeting Date: To be determined.
6. First Street Revitalization Committee (Council Member Smith and Campbell)
  - Next Meeting Date: October 26, 2005
7. League of California Cities (Council Member Smith)
  - Next Meeting Date: To be determined.
8. Police Station and Civic Center Restoration Committee (Council Member Smith and Mayor Messina)
  - Next Meeting Date: Not scheduled
9. School District Liaison (Council Members Whitney and Smith)
  - Next Meeting Date: November 17, 2005
10. Sky Valley Area Open Space (Vice Mayor Patterson and Council Member Smith)

- Next Meeting Date: To be determined.
- 11. Solano EDC Board of Directors (Vice Mayor Patterson)
  - Next Meeting Date: November 17, 2005
- 12. Solano Transportation Authority (STA) (Mayor Messina)
  - Next Meeting Date: November 9, 2005
- 13. Solano Water Authority/Solano County Water Agency (Mayor Messina)
  - Next Meeting Date: November 10, 2005
- 14. Traffic, Pedestrian and Bicycle Safety Committee (Vice Mayor Patterson and Council Member Campbell)
  - Next Meeting Date: October 20, 2005
- 15. Tri-City and County Regional Parks and Open Space (Council Member Whitney)
  - Next Meeting Date: December 12, 2005.
- 16. Urban Water Management Planning Task Force (Vice Mayor Patterson and Mayor Messina)
  - Next Meeting Date: No further meetings scheduled.
- 17. Valero Community Advisory Panel (CAP) (Council Member Whitney)
  - Next Meeting Date: To be determined.
- 18. Youth Action Task Force (Council Member Whitney)
  - Next Meeting Date: October 26, 2005
- B. ABAG/CAL FED Task Force/Bay Area Water Forum (Vice Mayor Patterson)
  - Next Meeting Date: To be determined.

**H. ADJOURNMENT:**

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**Public Participation**

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on agenda and non-agenda matters under public comment. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

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## Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Diane O'Connell, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

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## Meeting Procedures

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

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## Downloading of reports from this agenda

Some agenda items have attached reports available for downloading from this web page. To view these reports, you must have the latest Adobe Acrobat reader installed in your web browser.

Click [here](#) to download the free Acrobat reader

-  [IV-B appointment\\_Benson.pdf](#)
-  [IV-D1 proclamation\\_red\\_ribbon\\_week.pdf](#)
-  [IV-D2 proclamation\\_domestic\\_violence.pdf](#)
-  [VII-A minutes051004.pdf](#)
-  [VII-B1 deny claim\\_paggi.pdf](#)
-  [VII-B2 deny claim\\_libery\\_mutual.pdf](#)
-  [VII-C PD\\_Management\\_group.pdf](#)
-  [VII-D Police-Fire\\_CAD.pdf](#)
-  [VII-E David\\_Golick.pdf](#)
-  [IX-A Poet Laureate Continuation.pdf](#)
-  [IX-B Cingular Continuation.pdf](#)
-  [IX-C Nutrition Statement.pdf](#)
-  [IX-D Investment Policy.pdf](#)
-  [IX-E Noticing.pdf](#)
-  [IX-F Assistance to Disaster Victims.pdf](#)
-  [X-A Syar AED.pdf](#)
-  [X-B Campbell Budget Recommendations.pdf](#)
-  [X-C Grading Revisions.pdf](#)
-  [XI-A Joint Use Agreement.pdf](#)

**RESOLUTION NO. 05-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA  
CONFIRMING THE MAYOR'S APPOINTMENT OF HALEY BENSON AS 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 Haley Benson as the Youth Commission Representative to the Parks, Recreation and Cemetery Commission by Mayor Messina 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 18th day of October, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Steve Messina, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk



## **P R O C L A M A T I O N**

### **RED RIBBON WEEK OCTOBER 23 - 31, 2005**

**WHEREAS**, alcohol and other drug abuse in this nation has reached epidemic stages; and

**WHEREAS**, it is imperative that visible, unified prevention education efforts by community members be launched to reduce the demand for drugs; and

**WHEREAS**, the National Red Ribbon Campaign will be celebrated in every community in America during "Red Ribbon Week", October 23-31, 2005; and

**WHEREAS**, business, government, law enforcement, schools, religious institutions, service organizations, youth, physicians, senior citizens, military, sports teams, and individuals will demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this week long campaign; and

**WHEREAS**, the City of Benicia continues to demonstrate their commitment to a drug-free, healthy lifestyle via programs such as the Family Resource Center and supports Red Ribbon week by wearing and displaying red ribbons during that week; and

**WHEREAS**, the City of Benicia further commits its resources to ensure the success of the Red Ribbon Campaign.

**NOW, THEREFORE, BE IT RESOLVED**, that I, Steve Messina, Mayor of the City of Benicia, do hereby support "Red Ribbon Week" – October 25-31, 2005, and encourage all citizens to participate in drug prevention education activities, making a visible statement that we are strongly committed to a drug free community.

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Steve Messina, Mayor  
CITY OF BENICIA

DATE: October 18, 2005

**IV-D-1-1**



## PROCLAMATION

### RECOGNIZING OCTOBER 2005 AS DOMESTIC VIOLENCE AWARENESS AND PREVENTION MONTH

**WHEREAS**, domestic violence is the single major cause of injury to women, exceeding injuries caused by rape, automobile accidents and muggings combined; and

**WHEREAS**, ninety-five percent of all domestic violence victims are women, and those between the ages of 20 and 34 endure the highest rates of domestic violence; and

**WHEREAS**, each year in this nation, an estimated 3.3 million children are exposed to violence by family members. Though most children are not physically assaulted themselves, many suffer deep and lasting emotional effects and are more likely to continue the cycle of abuse from one generation to the next; and

**WHEREAS**, SafeQuest Solano, in an effort to promote public awareness about the devastating and costly effects of domestic violence, recently hosted the *Domestic Violence: Silence No More!*, public awareness event on October 13<sup>th</sup> on the steps of the Old County Courthouse, 580 Texas Street, Fairfield; and

**WHEREAS**, the City of Benicia recognizes the importance of supporting citywide efforts to reduce incidents of domestic violence against all citizens and recognizes the efforts of SafeQuest Solano in providing public awareness to prevent such victimization and services to support survivors.

**NOW, THEREFORE, BE IT RESOLVED**, that I, Steve Messina, Mayor, on behalf of the City of Benicia, do hereby proclaim October 2005 to be "Domestic Violence Awareness and Prevention Month," and recognize SafeQuest Solano and all local agencies working to eradicate domestic and family violence in our communities.

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Steve Messina, Mayor

DATE: October 18, 2005

**IV-D-2-1**



## PROCLAMATION

### RECOGNIZING OCTOBER 2005 AS DOMESTIC VIOLENCE AWARENESS AND PREVENTION MONTH

**WHEREAS**, domestic violence is the single major cause of injury to women, exceeding injuries caused by rape, automobile accidents and muggings combined; and

**WHEREAS**, ninety-five percent of all domestic violence victims are women, and those between the ages of 20 and 34 endure the highest rates of domestic violence; and

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**WHEREAS**, the City of Benicia recognizes the importance of supporting citywide efforts to reduce incidents of domestic violence against all citizens and recognizes the efforts of SafeQuest Solano in providing public awareness to prevent such victimization and services to support survivors.

**NOW, THEREFORE, BE IT RESOLVED**, that I, Steve Messina, Mayor, on behalf of the City of Benicia, do hereby proclaim October 2005 to be "Domestic Violence Awareness and Prevention Month," and recognize SafeQuest Solano and all local agencies working to eradicate domestic and family violence in our communities.

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Steve Messina, Mayor

DATE: October 18, 2005

**IV-D-2-1**

MINUTES OF THE  
SPECIAL MEETING – CITY COUNCIL  
OCTOBER 4, 2005

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:49 p.m. on Tuesday, October 4, 2005, 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, Patterson, Smith, Whitney, and Mayor Messina  
Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

CLOSED SESSION:

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

**Initiation of litigation pursuant to subdivision (c) of Section 54956.9**

**Number of potential cases: 1**

ADJOURNMENT:

Mayor Messina adjourned to Closed Session at 6:50 p.m.

CONVENE OPEN SESSION:

Mayor Messina convened the Open Session at 7:00 p.m.

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.

ADOPTION OF AGENDA:

On motion of Council Member Smith, seconded by Vice Mayor Patterson, the Agenda was adopted as presented, on roll call by the following vote:

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

Noes: None

COMMUNICATIONS:

WRITTEN:

Various items of written correspondence were received by Council (on file with original agenda packet) from the public. Several items were received from the public within the past 72 hours.

PUBLIC COMMENT:

None

PUBLIC HEARINGS:

Conduct a Public Hearing to consider the application of Regency Cab to operate cab service within the City of Benicia:

Rob Sousa, Finance Director, reviewed the Staff report.

Council Member Whitney asked for a few minutes to review the letters from the public that Council received in the past 72 hours.

Mayor Messina stated that Council should take a vote on whether to continue this item in order to review the additional material or take a few minutes to review it and proceed with the Public Hearing as planned.

Ms. McLaughlin reviewed the requirements of the Sunshine Ordinance with respect to additional materials received.

Council Member Campbell stated that at the last Council meeting, a citizen submitted 'substantial information' that caused the Poet Laureate agenda item to be delayed. After reviewing the 'substantial information' that was submitted, it was clear it was a bunch of trash. He suggested taking 5-10 minutes to review the information and continue with the Public Hearing.

Vice Mayor Patterson concurred with Council Member Campbell. She suggested taking the 10 minutes to review the letters submitted to Council.

Mayor Messina confirmed that all materials submitted by the public within the past 72 hours were available on the back table in Council Chambers for the public to review.

Mayor Messina called for a 5-minute break at 7:08 p.m. so Council could review the additional materials.

The meeting resumed at 7:19 p.m.

Council Member Smith stated that he had an ex-parte conversation with Mr. Johnny Giri.

Council Member Campbell stated that he received a call from Linda Ingleman from the Yellow Cab Company. He chose not to talk to anybody on this item.

Applicant:

Mr. Richard Chiozza, local business owner, speaking on behalf of Regency Cab – Mr. Chiozza stated that Regency Cab wants to do business in Benicia and if/when the application is issued, wish to take up residence in Benicia. His client (Regency Cab) wants to add two taxicabs to service Benicia. The applicant has been through the review/investigation process with the Benicia Police Department. They have been found

to be qualified and capable of doing business in Benicia. At a hearing on April 17, 2005, a business license was issued to Regency Cab (copy of license was provided to Council). The important thing to remember is that the process has already been established. He referenced a letter from Sandy Taylor (Vallejo City Cab) dated 10/3/2005 where she states, "based on the average number of calls, there is insufficient business to support a third cab company. So, as we agreed with you, we are in the process of permitting all of our fleet of thirteen cabs to increase the service to the City of Benicia as needed." If there is insufficient business, why are they increasing service to Benicia?

Council Member Campbell asked how Regency's small cab service would provide 24-hour service. Mr. Rand Rice, Regency Cab, reviewed the work schedule. Mr. Sousa stated that it was his understanding that currently, two of the drivers have been permitted and two have not completed the review process. Mr. Rice said that one of the two drivers in question has received his receipt and is still in review. The driver has never had a ticket or a criminal complaint. They were told the review process would take approximately two weeks. The remaining three drivers are fully permitted at this time.

Mr. Rand Rice stated that he was a former employee of Yellow Cab, and is currently an employee of Regency Cab. He has serviced Benicia for a long time. He is good at what he does (driving a taxicab). Regency Cab deserves a chance. There is room for all three companies.

Council Member Campbell asked Mr. Rice if Regency Cab had a business license prior to the advertised 'grand opening.' Mr. Rice verified that was correct.

Ms. McLaughlin reviewed the Business License and insurance procedures. She stated that the City only has insurance information covering two of the four drivers. Counsel reviewed the three cab drivers' permit numbers.

Mr. Chiozza referenced a letter written on September 28, 2005 by Mr. Michael Broad (Attorney for Yellow Cab) regarding the character of his clients. The information in the letter are allegations. The complaints have not been verified. It is a private matter. The comments with regards to his clients character borders on libelous.

Council Member Smith asked Staff if to date, Regency had ever been legally qualified to pick up passengers in Benicia. Ms. McLaughlin stated that as recently as the past weekend, Regency had all paperwork (insurance and permits) in for two of the four drivers. The remaining two drivers are not yet qualified to drive in Benicia. Mr. Sousa stated that they need to have the following items completed before they receive the final permit: 1) receive Council approval, 2) obtain business license, 3) permitting each individual driver (as well as insurance information for each driver), and 4) inspection of the vehicles to be used. Once all four items are completed, they could be cleared to operate in Benicia.

Council Member Whitney asked how many taxicabs Regency has agreed to serve Benicia. Mr. Rice stated that they currently have two cabs that will be servicing only Benicia.

Public Hearing Opened.

Public Comment:

1. Mr. Randall Kelm – Mr. Kelm lives in Benicia and takes a cab every day. He does not drive. The new cab company provides fast service.
2. Mr. Michael Broad, Law Offices of Michael Broad (Counsel for Yellow Cab) – Mr. Broad discussed a flyer announcing a grand opening for Regency Cab that was faxed to him on 9/29. The flyer offers 10% off of service, which is illegal. He suggested Regency would not be able to provide 24-hour dispatch service. Regarding the complaints on service for Yellow Cab, they have investigated the complaints and found they were results of several drivers stacking calls. The drivers that were stacking calls are no longer working for Yellow Cab. He stated that he thinks Regency Cab has already started doing business in Benicia.

