



**BENICIA CITY COUNCIL
CITY COUNCIL MEETING AGENDA**

**Benicia City Hall, 250 East L Street
October 15, 2019
7:00 PM**

Call To Order

1. Closed Session (5:30 P.M.)

1.A - CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):

Number of potential cases: 1

1.B - CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Name of case: APS West Coast dba Amports v. City of Benicia etal. regarding Yuba or 678 East H Street

2. Convene Open Session (7:00 P.M.)

3. Roll Call

4. Pledge Of Allegiance

5. Reference To The Fundamental Rights Of The Public

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

6. Announcements

6.A - ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY

6.B - MAYOR'S OFFICE HOURS

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's office of City Hall from 6:00 to 6:30 p.m. during the month of October. No appointment is necessary. Other meeting times may be scheduled through City Hall by calling 707-746-4200.

7. Proclamations

7.A - NATIONAL FRIENDS OF LIBRARIES WEEK

[Proclamation - National Friends of Libraries Week](#)

7.B - 50TH ANNIVERSARY OF THE BENICIA REFINERY OPERATING IN THE CITY OF BENICIA

[Proclamation - Benicia Refinery 50th Anniversary](#)

8. Appointments

8.A - MAYOR'S APPOINTMENT OF MICHELLE FERNANDEZ TO THE COMMUNITY SUSTAINABILITY COMMISSION, STUDENT COMMISSIONER FOR A FULL STUDENT TERM ENDING JULY 31, 2020.

[1. Resolution - Fernandez](#)

8.B - MAYOR'S APPOINTMENT OF GABRIELLE MALTE TO THE PARKS, RECREATION AND CEMETERY COMMISSION, STUDENT COMMISSIONER FOR A FULL STUDENT TERM ENDING JULY 31, 2020.

[1. Resolution - Malte](#)

8.C - MAYOR'S APPOINTMENT OF BRANDON MARSHALL TO THE BUILDING BOARD OF APPEALS FOR A FULL TERM ENDING JULY 31, 2023.

[1. Resolution - Marshall](#)

8.D - MAYOR'S APPOINTMENT OF DANNY CRUMPTON TO THE ECONOMIC DEVELOPMENT BOARD FOR A FULL TERM ENDING JULY 31, 2023.

[1. Resolution - Crumpton](#)

8.E - MAYOR'S APPOINTMENT OF CHRISTOPHER KERZ TO THE ECONOMIC DEVELOPMENT BOARD FOR A FULL TERM ENDING JULY 31, 2023.

[1. Resolution - Kerz](#)

8.F - MAYOR'S REAPPOINTMENT OF CAROLYN CADLONI TO THE LIBRARY BOARD OF TRUSTEES FOR A FULL TERM ENDING JULY 31, 2022.

[1. Resolution - Cadloni](#)

8.G - MAYOR'S REAPPOINTMENT FOR JUDITH BOYLE TO THE LIBRARY BOARD OF TRUSTEES FOR A FULL TERM ENDING JULY 31, 2022.

[1. Resolution - Boyle](#)

9. Presentations

None

10. Adoption Of Agenda

11. Opportunity For Public Comments

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

12. Written Comment

13. Public Comment

14. Consent Calendar

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

14.A - APPROVAL OF CITY COUNCIL MINUTES FROM AUGUST 27, 2019; SEPTEMBER 17, 2019; SEPTEMBER 24, 2019; AND OCTOBER 1, 2019 (City Clerk)

Approve the minutes.

[August 27, 2019 Economic Development-City Council Workshop Minutes](#)

[September 17, 2019 City Council Meeting Minutes](#)

[September 24, 2019 Study Session Minutes](#)

[October 1, 2019 City Council Meeting Minutes](#)

14.B - DENIAL OF THE CLAIM AGAINST THE CITY BY BRANON PETERSON AND REFERRAL TO INSURANCE CARRIER (City Attorney)

The claimant alleges that the main sewer backed up at the home's district cleanout, at 567 East K St., causing it to blow off the pressure cap and spill raw sewage into their yard.

Recommendation:

Deny the claim against the City by Branon Peterson and refer to insurance carrier.

[Staff Report - Peterson Claim](#)

[1. Redacted Claim Form – Peterson Claim](#)

14.C - VALERO GOOD NEIGHBOR STEERING COMMITTEE SETTLEMENT AGREEMENT GRANT CLOSE OUT SUMMARY (Interim Community Development Director)

Eighteen grants were awarded through the Valero Good Neighbor Steering Committee Settlement Agreement. Each grant awarded had the goal of implementing Benicia's Climate Action Plan and finding ways to reduce water usage, energy, and greenhouse gas emissions. Of the eighteen grants, all but two are now closed and all funds have been expended.

Recommendation:

Receive this close out summary for the Valero Good Neighbor Steering Committee Settlement Agreement grants.

[Staff Report- Valero Good Neighbor Steering Committee Settlement Agreement Grant Close Out Summary](#)

[1. Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary](#)

14.D - AUTHORIZE A BUDGET INCREASE OF \$100,000.00 TO THE POLICE DEPARTMENT'S FISCAL YEAR 19-20 EQUIPMENT REPLACEMENT FUND FOR PURCHASE OF NEW DISPATCH CONSOLES, BACK-UP POWER BATTERIES, AND CARPET FOR THE DEPARTMENT'S COMMUNICATIONS CENTER (Police Chief)

The Benicia Police Department Communication Center houses four (4) dispatch consoles that direct police, fire, and medical response. The furniture was purchased thirteen (13) years ago with an operational lifespan of ten (10) years. The new dispatch console's configuration and size would require the purchase of four (4) new back-up power batteries for the Communications Center. Additionally, the flooring has sustained wear and tear over the years. The purchase of the new dispatch consoles, batteries and flooring will not exceed \$95,086.00.

Recommendation:

Adopt a resolution (Attachment 1) authorizing a budget increase to the Police Department's Fiscal Year 19-20 Equipment Replacement Fund (6355000-7410) of \$100,000.00 to purchase new dispatch consoles, back-up power batteries, and carpet for the Communication Center and authorize the Police Chief to sign the purchase orders for the purchase.

[Staff Report - Dispatch Console Purchase](#)

[1. Resolution - Dispatch Console Purchase](#)

14.E - AWARD OF CONSTRUCTION CONTRACT WITH MIKSIS SERVICES, INC. FOR THE BAYSHORE ROAD / EAST J AND K STREETS SEWER IMPROVEMENT PROJECT (Public Works Director)

The Bayshore Road/ East J and K Streets Sewer Improvement Project has been identified in the City's rate-payer funded Capital Improvement Program and is a critical element in maintaining the City's aging sewer infrastructure. Construction bids were solicited and Miksis Services, Inc. submitted the lowest responsive and responsible bid for this project.

Recommendation:

Adopt the resolution (Attachment 1) accepting the bid for the Bayshore Road / East J and K Streets Sewer Improvement Project, awarding the construction contract (Attachment 2) to Miksis Services, Inc. of Healdsburg, CA, in the amount of \$753,559.50, and authorizing the City Manager to sign the contract and any change orders on behalf of the City, subject to the City Attorney's approval, up to \$828,915.45, which includes a 10% contingency of \$75,355.95.

[Staff Report - Bayshore Rd.- East J & K Streets Sewer Improvement Project](#)

[1. Resolution - Bayshore Rd.- East J & K Streets Sewer Improvement Project](#)

[2. Construction Contract - Bayshore Rd.- East J & K Streets Sewer Improvement Project](#)

14.F - AUTHORIZATION FOR SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF BENICIA IS ELIGIBLE (Public Works Director)

This action allows the City Manager, or designee, to execute applications for grant programs (grants) through CalRecycle on behalf of the City for all grants in which the City of Benicia is eligible.

Recommendation:

Adopt a resolution (Attachment 1) that authorizes the submittal of application(s) for grants made available through CalRecycle in which the City is eligible.

[Staff Report - CalRecycle Grant Authorization](#)

[1. Resolution - CalRecycle Grant Authorization](#)

14.G - APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA MIDDLE MANAGEMENT GROUP (Assistant City Manager)

The City's contract with the Mid-Managers expired on June 30, 2019. The City has reached a tentative agreement on a two-year successor agreement with the Mid-Managers and they have ratified their agreement.

Recommendation:

Adopt the resolution (Attachment 1) approving the October 1, 2019 to June 30, 2021 agreement between City and the Mid-Managers (Attachment 2).

[Staff Report - Mid-Manager Agreement](#)

[1. Resolution - Mid-Manager Agreement](#)

[2. Exhibit A - Mid Managers Agreement 10-1-19 to 6-30-2021](#)

14.H - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)

15. Business Items

15.A - CITY PARK GAZEBO REPLACEMENT AS PUBLIC ART PROJECT (Director of Library and Cultural Services)

In December 2018, Councilmember Steve Young presented a two-step request for the Council to consider converting the City Park Gazebo repair project into a public art project. Council agreed to agendize a discussion, and staff is returning at this time with information to assist the Council's discussion.

Recommendation:

Staff is recommending not proceeding with replacing the existing gazebo with a public art project, but rather, proceeding on the path previously chosen for repair work on the gazebo.

[Staff Report - City Park Gazebo Replacement as Public Art Project](#)

[1. Depictions of the Benicia Gazebo in Art, Publicity and Photography](#)

[2. Sample Public Art RFP](#)

15.B - INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 17.32 AND 17.84 OF THE BENICIA MUNICIPAL CODE PERTAINING TO CANNABIS DELIVERY-ONLY AND MICROBUSINESS USES (PUBLIC HEARING) (Interim Community Development Director)

The proposed project would amend Benicia Municipal Code Chapter 17.84 (Cannabis) to establish a license category for delivery-only cannabis operations and remove the limitation on the number of microbusinesses. Corresponding amendments would be made to Chapter 17.32 (Industrial Districts) of the Benicia Municipal Code in order to allow delivery-only uses with the approval of a use permit in the Limited Industrial (IL), General Industrial (IG), Waterfront Industrial (IW) and Industrial Park (IP) Districts. The proposed project would also increase the amount of cash and/or cannabis that delivery drivers may carry to \$5,000.

The proposed amendments are initiated pursuant to direction by the City Council on September 3, 2019. The Planning Commission recommended approval of the proposed amendments following a public hearing on October 2, 2019.

Recommendation:

Move to waive the first reading and introduce an ordinance (Attachment 1) of the City Council amending Chapter 17.84 (Cannabis Regulations) of the Benicia Municipal Code and find the ordinance exempt under the California Environmental Quality Act.

[Staff Report - Cannabis Delivery and Microbusiness Amendments](#)

[1. Draft Ordinance - Cannabis Delivery and Microbusiness Amendments](#)

[2. Planning Commission Minutes, August 14, 2019](#)

[3. Excerpt City Council Minutes, September 3, 2019](#)

[4. Draft Planning Commission Minutes, October 2, 2019](#)

[5. PC Resolution No. 19-8](#)

15.C - AMENDMENT TO MASTER FEE SCHEDULE FOR 2019-20 (Finance Director)

An updated master fee schedule for the Police Department and Library is presented to the Council for adoption. On August 20, 2019, the City Council adopted an ordinance changing the procedures and regulation of massage businesses. The new process requires the establishment of a new fee that accurately reflects the amount of resources required to review and issue a Massage Registration Certificate. In addition, prior fees for massage permits can be eliminated. For the Library, the fee for a

fax was inadvertently reduced to the amount of the scan fee. The fee for a fax should have remained at \$1 a page with a max of \$25.

Recommendation:

Adopt a resolution (Attachment 1) amending the Master Fee Schedule (Attachment 2) for the Police Department and Library, effective November 18, 2019, that incorporates the Massage Registration Certificate, eliminates prior permit fees for massage, and corrects the Library's faxing fee.

[Staff Report - Amendment to Master Fee Schedule for 2019-20](#)

[1. Resolution - Amendment to Master Fee Schedule for 2019-20](#)

[2. Proposed Master Fee Schedule for Police and Library](#)

16. Council Member Committee Reports

16.A - COUNCIL MEMBER COMMITTEE REPORTS

[Committee Reports](#)

17. Adjournment (10:00 P.M.)

Public Participation

The Benicia City Council and its Boards and Commissions welcome public participation.

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

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

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Alan Shear, the ADA Coordinator, at (707) 746-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

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

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the

City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

Contact Your Council Members

If you would like to contact the Mayor or a Council Member, please call the number listed below to leave a voicemail message.

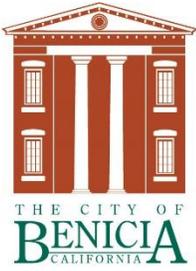
Mayor Patterson: 746-4213

Vice Mayor Strawbridge: 746-4213

Council Member Campbell: 746-4213

Council Member Young: 746-4213

Council Member Largaespada: 746-4213



PROCLAMATION

IN RECOGNITION OF

National Friends of Libraries Week Honoring the Friends of the Benicia Public Library

WHEREAS, The Friends of the Benicia Public Library raise money that enables our library to move from good to great—providing the resources for books and other library materials, additional programming, much needed equipment, support for children’s summer reading, and special events throughout the year; and

WHEREAS, the work of the Friends highlights on an on-going basis the fact that our library is the cornerstone of the community, providing opportunities for all to engage in the joy of life-long learning and connecting with the thoughts and ideas of others from ages past to the present; and

WHEREAS, the Friends understand the critical importance of well-funded libraries and advocate to ensure that our library gets the resources it needs to provide a wide variety of services to all ages, including access to print and electronic materials, along with expert assistance in research, readers’ advisory, and children’s services; and

WHEREAS, the Friends’ gift of their time and commitment to the library sets an example for all in how volunteerism leads to positive civic engagement and the betterment of our community.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia and on behalf of the City Council of the City of Benicia, hereby proclaim October 20-26, 2019, as “Friends of Libraries Week” in Benicia, and urge everyone to join the Friends of the Benicia Library and thank them for all they do to make our library and community so much better.



Elizabeth Patterson, Mayor
October 15, 2019



PROCLAMATION

IN RECOGNITION OF

The 50th Anniversary of the Benicia Refinery Operating in the City of Benicia

WHEREAS, in 1965, representatives from the City of Benicia convinced M.A. Wright, Chairman of the Board for Humble Oil & Refining Company, to build their California refinery in the City of Benicia, instead of on land located in Moss Landing, Monterey County; and

WHEREAS, in 1968, the Refinery paid construction costs for a 36-inch pipeline from a pumping plant station in Cordelia to Benicia. This pipeline project provided stable and reliable water for Benicia residents and businesses; and

WHEREAS, on October 3, 1969, the Benicia Refinery was dedicated by the Honorable Ronald Reagan, Governor, State of California and M.A. Wright, Chairman of the Board for Humble Oil & Refining Company. The dedication highlighted the economic and industrial strength of refining in the state of California and continued the prosperity for the Benicia community; and

WHEREAS, in 1973, the ownership of the refinery transferred from Humble Oil & Refining Company to ExxonMobil; and

WHEREAS, in the year 2000, the Valero Energy Corporation acquired the refinery from ExxonMobil; and

WHEREAS, in the almost 20 years that has followed, the Valero Benicia Refinery has established a foundation of environmental responsibility, safety, and community service, while manufacturing transportation fuels and other products indispensable to everyday life; and

WHEREAS, the Valero Benicia Refinery has invested more than \$1.6 billion in infrastructure upgrades as a demonstration of its commitment to the environment and safety in and around the community; and

WHEREAS, the Valero Benicia Refinery received the California/OSHA Voluntary Protection Program Star Site designation – OSHA's highest safety certification for exceptional safety practices and procedures in the workplace; and



WHEREAS, the Valero Benicia Refinery and its employees are vital members of the Benicia and Solano County community, contributing more than 2,000 volunteer hours each year to local non-profit organizations and the Benicia Unified School District; and

WHEREAS, the Valero Benicia Refinery has donated more than \$16 million to local charities between 2004-2019, funding programs for the economically disadvantaged, science, technology, engineering, arts and math (STEAM) programs, environmental stewardship programs, and more; and

WHEREAS, today, the Valero Benicia Refinery employs more than 450 men and women, many of whom live in the City of Benicia, and creates and supports more than 3,900 additional jobs through its suppliers and partners in the City of Benicia and the greater Bay Area.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia, and on behalf of the City Council of the City of Benicia, recognize the positive impact the Benicia Refinery, now known as the Valero Benicia Refinery, has had on the City of Benicia, and join with them as they celebrate their 50th anniversary.

Elizabeth Patterson, Mayor
October 15, 2019

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR’S APPOINTMENT OF MICHELLE FERNANDEZ TO
THE COMMUNITY SUSTAINABILITY COMMISSION FOR A FULL-STUDENT
TERM ENDING JULY 31, 2020**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Michelle Fernandez to the Community Sustainability Commission by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF GABRIELLE MALTE TO THE
PARKS, RECREATION AND CEMETERY COMMUNITY FOR A FULL-STUDENT
TERM ENDING JULY 31, 2020**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Gabrielle Malte to the Parks, Recreation and Cemetery Commission by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR’S APPOINTMENT OF BRANDON MARSHALL TO THE
BUILDING BOARD OF APPEALS FOR A FULL-TERM ENDING JULY 31, 2023**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Brandon Marshall to the Building Board of Appeals by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S APPOINTMENT OF DANNY CRUMPTON TO THE
ECONOMIC DEVELOPMENT BOARD FOR A FULL-TERM ENDING JULY 31, 2023**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Danny Crumpton to the Economic Development Board by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR’S APPOINTMENT OF CHRISTOPHER KERZ TO THE
ECONOMIC DEVELOPMENT BOARD FOR A FULL-TERM ENDING JULY 31, 2023**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Christopher Kerz to the Economic Development Board by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF CAROLYN CADLONI TO
THE LIBRARY BOARD OF TRUSTEES FOR A FULL-TERM ENDING JULY 31, 2022**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Carolyn Cadloni to the Library Board of Trustees by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CONFIRMING THE MAYOR'S REAPPOINTMENT OF JUDITH BOYLE TO THE
LIBRARY BOARD OF TRUSTEES FOR A FULL-TERM ENDING JULY 31, 2022**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Judith Boyle to the Library Board of Trustees by Mayor Patterson is hereby confirmed.

