

December 20, 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

CITY COUNCIL CHAMBERS

REGULAR MEETING AGENDA

December 20, 2005

Immediately following the Special Meeting, at approximately 9:00 P.M.

- I. CALL TO ORDER:
- II. CLOSED SESSION:
 - A. ANNOUNCEMENT OF ACTION TAKEN AT CLOSED SESSION, IF ANY
- 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:
 - B. APPOINTMENTS:
 1. [Appointment to the Planning Commission - One Unexpired Term](#)
 - Richard Bortolazzo
 2. [Appointment to the Parks, Recreation and Cemetery Commission - One Unexpired Term](#)
 - Rufus Bunch
 - C. PRESENTATIONS:
 - D. PROCLAMATIONS:
- V. ADOPTION OF AGENDA:
- VI. COMMUNICATIONS:
 - A. WRITTEN
 - B. PUBLIC COMMENT
- VII. CONSENT CALENDAR:
 - A. Approval of Minutes of December 6, 2005. (City Clerk)
 - B. Denial of claims against the City by Jeff and Kathy Valente, Cesar Cabezas, and Ashley Vazquez.
 1. [Jeff and Kathy Valente have submitted a claim for inconvenience and residential soiling due to the Inflow and Infiltration project. This claim was tendered to the contractor doing the work for the City. Although the contractor does not believe there was negligence on their part, they offered \\$250.00 as a compromise. The Valentés rejected the proposal and now demand their carpet be replaced. Since the claimant and the contractor have not been able to reach a compromise, it is](#)

- recommended this claim be denied to set the statute of limitations. There is not a total amount requested.
2. Mr. Cabezas claims that his vehicle was damaged when it was towed from where it was illegally parked. The City had the vehicle towed by Delta Towing during the 2005 Overlay/Slurry seal construction project. Delta Towing has advised the City that the dents in the vehicle were already there before it was towed. The City has advised Mr. Cabezas to contact the towing company directly. The amount of the claim is \$1,746.15.
 3. State Farm Insurance Company submitted a claim for their insured, Ashley Vazquez, for damages to a parked vehicle that they claim was sideswiped by a Benicia Transit bus. This claim has been tendered to MV Transportation, the contractor that operates the City's buses. The amount of the claim is \$1,559.16.

Recommendation: Deny the claims against the City by Jeff and Kathy Valente, Cesar Cabezas, and Ashley Vazquez.

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

D. PUBLIC HEARINGS:

E. UNFINISHED BUSINESS:

F. NEW BUSINESS:

- A. Authorization of a six month extension of the Letter Agreement with the Valero Refining Company pertaining to the Utility Users Tax - Continued from December 13, 2005 Special City Council Meeting. (Finance Director)

The ten year Letter Agreement with Valero pertaining to the Utility Users Tax is set to expire on December 31, 2005. The attached resolution authorizes a six month extension of the agreement to June 30, 2006 to allow the City and Valero more time to develop a new agreement. In addition to the extension, the resolution temporarily increases Valero's annual tax from \$1 million to \$1.2 million and the new agreement amount, if higher, will be retroactive to January 1, 2006. If the new agreement is not completed in six months, Valero would pay the 4% UUT retroactively to January 1, 2006. As an alternative, the City Council could allow the agreement to expire and Valero would immediately begin paying a 4% UUT effective January 1, 2006. However, the proposed interim agreement provides for this same outcome if a long-term agreement is not reached within six months, including retroactive payments to January 1, 2006.

Recommendation: Adopt the resolution authorizing the six-month extension of the Letter Agreement with the Valero Refining Company pertaining to the Utility Users Tax.

- B. Revisions to Rules of Procedure for the Conduct of City Council Meetings - Continued from December 13, 2005 Special City Council Meeting. (City Attorney)

Mayor Messina proposed revisions to the headings of the agendas and the process for appointments to boards and commissions. At the City Council's December 13, 2005 meeting, direction was given to staff to make additional changes including the time for public

comment and conforming changes to the Open Government Ordinance.

Recommendation: Adopt the resolution revising the Rules of Procedure for the Conduct at City Council Meetings.

- C. [First reading of an ordinance amending Section 2.04.010 \(Meeting Time and Place\) of Chapter 2.04 \(City Council\) of Title 2 \(Administration and Personnel\) of the Benicia Municipal Code - Continued from December 13, 2005 Special City Council Meeting.](#) (City Attorney)

The proposed revisions to Section 2.04.010 (Meeting Time and Place) by Mayor Messina amend the start time of City Council meetings from 7:30 p.m. to 7:00 p.m.

Recommendation: Introduce the amended ordinance and schedule the second reading for the next regular City Council meeting.

- D. [First reading of an ordinance amending Section 2.52.030 \(Members - Term of Office\) of Chapter 2.52 \(Planning Commission\) of Title 2 \(Administration and Personnel\) of the Benicia Municipal Code Continued from December 13, 2005 Special City Council Meeting.](#) (City Attorney)

The proposed revisions by Mayor Messina modify Section 2.52.030 (Members - Term of Office) for Planning Commissioners, allowing a member to serve until a successor is appointed and qualifies.

Recommendation: Introduce the amended ordinance and schedule the second reading for the next regular City Council meeting.

- E. [Reconsideration of the Open Government \(Sunshine\) Ordinance provisions regarding public comment on agendized items.](#) (City Attorney)

It is requested that the City Council reconsider the language regarding public comment on the agendized items in the Open Government (Sunshine) Ordinance.

Recommendation: Agendize this item for the January 3, 2006 City Council Meeting.

- F. REPORTS FROM CITY MANAGER:
- G. REPORTS FROM CITY COUNCIL COMMITTEES:
- H. ADJOURNMENT:

Public Participation

The Benicia City Council welcomes public participation.

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

the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

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

Disabled Access

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

Meeting Procedures

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

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

If you have difficulty accessing any of the City Council agenda items online, please contact Anne Cardwell in the City Manager's Office at (707)-746-4210 or acardwell@ci.benicia.ca.us

RESOLUTION NO. 05-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF RICHARD BORTOLAZZO TO
THE PLANNING COMMISSION TO AN UNEXPIRED TERM ENDING OCTOBER 7,
2006**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Richard Bortolazzo to the Planning 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 20th day of December, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

RESOLUTION NO. 05-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF RUFUS BUNCH TO THE PARKS,
RECREATION AND CEMETERY COMMISSION TO AN UNEXPIRED TERM
ENDING JANUARY 4, 2007**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Rufus Bunch 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 20th day of December, 2005 and adopted by the following vote:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
CONSENT CALENDAR**

DATE : December 12, 2005
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY JEFF AND KATHY VALENTE AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Jeff and Kathy Valente.

