

**December 19, 2006  
BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
SPECIAL MEETING AGENDA**

**December 19, 2006**

**6:30 P.M.**

- **CALL TO ORDER:**
- **CONVENE OPEN SESSION:**
  - **ROLL CALL**
  - **PLEDGE OF ALLEGIANCE**
  - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **OPPORTUNITY FOR PUBLIC COMMENT:**
  - **WRITTEN**
  - **PUBLIC COMMENT**
- **PUBLIC HEARING:**
  - **Appeal of Rose Center Building Permit. (Community Development Director) Benicia Municipal Code Section 1.04.100 states, "Unless otherwise specially provided, a person aggrieved by an administrative action taken by any officer of the city under the code may appeal from the action to the city council." Citing that section, Mary Wika has appealed the October 27, 2006 issuance of a building permit for the Rose Center project.**

**Recommendation: Conduct a public hearing to receive testimony, and adopt a resolution denying the appeal on the basis that building permit approval is ministerial, not discretionary, and that all conditions necessary to allow building permit approval were met prior to such approval.**

- **ADJOURNMENT:**

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**BENICIA CITY COUNCIL  
CITY COUNCIL CHAMBERS  
REGULAR MEETING AGENDA**

**December 19, 2006**

**7:00 P.M.**

- **CALL TO ORDER:**
- **CLOSED SESSION:**
  - **NONE**
- **CONVENE OPEN SESSION:**
  - **ROLL CALL**
  - **PLEDGE OF ALLEGIANCE**
  - **REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**
- **ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:**
  - **ANNOUNCEMENTS:**
    - **Announcement of action taken at Closed Session, if any.**

- **Openings on Boards and Commissions:**  
People Using Resources Efficiently (PURE) Committee:  
-One immediate opening
    - **Open Government Commission:**  
-One unexpired term to November 30, 2009
    - **Historic Preservation Review Commission:**  
-Two full terms to February 28, 2011
  - **APPOINTMENTS:**
    - **Planning Commission:**  
Mike Ioakimedes - One unexpired term to October 7, 2007
    - **Open Government Commission:**  
Antoinette Foster - One unexpired term to November 30, 2007  
Robert Whitehead - One unexpired term to November 30, 2008
    - **Sky Valley Open Space Committee:**  
Dale Gilliam - One full term to September 30, 2010
  - **PRESENTATIONS:**
  - **PROCLAMATIONS:**
- **ADOPTION OF AGENDA:**
- **OPPORTUNITY FOR PUBLIC COMMENT:**
  - **WRITTEN**
  - **PUBLIC COMMENT**
- **CONSENT CALENDAR:**
  - **Approval of Minutes of December 5, 2006. (City Clerk)**
  - **Denial of the claim against the City by Tom and Nancy Clothier and referral to insurance carrier. (City Attorney)**  
The Clothiers submitted a claim for damage to their property as the result of the flooding caused by the heavy amount of rain on New Year's Eve. The total amount of the claim is \$14,257.00.

**Recommendation: Deny the claim against the City by Tom and Nancy Clothier.**

- **Introduction and first reading of an ordinance to make minor changes to Title 4 (Open Government). (City Attorney)**  
The Commission requested various changes to the Open Government Ordinance. The changes presented are proposed to cleanup the ordinance to ensure consistency with the Brown Act and to make other clarifications. There is no fiscal impact from these changes.

**Recommendation: Introduce a proposed ordinance amending various section of Title 4 (Open Government) of the Benicia Municipal Code as follows:**

- **The application to meetings with other local agencies (Section 4.08.040B);**
- **The voting requirement for urgent matters (Section 4.08.050D);**
- **Public comment by members of bodies (Section 4.08.090A);**
- **The time for council action on records requests**

- Section 4.12.080D); and  
Disclosure of economic conflicts by all bodies (Section 4.16.080A).
- Approval of a new City Emergency Operations Plan. (Fire Chief)

In response to new Federal and State guidelines on handling local emergencies and disasters, a new City Emergency Operating Plan (EOP) has been developed. It will replace the City's current EOP adopted in April of 2002. There are no significant changes in the new plan. The new EOP will be utilized in future training exercises and updated on an annual basis.