* * * * *

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
ECONOMIC DEVELOPMENT WORKSHOP
AUGUST 27, 2019
6:00 PM

City of Benicia Public Library, 150 East L Street, Benicia, CA. 94510

CALL TO ORDER (6:00 PM)

Mayor Patterson called the Workshop to order at 6:00 p.m.

1) ROLL CALL

All Council Members were present.

2) PLEDGE OF ALLEGIANCE

3) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

4) OPPORTUNITY FOR PUBLIC COMMENTS

5) WRITTEN COMMENT

None

6) PUBLIC COMMENT

1. Will Emes - Mr. Emes discussed various campaign issues.
2. Citizen – the citizen thanked staff for having a platform to have a discussion on the Arsenal.

7) BUSINESS ITEMS:

7.A – ECONOMIC DEVELOPMENT WORKSHOP

Everyone in the room introduced themselves.

Mario Giuliani, Economic Development Manager, reviewed a PowerPoint presentation.

Council, Staff, and the public received the presentation and discussed various economic development strategies. They discussed the possibility of hosting food truck events and other possible ideas for economic development.

Council requested Staff have a representative from Solano EDC and other groups at the next meeting. Council requested the rankings of the ideas and possibilities.

8) ADJOURNMENT (11:00 P.M.)

Mayor Patterson adjourned the meeting at 8:27 p.m.

DRAFT

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 17, 2019
7:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

CALL TO ORDER

Mayor Patterson called the Closed Session to order at 6:00 p.m.

All Council Members were present.

1) **CLOSED SESSION (6:00 P.M.)**

1.A - CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Name of case: APS West Coast dba Amports v. City of Benicia etal. regarding Yuba
or 678 East H Street

1.B - CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54757.6
Agency designated representatives: City Manager, Assistant City Manager, Human
Resources Manager
Employee Organizations: Benicia Fire Fighters Association, Middle Management
Employees, Senior Management Employees, and Unrepresented
Employees

2) **CONVENE OPEN SESSION (7:00 P.M.)**

Mayor Patterson called the Open Session to order at 7:01 p.m.

3) **ROLL CALL**

All Council Members were present.

4) **PLEDGE OF ALLEGIANCE**

Naveed Ashraf led the Pledge of Allegiance.

5) **REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC**

6) **ANNOUNCEMENTS**

DRAFT

6.A - ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY

No reportable actions taken during Closed Session.

6.B - MAYOR'S OFFICE HOURS

6.C - OPENINGS ON BOARDS AND COMMISSIONS

7) PROCLAMATIONS

7.A - NATIONAL SUICIDE PREVENTION WEEK 2019

Proclamation - National Suicide Prevention Week 

7.B - NATIONAL DRIVE ELECTRIC WEEK

Proclamation - National Drive Electric Week 

8) APPOINTMENTS

9) PRESENTATIONS

9.A - UPDATE TO CITY'S WEBSITE

10) ADOPTION OF AGENDA

Lorie Tinfow, City Manager, stated there was a typo on page 217. Revised copies were given to Council and the public.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the Adoption of the Agenda, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

11) OPPORTUNITY FOR PUBLIC COMMENTS

12) WRITTEN COMMENT

Three items received (copies on file).

13) PUBLIC COMMENT

1. Claudia Claverie - Ms. Claverie discussed a Senate Bill recently passed regarding family childcare businesses.
2. Will Emes - Mr. Emes discussed the death of Dr. London, a Benicia resident.

DRAFT

3. Council Member Campbell - Council Member Campbell read an email from the Soroptimists of Benicia requesting the use of a piece of City property for a domestic violence house.

14) CONSENT CALENDAR

14.A - SEPTEMBER 3, 2019 CITY COUNCIL MINUTES (City Clerk)

[September 3 2019 City Council Meeting Minutes](#) 

14.B - UPDATE TO ORDINANCE ESTABLISHING A LIBRARY BOARD OF TRUSTEES (Director of Library and Cultural Services)

[Staff Report - Ordinance Amendment - Library Board of Trustees](#) 

[1. Ordinance Amendment - Library Board of Trustees](#) 

[2. Municipal Code 2.64 Board of Library Trustees](#) 

ORDINANCE 19- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE ADOPTION OF AN ORDINANCE AMENDMENT TO BENICIA MUNICIPAL CODE CHAPTER 2.64 BOARD OF LIBRARY TRUSTEES

14.C - JAMES LEMOS SWIM CENTER BOILER REPLACEMENT PROJECT (Parks and Community Services Director)

[Staff Report - James Lemos Swim Center Boiler Replacement Project](#) 

[1. Resolution - James Lemos Swim Center Boiler Replacement Project](#) 

RESOLUTION 19-87 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY MANAGER TO SIGN A PURCHASE ORDER WITH KNORR SYSTEMS, INC. FOR THE JAMES LEMOS SWIM CENTER BOILER REPLACEMENT PROJECT

Mayor Patterson and Staff discussed the issue of why a fossil fuel boiler was being proposed rather than a more green approach, and the efficiency of the proposed boiler.

Public Comment:

1. Mary Frances Kelly Poh - Ms. Kelly Poh discussed the possibility of using solar panels to augment the electricity used at the pool.

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the adoption of Resolution 19-87, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

DRAFT

14.D - SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 17.84 OF THE BENICIA MUNICIPAL CODE PERTAINING TO RETAIL CANNABIS OPERATIONS (PUBLIC HEARING), AFTER A DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA (Interim Community Development Director)

Staff Report - Cannabis Retail 

1. Ordinance Amending Title 17 - Cannabis Retail 

ORDINANCE 19-9 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.84 (CANNABIS REGULATIONS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE, AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Council Member Young pulled this item so he could vote against it.

Public Comment:

None

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the adoption of Ordinance 19-9, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge

Noes: Council Member Young, Mayor Patterson

14.E - PROPOSITION 68 PER CAPITA FUNDING (Parks and Community Services Director)

Staff Report - Proposition 68 Per Capita Funding 

1. Resolution - Proposition 68 Per Capita Program 

RESOLUTION 19-81 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING APPLICATION FOR PER CAPITA GRANT FUNDS

14.F - CONTRACT WITH BENICIA UNIFIED SCHOOL DISTRICT FOR ADULT LITERACY SERVICES GRANT (Director of Library and Cultural Services)

Staff Report - BUSD Contract for Literacy Services 2019- 2020 

1. Resolution - BUSD Grant 

2. Contract - BUSD Grant 

RESOLUTION 19-82 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY TO ENTER INTO A

DRAFT

CONTRACT WITH THE BENICIA UNIFIED SCHOOL DISTRICT FOR SUPPLEMENTAL ADULT LITERACY SERVICES AND TO ACCEPT GRANT FUNDING UP TO \$33,000 TO PROVIDE THESE SERVICES DURING FY 19-20

14.G - ACCEPT CALIFORNIA STATE LIBRARY LITERACY SERVICES GRANT (Director of Library and Cultural Services)

Staff Report - State Library Literacy Services Grant 
1. Resolution - State Library Literacy Services Grant 

RESOLUTION 19-83 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE ACCEPTANCE OF A BASELINE CALIFORNIA LIBRARY LITERACY SERVICES GRANT OF \$18,000 FOR FISCAL YEAR 2019-20 AND AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE LIBRARY'S STATE FUNDED LITERACY ACCOUNT

14.H - APPROVAL OF AGREEMENT AMENDMENT WITH INDEPENDENT CODE CONSULTANTS, INC. FOR PLAN REVIEW SERVICES FOR CIVIL, BUILDING, AND SAFETY (Interim Community Development Director)

Staff Report - Agreement Amendment with Independent Code Consultants, Inc 
1. Resolution - Agreement Amendment with Independent Code Consultants, Inc 
2. Agreement Amendment with Independent Code Consultants, Inc. 
2a. Scope of Work - Independent Code Consultants, Inc. 

RESOLUTION 19-84 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AGREEMENT AMENDMENT WITH INDEPENDENT CODE CONSULTANTS, INC. FOR BUILDING, SAFETY, AND CIVIL PLAN REVIEW SERVICES

14.I - APPROVAL OF AGREEMENT AMENDMENT WITH INTERWEST CONSULTING GROUP FOR BUILDING INSPECTION SERVICES (Interim Community Development Director)

Staff Report- Agreement Amendment with Interwest Consulting Group 
1. Resolution - Agreement Amendment with Interwest Consulting Group 
2. Agreement Amendment with Interwest Consulting Group 
2a. Scope of Work - Interwest Consulting Group 

RESOLUTION 19-85 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AMENDMENT TO THE AGREEMENT WITH INTERWEST CONSULTING GROUP FOR BUILDING INSPECTION SERVICES AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT ON BEHALF OF THE CITY

DRAFT

14.J - APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA FIREFIGHTER’S ASSOCIATION (Human Resources Manager)

Staff Report - BFA 

1. Resolution - BFA 

2. Exhibit A - BFA MOU 9-1-2019 to 6-30-2021 

RESOLUTION 19-86 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BENICIA AND THE BENICIA FIREFIGHTER’S ASSOCIATION

14.K - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)

Council pulled items 14.C and 14.D for discussion.

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the Consent Calendar, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

15) BUSINESS ITEMS

15.A - TWO-STEP REQUEST FOR CANNABIS DISPENSARY ADVISORY MEASURE (City Manager)

Staff Report - 2-Step-Cannabis Dispensary Advisory Measure 

1. Two Step Request, Councilmember Tom Campbell 

Council Member Campbell reviewed his request to discuss this item at a future City Council meeting.

Mayor Patterson asked that Staff clarify the process if this were to go on a future agenda.

Council Member Largaespada spoke in support of bringing this forward for a future discussion. He supported giving residents a voice in stating whether they wanted retail in a residential area.

Council Member Young spoke in support of bringing this forward for a future discussion. He was not sure an advisory vote would be sufficient.

Public Comment:

DRAFT

None

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved placing this item on a future agenda for discussion, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

**15.B - FUNDING OPTIONS FOR STREET AND ROADWAY REPAIRS
(Assistant City Manager)**

Staff Report - Funding Options for Street and Roadway Repairs 

1. Resolution Authorizing Commencement of Financing for Certificates of Participation 

RESOLUTION 19-88 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE COMMENCEMENT OF PROCEEDINGS IN CONNECTION WITH THE ISSUANCE OF LEASE REVENUE BONDS OR CERTIFICATES OF PARTICIPATION TO FINANCE INFRASTRUCTURE IMPROVEMENTS THROUGHOUT THE GEOGRAPHIC BOUNDARIES OF THE CITY, RETAINING A MUNICIPAL ADVISOR, BOND COUNSEL AND DISCLOSURE COUNSEL AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

Alan Shear, Assistant City Manager, reviewed the staff report.

Council Member Campbell and Staff discussed how a half cent sales tax would cover the cost of road repairs, Measure C funds, and using multiple sources for funding.

Council Member Largaespada and Staff discussed the COP and the financing of a COP.

Council Member Young and Staff discussed how other cities were addressing their road repairs, the availability of contractors and supplies, how long it would take to spend the \$20 million (approximately 3 years), and the need to put a sales tax measure before the public.

Mayor Patterson clarified that a sales tax measure could not specify what the funds would be specifically used for. Council could do a resolution stating what they would use the funds for.

Vice Mayor Strawbridge discussed using more Measure C funds in the next few years, support for a 1/2 cent sales tax, and the COP's that were done for the solar projects.

Mayor Patterson and Staff discussed concern regarding changing how Measure C funds are used, how to maintain newly restored roads, financing the COP, doing a citywide

DRAFT

assessment, dislike for a sales tax approach because its regressive, and support for doing the COP.

Public Comment:

1. Mark Pressman, Wulff, Hansen & Company - Mr. Pressman discussed various funding options.

Mr. Pressman and Council discussed the issue of assessment districts, COP's, and General Obligation (GO) bonds.

Council Member Campbell and Staff discussed the possibility of having some of the bids for the street repairs be dual city bids with Vallejo.

Council Member Largaespada stated he was not currently in support of a GO bond or a COP. He discussed support for taking a sales tax measure to the voters, and support for using Measure C money for the street repairs.

Council Member Largaespada made a motion to approve going with the sales tax recommendation, which was seconded by Council Member Young. The motion passed with a 4/1 vote.

Council Member Young and Staff discussed the possibility to work closer with Vallejo with regards to using their equipment/resources in some form. He suggested amending the motion to include a 3/4 cent sales tax instead of a 1/2 cent sales tax. Council Member Largaespada stated that he would prefer to keep his motion as-is, and have a separate motion to address the amount of tax to be considered.

Vice Mayor Strawbridge discussed the need to hire a professional company to assist the City in getting the message out about the proposed sales tax.

Council Member Campbell discussed support for doing a bond, COP, and a sales tax, along with using some of the Measure C funds.

Council Member Young made a motion to go with a 1 cent sales tax increase, which was seconded by Council Member Largaespada. The motion failed with a 2/3 vote.

Council Member Campbell made a motion to go with a 1/2 cent sales tax. The motion died as there was no second. Council Member Campbell withdrew his motion.

Council Member Young made a motion to go with a 3/4 cent sales tax, which was seconded by Council Member Largaespada. The motion passed with a 3/2 vote.

Council Member Campbell made a motion for a \$10 million COP, and have the COP's debt service is from Measure C sales tax.

DRAFT

Mayor Patterson suggested modifying the motion to link the sales tax rate that just passed for the COP. The issue was with Measure C.

Ben Stock, City Attorney, clarified that the sales tax could not be designated specifically for anything - as it would become a special tax.

Mayor Patterson clarified that she was speaking conceptually. She clarified that the resolution would list multiple ideas, so that would not be an issue.

Council Member Campbell withdrew his motion.

Council Member Campbell made a motion for a \$10 million COP. Mayor Patterson seconded the motion. The motion failed with a 2/3 vote.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved going with the sales tax recommendation, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young
Noes: Mayor Patterson

On motion of Council Member Young, seconded by Council Member Largaespada, Council denied going with a 1% sales tax increase, on a roll call by the following vote:

Ayes: Council Member Largaespada, Council Member Young
Noes: Council Member Campbell, Vice Mayor Strawbridge, Mayor Patterson

On motion of Council Member Young, seconded by Council Member Largaespada, Council approved going with a 3/4 cent sales tax, on a roll call by the following vote:

Ayes: Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young
Noes: Council Member Campbell, Mayor Patterson

On motion of Council Member Campbell, seconded by Mayor Patterson, Council denied going with a \$10 million Certificate of Participation (COP), on a roll call by the following vote:

Ayes: Council Member Campbell, Mayor Patterson
Noes: Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young

15.C - APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF BENICIA AND SENIOR MANAGEMENT (City Manager)

Staff Report - Senior Managers 

1. Resolution - Senior Managers 

2. Exhibit A – Senior Management Agreement 9-1-19 to 6-30-21 

DRAFT

RESOLUTION 19-89 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE AGREEMENT BETWEEN THE CITY OF BENICIA AND THE BENICIA SENIOR MANAGERS

Public Comment:

None

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the adoption of Resolution 19-89, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

16) COUNCIL MEMBER COMMITTEE REPORTS:

16.A - COUNCIL MEMBER COMMITTEE REPORTS

[Committee Reports](#) 

17) ADJOURNMENT (10:00 P.M.)

Mayor Patterson adjourned the meeting at 9:54 p.m.

DRAFT

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
STUDY SESSION
SEPTEMBER 24, 2019
6:00 PM

City Council Chambers, City Hall, 250 East L Street

CALL TO ORDER (6:00 P.M.)

Mayor Patterson called the meeting to order at 6:00 p.m.

1) ROLL CALL

All Council Members were present.

2) PLEDGE OF ALLEGIANCE

3) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

4) ADOPTION OF AGENDA

On motion of Council Member Young, seconded by Vice Mayor Strawbridge, Council approved Adoption of the Agenda, as presented, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

5) OPPORTUNITY FOR PUBLIC COMMENTS

6) WRITTEN COMMENT

One item received (copy on file).

7) PUBLIC COMMENT

1. Council Member Campbell - Council Member Campbell discussed the possibility of the City doing a rainbow crosswalk.

8) WORKSHOP

8.A - LANDSCAPE & LIGHTING ASSESSMENT DISTRICT UPDATE (Public Works Director)

DRAFT

Staff Report - Landscape and Lighting Assessment District Update

Will Tarbox, Public Works Director, introduced the Landscaping & Lighting Assessment District Update.

Dennis Klingelhofer, PE, Vice President, Harris & Associates, and Rick Clark, Senior Project Manager, Harris & Associates, reviewed a PowerPoint presentation titled 'City of Benicia - Current LLAD Update & Discussion' (copy on file).