EXECUTIVE SUMMARY:

Jeff and Kathy Valente have submitted a claim for inconvenience and residential soiling due to the Inflow and Infiltration project. This claim was tendered to the contractor doing the work for the City. Although the contractor does not believe there was negligence on their part, they offered \$250.00 as a compromise. The Valentés rejected the proposal and now demand their carpet be replaced. Since the claimant and the contractor have not been able to reach a compromise, it is recommended this claim be denied to set the statute of limitations.

BUDGET INFORMATION:

There is not a total amount requested. The original claim listed bids and invoices totaling \$1,461.69, but also claimed inconvenience, noise, and residence and property soiling damages (which included carpet cleaning) with no dollar amount stipulated.

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

Attachment:

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

VII-B-1-1

ATTACHMENT

VII-B-1-2

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
CONSENT CALENDAR**

DATE : December 12, 2005
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY CESAR CABEZAS AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by Cesar Cabezas.

EXECUTIVE SUMMARY:

Mr. Cabezas claims that his vehicle was damaged when it was towed from where it was illegally parked. The City had the vehicle towed by Delta Towing during the 2005 Overlay/Slurry seal construction project. Delta Towing has advised the City that the dents in the vehicle were already there before it was towed. The City has advised Mr. Cabezas to contact the towing company directly.

BUDGET INFORMATION:

This claim is for \$1,746.15.

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.

Attachment:

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

ATTACHMENT

VII-B-2-2

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
CONSENT CALENDAR**

DATE : December 12, 2005
TO : City Council
FROM : City Attorney
SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY STATE FARM INSURANCE FOR ASHLEY VAZQUEZ/AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:

Deny the claim against the City by State Farm Insurance for Ashley Vazquez.

EXECUTIVE SUMMARY:

State Farm Insurance Company submitted a claim for their insured, Ashley Vazquez, for damages to a parked vehicle that they claim was sideswiped by a Benicia Transit bus. This claim has been tendered to MV Transportation, the contractor that operates the City's buses.

BUDGET INFORMATION:

This claim is for \$1,559.16.

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.

Attachment:

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

VII-B-3-1

ATTACHMENT

VII-B-3-2

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005

TO : City Manager

FROM : Finance Director

SUBJECT : **AUTHORIZATION OF A SIX MONTH EXTENSION
OF THE LETTER AGREEMENT WITH THE VALERO
REFINING COMPANY PERTAINING TO THE UTILITY
USERS TAX**

RECOMMENDATION:

Adopt the Resolution authorizing the six month extension of the Letter Agreement with the Valero Refining Company (Valero) pertaining to the Utility Users Tax (UUT).

EXECUTIVE SUMMARY:

The ten year Letter Agreement with Valero pertaining to the Utility Users Tax is set to expire on December 31, 2005. The attached resolution authorizes a six month extension of the agreement to June 30, 2006 to allow the City and Valero more time to develop a new agreement. In addition to the extension, the resolution temporarily increases Valero's annualized payment from \$1 million to \$1.2 million, under the condition that the amount will be adjusted retroactively to January 1, 2006 when the new agreement is approved. If the new agreement is not completed during the extension period, Valero will pay \$1.2 million for six months and then begin paying the 4% UUT on July 1, 2006.

BUDGET INFORMATION:

The City will receive an additional \$100,000 during the term of the six month extension. The current budget for FY 2005-06 is \$1.05 million, yielding an additional \$50,000 for the remaining six months of the fiscal year. Once the agreement is approved, the payment will be adjusted retroactively to January 1, 2006, leaving open the remote possibility of a payment less than the interim amount.

BACKGROUND:

In February 1996, the City Council authorized a ten year agreement with the Exxon Company to have them pay \$900,000 per year for the first five years and \$1 million per year for the next five in lieu of paying the 4% UUT. In June 2000, the Valero Refining Company inherited the agreement when they purchased the Refining and have been paying monthly since that time.

Staff began meeting with Valero representatives over the summer and developed several criteria that should be included in the next long-term agreement. The criteria included:

1. Annual adjustments linked to the Consumer Price Index or another suitable pricing index.
2. Consumption formulas should be considered to promote energy efficiency, guard against fluctuations in commodity prices, and encourage continued investment in plant and equipment.
3. Minimum and maximum payment limits should be established to protect both parties from market or consumption fluctuations.
4. Renegotiation clauses should be included to allow each party to reopen the agreement when specific events occur, such as plant expansion or contraction.

Armed with this information, staff and Chris Howe, Valero Manager of Community Relations and Governmental Affairs, began developing a new agreement. Unfortunately, we have not been able to complete the task prior to the expiration of the old agreement and Valero has requested that the City allow additional time in which to prepare the agreement. Staff is recommending an extension of six months in which to accomplish this goal.

During the interim six month period, Valero will begin paying the City \$100,000 per month. Once an agreement is reached, Valero will adjust their payments retroactively to January 1, 2006. If no agreement is reached prior to June 30, 2006 and the City has not agreed to further extensions, Valero would resort to paying the 4% UUT in accordance with the Ordinance on July 1, 2006. Using this approach, the City will not receive less than \$1.2 million for the next 6 months, unless the new agreement authorizes a smaller payment.

Valero Commitment Letter

The attached Letter Agreement from Valero contains the identical provisions recommended by staff in the attached resolution. The previous staff report identified two exceptions that have since been resolved.

An agreement benefits both the City and Valero. Each benefits by having predictable financial flows that are not subject to wide market fluctuations. Also, the long-term nature of the agreement allows for stability in long term planning and physical plant and equipment maintenance. For these reasons, staff recommends continued focus on developing the agreement.

As an alternative, the City Council could accept the expiration of the Letter Agreement and require Valero to begin paying the 4% UUT. Staff has made some preliminary estimates of the possible impact of this decision but is not ready to predict the change in our receipts at this time. There are also some outstanding issues relating to the metering of natural gas vs. co-generated electricity that need to be completed in order to determine the appropriate application of our UUT Ordinance.

Prior Letter Agreement and Ensuing Draft Agreement

In February 1996, the City Council approved the Letter Agreement that established the UUT payments for the following 10 years. Within the letter, a clause referenced that a new agreement would be drafted setting out the elements listed in the letter, as well as, other provisions that appeared to be part of the previous five year agreement. The management of Exxon drafted the referenced agreement in May of 1996 but it was not approved by the City. However, because it references several of the issues that will be considered in the new agreement, Valero has requested that it be included as an exhibit in this staff report.