Council Member Campbell asked Mr. Broad what was wrong with healthy competition. Mr. Broad stated there was not enough ‘meat’ to make it a viable competition. It is a much smaller market than Vallejo.

Council Member Whitney asked Mr. Broad what Yellow Cab’s average response time was for Benicia. The average response time is 15-20 minutes. Mr. Andoh stated that at times, that could be true, but he has heard complaints from the public that, depending on the time of day, the response time could be up to 40 minutes.

3. Vivian Mallory – Ms. Mallory is an employee of Yellow Cab. She is a former employee of Mr. Harpreet Singh. She discussed prior business dealings with Mr. Singh when she used to work in the real estate business. She discussed prior financial problems she experienced while dealing with Mr. Singh. She opposes the issuance of Regency Cab’s permit in Benicia.
4. Dee Roten – Mr. Roten stated that Vallejo City Cab has eight licensed drivers that serve Benicia. They receive approximately 15 calls per day from Benicia. He stated that he understood Regency Cab would be servicing not only Benicia, but American Canyon as well. He stated that it was ironic that the very people that have applied to operate taxicab service in Benicia (Regency Cab) are the same individuals that were the cause of the complaints Yellow Cab received when they worked there. Those two drivers would not take calls to Benicia unless they were \$10.00 or higher.
5. Sandra Taylor – Ms. Taylor is an employee of Vallejo City Cab. She reviewed the way Vallejo City Cab operates its schedule. She stated that the cab drivers are losing money due to the high gas prices. There is no need for another taxicab service to service Benicia.

- Council Member Smith asked if the same person owned Yellow Cab and Vallejo City Cab. Ms. Taylor stated that they were not. The two owners (not identified) approached the podium and verified separate, non-related individuals own them.
6. Mr. Chiozza stated that Regency Cab does not want to ‘take over’ all of the cab service to Benicia. Let’s have competition and give Regency the right to compete for the good of Benicia’s citizens.

- Council Member Smith asked Mr. Chiozza what cities Regency would be operating in. Mr. Rice stated that at this time, they are only operating in Benicia. They do have a license to operate in American Canyon, but are not doing so at this time.
7. Jan Lucca – Mr. Lucca owns a bar in Benicia. Benicia needs more taxicab service. It is imperative there is a means for people to get home safely. There have been times when patrons have waited on First Street at 3:30 a.m. waiting for a cab. He hopes all the promises made tonight come true.

Public Hearing Closed.

Council Member Smith asked if the City of Benicia does a criminal background check on the cab drivers. Mr. Sousa stated that each individual driver must go through a criminal background check. Council Member Smith asked if Mr. Singh was one of the cab drivers that have applied for a permit. Mr. Rice stated that Mr. Singh is the applicant as well as a licensed driver.

Chief Trimble stated that he could not disclose any information regarding Mr. Singh’s background check, however, Mr. Singh passed his background check and received a permit.

Vice Mayor Patterson stated that at the last meeting when this item was discussed, it was said that better service would increase usage of the taxicab service. She asked Mr. Sousa if, after the issues that have come up recently and the allegations that have been made tonight, does Staff stand by their recommendation to allow Regency to operate in Benicia. Mr. Sousa stated that they have heard and understand the allegations that have been made. They rely on the background checks completed by the Benicia Police Department. Staff does not have a negative recommendation at this time.

Mayor Messina asked Chief Trimble what process the City goes through when determining a cab driver is suitable to operate in Benicia. Chief Trimble reviewed the background check process. They run fingerprints, check for arrests and convictions, and check driving records. Staff then writes a report. If Chief Trimble is satisfied with the information in the report, they move forward with the permit process. Ms. McLaughlin stated that for the carrier/owner permit there is nothing in the BMC that requires the City to go beyond the steps discussed with regards to the character, experience, and responsibility. For the drivers permit, they must submit recommendations on people that have known them for the past two years and that vouch for their sobriety, honesty, and good character. In terms of other businesses in town, similar steps must be taken for card

room permit. Ms. McLaughlin stated that regarding discounts being offered on taxicab service, BMC prohibits charging rates other than the rates approved by Council.

RESOLUTION 05-155 - A RESOLUTION AUTHORIZING REGENCY CAB TO BEGIN PROVIDING TAXICAB SERVICE WITHIN THE CITY OF BENICIA AND THE EXECUTION OF THE BENICIA TAXI SCRIP PROGRAM AND SAFE RIDE AGREEMENT

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

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

Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 8:19 p.m.

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
OCTOBER 4, 2005

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 8:32 p.m. on Tuesday, October 4, 2005, 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, Patterson, Smith, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina 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.

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Announcement taken in Closed Session:

Heather McLaughlin, City Attorney, stated that Council authorized Staff to begin the process to initiate litigation.

Openings on Boards/Commissions:

There are currently five openings on the Open Government Commission.

There are two tenant openings on the Benicia Housing Board

There is one opening on the Library Board of Trustees

Vice Mayor Patterson asked Mayor Messina when Council could expect to have the appointments to the Open Government Commission. We are approaching three months without the appointments. Mayor Messina stated that the appointments would be made soon. Vice Mayor Patterson stated that ‘soon’ was not good enough. She has asked the same question the past three meetings. We owe it to the public to make the appointments.

APPOINTMENTS:

None

PRESENTATIONS:

Benicia Historical Museum – New Exhibit:

Ms. Anne Hansen introduced Ms. Anne Toxey and Mr. Patrick McMillan, who reviewed a slide show presentation on ‘An Interpretive Exhibit: California’s Great Inland Port.’

Mr. McMillan thanked all contributors that made this project possible.

Council Member Whitney congratulated Mr. McMillan and Ms. Toxey on an excellent job with the new exhibit. He encouraged the public to visit the Benicia Historical Museum. He encouraged the public to contribute both with their time and funds. The Benicia Historic Museum is a worthy cause. They are working on making the necessary repairs to the floor and roof of the museum.

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

Mr. Erickson noted that item IX-A would be continued to the next meeting, at the request of the Library Board of Trustees.

On motion of Council Member Smith, seconded by Vice Mayor Patterson, the Agenda was adopted, on roll call by the following vote:

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

Noes: None

COMMUNICATIONS:

WRITTEN:

Various written items received by Council (on file).

PUBLIC COMMENT:

1. Council Member Campbell – Council Member Campbell discussed the events that took place at the 9/20/05 Council meeting regarding the proposed Poet Laureate position. The information Mr. Wood’s submitted was not ‘substantial information.’ He read an excerpt from the information Mr. Wood’s provided. He wondered if Mr. Wood’s read any of the information he submitted. This is not what the Sunshine Ordinance was intended. He will be voting for the Poet Laureate position, no strings attached. This was a cheesy stunt pulled by ‘some good old boys.’ Council’s job is to take care of City government, not put up with campaign goofballs.
2. Cynthia Herd – Ms. Herd thanked Council Member Smith for working on the bathroom at the Southampton Park. She commended Council Member Smith’s suggestion of using BUSD’s building for other City uses.
3. Amy Fein – Ms. Fein spoke on behalf of the Benicia Fire Department. She is the wife of a firefighter. She discussed the firefighter’s current life insurance policy. The current life insurance policy for a firefighter is \$30,000. It is not enough.
4. Ramona Sollerborn – Ms. Sollerborn is an Emergency Room nurse. She is a member of the California Nurses Association (CNA). She asked Council to remember that a lack of experience could lead to the loss of life. CNA supports the efforts of the Benicia firefighters and they will keep coming back until the issue is settled.
5. Jason Fein – Mr. Fein stated that 13% of the BFD staff is in Southern California and have been there for a week (fighting wildfires). He discussed the current impasse the City and firefighters are at regarding contract negotiations. Currently

- 50% of the BFD staff is looking for other jobs. Morale continues to be low. During the last three recruitments, the number of qualified applicants was approximately 61/year. Approximately half of the applicants showed up for the first phase test. Out of 52 applicants in 2003, only one applicant was qualified. The City will be out of options in January, when there will be a mass exodus.
6. James Ensley – Mr. Ensley was a volunteer firefighter in Benicia before being hired as a full time firefighter. He cannot afford to live in Benicia. At the same time, he cannot afford to commute here at the current rate of pay. He is merely asking the City to pay the firefighters the average wages for the area.
  7. Greg Petersen – Mr. Petersen discussed a recent call two Benicia Firefighters made to aid a 38-year old female. Because of their knowledge and experience, her life was saved.
  8. Steve Booth – Mr. Booth stated that BFA has scheduled a mediation session for 10/12. He discussed the cookie cutter approach being taken with contracts and how it does not work for them. They are convinced the City is in fine financial shape. He asked what is going to change in the next 6-9 months that wouldn't allow them to make a decision today. They need more than the package that was offered at the last bargaining session. They would like to wrap this up at the next mediation session.
  9. Arlan Williams – Mr. Williams discussed a particular negotiator that is making the negotiation process difficult. The negotiation process is archaic at best. He is ashamed that the firefighters have to air their dirty laundry in front of the City Council. He has invested his career in Benicia. He lives in Benicia and his family lives here. He is a voting citizen. He asked that Council take the firefighters' issues into consideration.
  10. Mark Stevens – Mr. Stevens stated that he is a firefighter and resident of Benicia. He has been a firefighter for 26 years. It is a shame that our firefighters are applying at other stations. Council needs to do something about that.
  11. Sue Johnson – Ms. Johnson discussed her recent experience at the Spit. When she took her first walk around the renovated Spit, she only found two tiny pieces of fishing line on the ground. She was so pleased about that. Benicia Bait and Tackle has been picking up the fishing line, at the request of the Mayor. She thanked the Mayor for his efforts. She stated that she also saw a fisherman 'mopping up' his old fishing line. She stated that there needs to be more trashcans out there. Plastics and styrofoam react in the water.
  12. Kitty Griffin – Mr. Donald Dean read a prepared statement for Ms. Griffin (who could not attend) regarding the Arsenal mixed use project. For some time now, Ms. Griffin has urged the Council to address the task of what mixed use means in terms of individual land use decisions in the Arsenal, before any particular project approval is granted. There is strong and pointed justification for this in the General Plan. The Arsenal district clearly lies within two national historic districts. The Arsenal clearly demands special attention so that the potential for the most productive economic use for these districts will not be squandered. The two developments currently proposed for the Arsenal desperately need something in place against which to be measured. At the moment, previous zoning has no power and anything goes. It would be important to have half the membership of

- the proposed 20-member committee be composed of one member of the Chamber of Commerce, two members of the Economic Development Board, one Arsenal resident, two Arsenal land owners, two planning commissioners, two members of the HPRC, two other particular stakeholders, and the remaining ten others should be members at large with some previous interest in this topic. She urged Council to get something underway quickly.
13. Dee Swanhuysen, Bay Area Ridge Trail – Ms. Swanhuysen discussed the dedication of one mile of the Bay Area Ridge Trail in Benicia. She thanked Council Member Smith, Mike Alvarez, Dan Schiada, and Anne Cardwell for their efforts. She encouraged the public to attend the dedication ceremony on 10/29/05.
  14. Bonnie Silveria – Ms. Silveria suggested that future HPRC meetings be televised. It is important that all citizens are well informed. She is enthused about the possibility of an Arsenal Committee. The Committee needs to have a start/stop date. The committee will help get the conversation going regarding what needs to happen in the Arsenal.
  15. Jim Erickson – Mr. Erickson wanted to address negotiations with BFA. The negotiators are qualified and are doing a difficult job. It is troubling to hear the public comment regarding this issue. Staff is looking forward to the next mediation process. All the bargaining groups are important to the City. The Firefighter’s bargaining group is the only group that has not settled. He discussed the Employee Compensation Policy. One of the pillars of the policy is financial prudence. Staff would prefer to keep turnover in all departments, including the Fire Department at a low rate.
  16. Steve Booth – Council agreed to hear Mr. Booth a second time. Mr. Booth stated that the positions that have been taken at the bargaining table have been represented as coming from Council. BFA has maintained a courteous and professional tone up to this point, but it is getting more difficult to do so as time goes on. BFA will go to the next mediation with a great deal of flexibility. He hopes negotiators come to the mediation session equipped with direction from Council that gives them the same flexibility.
  17. Tim Winfield – Mr. Winfield is a Captain with the Benicia Fire Department. One reason the other eight groups settled is because their increases brought them to the average pay/middle of the road. He asked that Council give the negotiators clear direction on what they expect so there can be dialogue.
  18. Richard Bortolazzo – Mr. Bortolazzo owns property in the lower Arsenal. A new moratorium is not needed because there is already one. There has been no new development in the lower Arsenal since the General Plan was adopted in 1999. He asked about the timing of the master planning projects. They seem to be following on the heels of a 5-unit residential subdivision that is being proposed for the corner of Park Road and Jefferson Street on a commercially zoned property. He wondered whether these would have been brought forward in view of the fact that Council has not done anything in six years to rezone the property to bring them in conformance with the General Plan. At the same time, the General Plan created a Downtown mixed-use district. This Council has also failed to rezone the properties in compliance with that zoning for six years. Fortunately, the Downtown area is much more viable and vibrant than the Arsenal is because the