Council and Staff discussed clarifying questions regarding the presentation.

Mayor Patterson asked Council to focus on what policies would need to be considered if any of the options were chosen.

Council Member Campbell stated he was only interested in Option 1 (citywide assessment). He discussed the need to have the costs associated with doing such an assessment. Once that is done, it needs to be presented to the public.

Mayor Patterson discussed the need for a range of services and a range of budget.

Vice Mayor Strawbridge discussed support for Option 1. She would like to somehow use the word 'parks' in the title.

Council Member Young and Staff asked how the ballot process would work. It would be a mail ballot process.

Mr. Klingelhofer discussed the need to be very specific with the community when communicating what they will get from such an assessment.

Ms. Tinfow stated that it sounded like Council would like some scenarios and the costs associated with those scenarios.

Council Member Largaespada discussed support for Option 1. He would like information on staffing strategies, he would like to take a deeper dive into the finances associated with Option 1, and whether the money that is raised could be leveraged to go out and get grants.

Mayor Patterson discussed support for Option 1. There needs to be a plan in place. The value of the plan needs to be clear through a public engagement program.

Public Comment:

DRAFT

1. John McGuire - Mr. McGuire discussed the need for public outreach and the need to have the numbers clear and correct. He spoke in support for Option 1. It needs to be done right and should not be hurried.

Council Member Young and Staff discussed Option 2. Staff described it as a band aid approach and a bit problematic.

Council Member Campbell discussed the benefits of Option 1. The question for him is whether we want to treat water or improve the quality of life for the residents. He would like to look at Option 1, but needs to see some numbers.

9) ADJOURNMENT (8:00 P.M.)

Mayor Patterson adjourned the meeting at 8:00 p.m.

DRAFT

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
OCTOBER 1, 2019
7:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

CALL TO ORDER

Mayor Patterson called the Closed Session to order at 6:30 p.m.

All Council Members were present.

1) CLOSED SESSION (6:30 P.M.)

**1.A - CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)**

**Name of case: APS West Coast dba Amports v. City of Benicia etal. regarding Yuba
or 678 East H Street**

2) CONVENE OPEN SESSION (7:00 P.M.)

Mayor Patterson called the Open Session to order at 7:05 p.m.

3) ROLL CALL

All Council Members were present.

Council Member Campbell arrived at 7:06 p.m.

4) PLEDGE OF ALLEGIANCE

5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

6) ANNOUNCEMENTS

6.A - ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY

Ben Stock, City Attorney, stated that there were no reportable actions taken during Closed Session.

Mayor Patterson stated that the meeting would be adjourned in memory of Gary Bogue.

6.B - MAYOR'S OFFICE HOURS

DRAFT

6.C - OPENINGS ON BOARDS AND COMMISSIONS

7) PROCLAMATIONS

7.A - FIRE PREVENTION WEEK

Proclamation - Fire Prevention Week 

7.B - NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH 2019

Proclamation - National Domestic Violence Awareness Month 2019 

8) APPOINTMENTS

8.A BOARDS AND COMMISSION SUBCOMMITTEE'S RECOMMENDATIONS

Fernandez, Redacted Application 

Malte, Redacted Application 

Marshall, Redacted Application 

Crumpton, Redacted Application 

Kerz, Redacted Application 

Cadloni, Redacted Application 

Boyle, Redacted Application 

Hurley, Redacted Application 

Chambers, Redacted Application 

9) PRESENTATIONS

10) ADOPTION OF AGENDA

On motion of Vice Mayor Strawbridge, seconded by Council Member Largaespada, Council approved the Adoption of the Agenda, as presented, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

11) OPPORTUNITY FOR PUBLIC COMMENTS

12) WRITTEN COMMENT

One item received (copies on file).

13) PUBLIC COMMENT

DRAFT

1. Constance Beutel - Ms. Beutel discussed a project called 'Benicia Our Home.'
2. Bart Sullivan - Mr. Sullivan discussed an upcoming conference at UC Davis on the subject of emissions.
3. Kathleen Julen - Ms. Julen discussed the importance of filing the openings on the Community Sustainability Commission.
4. Vice Mayor Strawbridge - Vice Mayor Strawbridge discussed the upcoming St. Vincent De Paul's upcoming Walk/Run for the Poor.

14) CONSENT CALENDAR

14.A - APPROVAL OF AGREEMENT FOR THE CORDELIA WATER PUMP STATION MOTOR CONTROLLER PROJECT (Public Works Director)

Staff Report - Cordelia Pump Station Motor Controller Project 

1. Resolution - Cordelia Pump Station Motor Controller Project 
2. Agreement - Cordelia Pump Station Motor Controller Project 
3. Site Plan - Cordelia Pump Station Motor Controller Project 

RESOLUTION 19-90 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING AN AGREEMENT WITH TELSTAR INSTRUMENTS FOR THE CORDELIA PUMP STATION MOTOR CONTROLLER PROJECT IN THE AMOUNT OF \$70,975; AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT AND ANY CHANGE ORDERS ON BEHALF OF THE CITY, SUBJECT TO THE CITY ATTORNEY'S APPROVAL, UP TO \$78,075, WHICH INCLUDES A 10% CONTINGENCY OF \$7,100; AND APPROVING A BUDGET ADJUSTMENT FROM WATER ENTERPRISE RESERVES TO THE PROJECT IN THE AMOUNT OF \$78,075

14.B - AUTHORIZE PURCHASE OF ONE (1) REPLACEMENT POLICE VEHICLE (Police Chief)

Staff Report - Vehicle Purchase 

1. Resolution - Vehicle Purchase 

RESOLUTION 19-92 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING A BUDGET ADJUSTMENT AND THE PURCHASE OF ONE (1) REPLACEMENT POLICE VEHICLE UTILIZING REPLACEMENT FUNDS

Vice Mayor Strawbridge and Staff discussed whether there was any sort of insurance settlement from the accident. The accident was fully covered through insurance by the other driver who caused the accident.

Public Comment:

None

DRAFT

On motion of Council Member Young, seconded by Vice Mayor Strawbridge, Council approved the adoption of Resolution 19-92, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

14.C - SECOND READING AND ADOPTION OF AN ORDINANCE TO AMEND THE BENICIA MUNICIPAL CODE CHAPTER 2.64 BOARD OF LIBRARY TRUSTEES (Director of Library and Cultural Services)

Staff Report - Library Board of Trustees 

1. Ordinance - Library Board of Trustees 

2. Red Lined Ordinance - Library Board of Trustees 

ORDINANCE 19-10 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE ADOPTION OF AN ORDINANCE AMENDMENT TO BENICIA MUNICIPAL CODE CHAPTER 2.64 BOARD OF LIBRARY TRUSTEES

14.D - AWARD CONTRACT FOR ON-CALL TREE SERVICE WORK (Parks and Community Services Director)

Staff Report - On-Call Tree Service Work 

1. Resolution - On-Call Tree Service Work 

2. Contract - On-Call Tree Service Work 

RESOLUTION 19-91 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT WITH A PLUS TREE, INC. FOR ON-CALL TREE SERVICE WORK

14.E - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)

Council pulled item 14.B for discussion.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the Consent Calendar, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

15) BUSINESS ITEMS

DRAFT

15.A - ACCEPTANCE OF "STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE" (SAFER) GRANT (Fire Chief)

- Staff Report - SAFER Grant 
- 1. Resolution - SAFER Grant 
- 2. SAFER Matching Funds Detail 
- 3. SAFER Grant Award Letter 

RESOLUTION 19-93 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING ACCEPTANCE OF A \$784,192.80 STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT FOR THE HIRING OF THREE ADDITIONAL FIREFIGHTERS FOR A LIMITED TERM OF THREE YEARS

Fire Chief Chadwick reviewed the staff report.

Council Member Largaespada and Staff discussed the impact of having three new employees in the department, what the three new employees and the promotion would do for the department, and if this would make Benicia more resourceful to other fire departments.

Council Member Young and Staff discussed the department being two firefighters short at this time, the need for three new lieutenants, the effect the temporary promotions would have on the City's pension obligations, how the promotions would increase the City's compliance, the insurance ratings discussed in the staff report, and the funding options for the grant.

Vice Mayor Strawbridge and Staff discussed whether the City had plans to go after other grants after this grant expires in 2023.

Mayor Patterson and Staff discussed the percentage of the budgets that relates to safety, Benicia's numbers per capita being the lowest in the area, the difference between a fire engine and a fire truck, why Cordelia is not part of the mutual aid agreement, the temporary promotions, establishing performance measures to show the value of the positions, whether accepting this grant would give Benicia a better chance at getting Safer Grants, and her overall support for moving forward with the grant.

Public Comment:

None

Council Member Young and Staff discussed the budget information.

Council Member Largaespada and Staff discussed funding for the grant, whether the amount could be split between the unassigned fund and operational savings across departments, support for the grant, the City's pension obligations, and his hope the temporary positions could become permanent.

DRAFT

On motion of Council Member Largaespada, seconded by Vice Mayor Strawbridge, Council approved the adoption of Resolution 19-93, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

15.B - CITY ACTION ON LEAGUE OF CALIFORNIA CITIES' ANNUAL CONFERENCE RESOLUTIONS (City Manager)

[Staff Report - League of California Cities' Annual Conference Resolutions](#) 

[1. League of California Cities Resolutions Packet 2019](#) 

Alan Shear, Assistant City Manager, reviewed the staff report.

Mayor Patterson asked Staff about Rule 28 funds being shifted if they are not used in a certain amount of time. She would like Staff to report back to Council in the future.

Public Comment:

None

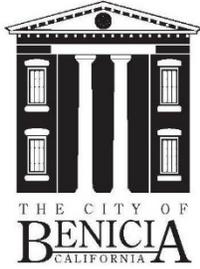
On motion of Vice Mayor Strawbridge, seconded by Council Member Largaespada, Council approved instructing the voting delegate, Mayor Elizabeth Patterson, and the alternate, Assistant City Manager Alan Shear, to express support on the two resolutions at the League's 2019 Annual Conference, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson

Noes: (None)

16) ADJOURNMENT (8:45 P.M.)

Mayor Patterson adjourned the meeting at 8:27 p.m. in memory of Gary Bogue.



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF THE CLAIM AGAINST THE CITY BY BRANON PETERSON AND REFERRAL TO INSURANCE CARRIER**

EXECUTIVE SUMMARY:

The claimant alleges that the main sewer backed up at the home's district cleanout, at 567 East K St., causing it to blow off the pressure cap and spill raw sewage into their yard.

RECOMMENDATION:

Deny the claim against the City by Branon Peterson and refer to insurance carrier.

BUDGET INFORMATION:

The claim is for \$501.67.

BACKGROUND:

Mr. Peterson alleges that on July 17, 2019, the main sewer backed up at his residence's district cleanout, at 567 East K St., causing it to blow off the pressure cap and spill raw sewage into his yard. He claimed that the City was doing work in the area and could have caused the pressure.

The Public Works Department stated that they were not cleaning the main in the front of this residence, nor were they called to confirm a blockage at this residence or to clean the line. The City was not contacted until after the issue was resolved, and therefore Public Works did not get an opportunity to verify whether the claimant's issues involved the City. There is no history of issues or service requests relating to this main.

NEXT STEPS:

Upon rejection of the claim, the City Clerk should issue a rejection notice to Branon Peterson using Plan JPA/ABAG's Form No. 3 of the Plan JPA/ABAG Plan Claims Procedures Manual and process with a proof of service by mail form. A copy of the rejection notice and proof of service by mail form should be sent to the Claims Examiner for ABAG Plan and the City Attorney.

ALTERNATIVE ACTIONS:

Pay the claim.

General Plan	N/A
Strategic Plan	N/A
CEQA Analysis	Denial of this claim is not a project under Section 15378(b) of the California Environmental Quality Act (CEQA) Guidelines, which excludes administrative activities of government.

ATTACHMENT:

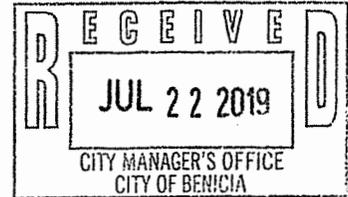
1. Redacted Claim Form – Peterson Claim

For more information contact: Benjamin Stock, City Attorney

Phone: 707-746-4204

E-mail: bstock@ci.benicia.ca.us

CLAIM AGAINST THE CITY OF BENICIA



Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): BRANDON PETERSON
2. CLAIMANT'S ADDRESS: 567 EAST K ST BENICIA CA 94510
(Street or P.O. Box Number, City, State, Zip Code)

HOME PHONE: (- _____) WORK PHONE _____

3. AMOUNT OF CLAIM: \$ \$501.67 (Attach copies of bills/estimates)

If amount claimed is more than \$10,000, indicate where jurisdiction rests:

Limited Civil Case _____
Unlimited Civil Case _____

4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

(Name)

(Street or P.O. Box Number, City, State, Zip Code)

5. DATE OF INCIDENT: 17 Jul 19 TIME OF INCIDENT: NOTICED AT 5:30 p.m

LOCATION OF INCIDENT: FRONT YARD @ 567 EAST K ST

6. Describe the incident or accident including your reason for believing that the City is liable for your damages: MAIN SEWER BACKED UP AT THE HOME'S DISTRICT CLEAN OUT. IT BLEW OFF THE PRESSURE CAP AND SPILLED RAW SEWAGE INTO THE YARD. PUBLIC WORKS VERIFIED THEY WERE IN THE AREA DOWN A CLEAN OUT AND COULD HAVE CAUSED THE BACK PRESSURE.
7. Describe all damages which you believe you have incurred as a result of the incident: EMERGENCY CALL TO BENICIA PLUMBING TO CLEAR BLOCKAGE AND INVESTIGATE ISSUE. DETERMINING TO BE ONLY ON STREET SIDE OF CLEAN OUT
8. Names of public employee(s) causing the damages you are claiming:

Brandon Peterson

Signature of Claimant

22 Jul 19

Date

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

ATTACHED:

BENICIA PLUMBING RECEIPT
PICTURES

Benicia Plumbing
 PO Box 1095
 Benicia, California 94510
 steve.harris@beniciaplumbing.com
 (707) 745-2930



**BENICIA
 PLUMBING**
INCORPORATED

Service Address Brandon Peterson	Billing Address Brandon Peterson	Invoice# STH67159	Service Date: 07/17/2019 09:33 PM
		Technician: Steve Harris	

ONCALL 567 East K St Benicia, California 94510	ONCALL 567 East K St Benicia, California 94510
---	---

QTY	Task#	Description	Premium Rate
1	T510003	Main Line Blockage Main sewer is backed up at the district clean out ran sewer machine several times to clear ran water for several minutes no back ups	501.67

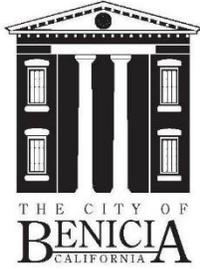
Invoice Totals	Amount
Premium Rate	\$501.67
Invoice Amount	\$501.67
Payments	\$501.67
Amount Due	\$0.00

Payments	Date	Type	Detail	Amount Applied
	Jul 17 2019 09:31 PM	Card	7289	\$501.67
Total Payments				\$501.67

Approval Signature







**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR**

TO : City Manager

FROM : Interim Community Development Director

SUBJECT : **VALERO GOOD NEIGHBOR STEERING COMMITTEE
SETTLEMENT AGREEMENT GRANT CLOSE OUT SUMMARY**

EXECUTIVE SUMMARY:

Eighteen grants were awarded through the Valero Good Neighbor Steering Committee Settlement Agreement. Each grant awarded had the goal of implementing Benicia’s Climate Action Plan and finding ways to reduce water usage, energy, and greenhouse gas emissions. Of the eighteen grants, all but two are now closed and all funds have been expended.

RECOMMENDATION:

Receive this close out summary for the Valero Good Neighbor Steering Committee Settlement Agreement grants.

BUDGET INFORMATION:

No budget impacts are associated with this grant close out summary.

BACKGROUND:

The City and Valero entered into agreements in 2008 and 2014 for Valero to provide funding to the City for various water and greenhouse gas reduction projects. The agreement provided a “ten-million-dollar commitment” from Valero over a 5-year period. In 2014, applicants were able to submit applications to request funding for various projects relating to water reduction and greenhouse gas reduction. The Community Sustainability Commission was responsible for ranking and recommending to Council which projects should be selected and what amount of funding to be provided. City Council awarded twelve grants during the 2014 funding cycle for the Valero Good Neighbor Steering Committee (VGNCS) Settlement Agreement and awarded a total of \$1,967,385.42. During the 2015 grant funding period, the City Council approved an additional six grants with an award total of \$294,400.

Purpose of the Grants:

The purpose of the grants was to find ways to reduce water, energy, and greenhouse gas (GHG) emissions while implementing Benicia Climate Action Plan (CAP) strategies. Each grant was evaluated to determine if it met the purpose based on the following criteria:

- **Water/Energy Conservation:** Creates opportunities for conserving water and energy, reducing GHGs, or generating renewable energy.
- **Quantifiable goals:** Assess results based on specific, measurable outcomes.
- **Collaboration:** Work with other organizations and community groups.
- **Outreach:** “Spread the word!” Reach out to new or larger segments of the community.
- **Other Funding Sources:** Combine this grant with other funding sources or in-kind donations.
- **Experience:** Document previous success in project management.