**Recommendation:** Adopt the resolution approving a new Emergency Operations Plan.

- Approval of change order for Marina Area Storm Drain Project. (Public Works Director)

The Marina Area Storm Drain project is under construction and it is necessary to approve \$114,020 of contract change orders needed to dispose of material excavated from the shoreline area and other minor modifications. An appropriation of \$64,020 from the General Fund Reserves is requested. The project is on schedule for completion early next year.

**Recommendation:** Adopt a resolution authorizing the Director of Public Works to execute, on behalf of the City, contract orders with Anderson Pacific Engineering Construction for the Marina Area Storm Drain project, affirming staff-authorized change orders and appropriating \$64,020 from the General Fund reserves for the project.

- Acceptance of the East H Street Overlay Project. (Public Works Director)

The East H Street Overlay Project resurfaced the street between East 5th Street and East 2nd Street and was completed at a total construction cost of \$160,228.85. Formal acceptance of this work by the City Council is now required to allow the final payment to be made to the contractor. Total project expenditures fell within the total project budget of \$161,000.

**Recommendation:** Adopt the resolution accepting the East H Street Overlay Project as complete, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file said notice with the Solano County Recorder.

- Acceptance of the East 5th Street Overlay Project. (Public Works Director)

The East 5th Street Overlay Project overlaid the street between Military East and I-780 west bound on/off ramps and was completed for a total construction cost of \$230,381.85. Formal acceptance of the work by the City Council is now required to allow the final payment be made to the contractor. Total project

expenditures fell within the total project budget of \$249,700.

**Recommendation:** Adopt a resolution accepting the East 5th Street Overlay Project as complete, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file said notice with the Solano County Recorder.

- Acceptance of the East 2nd Street Overlay Project. (Public Works Director)

The East 2nd Street Overlay Project overlaid the street between Riverhill Drive and East S Street and was completed for a total construction cost of \$364,168.95. Formal acceptance of the work by the City Council is now required to allow the final payment to be made to the contractor. Total project expenditures fell within the total project budget of \$379,700.

**Recommendation:** Adopt a resolution accepting the East 2nd Street Overlay Project as complete, authorizing the City Manager to sign the Notice of Completion, and authorizing the City Clerk to file said notice with the Solano County Recorder.

- Review of the investment report for the quarter ended September 2006.

The investment portfolio is in compliance with the City's Investment Policy and California Law. Additionally, the City has adequate investments to meet its expenditure needs for the next six months. The Audit and Finance Committee has reviewed these reports and recommends acceptance. There is no effect on the City's budget.

**Recommendation:** Accept, by motion, the investment report for the quarter ended September 2006.

- Approval of a lease with Bay Area Ship Services for Fifth Street Pier. (City Manager)

This three-year lease continues the contractual arrangement between the current tenant at the 5th Street Pier and the City. The lease rate will increase to \$2900 per month (from \$1865 per month now) for the first year, and the City maintains the ability to cancel the lease for any reason. The lease will result in \$34,800 in revenue for 2007, with Consumer Price Index increases in subsequent years.

**Recommendation:** Approve, by motion, the attached lease with Bay Area Ship Services for the company's continued use of the City-owned 5th Street Pier.

- Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.
- PUBLIC HEARINGS:
- ACTION ITEMS:

- **Introduction and first reading of an ordinance amending Chapter 1.28 (Voluntary Expenditure Limits for all Municipal Candidate Elections) to Title 1 (General Provisions) of the Benicia Municipal Code. (City Attorney)**

**At the November 18, 2006 City Council workshop, the City Council discussed three proposed campaign related ordinances, including the ordinance entitled "Voluntary Expenditure Limits for all Municipal Candidate Elections." The next step is the first reading of each of the three ordinances.**

**Recommendation: Introduce the proposed ordinance amending Chapter 1.28 (Voluntary Expenditure Limits for all Municipal Candidate Elections).**

- **Introduction and first reading of an ordinance adding a new Chapter 1.36 (Voluntary Code of Fair Campaign Practices) to Title 1 (General Provisions) of the Benicia Municipal Code. (City Attorney)**