- properties out there are zoned commercial. The proposed 5-unit subdivision is planned development. The elements of the moratorium that Council created are: 1) you can't build commercial because the rents are too low, and 2) the zoning does not comply with the General Plan, so you have to use a planned development process, which is an expensive and difficult process. He discussed the current state of disrepair that both the Commandant's Residence and the Officer's Quarters are in. There are some in the community that value the Arsenal as a historical tourism asset. With the moratorium that Council has created, the Arsenal will continue to decline. The value to the community will continue to be forfeited.
19. Jon Van Landschoot – Mr. Van Landschoot discussed the issue of open government. Currently, there are six people that have been interviewed for the Open Government Commission, yet no one has been appointed. He discussed the 221 First Street Project. There were some flaws in the project (CEQA documents) that were discovered by a citizen. Would the public have found out about the error if it was not caught by that citizen? That is why we need an Open Government Commission. He discussed the Incline Place project and the fact that the neighbors did not receive any notice on the project. The mayor ought not to put personal interests or belief in front of the public. He stated that an election is coming up. Council Members Smith and Campbell are both for open government, while the other three candidates are not.
20. Stan Houston – Mr. Houston discussed the Arsenal. He stressed that Council should take a look at the area of the Clocktower to Park Road and down to Military East. The entire project should be looked at as one of the last remaining footprints of the City to create some type of sustainable economic engine. He would like to throw his name in the hat to participate in whatever commission that may be formed.
21. Council Member Smith stated that City management and Council value all City employees. It is the City's desire to reach an agreement with the Benicia Firefighters. The City has to do a one-year contract right now. The City hopes to achieve multi-year contracts with the groups next year. The City was able to reach one-year agreements with the other eight bargaining groups. The firefighters/paramedics are paid \$57,000 to \$76,000 per year, and their benefit packages are another \$19,000-\$25,000 per year. Many non-monetary issues are being discussed. It would be disingenuous and insincere of the City to negotiate on a separate tact with the firefighters than they did with the other bargaining groups. He then discussed the upcoming election and encouraged the citizens to educate themselves on propositions 74-78 that will be on the ballot. He announced the following events:
- 10/5 - Campaign Forum at City Hall (televised)
  - 10/6 – The Benicia Police Department and Public Works Department will be meeting with citizens to discuss the 4-way stop at West 10<sup>th</sup> and West L Street.
  - Farmers Market held every Thursday in October
  - 10/7 – First Fridays on First Street
  - 10/8 – Campaign Forum at City Hall

- 10/8 – Friends of the Library book sale
  - 10/10 – Blues Benefit Concert at the Majestic Theatre
  - 10/11 – Dedication of the new First Street Peninsula
  - 10/15 – Cemetery Tour hosted by the Historical Society
22. Mayor Messina disagreed with Council Member Smith’s comments on labor negotiations. We do not have to follow the cookie cutter approach. We have to look at the circumstances. He still adheres to the policy that Council set. We have to live with the issues we have caused. He is not opposed to altering Council’s position in complying with the policy.
23. Vice Mayor Patterson stated that Council Member Smith and Mayor Messina were skating on the edge of a volcano. We have had this discussion in closed session. They have stepped over the bounds of what is accepted. We have a unanimous position of the Council. We should leave the negotiation to the people we pay.

Mayor Messina called for a 5-minute break at 10:01 p.m.  
The meeting resumed at 10:07p.m.

CONSENT CALENDAR:

Council pulled items VII-C and VII-D

On motion of Council Member Whitney, seconded by Council Member Smith, the Consent Calendar was adopted as amended, on roll call by the following vote:  
Ayes: Council Members Campbell, Patterson, Smith, Whitney, and Mayor Messina  
Noes: None

The minutes of September 20, 2005 were approved.

Council approved the amendments and additions to the Benicia Transit Short Range Transit Plan (SRTP) (continued from September 20, 2005 City Council Meeting).

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Adoption of the Solano Transportation Authority Countywide Bicycle Plan and Countywide Pedestrian Plan:

Council Member Smith requested this item be pulled so Mr. JB Davis, Chairman, Traffic, Pedestrian and Bicycle Safety Committee could discuss the plan.

Mr. Davis discussed the criteria for weighting and funding various projects in the County. One of the criteria being weighed is whether the City has an adopted pedestrian or bicycle plan. Adopting these plans puts us in a better position to receive money from various funding sources for the various pedestrian and bicycle projects that we have planned for Benicia.

RESOLUTION 05-156 - A RESOLUTION ADOPTING THE SOLANO TRANSPORTATION AUTHORITY COUNTYWIDE BICYCLE PLAN AND THE SOLANO TRANSPORTATION AUTHORITY COUNTYWIDE PEDESTRIAN PLAN AS BENICIA'S LOCAL TRANSPORTATION PLANS CONSISTENT WITH THE BENICIA GENERAL PLAN

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

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

Noes: None

Approval of lease agreement with Cingular Wireless for installation of communication facilities on City-owned property north of Lake Herman Road:

Vice Mayor Patterson pulled this item to discuss of the issue of the industrial-grade antenna, chain link fence, etc. that is proposed to be put in what is considered a scenic area in the City's Sphere of Influence. The use permit for this is in the County's jurisdiction. The CEQA done on this was a categorical exemption because it was construction of a small project. It might be subject to the County Scenic Roadway Element. She suggested continuing the item so Staff could look into the issues she brought up. She would like the issues brought up with the County. We ought to be vigilant about putting these 'blemishes' in scenic areas.

Council Member Smith asked Staff if this was related to the County Scenic Roadway Element. Mr. Schiada stated that it was his understanding this project was exempt. There are already antennas from Nextel in the area. This is just adding to what is already there. Council Member Smith stated that Vice Mayor Patterson has addressed some important issues and agreed the item should be continued to the next meeting.

Council Member Whitney stated that since there is an existing tower (Nextel) in the area, he does not see it as an impact that will mar the vistas. He offered a motion to approve the Resolution. Mayor Messina seconded the motion.

Vice Mayor Patterson stated that we don't have a map. Adding things on to an existing tower could mean significant change. There ought to be a procedure or process for taking concern regarding the aesthetics into consideration. It is a lack of information that forces her to vote against the item. Is it subject to the County Scenic Roadway Element? If so, was it an oversight? If so, it needs to be addressed by the County. The County needs to take into consideration that it is in our Sphere of Influence. We have concerns about the appearance and aesthetics. They can design these things so they are much less obtrusive. It is strange architecture. Is it necessary to add another structure? That is all information we need to have.

Mayor Messina asked if continuing the item would cause any issues. Ms. McLaughlin stated that they are anxious to get this done, but continuing the item would be okay.

Council Member Campbell stated that he was willing to hold off on this until Vice Mayor Patterson can get answers to her questions.

Vice Mayor Patterson stated that we do not have a good sense of how imposing the additional equipment will be.

Council Member Whitney withdrew his motion to allow more time for Staff to adequately research Vice Mayor Patterson's questions.

This item was continued to the next Council meeting.

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

Creation of the office of Benicia Poet Laureate – continued from September 20, 2005 City Council meeting:

A request was made from the Library Board of Trustees for additional time to review the information submitted by a citizen at the September 20, 2005 City Council meeting. This item was continued to the October 18, 2005 City Council meeting.

Discussion of Arsenal Planning:

Discussion of proposed Arsenal Master Plan Committee – continued from September 20, 2005 City Council meeting:

Council Member Campbell reviewed the Staff report on this item. He wants to develop a consensus of what we want in the Arsenal, and what part of the Arsenal (upper, lower, and entire) we are talking about. Any sort of development out there runs the risk of spending huge amounts of money to do something and then facing a potential initiative or petition drive. He wants to appoint a reasonable group of people that have interest in this.

Mayor Messina asked Vice Mayor Patterson to review the next agenda item, as it would be awkward to discuss the agenda items separately.

Discussion of resolution creating a Comprehensive Arsenal Land Use and Design Task Force:

Vice Mayor Patterson reviewed the Staff report. She then reviewed a PowerPoint presentation on 'Form Base Code Compared to Master Plan' (hard copy on file).

Council Member Smith stated that this plan is already part of Council's work program and is on its list of priorities (it was ranked one of the top 47 goals). It was not included in the budget. Staff had estimated that the cost of implementing such a plan was \$180,000-\$200,000. He asked Vice Mayor Patterson to clarify the statement about part of this already being budgeted.

Vice Mayor Patterson stated that design guidelines are in the priorities. Form Based Code has that aspect in it. That is one of the reasons it goes forward more quickly. It is very

different from zoning codes. Form Based Code is using your structure that drives the use and then it is designed at a level of detail that the community wants. It is community driven in terms of detail. We have the design guidelines and the mixed-use zoning budgeted. We don't have to do mixed use zoning. We can bypass that and set that aside and use the Form Based Code approach which will add more clarity in the end.

Mr. Erickson stated that either proposal would require Staff support. The City is in the process of staffing the Community Development Department. He urged Council to consider that Staff would need professional assistance with either proposed approach, especially the Form Based Code approach.

Public Comment:

1. Donald Dean – Mr. Dean stated that he supports the Master Plan process. He is interested in preserving the integrity of the Arsenal. He wants to make sure Council considers preserving a unique historic area. Having some constructive community discussion would be of value at this point. He is not very familiar with Form Based Zoning. He asked Council to keep an open mind when considering what 'development' in the Arsenal means. He would like to see the discussion move forward.
2. Mark Kajjar – Mr. Kajjar is an architect and owns property in the Arsenal. He read two letters he wrote to Council on both agenda items relating to the Arsenal (hard copy on file and provided for the public).

Council Member Campbell stated that in his letters, Mr. Kajjar asked a lot of questions. He asked Mr. Kajjar felt about spending a lot of time and money on a project just to have it trumped by a petition drive, which is ultimately what he (Council Member Campbell) is trying to defuse. Mr. Kajjar stated that he is not a developer. He is an architect. He came to this town because he thought it was a great place to do something meaningful. He is not sure the project he proposed is not acceptable to the community. They would like the opportunity for Council to see the project and go through the process, as he is not sure it would be mandated. It is a risk he is willing to take. There are so few developable parcels in the Arsenal that we are talking about small infill for the most part. The individual parcels can be looked at with a thoughtful eye through the process that we have where there is plenty of opportunity for public input. He is not sure we need to go through consensus building separate from that. Form Based Zoning has its problems. He recognized there has to be an overview.

Council Member Smith if they had shown their plans to the Friends of the Arsenal? Mr. Kajjar stated that they had shown the project to the historic community and he believed the Friends of the Arsenal were involved in that. They would be happy to show it to anyone else that Council recommended. He stated that they were hoping to submit the project by the mid to latter part of October 2005. They believe the project complies with the General Plan. The project is mostly residential.

3. Belinda Smith – Ms. Smith spoke on behalf of the Friends of the Arsenal. Their biggest concern is the ration between historic and non-historic buildings in the Arsenal. There are guidelines and established ratios that should be used. There are national standards that deal with this. City’s can be stricter than the national standards with regards to the guidelines and ratios. Form Based Zoning is new but it has worked. Regarding historic preservation, it is something that is valued in Benicia. She urged Council to proceed with discussion on this issue and hopefully proceed with Form Based Zoning. Ms. Smith discussed the issue of building structures that replicate historic structures. That devalues the historic value of that type of architecture. Bringing in more contemporary architecture to historic areas can work. She has seen it in many areas of the United States.

Vice Mayor Patterson stated that Ms. Smith has previously talked to Council about the difficulty of having the planned development assigned. She discussed the issue of the City’s zoning not matching what the General Plan states. Staff’s answer to this is the planned development. She asked Ms. Smith if she could see how the Form Based Code solves the problem. Ms. Smith states that she would like to see some standardization. Form Based Zoning can give the City some standardization. Everything is arbitrary right now. The public does not know what to respond to right now. Form Based Zoning would be easier on the public. Vice Mayor Patterson discussed the Secretary of Interior Standards. She asked Ms. Smith if she thought that Form Based Code as a way to incorporate the Secretary of Interior Standards so one would not have to go to so many different documents and codes. Ms. Smith did not know the answer to that question.

4. Jon Van Landschoot – Mr. Van Landschoot stated that talking to each other instead of at each other would be a good idea. Forming this group should be done sooner than later. Development in the Arsenal is possible. The Olson Project had a lot of community input and discussion and it helped the project go through. The project had a great outreach program. That project will be a great asset in the Downtown area. The proposed project in the Arsenal could be a good thing. He likes the idea of getting together, talking about it, and doing it in a time certain. Also, there have been some towns that have lost their historic certification because of various issues, including infill. Talking would be a great thing to do. He kind of likes Form Based Zoning because he likes the outcome. It could be a win-win situation.
5. Kathleen Olson – Ms. Olson passed out a color-coded map of the Arsenal. She stated that when she hears ideas, she prefers that a scope be defined. If we are going to use the ‘Master Plan’, she wants to make sure it is consistent with the General Plan’s definition. The scope of all of the ideas discussed tonight has not been defined. She wanted to make sure Council understands that she respects the process. However, the two previous processes (General Plan and update of the General Plan) took three years and involved plenty of public involvement. Then, in 2001 there was a series of meetings (charrettes) asked where the documentation was for the charrettes that took place in 2001. Regarding Form Based Zoning, she was unclear who creates the forms. She hopes that while in the decision making process, Council defines the scope and quantifies what is trying to be resolved.