Grant Close Out Summary:

Of the eighteen total grants, two remain active with available funds and extensions up to December 2019. All other grants are now closed, and funds have been exhausted. Bicycle Benicia and Drive Electric Week are the two remaining grants not closed out. All grantees were required to submit a final close out report after the close of their grant to report achievements and any measurable statistics with greenhouse gas emission, water reduction, or clean energy creation. All information collected and provided by each grantee is included in Attachment 1.

NEXT STEPS:

N/A

ALTERNATIVE ACTIONS:

N/A

General Plan	Goal 4.9: Ensure clean air for Benicia residents
	Goal 4.10: Support improved regional air quality

Strategic Plan	Strategic Issue #2: Protecting and Enhancing the Environment
	Strategy #1: Reduce greenhouse gas emissions and energy consumption
	Strategy #3: Pursue and adopt sustainable practices

CEQA Analysis	This project is Categorical Exempt per CEQA Section 15301, Existing Facilities, which exempts operation, maintenance, and minor alteration of existing facilities and mechanical equipment involving negligible or no expansion of use.
----------------------	---

ATTACHMENT:

1. Valero Good Neighbor Steering Committee Settlement Agreement 2008/2010 Grant Close Out Summary

*For more information contact: Alan Shear, Interim Community Development Director
 Phone: 707.746.4309
 E-mail: AShear@ci.benicia.ca.us*

Attachment 1 - Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary

Grant	Grantee	Objective	Funds	Status
Doing our pART	Arts Benicia	The Arts Benicia members share the active concern for the health of the community and sustainability of local and regional resources. Art is a powerful tool and a way to help youth learn about the issues of our work through their natural creative process.	\$ 51,400	The project officially ended May 2018 and all funds were expended. Arts Benicia used three art exhibits which jointly had over 1500 visitors. The highlights of the exhibits were related to the history of water using recycled and reusable materials and also a Legacy of Social Consciousness exhibition and a Next Generation exhibition. In addition to the exhibits, Arts Benicia was able to offer a Family Art Day bringing together the community and an EcoArt summer camp for youth.
Benicia Community Gardens	Sustainable Solano	The Benicia Sustainable Backyard program's mission is to inspire Benicians to view their backyards as an important contribution to the world's sustainability and to provide our community with tools and resources to transform our land into a thriving, sustainable, food producing ecosystem.	\$ 105,680	The project officially closed as of June 1, 2018 and all funds were expended. Sustainable Solano installed Sven demonstration permaculture food forests featuring rainwater collection, roof water diversion to the ground and laundry-to-landscape greywater systems. The food forests and water efforts create an annual water impact of 509,041 gallons. The project hosted several guided tours, speaker series, and information sessions. Outreach to the public was large with over 300 attendees to the different sessions and tours and volunteers donating over 1,280 hours of their time to the project.
Benicia Makerspace	Benicia Makerspace	The Makerspace is a community space where members can have access to 21st century tools and work on projects as well as a place to create partnerships with local businesses and community stakeholders to encourage collaboration, innovation, sustainability, and green workforce development. The goal of the grant was to open a physical space and to continue to educate the public through fairs and workshops.	water	This project was completed June 2016 and all funds were expended. In the two years of the project, Benicia Makerspace was able to meet their goal of holding 18 workshops and classes a year. Between January 1, 2016 and June 30, 2016 alone they hosted 79 meetings. The grant money allowed the ability to begin the program for many future generations to come and enjoy!
Benicia Tree Foundation	Benicia Tree Foundation	The goal of the Benicia Tree Foundation is to plant 1,000 trees around the City of Benicia. At the time the grant was given, 400 trees had already been planted. The outreach program guides citizens, business owners, and city stakeholders on planting the right trees in the right places, with emphasis on species that are drought-tolerant and have a high rate of carbon sequestration.	\$ 35,000	The project was officially closed as of December 31, 2015 and all funds were expended. Benicia Tree Foundation was able to plant 193 trees with the funds provided by the grant. The goal was to plant 300 trees however some planned trees were displaced by a proposal to install solar collectors on the parking lot at the Benicia High School and there was a shortage of property owners willing to host a tree planting project.

Attachment 1 - Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary

BRIP II	City of Benicia- Economic Development Department	The purpose of BRIP is to perform resource (including energy, water, solid waste, and fleet fuel) utilization assessments for businesses in the Benicia Industrial Park. After the assessment is completed, BRIP provides grants and loans to implement the recommendations identified in the assessments.	\$ 500,000	The project closed at the end of 2017 and as of June 2017 there was \$120,000 grant funds still available with one loan and one project identified and an anticipated 1-3 additional projects to close out the funds. The BRIP II grant allowed for the assistance to 84 Benicia Industrial Park Businesses, savings of \$457,164 in energy cost a year, reduction of 518.49 Metric Tons of GHG emissions/year, and reduced water use by 2,500,000 gallons/year.
BUSD Ech2O	Benicia Unified School District	The purpose of the Ech2O grant is to help ECH2O students make a direct connection to solar power and water conservation as it relates to climate change and to give them real life skills and experience that will prepare them for college and careers in fields geared towards climate action. The Solar Rain Collector System allows approximately 70 students to work collaboratively with professional engineers to install a solar panel kit that generates power to pump rainwater into a 1000-gallon storage tank. The recycled water is then used in the school garden and other areas on campus as appropriate.	\$ 11,328	This project closed at the end of 2016 and has exhausted all funds. The students installed solar powered rain collection devices and monitored the amount of rain collected. Students worked with professional contractors during the building stage and used a 175 gallon water tank to collect the rain. Students learned how to instal the irrigation system to water the student garden and as a team developed the budget and timeline. No final close out report was provided by the Benicia Unified School District.
BUSD Cal-Sense	Benicia Unified School District	The main purpose of the Cal-Sense grant is to expand the CALSENSE Water Management System to Benicia's four elementary school sites. The system gathers, stores, and utilizes weather data to adjust water scheduling and quantity resulting in dramatic reduction in water use.	\$ 60,970	This project ended at the end of 2016. No final close out report was ever submitted. The last semi-annual report shows that six teachers attended Professional Development Week at UC Davis, an in-service day took place for discussion of Next Generation Science Standards, and a curriculum was being established to discuss water conservation.
City of Benicia- Water Irrigation Control System	City of Benicia- Parks and Community Development	The project purpose is to expand the Irrigation Control System (ICS) that is currently used to manage irriageion at Benicia Community Parks. The ICS can be used to monitor water use, identify plumbin leaks and electrical faults, and prevents excessive water loss. The systems, coupled with Evapotranspiration Controllers are capable of decreasign water consumption by 20% or more.	\$ 153,000	The project was completed in July 2015 and all funds were expended. The following were integrated into the City's Irrigation Control System using Evapotranspiration (ET) controllers: Benicia Middle School, City Cemetery, Fitzgerald Field, maria and Ribero Fields, Water's End Park, Skillman Park, First Street Green, Bridgeview Park, City Park, Southampton Park, and the Corporation Yard.

Attachment 1 - Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary

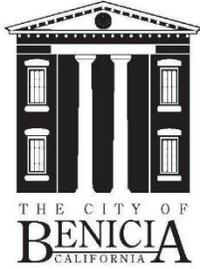
<p>City of Benicia- Drip Irrigation Expansion</p>	<p>City of Benicia- Parks and Community Development</p>	<p>The Drip Irrigation Expansion was proposed to reduce the amount of water used for irrigation by upgrading and expanding the current drip system. The 30% reduction would reduce water use by over 1.8 million gallons per year and would reduce the City's GHG emissions by 2.2 metric tons of CO2.</p>	<p>\$ 46,000</p>	<p>This project was completed by April 2014 and all funds were expended. The City was unable to implement a portion of the E. 2nd project with the remaining funds as the cost was too high so the residual funds were used to partially fund the installation of a low water landscape to replace several existing underutilized small patches of turf near the main library entrance.</p>
<p>City of Benicia- Water Smart</p>	<p>City of Benicia- Public Works</p>	<p>The Water Smart program is the leading behavioral water efficiency solution, helping water utilities educate and engage their customers to save money and water. WaterSmart offers a turnkey, cloud-based engagement, analytics, and water efficiency solution that has been independently proven to double customer satisfaction, triple rebate program participation, and decrease residential water consumption by 5%. The grant is to be used to fund the program for an additional year. 5,000 residential homes took part in the pilot program and the goal is to maintain that 5,000 and add another 1,750.</p>	<p>\$ 69,889</p>	<p>The project was completed in January 2017 and all funds were expended. The project was able to increase the number of residents from 5,000 to 6,750. A total of 38,710 Welcome Letters were sent to as many as 6,800 households. Between the January-October 2016 reporting period: 9 million gallons of water was saved, 55,528 kWh estimated energy was saved, and the estimated GHG emissions reduction was 83.17 tons of CO2.</p>
<p>Community Choice Aggregation Feasibility Study</p>	<p>Community Sustainability Commission</p>	<p>The purpose of the study and grant was to determine if the City of Benicia was a candidate to utilize a Community Choice Aggregation organization. With a Community Choice Aggregation organization, the consumer picks who will produce their energy. The consumer will have the option to pick either 50% renewable energy mix at a slightly lower cost than PG&E or they can choose a 100% renewable energy source for a little extra cost each month.</p>	<p>\$ 18,000</p>	<p>The project funds have been expended for this program however no grant close out report was ever submitted. The CAP coordinator worked with Marin Clean Energy to analyze the economic feasibility of adding the City of Benicia to the MCE service territory. The outreach and analysis allowed the City of Benicia to become an MCE service area.</p>
<p>Solano RCD</p>	<p>Solano Resource Conservation District</p>	<p>The project goal is to provide place-based, hands on environmental education fieldtrips programming to every sixth grader in the Benicia Unified School District. Working in collaboration with the Benicia High School ECH2) Academy, Solano Resource Conservation District used the Suisun Marsh Rush Ranch Open Space as a living laboratory to teach students about watershed ecology, rare ecosystems, and the vital role of water conservation in personal and community stewardship.</p>	<p>\$ 48,407</p>	<p>The project officially closed January 2017 and all funds were expended. 396 sixth grade students and three sixth grade teachers from the Benicia Middle School participated in the water-focused education program comprised of five in-class lessons and an all-day field trip to the Suisun Marsh. Students and their families participated in a water conservation challenge to learn about tangible ways to conserve water, how to measure their water use, and how to calculate their household water savings.</p>

Attachment 1 - Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary

<p>Wattz-On</p>	<p>Wattz-On</p>	<p>The purpose of the Wattz-On grant is to use the Benicia Home Efficiency Program designed to meet the City of Benicia's sustainability goals through free home water and energy assessments, web and mobile energy-saving tools, and paid internships for Benicia High School students to learn about home water and energy efficiency.</p>	<p>\$ 99,400</p>	<p>The project funds have been expended for this program however no grant close out report was ever submitted and no contact has returned while attempted to retrieve close out. Based on the last report submitted, the program was able to conduct door-to-door outreach to Benicia neighborhoods, table at various events to outreach, coordination with Marin Clean Energy, prepare and send out mailers, and provide referral incentives.</p>
<p>Bicycle Benicia</p>	<p>Community Sustainability Commission</p>	<p>The goal of the Bicycle Benicia program is to increase bicycle ridership in Benicia. Benicia's temperate climate, scenic and historic interest means that bicycling is a fitting alternative to local transportation around the City and makes Benicia a destination for a "Great Day by the Bay." While increasing ridership is not a significant Greenhouse Gas emission reduction, GHG will be reduced by increased ridership along with multiple economic benefits to the community including real estate values and tourism.</p>	<p>\$ 20,000</p>	<p>The grant agreement was executed and signed on August 13, 2014. On July 18, 2016, The CSC was granted a one-year time extension for the Bicycle Benicia grant. The time extension expired on August 13, 2017. The grantee spent considerable time finding the preferred way to expend the grant while meeting the grant objectives. On November 18, 2018, City Council approved the amendment of the original agreement to amend the scope of the grant and to extend the grant to accomplish the goals of the program. City Council approved an extension to December 31, 2019 and the grant continues to be ongoing.</p>
<p>City of Benicia Turf Replacement Rebate</p>	<p>City of Benicia-Public Works</p>	<p>The project's main purpose is to reduce water consumption in Benicia by encouraging owners/renters of single-family homes to replace water thirsty lawns with water-efficient landscaping. These objectives are achieved by conducting pre and post installation inspections at homes to ensure landscaping requirements have been met and water-efficient landscaping management techniques are employed, and Public Works will continue to outreach with Solano County Water Agency.</p>	<p>\$ 60,000</p>	<p>The grant agreement was executed and signed on September 25, 2015 and expired in September 2017. The funds received were to offer a \$0.50 per square foot rebate to owners/renters. To date, only approximately \$25,000 of the \$60,000 grant funding remains. Throughout 2018, only two residents claimed a grant. To utilize all funds and achieve the objective of the program, Public Works requested to amend the terms of the grant agreement to increase the rebate from \$0.50 to \$1.00 per square foot. With increased incentive, Public works anticipates added interest in the program and additionally requests an extension to the original agreement. City Council approved an amendment to the terms of agreement increasing the rebate to \$1.00 per square foot and approved an extension till December 31, 2019.</p>

Attachment 1 - Valero Good Neighbor Steering Committee Settlement Agreement 2008-2010 Grant Close Out Summary

<p>CSC National Drive Electric Week</p>	<p>Community Sustainability Commission</p>	<p>The general purpose is to introduce the public to electric vehicles and to promote their use. The event features electric cars, bikes, and other electric vehicles. The event highlights all of the benefits of driving electric which includes the pleasures of driving electric, financial benefits, security benefits of reduced reliance on foreign oil, the environmental benefits of better air quality, the benefits from reduction of fossil fuel use, and Green House Gas reduction.</p>	<p>\$ 10,000</p>	<p>The grant agreement was executed and signed on September 29, 2015 and expired on September 2017. The grantee, having funds still available, desires to continue to promote the sustainability of electric vehicles. The grantee requested an extension to the terms of the original agreement. City Council, on November 18, 2018, approved an extension to December 31, 2019 and the program remains ongoing.</p>
<p>City Residential Solar Incentive Program</p>	<p>City of Benicia Community Development Department</p>	<p>The Residential Solar Incentive Program's purpose is to reduce Greenhouse Gas emissions by promoting energy efficiency and renewable power. The program offers a rebate to residents installing a solar system at \$0.30/watt which typically covers approximately 5% of the total cost of the solar system. Solar installers will match the City's rebate further encouraging residents to install solar units. In addition to a rebate to residents, the program will also use workshops to educate residents about the benefit of renewable energy and basic installation options.</p>	<p>\$ 50,000</p>	<p>The grant agreement was executed and signed on September 24, 2015 and expired in September 2017. To date, the grantee has expended \$47,548. The grantee requested a one-year time extension to allow for further solar rebates to be offered until the funds are exhausted. City Council, on November 18, 2018, approved an extension to December 31, 2019 however as of June 2019 the remaining funds have been used for solar rebates and the program has ended.</p>



**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR**

TO : City Manager

FROM : Police Chief

SUBJECT : **AUTHORIZE A BUDGET INCREASE OF \$100,000.00 TO THE POLICE DEPARTMENT’S FISCAL YEAR 19-20 EQUIPMENT REPLACEMENT FUND FOR PURCHASE OF NEW DISPATCH CONSOLES, BACK-UP POWER BATTERIES, AND CARPET FOR THE DEPARTMENT’S COMMUNICATIONS CENTER**

EXECUTIVE SUMMARY:

The Benicia Police Department Communication Center houses four (4) dispatch consoles that direct police, fire, and medical response. The furniture was purchased thirteen (13) years ago with an operational lifespan of ten (10) years. The new dispatch console’s configuration and size would require the purchase of four (4) new back-up power batteries for the Communications Center. Additionally, the flooring has sustained wear and tear over the years. The purchase of the new dispatch consoles, batteries and flooring will not exceed \$95,086.00.

RECOMMENDATION:

Adopt a resolution (Attachment 1) authorizing a budget increase to the Police Department’s Fiscal Year 19-20 Equipment Replacement Fund (6355000-7410) of \$100,000.00 to purchase new dispatch consoles, back-up power batteries, and carpet for the Communication Center and authorize the Police Chief to sign the purchase orders for the purchase.

BUDGET INFORMATION:

The upgrade to the Communication Center was not planned for this fiscal year, however the current poor conditions have been a significant burden to the center and personnel. The Police Department is requesting an increase in the Equipment Replacement budget (account 6355000-7410) of \$100,000.00 to purchase new dispatch consoles, back-up power batteries, and carpet for the Communication Center.

BACKGROUND:

In 2006, seismic retrofitting to the Benicia Police Department’s Communication Center was completed and new Xybix Corporation dispatch consoles/furniture were installed. The Xybix brand dispatch console’s operational lifespan of ten (10) years has been exceeded and is rapidly deteriorating with immediate replacement needed. Eaton Corporation specializes in dispatch

consoles/furniture and currently possesses a Government Contract (CMAS Contract 4-16-71-0006C) allowing the City of Benicia to sole source this purchase.

Currently, our Communications Center dispatch consoles are operating on four (4) separate backup batteries that are approaching their lifespan. The new dispatch consoles will require a different backup battery size/configuration, which can be purchased through Eaton Corporation and its government contract.

The Communications Center carpet was installed in 2006 and the wear/tear is highly visible. The carpet will be purchased through All County Flooring, who also has a government contract (Sourcewell – NJPA Contract 121715-TFU) allowing the Police Department to sole source this purchase.