Consumer Price Index (CPI) History

The following chart references changes in the CPI since the adoption of the Letter Agreement in 1996 and allows one to see what the payment would be today if it was tied to changes in the CPI. If the first payment of \$900,000 is increased in each of the succeeding 9 years, the total amount would be \$1,177,950. If the second payment amount of \$1 million is increased in each of the succeeding 4 years, the total amount would be \$1,068,984.

Consumer Price Index History				
Year	Annual CPI Factor	Annual CPI Percentage	Current Agreement First 5 Years	Current Agreement Last 5 Years
(1)	(2)	(3)	(4)	(5)
1996	155.1	2.31%	\$ 900,000	
1997	160.4	3.42%	\$ 930,754	
1998	165.5	3.18%	\$ 960,348	
1999	172.5	4.23%	\$ 1,000,967	
2000	180.2	4.46%	\$ 1,045,648	
2001	189.9	5.38%	\$ 1,101,934	\$ 1,000,000
2002	193.0	1.63%	\$ 1,119,923	\$ 1,016,324
2003	196.4	1.76%	\$ 1,139,652	\$ 1,034,229
2004	198.8	1.22%	\$ 1,153,578	\$ 1,046,867
2005 *	203.0	2.11%	\$ 1,177,950	\$ 1,068,984
* Thru August, 2005				
(1)	Calendar Year			
(2)	Annual Consumer Price Index			
(3)	Annual Percentage Change			
(4)	Current Agreement \$900,000 value inflated by CPI.			
(5)	Current Agreement \$1,000,000 value "inflated" by CPI.			

Attachments:

- ❑ [Resolution](#)
- ❑ [Extension Request from Valero Refining Company](#)
- ❑ [Copy of February 1996 Resolution and Letter Agreement](#)
- ❑ [Copy of May 31, 1996 Draft Agreement](#)

RESOLUTION

RESOLUTION NO. 05-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING A SIX MONTH EXTENSION OF THE LETTER AGREEMENT
PERTAINING TO THE UTILITY USERS TAX WITH THE VALERO REFINING
COMPANY**

WHEREAS, the City of Benicia seeks to secure a long-term revenue stream from payment of the Utility Users Tax by Valero Refining Company; and

WHEREAS, the City of Benicia and Valero Refining Company have previously agreed to a ten year Letter Agreement that is set to expire on December 31, 2005; and

WHEREAS, the City Council has considered a six month extension of the Letter Agreement to allow for the development of a new long-term agreement; and

WHEREAS, Valero Refining Company has agreed to pay \$100,000 per month from January 1, 2006 through June 30, 2006 and will adjust the payment retroactively to January 1, 2006 to the amount specified in the new agreement; and

WHEREAS, in the absence of a new agreement or further extensions of the Letter Agreement, Valero Refining Company has agreed to pay \$100,000 per month from January 1, 2006 through June 30, 2006 and adjust the payment beginning July 1, 2006 to the amount indicated by the application of the Utility Users Tax Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby authorizes the City Manager to approve a six month extension of the February 1996 Letter Agreement with the Valero Refining Company, provided that specific references are made to the aforementioned considerations.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 20th day of December 2005, and adopted by the following vote:

Ayes:
Noes:
Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005
TO : City Council
FROM : City Attorney
SUBJECT : **REVISIONS TO RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS**

RECOMMENDATION:

Adopt the resolution revising the Rules of Procedure for the Conduct of City Council Meetings.

EXECUTIVE SUMMARY:

Mayor Messina proposed revisions to the headings of the agendas and the process for appointments to boards and commissions. At the City Council's December 13, 2005 meeting, direction was given to staff to make additional changes including the time for public comment and conforming changes to the Open Government Ordinance. Please note that a revision to the Open Government Ordinance is required to limit general public comment to non-agendized items. The first step in changing the Open Government Ordinance is reconsideration of the ordinance. That is a separate agenda item. In the meantime, the Rules of Procedure have been drafted so that under general public comment ("Opportunity for Public Comment") speakers will have three minutes to speak on non-agendized items and five minutes to speak on agendized matters. While this conforms to the Council's direction and the Open Government Ordinance, it may not be the most practical. Until the Open Government Ordinance is amended it may be better to have the same time limit for public comments under Opportunity for Public Comment to avoid confusion.

Attachments:

- Draft Resolution
- Draft Resolution – Proposed changes highlighted

DRAFT RESOLUTION

RESOLUTION NO. 05-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING THE RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS

WHEREAS, the City Council of the City of Benicia desires to have all citizens fully participate in the proceedings of the City Council; and

WHEREAS, the City Council must consider many public matters which vitally affect the interest of the citizens of Benicia and it is both necessary and desirable that these meetings be regulated in order to permit the Council to give consideration and public discussion to the more important public issues; and

WHEREAS, it is the purpose of this resolution to provide for the orderly and expeditious conduct of Council meetings in a manner which will give adequate consideration and public discussion to all matters affecting the City; and

WHEREAS, Government Code Sections 36813 and 54954.3 give the City Council discretion to adopt reasonable regulations concerning the proceedings and order of business of City Council meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENICIA as follows:

Section 1. The City Council of the City of Benicia approves and adopts the Rules of Procedure attached hereto as Exhibit "A" and by this reference incorporated herein.

Section 2. This resolution shall supersede any and all Rules of Procedure previously adopted by the City Council.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 20th day of December, 2005, and adopted by the following vote:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

EXHIBIT A

CITY COUNCIL OF THE CITY OF BENICIA
RULES OF PROCEDURE

I. AGENDA

A. SECTIONS

The agenda shall consist of the following sections in order:

1. CALL TO ORDER
Announcement of Closed Session (If Any)
2. CLOSED SESSION (If Any)
3. CONVENE OPEN SESSION
Roll Call
Pledge of Allegiance
4. ANNOUNCEMENTS, APPOINTMENTS, PRESENTATIONS

This section includes announcements by the Mayor, appointments to City boards and commissions, and scheduled presentations. Presentations are limited to a maximum of ten minutes to allow the Council to have adequate time to address the agendized items of business.

5. ADOPTION OF AGENDA

The Council, by majority vote, shall adopt the agenda as final. Following such adoption, agenda items may not be added, removed or their order changed unless by the unanimous consent of the Council Members present at the time the agenda was adopted as final. All matters shall be considered by the Council in the order listed on the agenda adopted as final, to the extent of time available. Only matters on the agenda as adopted final or modified under this section may be considered. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meeting in accordance with Section 5.