**At the November 18, 2006 City Council workshop, the City Council discussed three proposed campaign related ordinances, including the ordinance entitled "Voluntary Code of Fair Campaign Practices." The next step is the first reading of each of the three ordinances.**

**Recommendation: Introduce the proposed ordinance adding a new Chapter 1.36 (Voluntary Code of Fair Campaign Practices).**

- **Introduction and first reading of an ordinance adding a new Chapter 1.40 (Clean Money Contributions and Reporting for all Municipal Elections) to Title 1 (General Provisions) of the Benicia Municipal Code. (City Attorney)**

**At the November 18, 2006 City Council workshop, the City Council discussed three proposed campaign related ordinances, including the ordinance entitled "Clean Money Contributions and Reporting for All Municipal Elections." The next step is the first reading of each of the three ordinances.**

**Recommendation: Introduce the proposed ordinance adding a new Chapter 1.40 (Clean Money Contributions and Reporting for all Municipal Elections).**

- **Review of Holiday Sign Appeal. (City Manager)**  
**John Woods is appealing City staff's denial of a request for an encroachment permit to place two signs that read "Merry Christmas Courtesy of John Woods" in City Park and at the end of First Street next to the City's "Happy Holidays" signs. Mr. Woods has also asked that his appeal be expanded to include the large banner sign in City Park and any other "Happy Holidays" signs installed at other locations within the city or that may be installed at any future time. This appeal was requested on December 8, 2006, after the City Council gave staff direction on this issue at the December 5, 2006 City Council special meeting.**

**Recommendation: Deny the appeal of John Woods to place his sign in City**

Park and at the end of First Street next to the City's signs and uphold the City policy of not permitting any unattended private signs on public, landscaped property.

- **INFORMATIONAL ITEMS:**

- Reports from City Manager.
- Council Member Committee Reports.

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

- **Mayors' Committee Meeting (Mayor Messina)**  
Next Meeting Date: December 20, 2006
- **Association of Bay Area Governments (ABAG) (Mayor Messina)**  
Next Meeting Date: January 18, 2007
- **Audit & Finance Committee (Vice Mayor Schwartzman and Council Member Hughes)**  
Next Meeting Date: January 5, 2007
- **League of California Cities (Mayor Messina)**  
Next Meeting Date: January 25, 2007
- **School District Liaison (Council Members Whitney and Hughes)**  
Next Meeting Date: January 18, 2007
- **Sky Valley Area Open Space (Council Members Patterson and Whitney)**  
Next Meeting Date: January 3, 2007
- **Solano EDC Board of Directors (Mayor Messina)**  
Next Meeting Date: December 21, 2006
- **Solano Transportation Authority (STA) (Mayor Messina)**  
Next Meeting Date: January 10, 2007
- **Solano Water Authority/Solano County Water Agency (Mayor Messina)**  
Next Meeting Date: January 11, 2007
- **Traffic, Pedestrian and Bicycle Safety Committee (Council Members Patterson and Hughes)**  
Next Meeting Date: January 18, 2007
- **Tri-City and County Regional Parks and Open Space (Council Member Whitney)**  
Next Meeting Date: February 21, 2007
- **Valero Community Advisory Panel (CAP) (Council Member Hughes)**  
Next Meeting Date: January 25, 2007
- **Youth Action Task Force (Vice Mayor Schwartzman and Council Member Whitney)**  
Next Meeting Date: January 24, 2007
- **ABAG/CAL FED Task Force/Bay Area Water Forum (Council Member Patterson)**  
Next Meeting Date: January 22, 2007

- **COMMENTS FROM COUNCIL MEMBERS:**

- **Consideration of whether an individual should be permitted to serve on more than one City board and/or commission. (Vice Mayor Schwartzman)**  
Vice Mayor Schwartzman has requested that the Council agendaize the issue of whether an individual should serve on more than one board and/or commission for a future Council meeting.

**Recommendation: Determine whether to agendaize for a future City Council meeting.**

- **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 agendaized and nonagendaized 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.**