NEXT STEPS:

If approved, the Police Department’s Fiscal Year 19-20 Equipment Replacement Fund (6355000-7410) will be increased by \$100,000.00, allowing the department to purchase/install new Eaton Corporation dispatch counsels, back-up power batteries and carpet for the Communications Center.

ALTERNATIVE ACTIONS:

Council could choose to not approve the budget increase, which will not allow the Police Department to refurbish the Communication Center.

General Plan	Goal #2.28: Improve and maintain public facilities and services
---------------------	---

Strategic Plan	Strategy #1: Protecting community health and safety
-----------------------	---

CEQA Analysis	CEQA Guidelines Section 15301 Existing Facilities – the project is a minor alteration of an existing public facility with no expansion of use.
----------------------	--

ATTACHMENT:

1. Resolution – Dispatch Console Purchase

*For more information contact: Chief Erik Upson
Phone: 707-746-4260
E-mail: eupson@ci.benicia.ca.us*

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING A BUDGET INCREASE TO THE POLICE DEPARTMENT'S FISCAL
YEAR 19-20 EQUIPMENT REPLACEMENT FUND BY \$100,000.00 TO PURCHASE
NEW DISPATCH CONSOLES, BACK-UP POWER BATTERIES, AND CARPET FOR
THE COMMUNICATION CENTER.**

WHEREAS, replacing the Police Department's dispatch consoles due to the furniture's age and deteriorating state is necessary to keep emergency equipment in good working order and maintenance costs low; and

WHEREAS, dispatch consoles, back-up console batteries, and flooring is used seven days a week and 24 hours a day and must be maintained in top condition; and

WHEREAS, existing dispatch console furniture and flooring are scheduled for replacement due to exceeding its manufacturer life span; and

WHEREAS, the purchase of the dispatch consoles, back-up console batteries, and flooring will be through state government contracts, allowing our City to sole source these purchases.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the budget increase of \$100,000.00 to the Equipment Replacement Fund 6355000-7410.

BE IT FURTHER RESOLVED that the City Council of the City of Benicia approves the purchase of new dispatch console furniture, back-up console batteries, and flooring, as detailed in this resolution, at a cost of \$95,086.00, and authorizes Police Chief to sign the purchase orders on behalf of the City.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **AWARD OF CONSTRUCTION CONTRACT WITH MIKSIS SERVICES, INC. FOR THE BAYSHORE ROAD / EAST J AND K STREETS SEWER IMPROVEMENT PROJECT**

EXECUTIVE SUMMARY:

The Bayshore Road/ East J and K Streets Sewer Improvement Project has been identified in the City’s rate-payer funded Capital Improvement Program and is a critical element in maintaining the City’s aging sewer infrastructure. Construction bids were solicited and Miksis Services, Inc. submitted the lowest responsive and responsible bid for this project.

RECOMMENDATION:

Adopt the resolution (Attachment 1) accepting the bid for the Bayshore Road / East J and K Streets Sewer Improvement Project, awarding the construction contract (Attachment 2) to Miksis Services, Inc. of Healdsburg, CA, in the amount of \$753,559.50, and authorizing the City Manager to sign the contract and any change orders on behalf of the City, subject to the City Attorney’s approval, up to \$828,915.45, which includes a 10% contingency of \$75,355.95.

BUDGET INFORMATION:

This project is rate-payer funded. It is budgeted in FY 2019/20 in the Wastewater Major Capital Projects Fund (Account No. 7208031) and is included in the Five-Year Capital Improvement Program as two separate Capital Improvement Projects, for a total of \$1,187,000 (WWO-032 and WWO-052), so sufficient funds are budgeted and available for this project.

BACKGROUND:

The City’s sewer system is aging, and certain areas require replacement. In particular, the accumulation of hydrogen sulfide (H₂S) gas in some sewers degrades old pipe quickly. Approximately 3,140 linear feet of City sewer along Bayshore Road is old and has been degraded over the years by an accumulation of hydrogen sulfide (H₂S) gas. The sewers are located along an active transportation corridor for Amports, which makes their replacement highly impractical. Similarly, approximately 460 linear feet of sewer, located in an easement between East J and K Streets (in the vicinity of East 6th Street), is degraded and in need of replacement. Again, a complete sewer replacement is impractical, since this easement crosses through neighbors’ backyards and below a seasonal creek.

To extend the integrity of these sewer lines, the City proposes to use a “fold and form” lining method, where a secondary plastic liner is snaked into the existing sewer in between manholes and then formed into place. This new lining serves as the new sewer, while the existing pipe becomes merely a conduit for its installation. This method is much less disruptive and more cost-effective than a complete sewer replacement, which would involve extensive digging and trenching.

A temporary sewer bypass will be installed during construction to minimize any sewer disruptions to neighbors and businesses. Cannon created the plans, specifications, and engineer’s estimate that was used in the bid documents to solicit construction bids.

The bid documents and specifications were distributed on the BP Express Project website in June of this year, and advertisements were placed in the Benicia Herald on June 28th and July 5th, 2019. Two interested contractors attended a Pre-Bid Meeting on July 9, 2019, but no bids were received on July 25, 2019.

The project was re-advertised on the BP Express Project website on July 31st of this year, and advertisements were placed in the Benicia Herald on August 2nd and August 9th. An addendum was issued on August 23rd. Two interested contractors attended a Pre-Bid Meeting on August 15, 2019, and one bid was received on September 18, 2019.

One contractor submitted a bid for this Project as follows:

Rank	Firm Name and City	Bid Amount
1	Miksis Services, Inc., Healdsburg, CA	\$753,559.50

NEXT STEPS:

If the resolution is adopted, the contractor has 10 working days to execute a construction contract with the City, deliver appropriate insurance documents, and provide the necessary bonds for construction. After these contract requirements are met, the Public Works Department will issue a Notice to Proceed, and work is anticipated to begin in early Spring, 2020.

ALTERNATIVE ACTIONS:

City Council could choose to not award this construction contract. Staff does not recommend this alternative, however, as this is an important wastewater Capital Improvement Project that has been identified in the City’s Five-Year Capital Improvement Program and funds are available.

General Plan	Goal 2.28: Improve and maintain public facilities and services
---------------------	--

Strategic Plan	Strategic Issue #1: Protecting Community Health and Safety
	Strategic Issue #4: Preserving and Enhancing Infrastructure

CEQA Analysis	This project is Categorical Exempt per CEQA Section 15301.
----------------------	--

ATTACHMENTS:

1. Resolution – Bayshore Rd.- East J & K Streets Sewer Improvement Project
2. Construction Contract - Bayshore Rd. - East J & K Streets Sewer Improvement Project

For more information contact: Laura Pate, Project Manager

Phone: 707.746.4386

E-mail: LPate@ci.benicia.ca.us

RESOLUTION NO. 19-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BID FOR THE BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO MIKSIS SERVICES, INC. OF HEALDSBURG, CA, IN THE AMOUNT OF \$753,559.50, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT AND ANY CHANGE ORDERS ON BEHALF OF THE CITY, SUBJECT TO THE CITY ATTORNEY'S APPROVAL, UP TO \$828,915.45, WHICH INCLUDES A 10% CONTINGENCY OF \$75,355.95

WHEREAS, City staff has determined that approximately 3,140 linear feet of sewer along Bayshore Road and about 460 linear feet of sewer between East J and K Streets (in the vicinity of East 6th Street) require relining; and

WHEREAS, Wastewater Collections staff does not have the capacity or resources to perform this construction; and

WHEREAS, bids were advertised through BluePrint Express, the City's website, and the Benicia Herald; and Miksis Services, Inc. of Healdsburg, CA was deemed the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the bid for the Bayshore Road / East J and K Streets Sewer Improvement Project, awards the construction contract to Miksis Services, Inc. of Healdsburg, CA, in the amount of \$753,559.50 (Account No. 7208031), and authorizes the City Manager to execute the construction contract and any change orders on behalf of the City, subject to the City Attorney's approval, up to \$828,915.45, which includes a 10% contingency of \$75,355.95.

On motion of Council Member _____, seconded by Council Member _____, the above resolution is introduced and passed by the City Council of the City of Benicia at a regular meeting of the Council held on October 15, 2019, and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

CONTRACT # ___ - ___

CONSTRUCTION CONTRACT

This Contract ("Contract") entered into October 15, 2019 is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and **Miksis Services Inc.**, California corporation, with its primary office located at P.O. Box 591-I, Healdsburg, CA 95448 (hereinafter "CONTRACTOR") (collectively, "the Parties").

RECITALS:

WHEREAS, CITY has determined it necessary to contract out construction work for the **Bayshore Road/ East J and K Streets Sewer Improvement Project**; and

WHEREAS, CITY has received bids and has selected and awarded the Contract to CONTRACTOR, to be performed in accordance with the Plans and Specifications adopted by the City Council, as prepared by Cannon Corporation.

That for and in consideration of the promises and agreements hereinafter made and exchanged, the CITY and the CONTRACTOR agree as follows:

1. **WORK TO BE PERFORMED**

The CONTRACTOR will furnish all labor, materials, equipment, tools, transportation, services, appliances, and appurtenances for the Bayshore Road/ East J and K Streets Sewer Improvement Project, (sometimes referred to as "the work") in accordance with the Plans and Specifications therefore, adopted by the City Council of the above CITY as prepared by **Cannon Corporation**, such other items or details that are specified in the General Provisions, any Special Provisions, all provisions of the **2015** edition of the State Standard Specifications **including its revisions dated July 21, 2017**, which said General Provisions, Special Provisions and State Standard Specifications are hereby specially referred to and by such reference made a part hereof, and in full accord with the provisions of the federal, state and local codes, including all addenda and approved change orders.

2. **COMPENSATION**

a. The CITY shall pay CONTRACTOR the following Contract Sum ("Contract Sum") for completion of Work in accordance with Contract Documents as set forth in CONTRACTOR's Bid, attached hereto.

Contract Sum: **\$753,559.50** (Seven hundred fifty three thousand five hundred fifty nine dollars and 50/100).

b. The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by CONTRACTOR, its

subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of CONTRACTOR's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

c. The CITY will pay the CONTRACTOR progress payments and the final payment, withholding 5% retention from each payment until after the lien period is over, and less any penalties and charges and in accordance with the method set forth in the Special Provisions with warrants drawn on the appropriate fund or funds as required, according to the prices as bid and accepted, based upon the Plans and Addenda, as follows: **\$753,559.50**.

d. In accordance with California Public Contracts Code §22300, CONTRACTOR shall be permitted to substitute securities for any moneys to be withheld by the CITY to ensure performance under this Contract. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the CITY, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the CONTRACTOR. Upon satisfactory completion of this Contract and the passage of any requisite lien period without the filing of stop payment notices or suit, the securities shall be returned to the CONTRACTOR. Securities eligible for investment under this section shall include those listed in Section 16340 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the CONTRACTOR and the CITY. The CONTRACTOR shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

e. The CITY shall pay the CONTRACTOR the final payment plus any withheld retentions after the requisite lien period has passed provided: (1) no stop payment notices have been filed; (2) the CONTRACTOR is not in default hereunder; (3) the work has been satisfactorily completed; and (4) no liquidated damages have accrued or been assessed.

3. TERMINATION

This Contract may be subject to termination as provided in State Standard Specifications **Section 8-1.14**, if the City determines it is in the best interests of the City to do so. Total compensation due the CONTRACTOR shall be determined as provided in that section.

4. COMPLETION OF WORK

a. CONTRACTOR agrees to complete the work within 60 working days from the date of issuance of the Notice to Proceed (or approved extensions thereof) and to the entire satisfaction of the CITY before final payment is made. The CONTRACTOR is required to give at least one day's advance notice of the date upon which work is commenced and the date upon which the work is to be completed.

b. In the event that the work is not completed to the satisfaction of CITY within the time specified by this Contract, CITY, in addition to any other remedy at law or equity, may complete such work with its own forces or by contract.

c. Neither the final certificate of payment nor any provision in the contract nor partial or entire use of the improvements embraced in this contract by the CITY or the public shall constitute an acceptance of work not done in accordance with the contract or relieve the CONTRACTOR of liability in respect to any warranties or responsibility for faulty materials or workmanship. The CONTRACTOR shall promptly remedy any defects in the work and materials and pay for the costs of any damages resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The CITY will give notice of defective materials and work with reasonable promptness. Before requesting acceptance of the project, the CONTRACTOR shall execute the attached guarantee that all work shall be free from defects in material and workmanship for a period of at least one year after acceptance of the work. CONTRACTOR shall also post a guarantee bond or security in an amount of not less than 5% of the contract amount assuring corrective work required during the guarantee period. For purposes of determining the amount of the guarantee bond, "contract amount" shall mean the entire amount paid by the CITY to the CONTRACTOR under this Contract, including but not limited to, the Bid amount and any change orders.

d. CONTRACTOR and the CITY hereby agree that time is of the essence in the Parties' performance of each and every provision of this Contract.

5. LIQUIDATED DAMAGES

It is agreed that CONTRACTOR's failure to complete the work within the time allowed will result in damages being sustained by the CITY. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with standard specifications, for completion of the work, the CONTRACTOR shall pay to the CITY, or have withheld from moneys due it, the sum of \$1,500.00 per day. Progress payments made after the scheduled completion date shall not constitute a waiver of liquidated damages.

6. COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all state and federal laws, including the CITY's local non-discrimination policies and shall not discriminate in the conduct of the work under this

Contract against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited bases will not be tolerated.

7. NONDISCRIMINATION

a. CONTRACTOR shall not discriminate in the conduct of the work under this Contract against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis.

b. Consistent with CITY's policy that harassment and discrimination are unacceptable employer/employee conduct, CONTRACTOR agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONTRACTOR or CONTRACTOR'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited bases will not be tolerated. CONTRACTOR agrees that any and all violations of this provision shall constitute a material breach of the Contract.

8. LABOR AND PERFORMANCE BONDS

CONTRACTOR shall, prior to the execution of the Contract, furnish two bonds in a form approved by the CITY, one in the amount of One Hundred Percent (100%) of the Contract price to guarantee the faithful performance of the work, and one in the amount of One Hundred Percent (100%) of the Contract price to guarantee payment of all claims for labor and materials furnished. This Contract shall not become effective until such bonds are supplied to and approved by the CITY.

9. ENTIRE CONTRACT

a. This Contract by reference includes this Contract, the Notice Inviting Bids, Bidder's Bid Proposal, Affidavits, Special Provisions and Standard Specifications, Technical Provisions, Plans and Specifications, Addenda, if any, and Contract Payment and Performance Bonds, all of which constitute the "Contract" as defined in the Specifications. All documents forming the complete contract are intended to integrate so that any condition or work called for in one and not mentioned in another shall be executed as if mentioned in all documents and set forth in the drawings. The order of precedence in interpreting and resolving any discrepancies under this Contract are found in General Provisions section 5-01.

b. This writing is intended both as the final expression of the Contract between the parties hereto with respect to included terms and a complete and exclusive statement of the terms of the Contract, pursuant to Code of Civil Procedure, Section 1856. No modification hereof shall be effective unless and until such modification is evidenced by a writing signed by all parties to this Contract.

c. This Contract shall inure to the benefit of, and be binding upon, the successors in interest, legal representatives, trustees, and permitted assigns of either party.

10. LEGAL AND MISCELLANEOUS

a. Terms and abbreviations used in this Contract are defined in the General Provisions and will have the meaning indicated therein.

b. CONTRACTOR and the CITY understand and agree that in no instance are the persons signing this Contract for or on behalf of the CITY or acting as an employee, agent, or representative of the CITY, liable on this Contract or any of the Contract Documents, or upon any warranty of authority, or otherwise. CONTRACTOR and the CITY further understand and agree that liability of the CITY is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

c. Pursuant to Labor Code Section 1771(a), CONTRACTOR represents that it and all of its Subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. CONTRACTOR covenants that any additional or substitute Subcontractors will be similarly registered and qualified. Any bidder or CONTRACTOR not properly licensed with the State of California and registered with the shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors State License Board. CONTRACTOR and subcontractors are required to obtain a City Business License.

d. In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, CONTRACTOR or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the CITY tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

e. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the CITY's Facilities Development and Management Division, may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>] and are deemed included in the Contract Documents, and shall be made available to any interested party on request. Pursuant to Labor Code Sections 1860 and 1861, in accordance with Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his employees. CONTRACTOR represents that it is aware of the provisions of Labor Code Section 3700 that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and

CONTRACTOR shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

f. This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Solano, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Solano, California.

11. NOTICES

All notices permitted or required hereunder shall be addressed as follows and shall be deemed delivered upon the posting of the notice first class, U.S. mail, postage prepaid:

If to the CITY: Laura Pate, P. E., Project Manager - Utilities
City of Benicia
250 East L Street
Benicia, CA 94510

If to the CONTRACTOR: Gary Miksis, President
Miksis Services Inc.
PO Box 591-I
Healdsburg, CA 95448

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed on the day and year written above.

MIKSYS SERVICES INC.