6. OPPORTUNITY FOR PUBLIC COMMENT:

- (a) Written: All written communications suitable for the agenda, received since the preparation of the subject agenda, addressed to or intended for the City Council and not otherwise included in the agenda in a preceding section, shall be listed in this section in the order received.

(b) Public Comment: This section of the agenda is for members of the public to make comments to the City Council about agendized and non-agendized matters of general interest to the citizens of Benicia, provided, however, that:

(1) any item raised by a member of the public which is not agendized, but may require Council action, shall be automatically referred to the City Staff for investigation and disposition, unless the item requires action to be taken by the Council at the meeting during which it was raised and constitutes an emergency or the need to take such action arose after the posting of the agenda within the meaning of Government Code §54954.2(b). In either event the Council is entitled to discuss the matter before making the determination required under said Government Code provision, and if either finding is made, may take action thereon.

(2) in order to allow the Council to have adequate time to address the agendized items of business, public comment under Opportunity for Public Comment will be limited to three (3) minutes per speaker on non-agendized and agendized items.

(3) the Presiding Officer may allow up to 10 minutes for a speaker to speak on multiple agenda items under Opportunity for Public Comment.

(4) all public comments are also subject to the provisions of Section II below.

7. CONSENT CALENDAR

Items listed under the Consent Calendar are considered routine and will be enacted, approved or adopted by one (1) motion unless a request for removal for discussion or explanation is received from a Council Member, staff, or a member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

8. PUBLIC HEARINGS

This section of the agenda is for the City Council to conduct Public Hearings and to hear properly noticed appeals.

9. ACTION ITEMS

Items listed in this section are those which are likely to require discussion prior to Council action. Routine agenda items that are under \$50,000 and are already included in the budget may still be listed under the Consent Calendar.

10. INFORMATIONAL ITEMS

Items in this section may include status report on a variety of topics. For example, City Manager Reports are to be placed under this heading. Items listed in this section are typically for information only and may not require action.

11. COMMENTS FROM COUNCIL MEMBERS

This section contains reports from Council Members. It also provides an opportunity on the agenda for Council Members to make requests for future agenda items.

12. ADJOURNMENT

B. PREPARATION

1. The Mayor and the City Manager shall prepare an agenda for each meeting of the Council. Items to be included on the agenda must be submitted to the City Manager in writing by noon on the 7th working day preceding the regular meeting. Any Council Member may request that a new item be placed on the agenda. Items shall be placed on the agenda in their appropriate section with the item title specified by the requesting Council Member.

To place a review of a matter decided in the last year on a future agenda requires three affirmative votes.

2. Council Members may request the full City Council review a matter that has been decided in the last year by following the procedures set forth in 1.B.1 above. A brief write-up of the matter and date of last action must be included on the Request for Policy Consideration Form (Appendix A). The request for a review will be placed on the agenda in Section 11 as appropriate.
3. The City Manager will inform the Council and public of the tentative, upcoming issues on the next Council agenda on the afternoon of the 5th working day preceding the regular meeting.

4. The City Manager shall prepare and provide each Council Member and the City Attorney, an agenda packet not later than the Wednesday preceding each regular meeting. The City Manager shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to every person who has requested the same in writing during the preceding year, has provided stamped self-addressed envelopes and has paid the applicable fee. The agenda packet will be available for those persons so requesting at the time the agenda is posted or upon distribution to all, or a majority of, the Council Members upon payment of the applicable fee.
5. Staff support for requests from individual council members shall be limited to 15 minutes of staff time. Research, report writing, compilation of materials, etc. in excess of 15 minutes shall not be undertaken unless approved by a majority of the City Council.

II. PUBLIC PARTICIPATION

A. RECOGNITION

No person may address the Council without the permission of the Presiding Officer, or a majority of the quorum, or as otherwise required by law. Except as required by law, the Presiding Officer is obligated to recognize members of the Council and staff prior to opening up items for public discussion.

B. ADDRESSING THE COUNCIL

Those persons desiring to speak on an agenda item, on a Public Hearing agenda item, or under Opportunity for Public Comment are requested to, but not required to, complete a Speaker's Card and present it to the City Clerk at the beginning of the meeting or upon their arrival in the Council Chambers. The Presiding Officer shall recognize speakers on an agenda item when that item is before the City Council for consideration. The Presiding Officer shall recognize speakers on Public Hearing items at the Public Hearing. The Presiding Officer shall recognize speakers on matters under the Opportunity Public Comment portion of the agenda. Persons addressing the Council shall do so only at the speakers' rostrum and should begin by stating their name and address for the records. All remarks shall be addressed to the Council as a body and not to any member thereof, or to staff, or to the public. No person other than a member of the Council, the City Manager, or the City Attorney and the person having the floor, shall be permitted to enter into any discussion without the permission of the Presiding Officer.

C. LIMITS

Each speaker shall speak only once on an agenda item and limit his/her remarks to five (5) minutes when speaking at the time of the agendized item and three (3) minutes when speaking on non-agendized or agendized items under Opportunity for Public Comment, except as otherwise specifically provided for in these Rules or the Open Government Ordinance , or except as time is extended by the Presiding Officer with the consent of a majority of the Council. Each speaker shall avoid repetition of the remarks of prior speakers and speak only to the specific agenda item under consideration.

In accordance with the Open Government Ordinance, the Presiding Officer may request spokespersons be designated to represent similar views. The time limits and order for speaking shall be in accordance with the provisions for Spokespersons in III. C. below.

D. QUESTIONS

Following each speaker's remarks, each Council Member shall be given the opportunity to comment further and to address questions to the speaker. The speaker may not be permitted or required to answer such questions if a majority of Council Members present other than the questioner object.

III. HEARING PROCEDURES

A. A Public Hearing should not exceed one hour in length.

B. The procedures for Public Hearings are as follows:

1. Presentation by Staff.
2. Presentation by Proponents.
3. Presentation by Opponents.
4. Rebuttal by the Proponents.
5. The Presiding Officer shall recognize supplemental speakers as required by law or deemed appropriate to gather information relevant to the matter before the City Council. Supplemental speakers shall limit their remarks to presenting new information not already covered by other speakers, and must limit their presentation to five (5) minutes.
6. Following the public portion of the hearing, the Presiding Officer shall declare the public portion of the hearing closed and the matter is then before the City Council for the Council portion of the hearing. Each Council Member shall be given an opportunity to speak to the subject. When the Council discussion has been concluded, the Council shall make its decision.

- C. Spokespersons for the Proponent and Opponent shall each have fifteen (15) minutes to present their case. The spokesperson for the Proponent shall have five (5) minutes to present any rebuttal.