- Vice Mayor Patterson's stated that the charrettes were funded and held by private citizens because at the time, the City was not interested. Mr. Van Landschoot stated that he had the documentation on the 2001 charrettes. Vice Mayor Patterson stated that the process is ripe for the Form Based Code application because we have done so much of the work.
6. Richard Bortolazzo – Mr. Bortolazzo stated that the historic ratios being discussed are code words for 'Richard, you can't use your property.' He stated that the Friends of the Arsenal should be called the Friends of the Vacant Lots. When he sat down with the Friends of the Arsenal, he asked them what he could do with his property, they responded 'nothing.' He is willing to get involved with the process, but if it ends up that he can't do anything with his property, it won't work for him. If the City wants to make it a historical district, he thinks they have to buy it. He has not consulted an attorney as of yet. He is not sure how it fits together, but he is willing to participate. If the City tells him he can't do anything with his property, he is stuck.

Mayor Messina asked Ms. McLaughlin what rules apply as of right now. Ms. McLaughlin stated that if someone submits a completed application, we would have to process it. Right now, the zoning conflicts with the General Plan. The project may need to have a zoning change.

Council Member Whitney had questions on what occurs when the zoning does not comply with the General Plan. If someone comes forward and wants to build on their property, and they get stalled (whether it is through an initiative or they are denied by the City) and they take it to court. Would a judge say that it has been six years and you (the City) have essentially put on a defacto moratorium by your inaction? Ms. McLaughlin stated that the City has so far not reached that point with any of the properties in question. There could be so many denials of applications that the property owner could be trying to develop his property and the City kept telling them 'no' that at some point the City would in effect be taking their property, denying the property owner of all economic use of the property.

Vice Mayor Patterson discussed case law when the zoning does not comply with the General Plan. The courts have ruled in cases from 2-6 years of the adoption of the General Plan. She has put her concerns in writing to Staff and provided the citations on that. She thinks that we are increasingly unfair to the community, developers, citizens, etc. by not addressing the zoning situation.

Council Member Campbell stated that before spending a lot of money and staff time on this, Council should see if there is any agreement on their part.

Mr. Erickson sated that Mr. Golick attended a seminar on Form Based Zoning last week. We are looking at approximately \$200,000 to go to Form Based Zoning.

Mayor Messina stated that he is comfortable with the concept of Form Based Zoning. Regarding cost, the City has some economic uncertainty right now. It is always valuable

to bring people together to discuss things. He asked Ms. McLaughlin if Council formed a committee for this issue, would the current appointment process be applied. She confirmed that was correct. Regarding time, he is concerned the City is being unfair to the property owners. He discussed the Intermodal Transportation Station (ITS) and its history. He suggested waiting to make a decision on this issue until the new Council is in place, so we don't start a process that will have to stop when the new Council arrives.

Council Member Smith addressed Ms. McLaughlin's comments on how to create a committee. Ms. McLaughlin clarified the nomination/appointment process. Council Member Smith stated that as good as the idea is he has concerns about setting Staff on a course determined by Council's work program and priorities and then saying that although it was not originally funded, we want to fund it now. He is not in favor of mid-year budget adjustments. He is in favor of forming the committee, but the expenses would have to be limited.

Vice Mayor Patterson proposed substituting the design guidelines task and the mixed use task that were budgeted and that Council ask Staff to come back with a recommendation on how to proceed. It should include the first phase, which is the community discussion. It is not fair to compare this to the ITS. The ITS was not consensus based. She suggested Staff recommend the composition of the committee. She suggested giving direction to staff with an idea on how to proceed (with a few options), recommend how to proceed with the composition of the task force, community discussions (2 or 3), and a recommendation on going out for proposals. Mr. Golick has a wealth of knowledge in this area. He has some ideas on how to pay for this. We are on a tight budget these days. We ought to give Staff an opportunity to come back with some suggestions on how this may work.

Council Member Whitney stated that there has been a lot of divisiveness on this issue. Some people's personal property rights are being trampled on. Some sort of dialogue is warranted. Form Based Zoning sounds like it might be a good fit for us. Mr. Golick stated that at the seminar on Form Based Zoning he went to, there seemed to be a consensus that the Arsenal is a prime area where Form Based Zoning could really work. Based on what he has heard, this would be a prime opportunity to put Form Based Zoning to work. Council Member Whitney stated that he is not on board with the current Council making the appointments; we should wait until the new Council is on board.

Vice Mayor Patterson stated that she is not in a rush to do the appointments or to have Staff get to work on this. Thirty days would be okay for getting information back from Staff.

Council Member Campbell stated that he is not willing to spend any money on this at all right now.

Council Member Smith stated that he wanted to put this into the context of Council's work priorities. The Arsenal Plan came out as 'unfunded.' Three other priorities were partially funded because it was felt that they could be done in-house as long as Council

established sub priorities (#17 - developing sustainable criteria, #29 - revision/updating of the zoning ordinance, and #31 - review/update of the design guidelines). He is hoping that Council is establishing sub-priorities in those goals. The sub-priorities are 1) the Arsenal, 2) Form Based Code as they apply to the Arsenal, and 3) the necessity to retain the historical integrity and not lose the listing in the historical district.

Council Member Whitney stated that he was pleased Council does not want to rush out and spend money on this right now.

Mayor Messina stated that when the General Plan was done, the Arsenal was split up into three levels. Staff is trying to track down the specifics on that. Council is looking for Staff to digest Council's concerns and come up with some options at one the November Council meetings.

- We don't want to spend much money (if any at all)
- Come back with recommendations on the best approach
- Consensus to be developed (two or three community meetings)
- May/May not develop Form Based Zoning

Review of Arsenal Planning and Government Code section 65858 – Moratorium:

No action taken.

At 12.19 p.m. Mayor Messina asked Staff if there were any items other than the Casa Vilarasa item (X-B) that needed to be addressed tonight. Mr. Erickson stated that the Bay Area Ridge Trail item (X-A) needed to be dealt with as well.

Council Member Whitney asked if either item (X-A or X-B) was an actual emergency and if they absolutely had to be dealt with this evening. Staff confirmed that X-B was an emergency, but X-A was not.

Vice Mayor Patterson suggested including item IX-C (Review of Arsenal Planning and Government Code section 65858 – Moratorium) in the Staff report that will be presented to Council at a future Council meeting, as it was not discussed tonight.

On motion of Vice Mayor Patterson, seconded by Council Member Smith, Council agreed to hear items X-A and X-B hear and continue remaining agenda items to the next Council meeting, on roll call by the following vote:

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

Noes: None

NEW BUSINESS:

Approval of the dedication of one mile of the Bay Area Ridge Trail in Benicia:

Jim Erickson, City Manager, reviewed the Staff report.

RESOLUTION 05-157 - A RESOLUTION APPROVING THE DEDICATION OF ONE MILE OF THE BAY AREA RIDGE TRAIL IN BENICIA ON OCTOBER 29, 2005

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

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

Noes: None

Approval of amendments to the Casa De Vilarrasa documents and increase the loan amount:

Heather McLaughlin, City Attorney, reviewed the Staff report.

RESOLUTION 05-158 - A RESOLUTION APPROVING AN AMENDMENT TO THE SETTLEMENT AGREEMENT AND TO THE LEASE AGREEMENTS WITH THE BENICIA HOUSING AUTHORITY FOR THE CASA DE VILARRASA PROJECT AND AUTHORIZING THE RECORDATION OF RELATED DOCUMENTS

On motion of Council Member Smith, seconded by Council Member Whitney, the above Resolution was adopted, on roll call by the following vote:

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

Noes: None

Consideration of Council Member Campbell's recommendations regarding the FY 2005-06 and FY 2006-07 Budgets:

Continued

Discussion of Vice Mayor Patterson's proposed Grading Ordinance amendments:

Continued

REPORTS FROM CITY MANAGER:

Review of proposed Joint Use Agreements with Benicia Unified School District (BUSD) – continued from September 20, 2005 City Council meeting:

Continued

Discussion of policy for City assistance to disaster victims:

Continued

Policy for Noticing Planning and Building Applications:

Continued

REPORTS FROM CITY COUNCIL COMMITTEES:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 12:27 a.m.

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
CONSENT CALENDAR**

**DATE** : October 5, 2005  
**TO** : City Council  
**FROM** : City Attorney  
**SUBJECT:** **DENIAL OF THE CLAIM AGAINST THE CITY BY  
SAMUEL PAGGI AND REFERRAL TO INSURANCE  
CARRIER**

**RECOMMENDATION:**

Deny the claim against the City by Samuel Paggi.

**EXECUTIVE SUMMARY:**

A claim was submitted by Liberty Mutual for Mr. Paggi for reimbursement of workers' compensation benefits arising from a trip and fall.

**BUDGET INFORMATION:**

The amount of the claim is for \$26,238.32.

**BACKGROUND:**

Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney. The claim that was submitted by Liberty Mutual for Mr. Paggi. Mr. Paggi was a UPS driver who tripped on uneven pavement, while exiting his vehicle. As this claim was submitted under Mr. Paggi's name, Liberty Mutual was contacted and advised they would need to submit a claim directly from them, which they have done. This claim is also being placed on the agenda for denial for the same reason. We have been negotiating with Liberty Mutual for settlement of this claim. They have refused to sign the City's executed release without modifications. It would not be in the City's best interest to accept the proposed release.

**Attachment:**

- Copy of Claim Filed Against City (*If viewing on line, this attachment is available upon request from the City Clerk's office.*)

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**CONSENT CALENDAR**

**DATE** : October 5, 2005

**TO** : City Council

**FROM** : City Attorney

**SUBJECT:** **DENIAL OF THE CLAIM AGAINST THE CITY BY  
LIBERTY MUTUAL AND REFERRAL TO INSURANCE  
CARRIER**

**RECOMMENDATION:**

Deny the claim against the City by Liberty Mutual.

**EXECUTIVE SUMMARY:**

A claim was submitted by Liberty Mutual for reimbursement of workers' compensation benefits paid to Mr. Paggi arising from a trip and fall.

**BUDGET INFORMATION:**

The amount of the claim is for \$26,238.32.

**BACKGROUND:**

Upon rejection of the claim, the City Clerk should issue a rejection notice using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with the proof of service by mail form (located in the forms directory). A copy of the rejection notice and proof of service by mail form should be sent to Jim Nagal (ABAG Claims Examiner) and the City Attorney. This claim was also submitted under Mr. Paggi's name, which is also on this agenda for denial for the same reason. Mr. Paggi was a UPS driver who tripped on uneven pavement, while exiting his vehicle. We have been negotiating with Liberty Mutual for settlement of this claim. They have refused to sign the City's executed release without modifications. It would not be in the City's best interest to accept the proposed release.

Attachment:

- Copy of Claim Filed Against City (*If viewing on line, this attachment is available upon request from the City Clerk's office.*)

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
CONSENT CALENDAR**

**DATE** : September 20, 2005

**TO** : City Manager

**FROM** : Human Resources Director

**SUBJECT** : **APPROVE THE JULY 1, 2005 TO JUNE 30, 2006 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA POLICE MANAGEMENT GROUP**

**RECOMMENDATION:**

Adopt the resolution approving the amendments to the July 1, 2005 through June 30, 2006 Labor Agreement with the Benicia Police Management Group.

**EXECUTIVE SUMMARY:**

The City concluded negotiations with the Benicia Police Management Group on September 15, 2005. The Police Management Group consists of 3 incumbents. This group is comprised of our Police Lieutenant and Police Captain positions.

The attached resolution outlines the amendments to the Agreement. A complete copy of the Agreement between the City of Benicia and the Benicia Police Management Group with amendments is attached.

**BUDGET INFORMATION:**

The total budget impact for FY 2005/2006 will be approximately \$15,454.00. 2% of this cost has already been included in the FY 2005/2006 budget numbers. The additional budgetary cost for this agreement, over this 2%, is \$303.02.

Attachments:

- [Proposed Resolution](#)

*If viewing online, a copy of the following attachment is available at the City Clerk's Office:*

- Proposed Changes to Agreement

# **RESOLUTION**

**RESOLUTION NO. 05-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE JULY 1, 2005 TO JUNE 30, 2006 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA POLICE MANAGEMENT GROUP**

**WHEREAS**, the existing Agreement between the City of Benicia and the Benicia Police Management Group which covers salaries and other conditions of employment lapsed on June 30, 2005; and

**WHEREAS**, the City has concluded negotiations with the Benicia Police Management Group relative to amendments to the Agreement for the term covering July 1, 2005 to June 30, 2006; and

**WHEREAS**, the Benicia Police Management Group accepted the terms of the July 1, 2005 to June 30, 2006 amendments to the Agreement.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby approves changes to the following sections in the July 1, 2005 through June 30, 2006 Agreement (a complete copy of the Agreement with the specified amendment language is attached to the staff report), and the City Council authorizes the City Manager to execute the Agreement as amended:

1. Section II (A) – Compensation
2. Section II (D) – Deferred Compensation
3. Miscellaneous additions and deletions to codify current practices.

\*\*\*\*\*

On Motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council on the 18<sup>th</sup> day of October, 2005, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Steve Messina, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**VII-C-3**

**AGREEMENT**  
**Proposed Language**

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
CONSENT CALENDER**

**DATE** : September 30, 2005

**TO** : City Manager

**FROM** : Chief of Police

**SUBJECT** : **PURCHASE AND INSTALL A NEW POLICE AND FIRE  
COMPUTER AIDED DISPATCH AND RECORDS STORAGE  
COMPUTER (AS400 MIDFRAME COMPUTER)**

**RECOMMENDATION:**

Adopt resolution approving the purchase and installation of a new police and fire computer aided dispatch and records storage (CAD) computer.