CITY OF BENICIA

BY: 

BY: _____
Lorie Tinfow, City Manager

DATED: 9-30-19

DATED: _____

(Attach Notary Acknowledgment)

RECOMMENDED FOR APPROVAL

William Tarbox, Public Works Director

APPROVED AS TO FORM

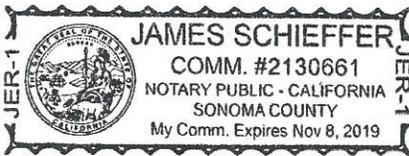
Benjamin L. Stock, City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF California
COUNTY OF Sonoma

On 9/30/19 before me, James Schieffer, Notary Public personally appeared Gary Miksis who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

James Schieffer
(Signature of Notary Public)

BID PROPOSAL
#19-05: BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT PROJECT

Miksis Services Inc.

Contractor Name

The undersigned declares that the only persons or parties interested in this Bid Proposal are as stated; that the Bid Proposal is made without any collusion with other persons, firms, or corporations; that he has carefully examined the Notice Inviting Bids, Instructions to Bidders, Contract Documents, Specifications, and Drawings dated **June 13, 2019**, all as prepared by **Cannon Corporation**, that the undersigned has informed him or herself fully in regard to all conditions pertaining to the work and the place where it is to be done, and from them the undersigned makes this Proposal. These prices shall cover all expenses incurred in performing the work required under the Contract Documents, of which this Bid Proposal is a part.

If written notice of the acceptance of this bid is mailed, telegraphed, or delivered to the undersigned within sixty (60) calendar days after opening this Proposal, the undersigned will within ten (10) days after the date of such notification, execute and deliver a Contract in the form attached hereto together with the described Payment and Performance bonds furnished by a company satisfactory to the City. The premiums for these bonds shall be paid by the General Contractor and shall be included in the contract price. The undersigned further agrees that the bid security accompanying this Bid Proposal shall become the property of the City, if the bidder fails to execute the Contract as stated above.

The undersigned hereby agrees to commence work under this Contract within ten (10) calendar days of the date of the Notice to Proceed and to fully complete the project within the time limit stated herein and further agrees that, from the compensation otherwise to be paid the City may retain a sum of **ONE THOUSAND FIVE HUNDRED Dollars (\$1,500.00)** for each working day thereafter that the work remains uncompleted. As time is of the essence, this sum is agreed upon as the proper measure of liquidated damages which the City will sustain per diem by the failure of the undersigned to complete the work at the time stipulated, and this sum is not to be construed as in any sense a penalty.

The undersigned acknowledges receipt of addenda numbered:

Addendum No. 1 Date: 8/22/2019 Acknowledge: 

Addendum No. _____ Date: _____ Acknowledge: _____

Addendum No. _____ Date: _____ Acknowledge: _____

In accordance with the above understanding, the CONTRACTOR proposes to do all of the work, furnish all of the materials, and complete the work in its entirety in the manner and under the conditions required at the prices listed on the Bid Schedule outlined on the following pages.

**BID PROPOSAL
BID SCHEDULE
#19-05: BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT
PROJECT**

PREFACE TO BID SCHEDULE

- A. Descriptions for measurement and payment are included in the specifications.
- B. Determination of the lowest, responsive, responsible bidder for purposes of award of contract shall be based on the **Total Cost** of all bid items entered on the Bid Schedule.
- C. The Unit Prices entered in the Bid Schedule are to be used to determine the full inclusive value of the work, including all costs and expenses, all applicable taxes, overhead and profits, mobilization and demobilization, together with all general risks, liabilities and obligations set forth or implied in the Contract Documents.
- D. The bidder must bid on all items in the Bid Schedule or CONTRACTOR's bid may be disqualified.

**#19-05: BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT PROJECT
BID SCHEDULE**

Item No.	Item Description	Unit	Quantity	Unit Price	Sub-Total
	East J and K Streets:				
1	Mobilization/ Demobilization	LS	1	\$ 4,000	\$ 4,000
2	Temporary Sewer Bypass	LS	1	\$ 4,500	\$ 4,500
3	Fold and Form Sewer Lining – 6-in. & 8-in. Gravity SS	L.Ft.	457	\$ 62.50	\$28,562.50
	Bayshore Road:				
4	Mobilization/ Demobilization	LS	1	\$ 16,000	\$ 16,000
5	Temporary Sewer Bypass	LS	1	\$ 150,000	\$ 150,000
6	Fold and Form Sewer Lining – 12-in. Gravity SS	L.Ft.	1,217	\$ 126.00	\$ 153,342
7	Fold and Form Sewer Lining – 24-in. Gravity SS	L.Ft.	1,308	\$ 248.00	\$ 324,384
8	Fold and Form Sewer Lining – 8-in. Force Main SS	L.Ft.	615	\$ 77.60	\$ 47,724
9	Cap Existing 8-in. SS Force Main	LS	1	\$ 25,047	\$ 25,047
10				\$	\$
11				\$	\$
12				\$	\$
13				\$	\$
14				\$	\$
15				\$	\$
16				\$	\$
17				\$	\$
18				\$	\$
19				\$	\$
20				\$	\$

BID TOTAL (in Figures):	\$ 753,559.50
(in Words):	Seven hundred fifty three thousand five hundred fifty nine dollars & 50/100

By 
 Title Gary Miksis, President
 Company Miksis Services Inc.
 License No. 544530 A
 Address PO Box 591-i
 City, State, ZIP Healdsburg, CA 95448
 Telephone No. 707-433-8053

The undersigned agrees to complete the work of this Contract in 60 working days, following the date of the Notice to Proceed.

If erasures or other changes appear on this Bid Proposal, each such erasure or change must be initialed by the person signing the bid.

The names and residences of all persons and parties interested in the foregoing bid as principals are as follows:

(Give first and last names in full. In the case of a corporation, give name of president, treasurer, and manager, and in the case of a partnership, give names and addresses of partners.)

Gary Miksis, President & Treasurer

Barbara Miksis, Vice-President & Secretary

The undersigned certifies that he is familiar with the various State and local laws affecting labor, length of working days, employer's liabilities, Sunday work, alien labor, domestic materials, sub-contractors, etc.

The undersigned bidder represents, under penalty of perjury that: (1) I am a licensed contractor licensed to render the services set out in the invitation to bid; (2) my California Contractor's License Number is 544530; (3) the expiration date of my license is 10/31/2020; (4) my California Department of Industrial Relations Registration ("DIR") Number is 1000014927; and (5) the expiration date of my DIR registration

is 6/30/2020.

It is understood and agreed that the City has the right to waive defects and to accept or reject any or all bids.

DATED this 9-17-19 day of Sept, 2019

By: 
(Notarized Signature)

[Corporate Seal, if applicable]

Gary Miksis, President
(Title)

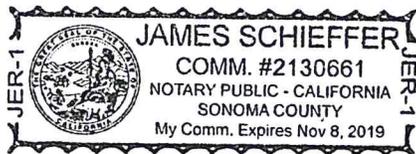


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF California
COUNTY OF Sonoma

On 9/11/19 before me, James Schieffer, Notary Public, personally appeared Gary M. Kis who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

James Schieffer
(Signature of Notary Public)

**BID PROPOSAL
REQUIRED BIDDER INFORMATION
GENERAL INFORMATION**

The bidder shall furnish the following information, which shall be clear and comprehensive. Failure to comply with this requirement shall render the bid non-responsive and shall cause prospective bidder's rejection. Additional sheets shall be attached as required. The bidder may submit any additional information the bidder desires. In addition, the bidder authorizes and requests any person, corporate officer, or other public agency official, to furnish any information requested by the City in verification of this information.

1. Bidder's Name: Miksis Services Inc.

2. Bidder's Principal Business Address:
PO Box 591-i, Healdsburg, CA 95448

3. Bidder's Telephone No: 707-433-8053
 Fax No: 707-433-8085
 Email: admin@unplugu.com

4. Contractor's License Information:
 Primary Classification: A
 State License No: 544530
 Supplemental classification held, if any: C-36

5. When organized: 1981

6. If a corporation, where incorporated: California

7. Number of years as a Contractor in construction work of this type:
38 years

8. General character of work performed by your Company:
Trenchless pipe rehab

**BID PROPOSAL
REQUIRED BIDDER INFORMATION
GENERAL INFORMATION**

9. Names and titles of all officers of the firm:

Gary Miksis, President & Treasurer

Barbara Miksis, Vice-President & Secretary

10. Name of person who inspected the site of the proposed work for your firm:

Name Gary Miksis Date of Inspection 8/15/2019

Name _____ Date of Inspection _____

Name _____ Date of Inspection _____

11. Name, address and telephone number of the Surety Company and agent who will provide the required bonds for this contract:

A.E. Schieffer & Son Insurance Agency 707-433-3374

PO Box 515

Healdsburg, CA 95448

12. Names of the project manager and field superintendent who will be assigned to direct and supervise the work under this contract:

Name Gary Miksis Position President

Name Ben Robles Position Field Superintendent

ATTACH TO THIS BID the experience resumes of the named project manager and field superintendent.

13. ATTACH TO THIS BID or within three (3) days of the public bid opening date, the apparent lowest, second lowest and third lowest bidders shall furnish a notarized and verified financial statement, references, and other information, sufficiently comprehensive to permit an appraisal, by the City, of the Contractor's current financial condition.

**BID PROPOSAL
REQUIRED BIDDER INFORMATION
GENERAL INFORMATION**

14. List a minimum of three projects recently completed within the last three (3) years that involve work of similar type, complexity and value that have been completed by your firm.

<u>Project</u>	<u>Contract Price</u>	<u>Name, Address & Telephone No. of Owner</u>
<u>Yountville 2019 Sanitary Sewer Slip Lining Project</u>	<u>\$150K</u>	<u>Don Moore</u> <u>City of Yountville</u> <u>6500 Yount St.</u> <u>Yountville, CA 94599</u> <u>707-944-2988</u>
<u>City of Rohnert Park Sewer Lining Project 2014-03</u>	<u>\$592K</u>	<u>Warren Naumann</u> <u>City of Rohnert Park</u> <u>600 Enterprise Dr.</u> <u>Rohnert Park, CA 94928</u> <u>707-588-3300</u>
<u>Town of Windsor Old Redwood Hwy Sewer Lining Project 2019</u>	<u>\$104K</u>	<u>Jim O'Brien</u> <u>Town of Windsor</u> <u>PO Box 100</u> <u>Windsor, CA 95492</u> <u>707-838-1012</u>
<u>County of Sonoma On-Going Project</u>	<u>\$149K</u> <u>(last 3 years)</u>	<u>Matt Frazier</u> <u>Sonoma County Road Dept.</u> <u>2300 County Center Dr.</u> <u>Santa Rosa, CA 95403</u> <u>707-477-6907</u>
<u>Marin County Road Dept. On-Going Project</u>	<u>\$279K</u> <u>(last 3 years)</u>	<u>Jim Marino</u> <u>Marin County Road Dept.</u> <u>2 Peter Behr Dr.</u> <u>San Rafael, CA 94913</u> <u>415-473-6929</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

INTENTIONALLY LEFT
BLANK

6/30/2020

**PROPOSAL
REQUIRED BIDDER INFORMATION
LIST OF SUBCONTRACTORS**

The bidder shall list below the name and business address of each subcontractor who will perform work under this Contract in excess of one-half of one percent of the Contractor's total bid price, and shall also list the portion of the work which will be done by such subcontractor. After the opening of bids, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of work to be performed with the words "and/or" will not be permitted. All information must be provided for each subcontractor. Failure to comply with this requirement shall render the proposal (bid) non-responsive and shall cause its rejection. [Attach additional sheets if required.]

<u>Work to be Performed</u>	<u>Subcontractor License Number</u>	<u>Percent of Total Contract</u>	<u>Subcontractor's Name and Address</u>
<u>Bypass Pumping</u>	<u>593212</u>	<u>9%</u>	<u>Pac Machine Company</u> <u>8570 23rd Ave.</u> <u>Sacramento, CA 95826</u> <u>707-580-3128</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

INTENTIONALLY LEFT
BLANK

INTENTIONALLY LEFT
BLANK

BID BOND

We, MIKSIS SERVICES, INC. as Principal, and AMERICAN CONTRACTORS INDEMNITY CO. as Surety, jointly and severally, bind ourselves, our heirs, representatives, successors and assigns, as set forth herein, to the City of Benicia (herein called the Owner) for the payment of the penal sum of SEVENTY EIGHT THOUSAND AND NO/100 DOLLARS (\$ 78,000.00), lawful money of the United States, which is TEN PERCENT (10%) OF THE TOTAL AMOUNT BID by bidder to Owner. Principal has submitted the accompanying bid for the **BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT PROJECT**.

If the Principal is awarded the Contract and enters into a written Contract, in the form prescribed by the Owner, at the price designated by his bid, and files two bonds with the Owner, one to guarantee payment for labor and materials and the other to guarantee faithful performance, in the time and manner specified by the Owner, and carries all insurance in type and amount which conforms to the Contract Documents and furnishes required certificates and endorsements thereof, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Forfeiture of this bond, or any deposit made in lieu thereof, shall not preclude the Owner from seeking all other remedies provided by law to cover losses sustained as a result of the Principal's failure to do any of the foregoing.

Principal and Surety agree that if the Owner is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay owner's reasonable attorney's fees, witnesses fees and other costs incurred with or without suit.

Executed on SEPTEMBER 11, 2019.

MIKSIS SERVICES, INC.
PRINCIPAL

By: 
(Signature) GARY MIKSIS
PRESIDENT
(Title)

(Attach Notary Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

JAMES SCHIEFFER
338 CENTER STREET
HEALDSBURG, CA 95448
(707) 433-3374

(Name and address of Surety's agent for service of process)

(In California, if different from above)

(Telephone number of Surety's agent in California)

(Seal and Notary Acknowledgment of surety)

AMERICAN CONTRACTORS
INDEMNITY COMPANY

SURETY

By:



(Attorney-in-Fact) CINDY BETH



NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

POWER OF ATTORNEY

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

James Schieffer or Cindy Beth of Healdsburg, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** *****Three Million***** Dollars (\$ **3,000,000.00**).

This Power of Attorney shall expire without further action on November 3, 2019. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

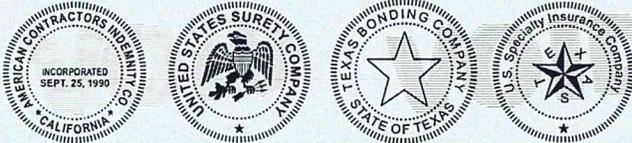
Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of November, 2016.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

Corporate Seals



By:

[Signature]
Daniel P. Aguilar, Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles SS:

On this 1st day of November, 2016, before me, Sabina Morgenstein, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Signature *[Signature]* (Seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 11TH day of SEPTEMBER, 2019.

Corporate Seals



[Signature]
Kio Lo, Assistant Secretary

Bond No. N/A
Agency No. 2168

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

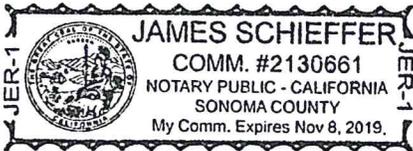
STATE OF California
COUNTY OF Sonoma

On 9/11/19 before me, James Schieffer, Notary Public, personally appeared Cindy Beth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

James Schieffer
(Signature of Notary Public)



**PROPOSAL
CONTRACTOR'S CERTIFICATE
WORKER'S COMPENSATION**

Owner and Description of Contract: CITY OF BENICIA
BAYSHORE ROAD/ EAST J AND K STREETS SEWER IMPROVEMENT PROJECT

Labor Code Section 3700:

"Every employer except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurer duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees".

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Dated: 9-10-, 2019

Miksis Services Inc.

(Contractor)

By:


(Signature)

President

(Official Title)

(SEAL)

(Labor Code Section 1861 provides that the above certificate must be signed and filed by the Contractor with the Owner prior to performing any work.)

INTENTIONALLY LEFT
BLANK

**NONCOLLUSION DECLARATION
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

STATE OF CALIFORNIA)
COUNTY OF SONOMA) SS.

GARY MIKSIS, being first duly sworn,
Name of Bidder's Representative

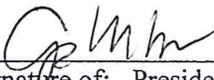
declares that he or she is the
PRESIDENT of
President, Secretary, Manager, Owner or Representative

MIKSIS SERVICES INC.,
Name of Company or Corporation or Owner

the party making the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 9/11/19 at Healdsburg, Ca.


Signature of: President, Secretary,
Manager, Owner, or
Representative

(Attach Notary
Acknowledgement)

Gary Miksis - President
Print Name and Title

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

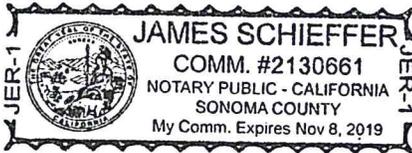
STATE OF California
COUNTY OF Sonoma

On 9/11/19 before me, James Schieffer, Notary Public, personally appeared Gary Mikesis who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

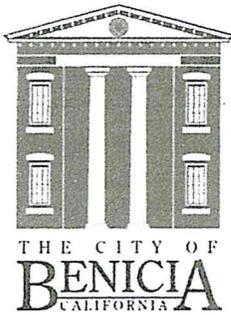
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

James Schieffer
(Signature of Notary Public)



INTENTIONALLY LEFT
BLANK



**Public Works Department
ADDENDUM NO. 1
August 22, 2019**

SUBJECT: Bayshore Road/ E. J & K Streets Sewer Improvement Project, PW #19-05

NOTICE IS HEREBY GIVEN to all interested parties that the "Request for Proposal" of the subject project is hereby modified only insofar as the following clarifications, corrections, changes, and amendments are concerned. The proposer MUST make acknowledgment of the receipt of this addendum by signing on the space provided and **ATTACHING THIS ADDENDUM** to the **PROPOSAL** at the time that the proposal is submitted.