IV. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS

A. CITIZEN COMMITTEES, BOARDS AND COMMISSIONS

The Council may create committees, boards, and commissions to assist in the conduct of the operation of the City Government with such duties as the Council may specify, not inconsistent with the City Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

B. MEMBERSHIP AND SELECTIONS

1. Membership and selection of members shall be as provided by the Council if not specified by the City Code. The names of the proposed appointees shall be posted five (5) working days prior to the appointment being made.
2. For appointments to the Planning Commission or to a board or commission where state law provides for appointment by the Council as a whole, any Council member may nominate a person for appointment. The Council shall then vote on the nominee at the following Council meeting.

C. REMOVAL OF MEMBERS OF COMMITTEES, BOARDS & COMMISSIONS

The Council may remove any member of any committee, board or commission which it has created by an affirmative vote of at least four (4) members of the Council, if removal is not specified in the City Code.

V. RULES OF ORDER

A. QUORUM

Three Council Members shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings of the Board. If a quorum is not present within one hour after the time noticed for commencement of the meeting and thereafter any Council Member who was present at the end of such hour leaves and does not return, no meeting shall be held on that date notwithstanding the later presence of three (3) or more Council Members.

B. RIGHT TO THE FLOOR

A Council Member shall not have the right to the floor without being recognized by the Presiding Officer, except upon a point of order.

C. ORDINANCES, RESOLUTIONS, AND MOTIONS --- PRECEDENTS

When any ordinance, resolution, or motion is properly brought before the Council and seconded by another Council Member, no other action shall be considered except a point of order, or a motion to adjourn, to table, to table to a time certain, to close debate, to refer or to amend. Such items shall have precedence in the order stated in the preceding sentence. Points of order shall be ruled upon by the Presiding Officer, provided that such ruling may be overridden by a majority of the Council. All of such motions, except motions to amend, shall be put to a vote without debate and decided by a majority. Any of the foregoing motions shall be in order at anytime the speaker is duly recognized, except when repeated without intervening business or discussion, or if made when the motion to close debate has been adopted or while a vote is being taken.

1. MOTION TO TABLE

If a motion to table without time certain passes, consideration of the matter may be resumed only upon the motion of a member voting with the majority on the motion to table.

2. MOTION TO CLOSE DEBATE

When a motion to close debate is duly made and seconded, there shall be no further debate. If the question carries, the Presiding Officer shall put pending amendments to a vote, without debate, in the inverse order of their introduction before putting the main question. If the question is decided negatively, the main question and its amendments remain before the Council.

3. RECONSIDERATION

Providing that no intervening rights shall be prejudiced, any Council Member who voted with the majority on a question may move the reconsideration of that question at the same meeting in which the original decision was made or at the next following meeting. After a motion for reconsideration has been acted upon, no other similar motion shall be made without unanimous consent.

4. VOTING

Unless otherwise required by applicable law, three affirmative votes are required to enact an ordinance, to adopt a resolution, or to adopt a motion granting a franchise or authorizing the payment or expenditure of money or incurring of a debt. The majority of a quorum is required to adopt other motions, unless otherwise required by applicable law. A "majority" refers to a majority of the quorum present. All ordinances, resolutions and appointments shall be adopted by a roll call vote. All other matters may be referred to a voice vote unless a roll call is requested by any Council Member. On all matters for which a voice vote is authorized, the Presiding Officer may ask for, "objections to the question". If no objection is expressed, the Presiding Officer shall, "so order" and the minutes shall record a unanimous vote in favor. If any Council Member objects to the procedure, a roll call vote shall be called in the normal manner.

D. ADJOURNMENT

It is the desire of the City Council to adjourn their meetings by 11 p.m. Therefore, no new business will be taken up by the Council after 11 p.m. unless the City Council adopts a motion to continue. The remaining items will be placed on the next regularly scheduled Council meeting in the appropriate section of the agenda, unless the City Council calls for a special meeting to consider one or more of the continued items.

E. DIVISION OF THE QUESTION

If a matter properly put before the Council contains two or more separable propositions, the Presiding Officer shall, with the consent of one other Council Member, divide the question into its separable parts for consideration in order.

APPENDIX A

REQUEST FOR POLICY CONSIDERATION

Requested by: _____

Council Meeting Date: _____

Problem/Issue/Idea Name: _____

Description of Problem/Issue/Idea _____

COUNCIL DIRECTION

No Further Action

Refer to: Staff _____
Commission _____
Board _____
Committee _____

Date Due: _____

DRAFT RESOLUTION – WITH CHANGES

RESOLUTION NO. 05-_____ 05-149

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING THE RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS

WHEREAS, the City Council of the City of Benicia desires to have all citizens fully participate in the proceedings of the City Council; and

WHEREAS, the City Council must consider many public matters which vitally affect the interest of the citizens of Benicia and it is both necessary and desirable that these meetings be regulated in order to permit the Council to give consideration and public discussion to the more important public issues; and

WHEREAS, it is the purpose of this resolution to provide for the orderly and expeditious conduct of Council meetings in a manner which will give adequate consideration and public discussion to all matters affecting the City; and

WHEREAS, Government Code Sections 36813 and 54954.3 give the City Council discretion to adopt reasonable regulations concerning the proceedings and order of business of City Council meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENICIA as follows:

Section 1. The City Council of the City of Benicia approves and adopts the Rules of Procedure attached hereto as Exhibit "A" and by this reference incorporated herein.

Section 2. This resolution shall supersede any and all Rules of Procedure previously adopted by the City Council.

~~Section 3.—This resolution shall be effective only upon the effective date of the ordinance amending the Benicia Municipal Code regarding appointments of Planning Commissioners (Ordinance No. 05-8 Amending Section 2.52.010 (Establishment - membership), Section 2.52.020 (Members - qualifications), and Section 2.52.030 (members term of office) of Chapter 2.52 (Planning Commission) of Title 2 (Administration and personnel) of the Benicia Municipal Code.)~~

~~*****~~

On motion of Council Member . ~~Vice Mayor Patterson,~~ seconded by Council Member .
Smith, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 20th ~~6th~~ day of December. ~~September,~~ 2005, and adopted by the following vote:

Ayes:

~~Council Members Campbell, Patterson and Smith~~

Noes:

~~Council Member Whitney and Mayor Messina~~

Absent:

~~None~~

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

EXHIBIT A

CITY COUNCIL OF THE CITY OF BENICIA
RULES OF PROCEDURE

I. AGENDA

A. SECTIONS

The agenda shall consist of the following sections in order:

1. CALL TO ORDER
Announcement of Closed Session (If Any)
2. CLOSED SESSION (If Any)
3. CONVENE OPEN SESSION
Roll Call
Pledge of Allegiance
4. ANNOUNCEMENTS, APPOINTMENTS, PRESENTATIONS

[This section includes announcements by the Mayor, appointments to City boards and commissions, and scheduled presentations. Presentations are limited to a maximum of ten minutes to allow the Council to have adequate time to address the agendized items of business.](#)

5. ADOPTION OF AGENDA

The Council, by majority vote, shall adopt the agenda as final. Following such adoption, agenda items may not be added, removed or their order changed unless by the unanimous consent of the Council Members present at the time the agenda was adopted as final. All matters shall be considered by the Council in the order listed on the agenda adopted as final, to the extent of time available. Only matters on the agenda as adopted final or modified under this section may be considered. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meeting in accordance with [Section 5.](#)
~~the foregoing policies.~~

6. [OPPORTUNITY FOR PUBLIC COMMENT:](#)~~COMMUNICATIONS:~~

- (a) Written: All written communications suitable for the agenda, received since the preparation of the subject agenda, addressed to or intended for the City Council and

not otherwise included in the agenda in a preceding section, shall be listed in this section in the order received.

- (b) Public Comment: This section of the agenda is for members of the public to make comments to the City Council about agendized and non-agendized matters of general interest to the citizens of Benicia, provided, however, that:

(1) any item raised by a member of the public which is not agendized, but may require Council action, shall be automatically referred to the City Staff for investigation and disposition, unless the item requires action to be taken by the Council at the meeting during which it was raised and constitutes an emergency or the need to take such action arose after the posting of the agenda within the meaning of Government Code §54954.2(b). In either event the Council is entitled to discuss the matter before making the determination required under said Government Code provision, and if either finding is made, may take action thereon.

(2) in order to allow the Council to have adequate time to address the agendized items of business, public comment under Opportunity for Public Comment will be limited to three (3) minutes per speaker on non-agendized and agendized items. ~~(2) all public comments are also subject to the provisions of Section II below.~~

(3) the Presiding Officer may allow up to 10 minutes for a speaker to speak on multiple agenda items under Opportunity for Public Comment.

(4) all public comments are also subject to the provisions of Section II below.

7. CONSENT CALENDAR

Items listed under the Consent Calendar are considered routine and will be enacted, approved or adopted by one (1) motion unless a request for removal for discussion or explanation is received from a Council Member, staff, or a member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

8. PUBLIC HEARINGS

This section of the agenda is for the City Council to conduct Public Hearings and to hear properly noticed appeals.

9. ACTION ITEMS

Items listed in this section are those which are likely to require discussion prior to Council action.9. — Routine agenda items that are under \$50,000 and are already included in the budget may still be listed under the Consent Calendar.~~UNFINISHED BUSINESS~~

10. INFORMATIONAL ITEMS

~~NEW BUSINESS~~

Items in this section may include status report on a variety of topics.For example, City Manager Reports are to be placed under this heading.Items listed in this section are typically for information only and may not require action.

11. COMMENTS ~~REPORTS~~ FROM COUNCIL MEMBERS ~~CITY~~ ~~MANAGER~~

This section contains reports from Council Members.It also provides an opportunity on the agenda for Council Members to make requests for future agenda items.

12. ~~REPORTS FROM CITY COUNCIL COMMITTEES~~

~~13. — ADJOURNMENT~~

B. PREPARATION

1. The Mayor and the City Manager shall prepare an agenda for each meeting of the Council. Items to be included on the agenda must be submitted to the City Manager in writing by noon on the 7th working day preceding the regular meeting. Any Council Member may request that a new item be placed on the agenda. Items shall be placed on the agenda in their appropriate section with the item title specified by the requesting Council Member.

To place a review of a matter decided in the last year on a future agenda requires three affirmative votes.

2. Council Members may request the full City Council review a matter that has been decided in the last year by following the procedures set forth in 1.B.1 above. A brief write-up of the matter and date of last action must be included on the Request for Policy Consideration Form (Appendix A). The request for a review will be placed on the agenda in [Section 11 as appropriate](#).~~SECTION 10. NEW BUSINESS.~~
3. The City Manager will inform the Council and public of the tentative, upcoming issues on the next Council agenda on the afternoon of the 5th working day preceding the regular meeting.
4. The City Manager shall prepare and provide each Council Member and the City Attorney, an agenda packet not later than the ~~Wednesday~~ [Friday](#) preceding each regular meeting. The City Manager shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to every person who has requested the same in writing during the preceding year, has provided stamped self-addressed envelopes and has paid the applicable fee. The agenda packet will be available for those persons so requesting at the time the agenda is posted or upon distribution to all, or a majority of, the Council Members upon payment of the applicable fee.
5. [Staff support for requests from individual council members shall be limited to 15 minutes of staff time. Research, report writing, compilation of materials, etc. in excess of 15 minutes shall not be undertaken unless approved by a majority of the City Council.](#)

II. PUBLIC PARTICIPATION

A. RECOGNITION

No person may address the Council without the permission of the Presiding Officer, or a majority of the quorum, or as otherwise required by law. Except as required by law, the Presiding Officer is obligated to recognize members of the Council and staff prior to opening up items for public discussion.

B. ADDRESSING THE COUNCIL

Those persons desiring to speak on an agenda item, on a Public Hearing agenda item, or under [Opportunity for Public Comment](#) ~~are requested to, but not required to, should~~ complete a Speaker's Card and present it to the City Clerk at the beginning of the meeting or upon their arrival in the Council Chambers. The Presiding Officer shall recognize speakers on an agenda item when that item is before the City Council for consideration. The Presiding Officer shall recognize

speakers on Public Hearing items at the Public Hearing. The Presiding Officer shall recognize speakers on ~~non-agendized~~ matters under the Opportunity Public Comment portion of the agenda. Persons addressing the Council shall do so only at the speakers' rostrum and should begin by stating their name and address for the records. All remarks shall be addressed to the Council as a body and not to any member thereof, or to staff, or to the public. No person other than a member of the Council, the City Manager, or the City Attorney and the person having the floor, shall be permitted to enter into any discussion without the permission of the Presiding Officer.

C. LIMITS

Each speaker shall speak only once on an agenda item and limit his/her remarks to five (5) minutes when speaking at the time of the agendized item and three (3) minutes when speaking on non-agendized or agendized items under Opportunity for Public Comment, minutes, except as otherwise specifically provided for in these Rules or the Open Government Ordinance , Rules, or except as time is extended by the Presiding Officer with the consent of a majority of the Council. Each speaker shall avoid repetition of the remarks of prior speakers and speak only to the specific agenda item under consideration.