**EXECUTIVE SUMMARY:**

Based on staff's evaluation of our public safety operation systems (communications and computers), staff recommends replacement of the antiquated police and fire computer aided dispatch and records storage computer (AS400 midframe computer). This computer provides our 911 center staff with an automated management system for all public safety operations. City Council approved staff's request in the 2005/06 budget for \$82,300. Staff now recommends the purchase and installation of the computer and other associated costs for approximately \$34,580.62 from a sole source provider (HTE VAR, L.L.C.). See the attached proposal from HTE VAR, L.L.C.

**BUDGET INFORMATION:**

City Council approved \$82,300 from the equipment replacement fund for the purchase and installation of the police and fire computer aided dispatch and records storage (CAD) computer and other associated costs in the 2005/06 equipment replacement budget.

Staff has negotiated the approximate cost of \$34,580.62 (see attached proposal from HTE VAR, L.L.C.) for purchase and installation and other associated items and service. City Council to approve up to \$36,000 for this request from the equipment replacement fund.

## **BACKGROUND:**

The police and fire computer aided dispatch and records computer (CAD) is the backbone of the 911 center's automated public safety management system. During the preparation of our 2005/06 budget, we learned that our current police and fire CAD (purchased in 2000) was antiquated and it would become obsolete in 2006. Therefore staff recommended to City Council to include the anticipated cost of this replacement in the 2005/06 budget and it was approved. Staff entered into negotiations with our sole source provider HTE VAR, L.L.C. to replace and install the police and fire CAD computer.

HTE VAR, L.C.C. is a sole source vendor for this product as they are the only IBM Premier Partner who migrates HTE data and also provides IBM hardware and software installation and support. All police and fire CAD and record management programs utilize HTE software dating back to 1987. No other companies or software vendors offer solutions that will allow the transfer of HTE data into their current software products.

The IBM AS00 midframe computer is a much more stable server than those offered by competitors such as Compaq and Microsoft. In addition, IBM's partnership with HTE offers a total record management and CAD system hardware and software solution instead of a much more expensive piecemeal approach and will provide better service via one vendor.

Staff is now recommending Council adopt the attached resolution to purchase and install the police and fire CAD computer and the other associated items and service (see HTE VAR, L.L.C. proposal) for not more than \$36,000.

Staff would also point out that the finance director has included the police and fire CAD computer into the equipment replacement schedule for the equipment replacement fund because it is anticipated that this computer will require replacement every five years.

Attachments:

- [Resolution](#)

*If viewing online, a copy of the following attachment is available at the City Clerk's Office:*

- HTE VAR, L.L.C. proposal

# **RESOLUTION**

**RESOLUTION NO. 05-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE PURCHASE AND INSTALLATION OF A NEW POLICE AND FIRE COMPUTER AIDED DISPATCH AND RECORDS STORAGE COMPUTER (AS400 MIDFRAME COMPUTER) AND APPROPRIATING THE FUNDS FROM THE EQUIPMENT REPLACEMENT FUND**

**WHEREAS**, the police and fire computer aided dispatch and records computer (CAD) is the 911 center's automated public safety management system; and

**WHEREAS**, during the preparation of our 2005/06 budget, we learned that our current police and fire CAD was antiquated and would become obsolete in 2006; and

**WHEREAS**, the City Council approved staff's request in the 2005/06 budget for \$82,300 for replacement of a new police and fire computer aided dispatch and records storage computer (AS400 midframe computer); and

**WHEREAS**, HTE VAR, L.L.C. estimates the cost of \$34,580.62; and

**WHEREAS**, HTE VAR, L.L.C. is a sole source vendor for this product as they are the only IBM Premier Partner who migrates HTE data and also provides IBM hardware and software installation and support. All police and fire CAD and record management programs utilize HTE software dating back to 1987. No other companies or software vendors offer solutions that will allow the transfer of HTE data into their current software products.

The IBM AS00 midframe computer is a much more stable server than those offered by competitors such as Compaq and Microsoft. In addition, IBM's partnership with HTE offers a total record management and CAD system hardware and software solution instead of a much more expensive piecemeal approach and will provide better service via one vendor; and

**WHEREAS**, staff now recommends the purchase and installation of the computer and other associated items and service up to \$36,000 from HTE VAR, L.L.C.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia approves the expenditure up to \$36,000 for the purchase and installation of a new police and fire computer aided dispatch and records storage computer (AS400 midframe computer) from sole source vendor HTE VAR, L.L.C.

\*\*\*\*\*

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 18<sup>th</sup> day of October, 2005, and adopted by the following vote:

Ayes:

Noes:

Absent:

---

Steve Messina, Mayor

ATTEST:

---

Lisa Wolfe, City Clerk

# **HTE VAR, L.L.C. PROPOSAL**

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
CONSENT CALENDAR**

**DATE** : October 11, 2005  
**TO** : City Council  
**FROM** : City Manager  
**SUBJECT** : **REQUEST TO CALPERS TO ALLOW DAVID GOLICK TO  
WORK IN EXCESS OF 960 HOURS THIS YEAR**

**RECOMMENDATION:**

Adopt the resolution requesting CalPERS authorize David Golick to work as Community Development Director in excess of 960 hours this calendar year.

**EXECUTIVE SUMMARY:**

This action will allow the City to continue to use the services of David Golick. Mr. Golick previously retired from a PERS agency and so is limited in the number of hours he can work for another PERS agency. These actions will allow Mr. Golick to continue to work for the City.

**BUDGET INFORMATION:**

There is no budget impact as we are using the salary/benefit savings from the vacant full-time position.

**BACKGROUND:**

As the Council is aware, David Golick has been serving as interim Community Development Director since May of this year. The position of Community Development Director is an important one in this City and requires a well-qualified candidate. Mr. Golick has been serving very capably in the position. Although I initially intended that Mr. Golick would serve only as the interim director, for the meantime, I believe the City will be better served to hire him as the Community Development Director. This will provide the Department with some much needed stability and allow for better oversight of some of the controversial or large projects that are pending.

Because Mr. Golick has retired from CalPERS he is only permitted by CalPERS regulations to work less than 960 hours in a calendar year. In order to allow more time, the City Council must request, by resolution, that CalPERS authorize Mr. Golick to work additional hours. This resolution must be done for each calendar year. Mr. Golick is integral to the City's recruitment

and hiring process currently underway to fill the loss of the City's professional planning staff.

Attachment:

- [Resolution requesting PERS authorize David Golick to work more than 960 hours and approving the agreement with Mr. Golick](#)

## RESOLUTION

**RESOLUTION NO. 05-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA  
REQUESTING PERS AUTHORIZE DAVID GOLICK TO EXCEED 960 HOURS AS A  
RETIREE TO ALLOW HIM TO WORK FOR THE CITY OF BENICIA AND TO FILL  
AN URGENT NEED**

**WHEREAS**, the City has experienced high turnover of the Planning Department staff and has lost its former Community Development Director; and

**WHEREAS**, the City has an urgent and dire need to have a Community Development Director to manage the day-to-day aspects of the Department, to oversee the review of the large Benicia Business Park Project and the development of regulations for the Arsenal mixed use zone, and to improve customer relations and the Department's public image; and

**WHEREAS**, the Benicia Business Park Project is the last remaining large scale development site in the City, exists on 536 acres of land, has the potential to dramatically increase economic growth for the City, and may create unwanted environmental impacts if not properly reviewed by the City; and

**WHEREAS**, the City Council finds the lack of a well-qualified Community Development Director creates an emergency situation since the size and scope of the projects mentioned above, among others, requires an expert to direct and to watch over the projects to prevent the stoppage of public business and to protect public health, safety and the environment; and

**WHEREAS**, David Golick retired from the City of Concord in the position of Chief of Planning, effective August, 2001; and

**WHEREAS**, effective May 25, 2005, the City of Benicia appointed Mr. Golick to the position of interim Community Development Director, a position deemed to be of limited duration and requiring specialized skill; and

**WHEREAS**, Mr. Golick will reach 960 hours on or about November 4, 2005; and

**WHEREAS**, the City hired an executive search firm to recruit for a permanent Community Development Director and the search was unsuccessful; and

**WHEREAS**, the City Council requires time to evaluate its options in terms of recruiting a well-qualified candidate and must establish and maintain stability in the Community Development Department in order to continue the above mentioned projects; and

**WHEREAS**, Mr. Golick has the executive, administrative and personal qualifications and skills to fill the position of Community Development Director on an interim basis.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Benicia does request that the CalPERS Board of Administration approve the extension for the temporary employment of Mr. David Golick as Community Development Director until the City Manager appoints a new Community Development Director or until December 31, 2005, whichever comes first.

\*\*\*\*\*

On a motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the \_\_\_\_\_ day of October, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Steve Messina, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**This item to be continued  
to the  
November 15, 2005 City Council Meeting**

**This item to be continued  
to the  
November 1, 2005 City Council Meeting**

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**UNFINISHED BUSINESS**

**DATE** : September 28, 2005

**TO** : City Manager

**FROM** : Mike Dotson  
Superintendent of Parks and Community Services

**SUBJECT** : **PROPOSED REVISIONS TO THE PARKS AND COMMUNITY SERVICES DEPARTMENT NUTRITION AND HEALTH MISSION STATEMENT**

**RECOMMENDATION:**

Adopt the revisions to the Parks and Community Services Department's Nutrition and Health Mission Statement Resolution as proposed by City Council at the September 20, 2005 meeting.

**EXECUTIVE SUMMARY:**

Staff has made recommendations to revise the proposed language presented by City Council, based on the review of State Legislation SB12 and SB965. This legislation was presented by City Council on September 20, 2005.

**BUDGET INFORMATION:**

No budget impact.

**BACKGROUND:**

As understood by staff, State Legislation SB12 and SB965 refer to food and drink served during school hours, and does not pertain to special activities one-half hour after school dismissal. Therefore, since the majority of products sold in City snack bars and vending machines are available after school hours, we recommend revising the proposed language for the Resolution to read as follows:

**Proposed**

**WHEREAS**, the State of California has found that the State has the second highest rate of overweight and low income children in the nation due to poor diet and physical inactivity; and

**WHEREAS**, the Benicia General Plan promotes healthy communities;

**FUTHERMORE**, in light of newly enacted State Legislation SB 12 and SB 965, the Benicia City Council directs Parks and Community Services to update City policies to reflect this legislation purposes.

**Revised**

**WHEREAS**, the State of California has found that the State has the second highest rate of overweight children in the nation due to poor diet and physical inactivity; and

**WHEREAS**, in light of newly enacted State Legislation SB 12 and SB 965, the Parks and Community Services Department will promote ongoing evaluation of City guidelines and programs to reflect the intent of this legislation; and

**WHEREAS**, the Benicia General Plan promotes healthy communities; and

**BE IT FURTHER RESOLVED** that the City Council of the City directs the Parks and Community Services Department to review recent state legislation and to consider for future policies additional enhanced nutrition education that comports with the State of California regulations of school nutrition.

Attachment:

- [Resolution](#)

# **RESOLUTION**

## **RESOLUTION NO. 05 –**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE PARKS AND COMMUNITY SERVICES NUTRITION AND HEALTH MISSION STATEMENT**

**WHEREAS**, a request was made in September 2004 to the Parks, Recreation and Cemetery Commission to evaluate the content of products offered in recreation facility vending

machines and determine if there is a need for a nutrition policy; and

**WHEREAS**, the State of California has found that the State has the second highest rate of overweight children in the nation due to poor diet and physical inactivity; and

**WHEREAS**, in light of newly enacted State Legislation SB 12 and SB 965, the Parks and Community Services Department will promote ongoing evaluation of City guidelines and programs to reflect the intent of this legislation; and

**WHEREAS**, the Benicia General Plan promotes healthy communities; and

**WHEREAS**, staff held two nutrition sub-committee meetings in October and November, 2004 and as a result of these meetings, healthy choices are now provided at each facility; and

**WHEREAS**, staff met with local sports organizations and residents and agreed to provide healthy choice items at their snack bar and educational material at the fields and in their newsletters; and

**WHEREAS**, at the August 10, 2005 meeting the Parks, Recreation and Cemetery Commission approved the Nutrition and Health Statement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Benicia approves the Parks & Community Services Department Nutrition and Health Mission Statement as follows:

**Parks and Community Services Department  
Nutrition and Health Mission Statement**

The City of Benicia Parks and Community Services Department, in collaboration with community organizations, strives to enhance quality of life in Benicia through the promotion of good nutrition, healthy activities and a healthy lifestyle. Classes, special events and recreation programs fostering good health and overall well being are developed and implemented for the entire community.

**BE IT FURTHER RESOLVED** that the City Council of the City directs the Parks and Community Services Department to review recent state legislation and to consider for future policies additional enhanced nutrition education that comports with the state of California regulations of school nutrition.

\*\*\*\*\*

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 18th day of October, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

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Steve Messina, Mayor

ATTEST:

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Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
UNFINISHED BUSINESS**

**DATE** : October 4, 2005

**TO** : City Manager

**FROM** : Finance Director

**SUBJECT** : **APPROVE CHANGES TO THE CITY OF BENICIA  
INVESTMENT POLICY**

**RECOMMENDATION:**

Adopt the Resolution authorizing changes to the City of Benicia Investment Policy in accordance with California State Government Code §53646.