1. Revised bid due date:

The bid due date has been extended until **2 PM on Wednesday, September 18, 2019.**
Bids will be opened at 2PM inside the Commission Room at City Hall, located at 250 East "L" Street, Benicia, California 94510.

2. CCTV videos:

CCTV videos of the sewers have been uploaded to the City's FTP site for viewing at the following link:
<https://benftp.exavault.com/share/view/1mwrn-fghjung4>
These CCTV videos are for reference only and do not constitute any change to project plans or specifications.

3. Sewer liner thickness:

Technical Specification Section 15210, Section 2.01 D.3 (Table 2.2.4.3) shows minimum average wall thicknesses for formed liners. To clarify: "Dynaliner" lining with a 0.350-in. thickness is acceptable for use in the 24-in. sewer pipe. All other liners shall be SDR 32.5.

4. Protruding laterals along Bayshore Road:

Two laterals were found to protrude into the 12-inch gravity main in the vicinity of the Amports offices. These laterals will be trimmed flush to the inside of the 12-inch main by our maintenance crew prior to the start of construction.

Signed:



Proposer

9-10-19

Date

Signed:

Laura Pate

Laura Pate, Project Manager - Utilities

August 22, 2019

Date



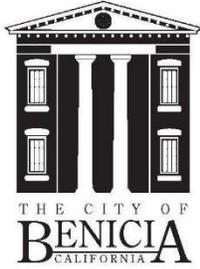
Resume Ben Robles, Foreman

Certifications	<p>NASSCO Certifications: PACP, MACP, LACP Trenching/Excavation Safety Confined Space Entry Traffic Control/Flagger CPR/First Aid/AED CDL with Tanker Endorsement</p>
Experience	<p>Ben joined MSI in 2011, rapidly gaining knowledge and hands-on experience in the field of pipeline maintenance and repair and maintains certifications in the National Association of Sewer Service Companies (NASSCO) for PACP, MACP and LACP. His organizational and planning skills as well as his ability to direct the team effort make him an invaluable resource. Within the broad base of services MSI provides, Ben has become a specialist in all aspects of the pipe lining process from the initial pipeline assessment, site planning, pipe preparation to the final installation.</p> <p>Rohnert Park Sewer Lining Project: Responsible for lining gravity & siphon sewer pipes crossing creeks. Duties included pipe cleaning, equipment staging, traffic control & bypass planning and execution, and installation.</p> <p>Sonoma County Road Dept.: Project foreman for on-going large diameter storm drain cleaning and lining at various locations within Sonoma County.</p> <p>Shelter Cove Sewer Assessment Project: Responsible for the on-going cleaning and assessment project emphasizing the location of I&I and determining repair options.</p> <p>Marin County Road Dept.: Superintendent for all County Road culvert rehabilitation projects.</p>



Resume Gary Miksis

Certifications	<p>NASSCO Certifications: PACP, MACP, LACP Trenching/Excavation Safety Confined Space Entry Traffic Control/Flagger CPR/First Aid/AED</p>
Experience	<p>Founder & President:</p> <p>For over 30 years, Miksis Services Inc. has been serving the needs of the waste water industry in maintenance and rehabilitation. As the company has grown, so has the spectrum of services provided. From pipe cleaning and debris removal, to pipeline CCTV assessment, smoke testing, hydro-blasting, and epoxy coating, MSI continues to expand its services to the underground infrastructure industry. Recognizing the need for trenchless construction methods for pipe restoration, the company has grown to include a full array of trenchless repair methods providing a cost-effective alternative to open-cut trenching.</p> <p>Gary currently holds a California Class A Contractors License, a C-36 and carries a Hazardous Materials endorsement. He has been featured in numerous industry publications regarding trenchless pipeline rehabilitation projects.</p>



**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **AUTHORIZATION FOR SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF BENICIA IS ELIGIBLE**

EXECUTIVE SUMMARY:

This action allows the City Manager, or designee, to execute applications for grant programs (grants) through CalRecycle on behalf of the City for all grants in which the City of Benicia is eligible.

RECOMMENDATION:

Adopt a resolution (Attachment 1) that authorizes the submittal of application(s) for grants made available through CalRecycle in which the City is eligible.

BUDGET INFORMATION:

There is no impact or cost to the City's General Fund budget to apply for a grant. Instead, this action could potentially provide additional funds if we are awarded any grants.

BACKGROUND:

CalRecycle (the Department of Resources Recycling and Recovery) grants are available to local agencies pursuant to Public Resources Code Section 48000 et seq.

Grant programs administered by CalRecycle further the State of California's efforts to reduce, recycle and reuse solid waste generated in the state, thereby preserving landfill capacity and protecting public health and safety and the environment.

CalRecycle grant application procedures require an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NEXT STEPS:

If authorization is approved by Council, staff will apply for a Rubberized Pavement Grant and any future grants for which the City is eligible.

ALTERNATIVE ACTIONS:

If Council chooses to not adopt a resolution, the City will be ineligible to apply for CalRecycle grants.

General Plan	Goal 2.28: Improve and maintain public facilities and services
---------------------	--

Strategic Plan	Strategic Issue #4: Preserving and Enhancing Infrastructure
	Strategy #1: Provide safe, functional, and complete streets

CEQA Analysis	Authorization of grant application is not a project under Section 15378 (b) of the CEQA Guidelines, which excludes administrative activities of governments. Therefore, it is not subject to CEQA under Guidelines Section 15060 (c).
----------------------	---

ATTACHMENT:

1. Resolution – CalRecycle Grant Authorization

For more information contact: William Tarbox, Public Works Director

Phone: 707-746-4240

E-mail: wtarbox@ci.benicia.ca.us

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
AUTHORIZING SUBMITTAL OF APPLICATION(S) FOR ALL CALRECYCLE
GRANTS FOR WHICH THE CITY OF BENICIA IS ELIGIBLE**

WHEREAS, Public Resources Code Section 48000 et seq. authorizes the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's efforts to reduce, recycle and reuse solid waste generated in the state, thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED THAT that the City of Benicia authorizes the submittal of applications(s) to CalRecycle for all grants for which the City of Benicia is eligible.

BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized and empowered to execute in the name of the City of Benicia all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project.

BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019, by the following vote:

Ayes:

Noes:

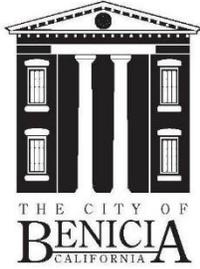
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
CONSENT CALENDAR**

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA MIDDLE MANAGEMENT EMPLOYEES GROUP**

EXECUTIVE SUMMARY:

The City’s contract with the Mid-Managers expired on June 30, 2019. The City has reached a tentative agreement on a two-year successor agreement with the Mid-Managers and they have ratified their agreement.

RECOMMENDATION:

Adopt the resolution (Attachment 1) approving the October 1, 2019 to June 30, 2021 agreement between City and the Mid-Managers (Attachment 2).

BUDGET INFORMATION:

The total cost of the two-year agreement is approximately \$404,000; \$265,600 is from the General Fund.

BACKGROUND:

The Mid-Managers and the City have met and conferred in good faith regarding wages, hours and other working conditions of employment for association members. Exhibit A attached (Attachment 2) reflects the new specified increases in compensation during the term of this new agreement. The major elements of the agreement provide for salary increases in both years of the contract, additional MOU leave or cash out in year one, a contribution into a deferred compensation account, and an increase in the City’s contribution to medical premiums.

NEXT STEPS:

If the City Council approves the agreement, the City Manager shall take the necessary administrative steps to implement the provisions of the agreement and actions approved.

ALTERNATIVE ACTIONS: N/A

General Plan	N/A
---------------------	-----

Strategic Plan	Strategy #4: Manage City finances prudently
-----------------------	---

CEQA Analysis	The project is exempt under CEQA Section 15061 (b)3, in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
----------------------	---

ATTACHMENT (S):

1. Resolution – Mid-Manager Agreement
2. Exhibit A – Mid-Manager Agreement 10-1-2019 to 6-30-2021

*For more information contact: Alan Shear, Assistant City Manager
 Phone: (707) 746-4309
 E-mail: ashear@benicia.org*

RESOLUTION NO. 19-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE AGREEMENT BETWEEN THE CITY OF BENICIA AND THE MIDDLE MANAGEMENT EMPLOYEES

WHEREAS, the existing agreement between the City and Benicia Mid-Managers expired on June 30, 2019; and

WHEREAS, the City and the Mid-Managers have reached agreement on the proposed amendments to the Memorandum of Understanding (MOU) as outlined in Exhibit A; and

WHEREAS, the Mid-Managers have ratified the proposed amendments to their agreement; and

WHEREAS, unless otherwise amended, all terms of the existing agreement shall remain in effect from October 1, 2019 to June 30, 2021; and

WHEREAS, the total cost of the two-year agreement is approximately \$404,000; approximately \$265,600 is from the General and \$138,400 is from non-General Fund.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the successor Agreement between the City of Benicia and the Mid-Managers, in effect from October 1, 2019 to June 30, 2021.

BE IT FURTHER RESOLVED that City Council of the City of Benicia authorizes the City Manager to take the necessary administrative steps to implement the provisions of the agreements and actions approved by this resolution.

On motion of Council Member _____, seconded by Council Member _____, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 15th day of October, 2019, by the following vote:

Ayes:

Noes:

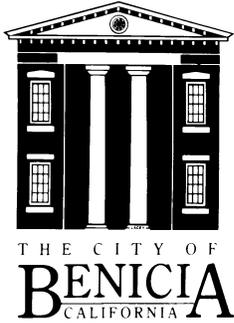
Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGREEMENT BETWEEN THE CITY OF BENICIA AND MIDDLE MANAGEMENT EMPLOYEES ESTABLISHING A BENEFIT AND COMPENSATION PROGRAM FOR PERIOD OF ~~JULY 1, 2016~~ OCTOBER 1, 2019 – JUNE 30, 2019~~21~~

(approved by City Council on ~~July 19, 2016~~ via Reso ~~16-93~~ 19-xx)

I. PREAMBLE

In order to further the spirit of goodwill that exists between the City and its Middle Management employees and to encourage and promote the development of a stronger and more effective middle management team, this agreement is hereby adopted. The principal objectives of this agreement are as follows:

- A. To provide a sense of employment security for both the employee and the City.
- B. To clearly define the working conditions of the Middle Management employees.
- C. To provide incentives for Middle Management employees to develop and further their skills in order to be able to provide a higher level of service to the City.
- D. To provide a comfortable work environment and encourage employees to remain in the City's employ.
- E. To provide a vehicle for the City to recruit and retain highly qualified Middle Management employees.

Middle Management employees covered by this agreement include the following positions:

- ~~Asst. Director of Public Works/Utilities Manager~~
- ~~Asst. Director of Parks and Community Services~~
- Assistant Finance Director
- Building Official
- Division Chief/Fire
- Deputy Director of PW - Engineering
- Deputy Director of PW - Operations
- Fire Marshal
- Library Manager
- Economic Development Manager I/II
- Parks & Community Services
- Superintendent
- Principal Planner
- Principal Civil Engineer
- Project Manager
- Public Services Librarian I/II
- Public Works Maintenance Superintendent
- Senior Librarian
- Superintendent Wastewater Treatment Plant
- Superintendent Water Treatment Plant
- Information Technology Manager

II. COMPENSATION

A. Salaries

1. Salary Increases

Effective the ~~first full~~ pay period after in effect upon adoption of this successor MOU by the City Council on its regular agenda, each step of the salary range for each classification in this unit shall be increased by ~~one percent (1.0%)~~ three and one-half percent (3.5%).

~~Effective the first full pay period in January 2017, each step of the salary range for each classification in this unit shall be increased by one percent (1.0%).~~

~~Effective July 1, 2017, each step of the salary range for each classification in this unit shall be increased by two and three quarters percent (2.75%).~~

Effective July 1, 20~~18~~20, each step of the salary range for each classification in this unit shall be increased by ~~two and three quarters percent (2.75%)~~ three and one-half percent (3.5%).

2. Total Compensation Survey: The following agencies have been used for the purposes of salary surveys for benchmarked positions in the recent past:

City of Brentwood	City of Napa	Contra Costa County
City of Davis	City of Pinole	Contra Costa Fire District
City of Fairfield	City of Richmond	Contra Costa Water District
City of Folsom	City of Vacaville	East Bay Municipal Utility District
Central Contra Costa Sanitary District	City of El Cerrito	
City of Vallejo	City of San Pablo	City of Pleasant Hill

During the term of the Agreement, the City shall complete a compaction study between the Division Fire Chief and Captain position. Should the study conclude that there is/are internal compaction (s), the parties agree to meet and confer over the results. No action as a result of the study shall be taken unless the parties are in mutual agreement. The intent is to begin this project within 180 days of the adoption of the MOU.

B. Deferred Compensation

Middle Management employees may elect a monthly payroll deduction to be placed in the City administered deferred compensation program. Any monies so deposited would become tax deferred and would be subject to income taxation in the year they are withdrawn from. The City will contribute 2% of the employee's base salary to the deferred compensation program for non-safety employees provided the employee contributes a 1.0% matching base salary share for non-safety employee.

The City contributes 2.5% for safety employees, provided the safety employee contributes a 1.0% matching share.

Deferred Comp 457. For the months of November, December 2019 and January 2020 only, the city will contribute 2% of base salary for each employee into a 457 deferred compensation program. This provision sunsets after January 31, 2020.

C. Longevity Pay

At the completion of ten (10) years service	-	2.5%
At fifteen (15) years service this increases to	-	3.75%
At twenty (20) years service this increases to	-	4.25%
At twenty-five (25) years services this increases to	-	6.25%

D. Uniform Allowance

Uniform Allowance for Public Safety Members shall be ~~\$50.00~~75.00 per month.

E. Acting Pay

Employees, at the sole discretion of the City Manager, or designee, may receive Acting Pay of 5% of base salary when the employee is asked, and accepts, working in the capacity of a higher job class that is equal to or greater than 30 consecutive calendar days duration.

III. **LEAVES**

A. Vacation

Middle Management employees shall accumulate vacation time in accordance with the following vacation entitlement schedule:

<u>Years of Service</u>	<u>Weeks of Vacation</u>
0 through 6 years	3 weeks
7 through 14 years	4 weeks
15 through 20 years	5 weeks
21 years and over	6 weeks

For non-safety employee a 'week' is defined as 40 hours (irrespective of the schedule they are actually working, such as a 9/80). For safety employees assigned to a 56 hour work week, a 'week' is defined as 56 hours.

An employee may take vacation at times approved by the Department Head. It is the policy of the City that employees take their normal vacation each year.

Although vacation time may be taken in increments of four hours, at least one week of annual vacation must be taken as five consecutive days. However, an employee may take less than a normal vacation in one year and carry the balance over to the next year. Such carry-over accumulation shall not exceed 320 hours, and any accrual over 320 hours shall be used by December 31st of each year. Beginning December 2000, and in December of each calendar year, the City will allow employees who have in excess of 320 hours of accrued vacation leave to convert up to forty (40) hours of vacation leave to sick leave.

All unit members are required to participate in the VantageCare program. On December 31st of each year earned vacation time in excess of 200 hours in each employee's vacation balance shall be invested in the ICMA VantageCare Retiree Health Savings Program.

B. Holidays

The City agrees to provide employees covered by this agreement twelve paid holidays each year, to wit:

1. New Year's Day (January 1st)
2. Martin Luther King Jr.'s Birthday
3. ~~Lincoln's Birthday~~ Christmas Eve
4. Presidents' Day (3rd Monday in February)
5. Memorial Day (last Monday in May)
6. Independence Day (July 4th)
7. Labor Day (first Monday in September)
8. ~~Columbus Day~~ New Year's Eve
9. Veterans' Day
10. Thanksgiving Day
11. Friday after Thanksgiving
12. Christmas Day (December 25)
13. 2 Personal Leave Days
14. Non-safety Employees: Two December closure floating holidays to be used only during the period of December 26 – December 30 each year if required by the City to participate in a December closure. Employees normally schedule to work and actually work during the December closure will receive up to two (2) floating holidays to use by the end of the fiscal year.

Personal Leave may be taken at any time during the fiscal year with the approval of the Department Head. Personal Leave may not be accumulated and carried forward to the next fiscal year.

It is the intent of this agreement that employees covered shall receive twelve paid holidays regardless of their assigned work week. When a holiday falls on a Saturday the preceding Friday shall be deemed a holiday. When a holiday falls on

a Sunday the following Monday shall be deemed a holiday. When an employee is required to work on a holiday another day may be selected in lieu of the holiday with the consent of the Department Head.

~~Holiday Closure Sunsets on January 1, 2017~~

~~The City agrees to the December holiday leave for 2016 equivalent to four (4) working days. There will be no City Manager days conferred during this time. This Holiday Closure leave shall be non precedent setting, with the purpose of recognizing the cooperation of the Mid Managers in negotiating this agreement. The City shall determine whether to institute a holiday closure in December 2016. If instituted, the holiday leaves for Mid Managers will correspond with the days of the City's holiday closure. For those employees who are scheduled to work during the holiday closure, if instituted, the City will provide employees with the equivalent leave hours to be taken during the applicable fiscal year for which the leave was allocated. If the City does not close city hall during December, employees will be permitted to use the 4 days at another time during the remainder of the fiscal year.~~

C. Administrative Leave

In recognition of the extended hours required of Middle Management employees, including attendance at meetings outside of normal working hours, the following leave policy shall be implemented:

Each Middle Management employee shall receive 9 ten (10) days Administrative Leave. For non-safety employees a day will be 8 hours; for safety employees assigned to a 56 hour work week, a day will be 11.2 hours.