In accordance with the Open Government Ordinance, the Presiding Officer may request spokespersons be designated to represent similar views. The time limits and order for speaking shall be in accordance with the provisions for Spokespersons in III.C. below.

D. QUESTIONS

Following each speaker's remarks, each Council Member shall be given the opportunity to comment further and to address questions to the speaker. The speaker may not be permitted or required to answer such questions if a majority of Council Members present other than the questioner object.

III. HEARING PROCEDURES

A. A Public Hearing should not exceed one hour in length.

B. The procedures for Public Hearings are as follows:

1. Presentation by Staff.
2. Presentation by Proponents.
3. Presentation by Opponents.
4. Rebuttal by the Proponents.

5. The Presiding Officer shall recognize supplemental speakers as required by law or deemed appropriate to gather information relevant to the matter before the City Council. Supplemental speakers shall limit their remarks to presenting new information not already covered by other speakers, and must limit their presentation to five (5) minutes.
 6. Following the public portion of the hearing, the Presiding Officer shall declare the public portion of the hearing closed and the matter is then before the City Council for the Council portion of the hearing. Each Council Member shall be given an opportunity to speak to the subject. When the Council discussion has been concluded, the Council shall make its decision.
- C. Spokespersons for the Proponent and Opponent shall each have fifteen (15) minutes to present their case. The spokesperson for the Proponent shall have five (5) minutes to present any rebuttal.

IV. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS

A. CITIZEN COMMITTEES, BOARDS AND COMMISSIONS

The Council may create committees, boards, and commissions to assist in the conduct of the operation of the City Government with such duties as the Council may specify, not inconsistent with the City Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

B. MEMBERSHIP AND SELECTIONS

1. Membership and selection of members shall be as provided by the Council if not specified by the City Code. The names of the proposed appointees shall be posted five (5) working days prior to the appointment being made.
2. ~~Except for appointments to the Planning Commission or to a board or commission where state law provides for appointment by the Council as a whole, the Vice Mayor shall review applications for appointments and provide advice to the Mayor. The Mayor, when making the appointment, shall note if Mayor disagreed with the advice of the Vice Mayor.~~
- ~~3.—~~ For appointments to the Planning Commission or to a board or commission where state law provides for appointment by the Council as a whole, any Council member may nominate a person for appointment. The Council shall then vote on the nominee at the following Council meeting.

C. REMOVAL OF MEMBERS OF COMMITTEES, BOARDS & COMMISSIONS

The Council may remove any member of any committee, board or commission which it has created by an affirmative vote of at least four (4) members of the Council, if removal is not specified in the City Code.

V. RULES OF ORDER

A. QUORUM

Three Council Members shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings of the Board. If a quorum is not present within one hour after the time noticed for commencement of the meeting and thereafter any Council Member who was present at the end of such hour leaves and does not return, no meeting shall be held on that date notwithstanding the later presence of three (3) or more Council Members.

B. RIGHT TO THE FLOOR

A Council Member shall not have the right to the floor without being recognized by the Presiding Officer, except upon a point of order.

C. ORDINANCES, RESOLUTIONS, AND MOTIONS --- PRECEDENTS

When any ordinance, resolution, or motion is properly brought before the Council and seconded by another Council Member, no other action shall be considered except a point of order, or a motion to adjourn, to table, to table to a time certain, to close debate, to refer or to amend. Such items shall have precedence in the order stated in the preceding sentence. Points of order shall be ruled upon by the Presiding Officer, provided that such ruling may be overridden by a majority of the Council. All of such motions, except motions to amend, shall be put to a vote without debate and decided by a majority. Any of the foregoing motions shall be in order at anytime the speaker is duly recognized, except when repeated without intervening business or discussion, or if made when the motion to close debate has been adopted or while a vote is being taken.

1. MOTION TO TABLE

If a motion to table without time certain passes, consideration of the matter may be resumed only upon the motion of a member voting with the majority on the motion to table.

2. MOTION TO CLOSE DEBATE

When a motion to close debate is duly made and seconded, there shall be no further debate. If the question carries, the Presiding Officer shall put pending amendments to a vote, without debate, in the inverse order of their introduction before putting the main question. If the question is decided negatively, the main question and its amendments remain before the Council.

3. RECONSIDERATION

Providing that no intervening rights shall be prejudiced, any Council Member who voted with the majority on a question may move the reconsideration of that question at the same meeting in which the original decision was made or at the next following meeting. After a motion for reconsideration has been acted upon, no other similar motion shall be made without unanimous consent.

4. VOTING

Unless otherwise required by applicable law, three affirmative votes are required to enact an ordinance, to adopt a resolution, or to adopt a motion granting a franchise or authorizing the payment or expenditure of money or incurring of a debt. The majority of a quorum is required to adopt other motions, unless otherwise required by applicable law. A "majority" refers to a majority of the quorum present. All ordinances, resolutions and appointments shall be adopted by a roll call vote. All other matters may be referred to a voice vote unless a roll call is requested by any Council Member. On all matters for which a voice vote is authorized, the Presiding Officer may ask for, "objections to the question". If no objection is expressed, the Presiding Officer shall, "so order" and the minutes shall record a unanimous vote in favor. If any Council Member objects to the procedure, a roll call vote shall be called in the normal manner.

D. ADJOURNMENT

It is the desire of the City Council to adjourn their meetings by ~~11:30~~ 11:30 p.m. Therefore, no new business will be taken up by the Council after ~~11:30~~ 11:30 p.m. unless the City Council adopts a motion to continue. The remaining items will be placed on the next regularly scheduled Council meeting ~~in at~~ the appropriate

section beginning of the unfinished portion of the agenda, unless the City Council calls for a special meeting to consider one or more of the continued items.

E. DIVISION OF THE QUESTION

If a matter properly put before the Council contains two or more separable propositions, the Presiding Officer shall, with the consent of one other Council Member, divide the question into its separable parts for consideration in order.

APPENDIX A

REQUEST FOR POLICY CONSIDERATION

Requested by: _____

Council Meeting Date: _____

Problem/Issue/Idea Name: _____

Description of Problem/Issue/Idea _____

COUNCIL DIRECTION

No Further Action

Refer to: Staff _____
 Commission _____
 Board _____
 Committee _____

Date Due: _____

Report	Change-Pro Document Comparison done on 12/14/2005 2:30:45 PM
Render Name:	Default
Original Filename:	F:\agendaitems\2005\September 06, 2005\City Attorney\Council Rules 2005 final .doc
Original DMS:	
Modified Filename:	F:\agendaitems\2005\December 20, 2005\City Attorney\Heather council rules dec 2005 122005.doc
Modified DMS:	
Add:	85
Delete:	39
Move From:	0
Move To:	0
Total Changes:	124
Table Insert:	
Table Delete:	

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005

TO : City Council

FROM : City Attorney

SUBJECT : **PROPOSED ORDINANCE AMENDING SECTION 2.04.010
(MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY
COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL)
OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

Introduce the amended ordinance and schedule the second reading for the next regular City Council Meeting.