**EXECUTIVE SUMMARY:**

The City Council recommended that staff research additional changes to the Investment Policy at the September 20, 2005 meeting. The changes related to the prioritization of the investment policy objectives and the placement of limitations on investment maturities. The revised policy contains the Council's recommendations.

**BUDGET INFORMATION:**

There is no impact on the City's budget by adopting this Resolution.

**BACKGROUND:**

The City Council requested that further research be conducted to insure adequate safeguards are included in the new Investment Policy. The changes related to the priority of the investment objectives and to the amount of funds invested in each year of the five-year investment portfolio. David Lee, MBIA Client Services Manager, recommended that we modify the following sections to accommodate the Council requests. The recommended changes were reviewed by members of the Audit and Finance Committee and are underlined below:

**I. OBJECTIVES**

The principal investment objectives of the City are listed below in priority order:

1. Preservation of capital and protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return. This objective becomes a consideration only after Objectives 1 and 2 have been met.
4. Diversification to avoid incurring unreasonable market risks.

5. Compliance with the City’s Municipal Code and with all applicable City resolutions, California statutes and Federal regulations.

## **II. PORTFOLIO MATURITIES AND LIQUIDITY**

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The City will not invest in securities maturing more than five years from the date of purchase, unless the City Council has by resolution granted authority to make such an investment at least three months prior to the date of investment. The weighted average maturity of the City’s total portfolio shall not exceed 2.5 years.

### **PREVIOUS STAFF REPORT**

California Government Code Section 53646 requires that the City’s Investment Policy be submitted to Council annually for its consideration at a public meeting, including any proposed changes to the policy.

The investment policy establishes the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the City. All City funds will be invested in accordance with this Investment Policy and with applicable sections of the California Government Code.

Staff has communicated the City’s investment preferences to MBIA Municipal Investors (MBIA) and has reviewed several changes to the Investment Policy requested by the investment advisors.

### **REVISIONS TO THE EXISTING POLICY**

MBIA has provided the following explanations for revisions to the existing policy. The “revised” policy is attached as *Exhibit I* and the “existing” policy is attached as *Exhibit II*.

#### Introduction – Page 1

We expanded the first paragraph to establish the purpose of the investment policy. The three objectives were moved to the **Objectives** section on Page 1 of the new policy.

#### Definition and Provisions of the Government Code – Page 1

The contents of this section are found in the **Delegation of Authority, Selection of Banks and Authorized Securities and Transactions** sections of the new policy.

#### Acceptable Investment Instruments – Page 2

The City’s eligible investments are set forth in the **Authorized Securities and Transactions** section in Pages 3-5 of the new policy. The description of each authorized security includes detailed criteria, such as credit quality, maximum maturity and maximum percent of portfolio. We created separate sub-sections for Government Agency securities such as GNMA, and Instrumentality (government sponsored enterprises) securities such as FNMA.

#### Guidelines by Type of Investment – Pages 3-4

The guidelines relating to short and long term credit ratings and portfolio maximums were retained in the **Authorized Securities and Transactions** section of the new policy. We eliminated criteria relating to the size and age of an institution as unreliable.

#### Maturity of Investments – Page 3

The **Portfolio Maturities and Liquidity** section on Page 5 of the new policy contains the maturity limitation which was increased to the five years allowed by the statute. We eliminated the requirement for a 50% cash position which seems inconsistent with the City's investment objectives.

#### Use Of Securities Dealers And Brokers – Page 3

This becomes the **Selection of Broker/Dealers** section on Pages 5-6 of the new policy. It contains expanded criteria for the selection of broker/dealers and an annual review of them. Also it provides for the direct purchase of commercial paper.

#### Reporting Requirements – Page 5

The **Reporting** section on Page 7 of the new policy contains all the information that must be reported in compliance with the statute.

### **ADDED SECTIONS IN THE NEW POLICY**

MBIA has provided the following explanations of new sections in the policy.

#### Scope - Page 1

The first paragraph provides for exceptions of funds, if any, not subject to the policy. The second paragraph provides for the pooling of funds.

#### Objectives – Page 1

This section contains the three objectives, safety, liquidity and yield from the existing policy plus two more, diversification and compliance.

#### Delegation Of Authority – Pages 1-2

Deals with the origin of investment authority and how it may be delegated. Provides for the employment of outside investment advisors.

#### Prudence – Page 2

Sets forth the standard, provides for measured losses and provides relief of personal responsibility for authorized persons.

#### Ethics And Conflicts Of Interest – Page 3

Contains standard ethics and conflict of interest language, and also the California requirement for the annual filing of a Statement of Economic Interests.

#### Competitive Transactions – Page 6

Provides for competitive bids for security transactions, and exceptions.

Selection Of Banks – Page 6

Provides qualification requirements for the City’s approved banks.

Safekeeping And Custody – Pages 6-7

Provides criteria for the selection of custodians and detailed procedures for the settling of security transactions and for safekeeping.

Portfolio Performance – Page 8

Establishes a benchmark against which the performance of the portfolio can be measured.

Policy Review – Pages 7-8

Contains a requirement for annual review of the policy.

**THE NEW INVESTMENT POLICY REDUCES THE CITY’S INVESTMENT RISK**

The combination of outside investment advisors and a new investment policy will reduce the City of Benicia’s exposure to investment risk by adding experienced professionals and a more disciplined approach to investment of the City’s funds. The new investment policy has the following features, all designed to reduce risk:

1. Diversification as the fourth objective. Diversification of securities reduces credit risk. Diversification of maturities reduces interest rate risk and liquidity risk.
2. Short and long term credit criteria for all investments except government or government guaranteed. (MBIA Asset Management Group monitors credit ratings daily.)
3. Portfolio maximums, in some cases more restrictive than allowed by statute.
4. A requirement for written procedures and controls to prevent losses.
5. A section dealing with ethics and conflicts of interest.
6. Strict criteria for the selection of broker/dealers and a requirement for annual due diligence of all who are authorized.
7. A requirement for at least three competitive bids on all purchase or sale transactions.
8. Detailed procedures for the settling of securities transactions and for safekeeping of the City’s securities.
9. Establishment of a benchmark for comparing the portfolio’s performance.

Attachments:

- ❑ Resolution
- ❑ [Exhibit I - Revised Investment Policy](#)
- ❑ [Exhibit II - Existing Investment Policy](#)

# **RESOLUTION**

**RESOLUTION NO. 05-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA REVISING THE CITY'S INVESTMENT POLICY AND GUIDELINES AND CONFIRMING ITS ADOPTION**

**WHEREAS**, the City Council has determined that it is in the City's best interest to adopt and periodically review the City's Investment Policy and Guidelines in accordance with California State Government Code §53600 et seq.; and

**WHEREAS**, the City Council last reviewed the Investment Policy and Guidelines on September 20, 2005 recognizing City investment reporting practices in accordance with California State Government Code §53600 et seq.; and

**WHEREAS**, the Audit and Finance Committee and Finance Director have reviewed the City Investment Policy and Guidelines.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby approves the revision of the City's Investment Policy and Guidelines dated October 18, 2005 as presented and without revision.

\*\*\*\*\*

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 18<sup>th</sup> day of October 2005, and adopted by the following vote:

Ayes:

Noes:

Absent:

Attest:

\_\_\_\_\_  
Steve Messina, Mayor

\_\_\_\_\_  
Lisa Wolfe, City Clerk

**EXHIBIT I**  
**REVISED INVESTMENT POLICY**

**Exhibit I**  
**City of Benicia**  
**Investment Policy**  
(Revised October 18, 2005)

The City Council of the City of Benicia (the “City”) has adopted this Investment Policy (the “Investment Policy”) in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the funds of the City. All City funds will be invested in accordance with this Investment Policy and with applicable sections of the California Government Code.

This Investment Policy was endorsed and adopted by the City Council of the City of Benicia on October 18, 2005 pursuant to City Council Resolution No. 05-\_\_\_\_. It replaces any previous investment policy of the City.

**I. SCOPE**

The provisions of this Investment Policy shall apply to all financial assets of the City.

All cash shall be pooled for investment purposes. The investment income derived from the pooled investment account shall be allocated to the contributing funds based upon the proportion of the respective average balances relative to the total pooled balance in the City’s investment portfolio. Interest earnings shall be distributed to the individual funds not less than annually.

**II. OBJECTIVES**

The principal investment objectives of the City are listed below in priority order:

1. Preservation of capital and protection of investment principal.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return. This objective becomes a consideration only after Objectives 1 and 2 have been met.
4. Diversification to avoid incurring unreasonable market risks.
5. Compliance with the City’s Municipal Code and with all applicable City resolutions, California statutes and Federal regulations.

**III. DELEGATION OF AUTHORITY**

Management responsibility for the City’s investment program is delegated annually by the City Council to the Treasurer pursuant to California Government Code Section 53607, and has been further delegated to the Finance Director and the Assistant Finance Director. The Finance Director has primary responsibility for daily management of the City’s investment portfolio. No

person may engage in an investment transaction except as expressly provided under the terms of this Investment Policy.

The Finance Director shall develop written administrative procedures and internal controls, consistent with this Investment Policy, for the operation of the City's investment program. Such procedures shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the City.

The City may engage the support services of outside investment advisors in regard to its investment program, so long as it can be clearly demonstrated that these services produce a net financial advantage or necessary financial protection of the City's financial resources.

The Treasurer, the Finance Director and the Assistant Finance Director, acting as an investment committee will meet monthly to review the day to day management of the City's investment portfolio. They will meet quarterly to discuss overall portfolio performance.

#### **IV. PRUDENCE**

The standard of prudence to be used for managing the City's investments shall be California Government Code Section 53600.3, the prudent investor standard which states, "When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The City's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City recognizes that no investment is totally riskless and that the investment activities of the City are a matter of public record. Accordingly, the City recognizes that occasional measured losses are inevitable in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the City.

The Finance Director and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the City Council and appropriate action is taken to control adverse developments.

#### **V. ETHICS AND CONFLICTS OF INTEREST**

Elected officials and City employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Elected officials and employees shall disclose to the City Council any

business interests they have in financial institutions that conduct business with the City and they shall subordinate their personal investment transactions to those of the City. In addition, the Treasurer, the Finance Director, the Assistant Finance Director and others with delegated investment authority shall file a Statement of Economic Interests each year in accordance with California Government Code Section 87203 and regulations of the Fair Political Practices Commission and the City's Open Government Ordinance.

## **VI. AUTHORIZED SECURITIES AND TRANSACTIONS**

All investments and deposits of the City shall be made in accordance with California Government Code Sections 16429.1, 53600-53609 and 53630-53686, except that in accordance with California Government Code Section 5903(e), proceeds of bonds and any moneys set aside or pledged to secure payment of the bonds may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds. Any revisions or extensions of these code sections will be assumed to be part of this Investment Policy immediately upon being enacted. However, in the event that amendments to these sections conflict with this Investment Policy and past City investment practices, the City may delay adherence to the new requirements when it is deemed in the best interest of the City to do so. In such instances, after consultation with the City Attorney, the Finance Director will present a recommended course of action to the City Council for approval.

The City has further restricted the eligible types of securities and transactions as follows:

1. United States Treasury bills, notes, bonds, or strips with a final maturity not exceeding five years from the date of purchase.
2. Federal Agency debentures and mortgage-backed securities with a final maturity not exceeding five years from the date of purchase issued by the Government National Mortgage Association (GNMA).
3. Federal Instrumentality (government sponsored enterprise) debentures, discount notes, callable and step-up securities, with a final maturity not exceeding five years from the date of purchase, issued by the following only: Federal Home Loan Banks (FHLB), Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB) and Federal Home Loan Mortgage Corporation (FHLMC). Federal Instrumentality securities shall be rated at least AAA or the equivalent by a nationally recognized statistical-rating organization (NRSRO) at the time of purchase.
4. Repurchase Agreements with a final termination date not exceeding 30 days collateralized by U.S. Treasury obligations, Federal Agency securities, or Federal Instrumentality securities listed in items 1, 2 and 3 above with the maturity of the collateral not exceeding 10 years. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the City's approved Master Repurchase Agreement. The purchased securities shall have a minimum market value including accrued interest of 102% of the dollar value of the funds borrowed. Collateral shall be held in the City's custodian bank, as safekeeping agent, and the market value of the collateral securities shall be marked-to-the-market daily. Repurchase agreements with any one counterparty shall be limited to \$1 million.

Repurchase Agreements shall be entered into only with broker/dealers recognized as a primary dealer by the Federal Reserve Bank of New York, or with financial firms that have a primary dealer within their holding company structure. Approved Repurchase Agreement counterparties shall have a short-term credit rating of at least A-1 or the equivalent and a long-term credit rating of at least A or the equivalent by a NRSRO. Repurchase agreement counterparties shall execute a City approved Master Repurchase Agreement with the City. The Finance Director shall maintain a copy of the City's approved Master Repurchase Agreement along with a list of broker/dealers who have executed same.

5. Prime Commercial Paper with a maturity not exceeding 270 days from the date of purchase with the highest ranking or of the highest letter and number rating as provided for by a NRSRO. The entity that issues the commercial paper shall meet all of the following conditions in either sub-paragraph A. or sub-paragraph B. below:

- A. The entity shall (1) be organized and operating in the United States as a general corporation, (2) have total assets in excess of five hundred million dollars (\$500,000,000) and (3) have debt other than commercial paper, if any, that is rated "A" or higher by a NRSRO.