EXECUTIVE SUMMARY:

Mayor Messina requested the Council change the start time of Council meetings at the December 13, 2005 meeting. Council directed staff to change the time to 7:00 p.m. The proposed revisions to Section 2.04.010 (Meeting Time and Place) by Mayor Messina amend the start time of City Council meetings from 7:30 p.m. to 7:00 p.m.

Attachment:

- Draft Ordinance

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 2.04.010 (MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Section 2.04.010 (Meeting time and place) of Chapter 2.04 (City Council) of Title 2 (Administration and Personnel) of the Benicia Municipal Code is amended to read as follows:

The regular meeting of the city council shall be held the first and third Tuesdays of each month at the hour of 7:00 p.m. The place of the regular meeting is the Council Chambers, City Hall, 250 East L Street, Benicia, California.

Section 2.

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

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

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the day of December, 2005, and adopted at a regular meeting of the Council held on the day of _____, 2005, by the following votes:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005

TO : City Council

FROM : City Attorney

SUBJECT : **PROPOSED ORDINANCE AMENDING SECTION 2.04.010
(MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY
COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL)
OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

Introduce the amended ordinance and schedule the second reading for the next regular City Council Meeting.

EXECUTIVE SUMMARY:

Mayor Messina requested the Council change the start time of Council meetings at the December 13, 2005 meeting. Council directed staff to change the time to 7:00 p.m. The proposed revisions to Section 2.04.010 (Meeting Time and Place) by Mayor Messina amend the start time of City Council meetings from 7:30 p.m. to 7:00 p.m.

Attachment:

- Draft Ordinance

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 2.04.010 (MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Section 2.04.010 (Meeting time and place) of Chapter 2.04 (City Council) of Title 2 (Administration and Personnel) of the Benicia Municipal Code is amended to read as follows:

The regular meeting of the city council shall be held the first and third Tuesdays of each month at the hour of 7:00 p.m. The place of the regular meeting is the Council Chambers, City Hall, 250 East L Street, Benicia, California.

Section 2.

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

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

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the day of December, 2005, and adopted at a regular meeting of the Council held on the day of _____, 2005, by the following votes:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005

TO : City Council

FROM : City Attorney

SUBJECT : **PROPOSED ORDINANCE AMENDING SECTION 2.52.030
(MEMBERS – TERM OF OFFICE) OF CHAPTER 2.52
(PLANNING COMMISSION) OF TITLE 2 (ADMINISTRATION
AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:

Introduce the amended ordinance and schedule the second reading for the next regular City Council Meeting.

EXECUTIVE SUMMARY:

Mayor Messina requested the Council change the Term of Office for Planning Commissioners at the December 13, 2005 meeting. Council directed staff to change the revision to limit the term of office and allow a member to serve until a successor is appointed and qualifies. The proposed revisions to Section 2.52.030 (Members – Term of Office) for Planning Commissioners allow a member to serve until a successor is appointed and qualifies, as well as, keep the term limit.

Attachment:

- Draft Ordinance

DRAFT ORDINANCE

CITY OF BENICIA

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 2.52.030 (MEMBERS – TERM OF OFFICE) OF CHAPTER 2.52 (PLANNING COMMISSION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

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

Section 1.

Section 2.52.030 (Members – Term of Office) of Chapter 2.52 (Planning Commission) of Title 2 (Administration and Personnel) of the Benicia Municipal Code is amended to read as follows:

The term of office of each member is four years. No member may serve more than two consecutive terms. Each member serves until his successor is appointed and qualifies.

Section 2.

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

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

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the day of December, 2005, and adopted at a regular meeting of the Council held on the day of _____, 2005, by the following votes:

Ayes:

Noes:

Absent:

Steve Messina, Mayor

Attest:

Lisa Wolfe, City Clerk

**AGENDA ITEM
CITY COUNCIL MEETING: DECEMBER 20, 2005
NEW BUSINESS**

DATE : December 14, 2005

TO : City Council

FROM : City Attorney

SUBJECT : **RECONSIDERATION OF THE OPEN GOVERNMENT PROVISIONS REGARDING PUBLIC COMMENT ON AGENDIZED ITEMS DURING THE GENERAL PUBLIC COMMENT SECTION**

RECOMMENDATION:

Agendize this item for the January 3, 2006 City Council Meeting.

EXECUTIVE SUMMARY:

It is requested that the City Council reconsider the language regarding public comment on agendized items in the Open Government (Sunshine) Ordinance. The Open Government Ordinance requires the Council to allow public comment on agendized and non-agendized items during the general public comment section of the agenda. The Council requested changes to the Rules of Procedure that would limit speakers during public comment to non-agendized items.

BACKGROUND:

At the December 13, 2005 City Council meeting, members of the City Council requested changes to the Rules of Procedure regarding public comment. After much discussion, the Council wanted to have a three-minute time limit on general public comment and a five-minute time limit on comments by the public during agendized items. In order to implement this change, the Open Government Ordinance will have to be amended. Currently, the Open Government Ordinance requires City bodies to hear, during the general public comment section of agendas, comments from the public on non-agendized items as well as agendized items.

The Open Government Ordinance was adopted this summer. Thus, in accordance with the City Council's current Rules of Procedure, three members of the Council must direct staff to do the work necessary to bring this item to the Council for action. If the Council so directs, an ordinance amendment could be brought to you at your January 3, 2005 City Council meeting.

Attachment:

- Reconsideration Request

RECONSIDERATION REQUEST

APPENDIX A

REQUEST FOR POLICY CONSIDERATION

Requested by: Mayor Messina

Council Meeting Date: 12/20/05

Problem/Issue/Idea Name: Reconsideration of the Open Government (Sunshine) Ordinance provisions regarding public comment on agendized items.

Description of Problem/Issue/Idea:

It is requested that the City Council reconsider the language regarding public comment on the agendized items in the Open Government (Sunshine) Ordinance on the January 3, 2006 agenda.

COUNCIL DIRECTION

No Further Action

Refer to: Staff _____
 Commission _____
 Board _____
 Committee _____

Date Due: _____