- B. The entity shall (1) be organized within the United States as a special purpose corporation, trust, or limited liability company, (2) have program wide credit enhancements, including, but not limited to, over collateralization, letters of credit or surety bond and (3) have commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Purchases of eligible commercial paper may not represent more than 10% of the outstanding commercial paper of any single corporate issue. No more than \$1 million shall be invested in the commercial paper of any one issuer, and the aggregate investment in commercial paper shall not exceed 25% of the City's total portfolio.

6. Eligible Bankers Acceptances rated at least A-1 or the equivalent by each NRSRO that rates them at the time of purchase, with maturities not exceeding 180 days from the date of purchase; issued by a FDIC insured commercial bank whose senior long-term debt is rated at the time of purchase A or the equivalent by a NRSRO. The total investment in bankers acceptances of any one issuer shall be limited to the lesser of 5% of the City's total portfolio or \$3 million, and the aggregate investment in bankers acceptances shall not exceed 20% of the City's total portfolio.
7. Non-negotiable Certificates of Deposit with a maturity not exceeding five years, in state or nationally chartered banks or savings banks with a California branch office that are insured by the FDIC. Time Certificates of Deposit exceeding FDIC coverage shall be secured in accordance with California Government Code Section 53652. The aggregate amount invested in Certificates of Deposit shall not exceed 25% of the City's total portfolio.
8. State of California's Local Agency Investment Fund (LAIF), created by California Government Code Section 16429.1.

9. Money Market Funds registered under the Investment Company Act of 1940 that (1) are “no-load” (no commission or fee shall be charged on purchases or sales of shares); (2) have a constant daily net asset value per share of \$1.00; (3) invest only in the securities and obligations authorized in this Investment Policy and (4) have a rating of at least AAA or the equivalent by a NRSRO. The total investment in money market funds of any one issuer shall be limited to the lesser of 10% of the City’s total portfolio or \$5 million, and the aggregate investment in money market funds shall not exceed 20% of the City’s total portfolio.

It is the intent of the City that the foregoing list of authorized securities and transactions is strictly interpreted. Any deviation from this list must be pre-approved by resolution of the City Council.

## **VII. PORTFOLIO MATURITIES AND LIQUIDITY**

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The City will not invest in securities maturing more than five years from the date of purchase, unless the City Council has by resolution granted authority to make such an investment at least three months prior to the date of investment. The weighted average maturity of the City’s total portfolio shall not exceed 2.5 years.

## **VIII. SELECTION OF BROKER/DEALERS**

The Finance Director shall maintain a list of authorized broker/dealers approved for investment purposes, and it shall be the policy of the City to purchase securities only from those authorized firms. To be eligible, a firm must be licensed by the State of California as a broker/dealer as defined in California Corporations Code Section 25004, and shall:

1. be recognized as a primary dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure, or
2. report voluntarily to the Federal Reserve Bank of New York, or
3. qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule).

Broker/dealers will be selected by the Finance Director on the basis of their expertise in public cash management and their ability to provide services for the City's account.

Annually, each authorized broker/dealer shall submit a City approved Broker/Dealer Information Request form and the firm's most recent financial statements. The Finance Director shall maintain a list of approved broker/dealers, along with each firm's most recent Broker/Dealer Information Request form.

The City may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as the purchase meets the criteria outlined in Item 5 of the Authorized Securities and Transactions section of this Investment Policy.

## **IX. COMPETITIVE TRANSACTIONS**

Each investment transaction shall be competitively transacted with approved broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid or offering prices shall be recorded.

If the City is offered a security for which there is no other readily available competitive offering, then the Finance Director will document quotations for comparable or alternative securities.

When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price.

## **X. SELECTION OF BANKS**

The Finance Director shall maintain a list of banks approved to provide depository and other banking services for the City. To be eligible, a bank must be a member of the FDIC, shall qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5 and shall secure deposits in excess of FDIC coverage in accordance with California Government Code Section 53652.

## **XI. SAFEKEEPING AND CUSTODY**

The Finance Director shall select one or more financial institutions to provide safekeeping and custodial services for the City, in accordance with the provisions of Section 53608 of the California Government Code. A Safekeeping Agreement approved by the City shall be executed with each custodian bank prior to utilizing that bank's safekeeping services.

Custodian banks will be selected on the basis of their ability to provide services for the City's account and the competitive pricing of their safekeeping related services.

The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. All securities shall be perfected in the name of the City. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities, except non-negotiable Certificates of Deposit, Money Market Funds and LAIF will be delivered by either book entry or physical delivery and will be held in third-party safekeeping by a City approved custodian bank, its correspondent bank or its Depository Trust Company (DTC) participant account.

All Fed wireable book entry securities shall be held in the Federal Reserve system in a customer account for the custodian bank which will name the City as "customer."

All DTC eligible securities shall be held in the custodian bank's DTC participant account and the custodian bank shall provide evidence that the securities are held for the City as "customer."

All non-book entry (physical delivery) securities shall be held by the custodian bank or its correspondent bank and the custodian bank shall provide evidence that the securities are held by the bank for the City as “customer.”

## **XII. PORTFOLIO PERFORMANCE**

The investment portfolio shall be designed to attain a market rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the City’s investments shall be compared to the average yield on the U.S. Treasury security that most closely corresponds to the portfolio’s actual weighted average effective maturity. When comparing the performance of the City’s portfolio, its rate of return will be computed net of all fees and expenses.

## **XIII. REPORTING**

Quarterly, the Treasurer, the Finance Director and the Audit and Finance Committee shall submit to the City Manager and the City Council a report of the investment earnings and performance results of the City’s investment portfolio. The report shall include the following information:

1. Investment type, issuer, date of maturity, par value and dollar amount invested in all securities, and investments and monies held by the City;
2. The weighted average maturity of the investment portfolio;
3. A description of investments that are under the management of contracted parties;
4. A market value as of the date of the report and the source of the valuation;
5. A statement of compliance with this Investment Policy or an explanation of non-compliance; and
6. A statement of the City’s ability to meet expenditure requirements for the following six months or an explanation of why sufficient funds may not be available.

Within 60 days after the close of the second and fourth quarters ending in June and December, the Finance Director or his designee shall file copies of the most recent reports referred to above with the California Debt and Investment Advisory Commission.

## **XIV. POLICY REVIEW**

This Investment Policy shall be adopted by resolution of the City Council. It shall be reviewed at least annually by the Treasurer, the Finance Director and the Audit and Finance Committee to ensure it remains consistent with the City’s investment objectives, current law and economic trends. Any revisions to this Investment Policy must be approved by the City Council.

**EXHIBIT II**  
**EXISTING INVESTMENT POLICY**

**Exhibit II**  
**CITY OF BENICIA**  
**INVESTMENT POLICY AND GUIDELINES**  
(Last Revision on June 21, 2005)

**INTRODUCTION**

City monies not required for immediate expenditure will be invested in compliance with governing provisions of law Government Code Sections 53600 et seq., and this policy.

It is the City of Benicia's objective to invest its monies in accordance with the following criteria:

1. **Safety:** It is the primary duty and responsibility of the Treasurer and Finance Director to protect, preserve, and maintain cash and investments placed in his/her trust on behalf of the citizens of the community.
2. **Liquidity:** An adequate percentage of the portfolio shall be maintained in liquid short term securities that can be converted to cash if necessary to meet disbursement requirements. Since all cash requirements cannot be anticipated, investment in securities with active secondary or resale markets is highly recommended. Emphasis should be on marketable securities with low sensitivity to market risk (market risk is defined as 'price fluctuation of a security due to a raise or drop in market interest rates').
3. **Yield:** Yield shall become a consideration only after the basic requirements of safety and liquidity have been met.

**I. DEFINITION AND PROVISIONS OF THE GOVERNMENT CODE**

The City Treasurer, Finance Director, and Assistant Finance Director have been delegated investment authority by the City Council. In accordance with these Government Code Sections 53600 et seq., collateral established as security for municipal funds will be those securities specified by law as eligible for collateral for deposits of local public agencies. Investments of City monies not required for immediate expenditure will be made in securities or other certificates of indebtedness as provided by law for the investment of public funds. Investments will be made in accordance with this policy.

**II. ACCEPTABLE INVESTMENT INSTRUMENTS**

The City investment portfolio may include the following instruments:

- Certificates of Deposit purchased from banks or savings and loan institutions
- Bankers Acceptances

- Treasury Bills and Notes
- Government Agency Securities (E.G. Federal National Mortgage Association, Government National Mortgage Association, Federal Farm Credits.)
- Repurchase Agreements
- Commercial Paper
- State Local Agency Investment Fund

### **III. AMOUNTS TO BE INVESTED**

The City will invest all funds and estimated checking account float except for those amounts required by the City's banks to pay for bank services furnished to the City.

### **GUIDELINES BY TYPE OF INVESTMENT**

No more than 20% of the City portfolio, not to exceed \$5 million, shall be invested in any one institution. An institution must meet the following criteria to be considered by the City:

- For investments greater than \$100,000, the institution must maintain \$200 million in assets. For investments greater than \$300,000, the institution must maintain at least \$500 million in assets.
- The City will not invest in any institution less than five years old.
- The institution must maintain a net worth to asset ratio of at least 3%, and a positive earnings record.

**CERTIFICATES OF DEPOSIT:** Cash will be invested only in FDIC or FSLIC insured or fully collateralized certificates of deposit. Collateral for a given investment must be 110% of principal for government securities collateral and 150% of principal for first mortgage collateral.

**BANKERS ACCEPTANCES:** The City will only invest through the 15 largest banks in the United States or the 100 largest banks in the world (in terms of assets). The maximum investment with any one institution will not exceed \$3 million.

**TREASURY BILLS AND NOTES:** The City will require safekeeping documentation of the treasury instrument in an acceptable safekeeping account in the City's name.

### **III. AMOUNTS TO BE INVESTED (Continued)**

**GOVERNMENT AGENCY SECURITIES:** The City will require physical delivery of these securities to an acceptable safekeeping account in the City's name. Examples of these securities include Government National Mortgage Association, Federal National Mortgage Association, Federal Land Bank, and Federal Farm Credit Banks.

**COMMERCIAL PAPER:** The City will require safekeeping documentation of the security in an acceptable safekeeping account in the City's name. Commercial paper will be used solely as a

short term investment not to exceed 15 days. A rating of Standard and Poors A-1 or Moodys P-1 is required. The City will only invest in the largest 15 banks (in terms of total assets) in the United States. The investment in any one institution will not exceed \$1,000,000.

**REPURCHASE AGREEMENTS (Repos):** The City will require physical delivery of the securities backing the "repo" or safekeeping documentation in an acceptable safekeeping account in the City's name, depending on the type of security. Repos will be used solely as a short term investment not to exceed 30 days. The institution from which the City purchases a "repo" must transfer on an ongoing basis sufficient securities to compensate for changing market conditions and insure that adequate collateral is maintained in the City's safekeeping account to cover the principal invested. Repos will only be purchased through the 15 largest banks in the United States. The investment in any one institution will not exceed \$1,000,000.

**STATE LOCAL AGENCY INVESTMENT FUND:** The investment with LAIF may not, by State regulation, exceed the maximum amount allowed by law.

#### **IV. MATURITY OF INVESTMENTS**

With the exception of Treasury notes, the maturity of a given investment will not exceed **one** year. Treasury notes may be purchased for a period not to exceed **three** years. Approximately 50% of the idle funds will be placed in investments which can be sold for face value in the open market in the event of an emergency.

#### **V. USE OF SECURITIES DEALERS AND BROKERS**

In selecting financial institutions, brokers, and securities dealers for the deposit or investment of City funds, the Treasurer and Finance Director shall consider the creditworthiness of such institutions, brokers, and securities dealers. The Treasurer and Finance Director shall continue to monitor financial institutions', brokers', and securities dealers' credit characteristics and financial history throughout the period in which City funds are deposited or invested.

#### **VI. INVESTMENT COMMITTEE AUTHORITY**

A staff Investment Committee consisting of the City Treasurer, Finance Director, and Assistant Finance Director will review on a monthly basis the City investment portfolio, daily cash reports and anticipated cash requirements in selecting investment instruments for idle City funds. Additionally, the Committee will meet on a quarterly basis to discuss the City's overall investment portfolio.

#### **VII. FINANCE AND AUDIT COMMITTEE**

The Finance Director or his designee shall review the City's investment portfolio with the City Council Finance and Audit Committee on a monthly basis.

### **VIII. REPORTING REQUIREMENTS**

The Treasurer and the Finance Director shall file a quarterly investment report to the City Manager and City Council that shall contain, at the least, the monthly information required by Government Code §53646, which covers:

- A. Type of investment
- B. Institution where invested
- C. Date of maturity
- D. Date of investment
- E. Maturity amount of investment
- F. Cost of investment
- G. Current market value of investment
- H. Rate of interest on investment

*The Finance Director or his designee shall file copies of the investment policy and quarterly investment reports for quarters ending June and December with the California Debt and Investment Advisory Commission within 60 days of the close of those quarters.*

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**REPORTS FROM CITY MANAGER**

**DATE** : October 12, 2005  
**TO** : City Council  
**FROM** : City Manager  
**SUBJECT** : **POLICY FOR NOTICING PLANNING AND BUILDING APPLICATIONS**

**RECOMMENDATION:**

Discuss and provide direction to staff, as needed. If additional noticing or publication is desired, direct staff to explore how other cities have addressed expanding noticing and to solicit input from stakeholders.

**EXECUTIVE SUMMARY:**

This report discusses considerations relative to increasing public awareness of current planning and building projects.

**DISCUSSION:**

Council, at the September 6, 2005 regular meeting, asked staff to consider means and methods the public could be made aware of planning and building applications filed with the City. The argument for expanded noticing: to the extent there is publication of such applications, residents, particularly neighbors of applicants, will have the opportunity to ask questions about these projects and in some cases, influence the conditioning of the application.

The following questions and answers, hopefully, can help stimulate a thoughtful review of this issue.

What now gets noticed? Examples:

1. General Plan Amendments
2. Zoning Map Amendments
3. Use Permits
4. Major Subdivisions (5 lots or more)
5. Street Vacations

What does not get noticed? Examples:

1. Building Permits
2. Minor Subdivisions (less than 5 lots)
3. Lot Line Adjustments

4. Home Occupation Permits
5. Staff level Design Review

What applications should get more notice?

The listings below are not an endorsement for publication. They are merely illustrations.

1. Discretionary applications not now noticed? Example:
  - a. Extensions of discretionary approvals
  - b. Staff level Design Review
  - c. Temporary Use Permits
  
2. Non-Discretionary applications? Example:
  - a. Building Permits
  - b. Lot Line Adjustments
  - c. Home Occupation
  - d. Commercial and residential alarms

How could expanded noticing occur? Options:

1. City website listing
2. Newspaper publication
3. Mailed notice to nearby property owners
4. Posting of property

Effects of expanded noticing:

1. Reduce possibility of surprise to neighbors
2. Opportunity for input and potential influence
3. Creating false expectations:  
That City can modify projects for which it has no discretion
4. Creating delays for applicants:  
If application cannot be approved prior to completion of a public review period
5. Creating more staff work:  
Maintaining, updating and publishing a list of applications  
Answering questions, providing information about applications
6. Increasing exposure to legal changes:  
From an application that may by oversight or glitch not have been published per new rules

Options for direction to staff:

1. Research: find out how other cities have addressed this issue
2. Input: ask stakeholders to provide input
  - a. Residents
  - b. Permit applicants
  - c. Business community
3. Immediate action:
  - a. Identify the types of applications to be published
  - b. Identify the means and methods for publication

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**UNFINISHED BUSINESS**

**DATE** : September 26, 2005  
**TO** : City Council  
**FROM** : City Manager  
**SUBJECT** : **DISCUSSION OF POLICY FOR CITY ASSISTANCE TO DISASTER VICTIMS**

**RECOMMENDATION:**

Discuss and provide direction to staff, as needed.

**EXECUTIVE SUMMARY:**

Current policy authorizes assistance to disaster victims through official requests from the Federal Emergency Management Agency (FEMA) and the Office of Emergency Services (OES). This report will discuss pertinent issues related to allowing City employees to volunteer to be relief workers outside of a request by FEMA or OES to the City.

**BACKGROUND:**

There are some local agencies that have adopted policies per permitting employees to serve as volunteers in disaster areas such as the Gulf States currently suffering the impacts of two disastrous hurricanes. For example, we have learned that the City of Los Angeles has adopted such a policy.

In considering possible adoption of such policies, several issues should be taken into account:

1. The impact on the “giving” agency from loss of staff resources for both day-to-day operations and for dealing with emergencies “at home.”
2. The potential liability exposures to the giving agency from employee injuries and errors and omissions, as well as the need to develop policies to minimize such exposures.
3. The added personnel costs to the giving agency from:

- a. Backfilling of positions temporarily vacated (overtime expenditures and/or added regular pay).
  - b. Overtime pay obligations for volunteering personnel (if they perform work substantially similar to their regular work).
4. The need to “meet and confer” with employee organizations on a “volunteer” policy.

The City of Benicia is part of a statewide disaster response network coordinated through the State Office of Emergency Services (OES). This network will provide emergency response and aid to Benicia when a local emergency exceeds Benicia’s capacity to handle it. The network, also, requires Benicia to loan resources (personnel, equipment and materials) when OES asks for help on behalf of other communities experiencing emergencies.

The California OES network is connected to a nationwide network. California can be called upon to provide disaster aid to emergencies in other states. The normal, pre-planned method of one state helping another is through the coordinated disaster response systems of the states and federal government. The “volunteer” concept envisioned in this report is to some extent at odds with the organized emergency response system of the United States and the State of California. If personnel are needed in another state, the “network” will request them. No such request has been issued in California.

The City of Benicia is standing by, as are all of the cities in California, for requests for assistance. If such requests are received, Benicia will provide assistance with available resources.

The City of Benicia municipal organization is relatively small. There are no positions that could easily be spared without disruption to the donating department. This disruption could be mitigated by overtime or having replacement workers. When employees volunteer, there is no guaranteed reimbursement. When employees are assigned pursuant to OES requests, the City is reimbursed.

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
NEW BUSINESS**

**DATE** : October 12, 2005

**TO** : City Manager

**FROM** : Fire Chief

**SUBJECT** : **APPROVAL OF A RESOLUTION IN SUPPORT OF ACCEPTING A \$15,000 DONATION FROM THE SYAR FOUNDATION FOR THE PURCHASE OF AUTOMATIC EXTERNAL DEFIBULATORS (AED)**

**RECOMMENDATION:**

City Council adopts the attached Resolution accepting a \$15,000 donation for the purchase of Automatic External Defibulators (AED) and the initial training of Police Department officers in the use of AEDs.

**BUDGET INFORMATION:**

The donation will cover the cost of six (6) AEDs and initial training for Police Department personnel. There is no impact on General Fund accounts.

**EXECUTIVE SUMMARY:**

The City has received a donation of \$15,000 from the Syar Foundation for the purchase of six (6) Automatic External Defibulators (AED). The Fire Department will purchase and coordinate the initial training of the AEDs with Police Department personnel. Continuing required training will be incorporated into the Police Department's annual training program.

Attachment:

- [Resolution](#)

## **PROPOSED RESOLUTION**

**RESOLUTION NO. 05-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING A DONATION OF \$15,000 FOR THE PURCHASE OF AUTOMATIC EXTERNAL DEFIBULATORS FROM THE SYAR FOUNDATION**

**WHEREAS**, the City of Benicia and the Benicia Fire Department have provided emergency medical services to the citizens and visitors of Benicia; and

**WHEREAS**, the use of Automatic External Defibulators (AED) by trained personnel has saved lives prior to the arrival of advanced life support personnel (paramedics); and

**WHEREAS**, many committees have placed AEDs in Police Department patrol vehicles so police officers can initiate life saving care prior to the arrival of the Fire Department; and

**WHEREAS**, the Syar Foundation has donated \$15,000 to the City of Benicia for the purchase and placement of AEDs within the community.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia accepts a donation of \$15,000 from the Syar Foundation for the purchase of Automatic External Defibulators.

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 18th day of October 2005, and adopted by the following vote:

Ayes:

Noes:

Absent:

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Steve Messina, Mayor

Attest:

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Lisa Wolfe, City Clerk

**AGENDA ITEM  
CITY COUNCIL MEETING: OCTOBER 18, 2005  
NEW BUSINESS**

**DATE** : September 27, 2005  
**TO** : City Council  
**FROM** : City Manager  
**SUBJECT** : **CONSIDERATION OF COUNCIL MEMBER CAMPBELL'S  
RECOMMENDATIONS REGARDING THE FY 2005-06 AND FY  
2006-07 BUDGETS**

**RECOMMENDATION:**

Discuss Council Member Campbell's recommendations and provide direction to staff, as needed.

**EXECUTIVE SUMMARY:**

Council Member Campbell will make recommendations for amending the current two-year budget.

**BACKGROUND:**

Council member Campbell has suggested consideration on certain measures to substitute for the use of an interfund loan to balance the 2005-06 Budget. We understand these measures to include reduction of expenditure appropriations for maintenance of fields at Benicia Unified School District due to:

1. Actual expenditure savings from the delayed start of field maintenance.
2. Proposed expenditure savings from reducing the number of schools to be maintained to three schools instead of four.

Staff estimates of FY 2005-06 savings from these measures, if approved, are as follows:

1. Delayed start at four schools = \$80,000 savings approximately
2. If maintenance at one school is eliminated, then delayed start at three schools = \$146,000 savings approximately

On an annualized basis, savings from reducing the number of schools to be maintained from four to three would be approximately \$97,000.

Savings would be about \$50,000 greater for FY 2005-06 except that the assumption for the overall cost of maintenance has increased due to the District's position that two District pick-up trucks for the fields crew will not be available to the City.

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**NEW BUSINESS**

**DATE** : September 22, 2005

**TO** : City Manager

**FROM** : Director of Public Works  
Interim Community Development Director

**SUBJECT** : **PROPOSED REVISIONS TO THE CITY GRADING ORDINANCE**

**RECOMMENDATION:**

Discuss and provide direction to staff on proposed changes to the Benicia Grading Ordinance.

**EXECUTIVE SUMMARY:**

The Vice Mayor submitted proposed changes to the Grading Ordinance that would establish limits on grading, including building construction for hillsides with slopes greater than 25%. City staff requests direction from Council before proceeding with further analysis on these changes.

**BUDGET INFORMATION:**

Research and preparation of proposed changes to the City Grading Ordinance will require a additional staff time from Public Works - Engineering, Community Development – Planning and from the City Attorney’s Office. This will need to be considered when reviewing other Council priority projects assigned to these affected departments.

**BACKGROUND:**

The Vice Mayor submitted to City staff proposed changes to the Grading Ordinance to address concerns about grading, development or building construction on steep slopes or hillsides. A suggestion was made to restrict grading on existing slopes greater than 25% which would regulate all grading, development or building construction within these areas. Of particular concern are the grading standards as they would apply to the Benicia Business Park development.

The current Grading Ordinance allows grading on any slope with the stipulation that the final slopes created will be no steeper than two horizontal to one vertical (2:1 ratio). All grading work in excess of 5,000 cubic yards or with cuts/fills greater than four (4) feet also require that the work be designed by a registered engineer. Exceptions to the 2:1 maximum slope can be made if

recommended by a registered engineer and approved by the City Engineer. These basic regulations were established with the intent of providing for a safe final engineered product.

Some agencies include restrictions for grading on steep slopes within their ordinances that can be used to regulate where future land use, construction and/or development is allowed to occur. Research would need to be conducted to provide more specific information to Council.

It should be noted that any modifications to the current Grading Ordinance would not apply to the Benicia Business Park Project. The application for the tentative map for the project was previously determined to be complete. Government Code Section 66474.2 prohibits the City from applying new ordinances, policies or standards to the project. However, various findings include consistency with the General Plan, suitability of the site for the type of development and an evaluation of any environmental impacts are required to approve the tentative map (see Government Code Sections 66473.5 and 66474). Thus, grading impacts of the Benicia Business Park project can be addressed as mitigation measures or conditions of approval. This could include restrictions for grading on steep slopes, within riparian corridors and in other sensitive areas.

To help with Council's discussion on this issue, staff has prepared a chart of the three (3) different methods used by engineers to define a slope: percentage, degree or ratio. The chart provides a visual comparison of each method to better understand the differences when applied to grading plans and projects.

cc: Heather McLaughlin, City Attorney  
Michael Throne, City Engineer

Attachment:

- [Comparison chart of graded slopes](#)

## Comparison Chart of Graded Slopes

**AGENDA ITEM**  
**CITY COUNCIL MEETING: OCTOBER 18, 2005**  
**REPORTS FROM CITY MANAGER**

**DATE** : August 31, 2005

**TO** : City Council

**FROM** : City Manager

**SUBJECT** : **PROGRESS TOWARD RESOLVING DIFFERENCES WITH BENICIA UNIFIED SCHOOL DISTRICT REGARDING THE PROPOSED JOINT USE AGREEMENT**

**RECOMMENDATION:**

Status report, for information only.

**EXECUTIVE SUMMARY:**

The Superintendent and the City Manager are currently working on proposed recommendations for addressing differences in the proposed agreements for City maintenance of BUSD fields.

**BACKGROUND:**

On July 19, 2005, the Council authorized the City Manager to initiate discussions with the School District Superintendent to resolve differences for the proposed joint use agreement (JUA). The JUA would permit the City to provide up to \$1 million of turf upgrades, and ongoing field maintenance at four school sites. In return, the District would permit City use of all District fields, gyms, multi-purpose rooms and at least one classroom at each school.

The City Manager, Parks and Community Services Director and BUSD Superintendent have met on several occasions since July 19<sup>th</sup>. All major issues, and all but a few known lesser issues, have been reviewed. Of the major issues, City and BUSD staff appear to be in agreement on nearly all of them.

Of the lesser issues (identified in memo from City Attorney dated July 12, 2005) all appear resolvable with 31 of 40 issues reviewed. City staff will submit recommendations to the Superintendent this week for addressing the last nine lesser issues.

All tentative agreements have been committed to writing in common language. District and City staff plan to review a complete package of tentative agreement in the next few days. Following confirmation of the tentative agreements, the City Attorney will incorporate the proposed amendments into the draft JUA for Council and Board action.

Staff has avoided in the memo, elaborating on tentative agreements to protect the integrity of negotiations between staff. To publicly discuss differences, of which there are few, may harden positions and make compromise more difficult.

The School/City Liaison Committee requested at their meeting on August 25<sup>th</sup> that a joint meeting of the Council and School Board be set prior to the end of September in anticipation that the draft JUA will be ready for adoption. Contract negotiations between the District and its maintenance personnel may preclude setting a date for a joint City Council/BUSD Board meeting at this time.