On June 1st of each year, employees may elect to convert unused Administrative Leave for cash for an amount up to one half his/her authorized Administrative Leave allowance. Payment for cash conversion shall be made by June 30th. Administrative Leave must be converted to cash payment or used by June 30th of each year.

Upon termination of employment an employee will be entitled to a prorated payout of the current fiscal year's earned Administrative Leave.

D. Performance Leave

Employees are eligible to receive a maximum of 24 hours of paid leave per fiscal year in recognition of exemplary performance.

Leave may be granted in any increment between 1 hour and 24 hours to individuals or to work teams for such reasons as a single outstanding achievement, consistently above standard job performance, or other extraordinary efforts on behalf of the City, as recommended by the Department Head and approved by the City Manager.

This leave must be taken as paid time off in the fiscal year in which it was granted. This leave has no cash value and is not compensable upon termination of employment with the City.

E. Sick Leave

1. Middle Management employees shall be entitled to one day of sick leave with pay for each month worked or major fraction thereof. Sick leave with pay up to the total number of days accumulated shall be granted by the Department Head and City Manager in the case of a bonafide illness or injury. For this section, non-safety employees accrue at 8 hours per month. Safety employees assigned to a 56-hour work week will accrue 12 hours per month.
2. Sick leave with pay shall not be granted for any injury attributable to an outside occupation for which worker's compensation benefits are available and engagement therein has not been authorized by the City Manager.
3. Middle Management employees may participate in the City's Sick Leave Bank that has been established in accordance with City Policy & Procedure #5 - Sick Leave Bank Policy.

F. Paid Industrial Accident Leave

The City agrees that each full-time non-safety employee shall be granted paid industrial accident leave (PIA) if the claim is approved by the State Workers' Compensation Board, with the City paying full base salary during such leave. PIA shall begin on the first day of said industrial accident and shall extend for a maximum of one year. During such leave the City shall receive all State Workers' Compensation benefits. When an employee is on PIA neither vacation or sick leave is charged, nor is vacation or sick leave accrued.

Safety employees shall be governed by Section 4850 of the Workers' Compensation Act.

G. Leave of Absence

1. Middle Management employees shall be granted a leave of absence with full pay for jury service, an appearance required of the employee as a witness,

or attendance in court proceedings resulting from the employee's official duties. Any compensation received by the employee for such service shall be remitted to the City.

2. Upon written request by the employee, the City Manager may approve in writing a leave of absence without pay for a period up to but not exceeding four (4) months. The City Council may approve such a leave of absence without pay for a period not exceeding one (1) year.

H. Bereavement Leave

Any employee shall obtain the approval of the employee's Department Head in advance of an absence due to a death in the employee's family. Failure to obtain the Department Head's approval shall result in ineligibility for benefits under this section.

In the event of a death in the immediate family of an employee, he shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. However, up to an additional two (2) days may be granted for out-of-state funerals. This provision does not apply if the death occurs during the employee's paid vacation, or while the employee is on leave of absence, layoff, or sick leave.

For the purposes of this section immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and members of the employee's household.

Additional Bereavement Leave may be granted to an employee to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave.

I. MOU LEAVE FY 2019/2020 and 2020/2021

Accrual of MOU Leave for FY 2019-20 and FY 2020-21

Effective the pay period upon Council approval of this agreement, employees who are in full time status at the time of contract ratification will accrue the value of:

Non-safety: 3.33 hours of "MOU leave" per month for fiscal year 2019-20 (represents 40 hours) and 20 hours of "MOU leave" for fiscal year 2020-21.
Safety: 4.66 hours of "MOU leave" per month for fiscal year 2019-20 (represents 56 hours) and 28 hours of "MOU leave" for fiscal year 2020-21.

Fiscal year 19/20 accrual will be credited upon approval of the agreement. Fiscal year 20/21 accrual will be credited on July 1, 2020.

This accrual shall cease effective June 30, 2021. The MOU leave will be credited to an employee leave bank in a lump sum each fiscal year. Employees hired during the fiscal year will receive a prorated allotment. Employees promoted to this unit during the FY year will only receive an amount if they had not previously received an amount in another bargaining unit.

Payout of MOU Leave

Employees can elect to cash out their full allotment of MOU leave in the November paycheck. Employees electing this option will need to notify the city no later than the 10th of November. Employees who do not elect to cash out their MOU leave will have until June 30 to use the leave. MOU leave has no cash value after the November paycheck. MOU leave is not carried forward into the next fiscal year.

Use of MOU Leave

Use of MOU Leave will be subject to the same restrictions as vacation leave (e.g., pre-approval by supervisor).

Sunset

MOU leave sunsets on June 30, 2021.

IV. EDUCATIONAL BENEFITS

- A. In order to promote continued development of professional skills, knowledge, and abilities among the Middle Management team of the City, the City Manager may grant time for educational leave. Such leave may be received in order to attend professional, technical, or managerial workshops, conferences, conventions, seminars, or related activities.

All such requests for educational leave shall be submitted in writing to the Department Head with adequate justification. The amount of leave granted shall be at the discretion of the Department Head, subject to City Manager approval. Educational leave will not be charged to any other leave account.

The costs for attendance at these activities, including travel, registration, tuition, books and course materials, or other reasonable costs, are considered legitimate City expenditures when provided for in the annual City budget and approved by the City Manager.

- B. An Educational Reimbursement Program is hereby established to encourage employees to continue their professional and career development by enrolling in job related university/college level courses during off duty time. The City agrees to pay up to ~~\$1,240~~ \$1,500 in any one twelve (12) month period toward the cost of books and tuition for courses of study undertaken by employees pursuant to this Program, provided such courses and institutions have been approved by the employee's Department Head and City Manager.

Requests for participation in the Educational Reimbursement Program shall be submitted in writing to the Department Head with adequate justification, prior to April 1 of each fiscal year.

V. PROFESSIONAL ORGANIZATIONS

Middle Management employees are encouraged to maintain membership in a minimum of one (1) appropriate professional organization in order to keep informed of current state-of-the-art information in their respective professional field. The City will include the cost of these professional membership fees in the respective departmental budgets.

VI. HEALTH AND MEDICAL INSURANCE

- A. The City shall maintain current health insurance benefits to include a physical exam every two years. Any costs beyond those not covered by the employee's health insurance for the biennial medical examination shall be paid by the City upon prior written approval. The costs for treatment or correction of deficiencies shall be paid by the employee.

The City shall continue to offer hospital-medical-dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits.

Effective upon ratification and approval by the City Council of the successor agreement on its regular agenda, the City's monthly contribution towards medical premiums shall be a maximum up to the following contributions for any plan:

Employee	\$722.00 <u>742.00</u>
Employee plus One	\$1,494.00 <u>1,544.00</u>
Employee plus Family	\$2,030.00 <u>2,105.00</u>

Effective July 1, 2017~~20~~, the City's monthly contribution towards medical premiums shall be a maximum up to the following contributions for any plan:

Employee	\$ <u>762.00</u>
Employee plus One	\$ <u>1,594.00</u>
Employee plus Family	\$ <u>2,180.00</u>

~~Effective July 1, 2018, the City's monthly contribution towards medical premiums shall be a maximum up to the following contributions for any plan:~~

Employee	\$722.00
Employee plus One	\$1,494.00
Employee plus Family	\$2,030.00

- B. City Medical Plan Opt Out Stipend: Upon written documentation from the employee of proof of alternative group medical coverage, the City shall allow employees who have dual coverage on their health plan to receive a City medical plan out stipend equivalent to the amount the City contributes towards the single rate listed above.

VII. RETIREE HEALTH SAVINGS PLAN

Middle Management employees agree to the elimination of the Sick Leave Incentive provision of their 2000-2005 agreement in order to participate in the ICMA VantageCare retiree health savings program. Middle Management employees agree that every unit member shall participate in this program effective December 2010. Under this plan, the City shall contribute to the individual employee's retiree health savings account an amount equivalent to:

1-10 Years	-	25% of Annual Unused Sick Leave Accrual
11-15 Years	-	40% of Annual Sick Leave Accrual
16-19 Years	-	60% of Annual Sick Leave Accrual
20-24 Years	-	80% of Annual Sick Leave Accrual
25 Years or more	-	100% of Annual Sick Leave Accrual

These hours will be subtracted from the employee's sick leave balance at that time.

In order for an employee to receive the 40% or greater amounts they must maintain 500 hours of sick leave accrued in their city sick leave account. If they fall below the 500 hours the City will revert to the contribution amount equivalent to 25% of the employee's annual unused sick leave accrual until such time as the employee has again accrued 500 hours. The 500 hours must be in the employee's individual account by December 20th of each year in order to receive these greater amounts.

For safety employees the hourly rate for sick leave cash out will be based on a 56 hour work week.

VIII. LIFE INSURANCE

The City shall pay the entire cost of providing each insurable regular, full-time employee with \$30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

IX. MILEAGE REIMBURSEMENT AND VEHICLE ALLOWANCE

In July 1, 2000, the City rolled in to salary an amount equal to \$100 for those employees who were currently receiving an auto allowance.

All Middle Management employees shall be reimbursed for the use of their private vehicles to conduct City Business during normal working hours pursuant to Policy & Procedure #23.

X. ON CALL ASSIGNMENTS

The City shall provide marked emergency vehicles for those sworn public safety officers who are required to participate in on call assignments. The sworn public safety officers participating in the on call assignments shall receive an additional 5% of their base salary.

XI. RETIREMENT

1. MISCELLANEOUS EMPLOYEES

A. Miscellaneous Employees in this unit hired on or before September 30, 2012: 2.7% at 55 CalPERS Pension Formula.

1. For employees hired on or before September 30, 2012, the City shall provide the 2.7% at 55 Local Miscellaneous Members Retirement Program. The City's contract with the Public Employees' Retirement System (PERS) for the 2.7% @ 55 formula also provides the following additional benefits:
 - One year highest compensation benefit as outlined in Government Code.
 - The City implemented the third Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
 - Credit for unused Sick Leave as provided for in Government Code.
2. Contributions:
 - a. Employees shall pay 5.0% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions

shall be treated as pre-tax as long as allowable by the IRS.

- b. Employer contribution towards EPMC: The City is paying the 3.0% portion of the PERS member Retirement contribution and reporting the value of the 3.0% Employer Paid Member Contribution (EPMC) as special compensation.

B. Miscellaneous Employees in this unit hired on or after October 1, 2012 and considered a classic member as defined by PERS: 2% at 60 CalPERS Pension Formula.

1. For employees hired on or after October 1, 2012 and are considered a classic member as defined by CalPERS, the City shall provide the 2.0% at 60 Local Miscellaneous Members Retirement Program. The City's contract with the Public Employees' Retirement System (PERS) for the 2.0% @ 55 formula also provides the following additional benefits:
 - o One year highest compensation benefit as outlined in Government Code.
 - o The City implemented the third Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
 - o Credit for unused Sick Leave as provided for in Gov. Code.
2. Contributions:
 - a. Employees shall pay 4.0% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
 - b. Employer contribution towards EPMC: The City is paying the 3.0% portion of the PERS member Retirement contribution and reporting the value of the 3.0% Employer Paid Member Contribution (EPMC) as special compensation.

C. Miscellaneous Employees in this unit hired on or after January 1, 2013/ PEPR Reform.

1. 2.0% at 62 CalPERS Pension Formula/ PEPR: Pursuant to changes mandated by PEPR, all employees who are not considered classic members as defined by CalPERS are under the CalPERS 2.0% @ 62 pension formula. The City shall comply with all PEPR laws for new hires after January 1, 2013 or non-classic members as defined by CalPERS.
2. Contributions: Employee Contribution:-Employees are required by CalPERS per PEPR regulations to contribute 50% of the normal cost rate as determined annually by CalPERS via pay roll deduction.

2. SWORN SAFETY EMPLOYEES

A. Employees in this unit hired on or before May 31, 2011.

1. 3% at 50 CalPERS Pension Formula. The City agreed to amend its contract with the Public Employees' Retirement System [PERS] to include the retirement benefit option of 3% @ 50 in accordance with Government Code § 21362.3. This benefit became effective on November 18, 2000 following the final amendment process and approval by PERS. The City and Police Management employees understand that this contract amendment would be prospective only from the effective date of the PERS contract amendment.
2. The City's contract with the Public Employees' Retirement System (PERS) has been amended and shall provide the following additional benefits:
 - One year highest compensation benefit as outlined in Government Code.
 - The City implemented the Fourth Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
 - Credit for unused Sick Leave as provided for in Government Code.
3. Contributions:
 - a. Employees shall pay 4.5% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
 - b. Employer contribution towards EPMC: The City is paying 4.5% portion of the PERS member Retirement contribution and reporting the value of the 4.5% Employer Paid Member Contribution (EPMC) as special compensation.

B. Employees in this unit hired on or after June 1, 2011 and considered Classic Members

1. 3% at 55 CalPERS Pension Formula Retirement Reform: The Safety employees in this unit agreed to the implementation of a new, less costly, CalPERS 2nd tier pension formula for new hires contingent upon agreement with all other Safety employees to the same and effective thereafter as soon as administratively possible consistent with CalPERS contract amendment requirements.

The City's contract with Public Employees Retirement System (PERS) implemented a second tier retirement benefit option of 3% @ 55 and average three year compensation formula in accordance with Government Code

§21362.3 for new hires hired on or after June 1, 2011.

2. Contributions:

- a. Employees shall pay 4.5% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
- b. Employer contribution towards EPMC: The City is paying 4.5% portion of the PERS member Retirement contribution and reporting the value of the 4.5% Employer Paid Member Contribution (EPMC) as special compensation.

C. Employees in this unit hired on or after January 1, 2013/PEPRA Reform

1. 2.7% at 57 CalPERS Pension Formula PEPRA: Pursuant to changes mandated by PEPRA, all safety employees who are not considered classic members as defined by CalPERS are under the CalPERS 2.7% @ 57 pension formula. The City will comply with all PEPRA laws for new hires after January 1, 2013 or non-classic members as defined by CalPERS.
2. Contributions: Employees are required by CalPERS per PEPRA regulations to contribute 50% of the normal cost rate as determined annually by CalPERS via pay roll deduction.

XII. SEVERANCE FOR NON CIVIL SERVICE POSITIONS

In order to foster a sense of job security within a professional climate, Middle Management employees who receive no protection from the City's Civil Service System shall be entitled to severance pay when they are discharged from City Service after the successful completion of a one-year probation. Severance pay shall be calculated at the rate of two week's pay for each year of service, or major fraction thereof, up to a maximum of fourteen (14) weeks. This severance pay is in addition to any accrued vacation and administrative leave, at the time of termination. These provisions do not apply to any employee discharged for reasons listed in Government Code Section 19572 or to any employee who voluntarily resigns from City service. Employees shall give fourteen (14) days' notice prior to voluntary termination.

XIII. DURATION OF AGREEMENT

The terms of this agreement shall remain in effect through June 30, 2019~~21~~.

XIV. SEPARABILITY OF PROVISIONS

In the event that any provisions of this MOU are declared by a court of competent jurisdiction to be unenforceable or illegal, that provision shall be null and void but such nullification shall not affect any other provisions of this MOU, all of which other provisions shall remain in full force and effect.

Signatures

Date: _____

Date: _____

~~Mario Giuliani for Mid Management~~
Rick Knight
Manager

Alan Shear, Assistant City

~~Rick Knight for Mid Management~~
Jared Matchan

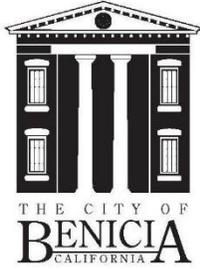
~~Dania Wong, RSHS~~

APPROVED AS TO FORM:

Attorney

~~Heather McLaughlin~~Benjamin Stock, City

~~Note: this version was updated 1/19/17 to fix the typo in Section II, A, 1 (salaries). The text indicated "two and ¾ of one percent". The correct text is two and three quarters percent. This revision was not routed for signature, but back up emails confirming the change are located in H.R. Dept.~~



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
BUSINESS ITEMS

TO : City Manager

FROM : Director of Library and Cultural Services

SUBJECT : **CITY PARK GAZEBO REPLACEMENT AS PUBLIC ART PROJECT**

EXECUTIVE SUMMARY:

In December 2018, Councilmember Steve Young presented a two-step request for the Council to consider converting the City Park Gazebo repair project into a public art project. Council agreed to agendize a discussion, and staff is returning at this time with information to assist the Council's discussion.

RECOMMENDATION:

Staff is recommending not proceeding with replacing the existing gazebo with a public art project, but rather, proceeding on the path previously chosen for repair work on the gazebo.

BUDGET INFORMATION:

The budget established for replacement of the gazebo was \$200,000. Design costs were \$27,300. However, the lowest qualified bid received in 2018 was for \$319,000. At that time, all bids were rejected, and the project was shelved. Currently, there is a remaining balance designated for this project of \$172,700.

If the project were to become a Public Art project, there would be costs associated with design, construction, and the artist's fee total cost is unknown at this time.

BACKGROUND:

History

The City Park Gazebo was donated to the City in 1976 by William C. Turnbull and was dedicated on the date of the bicentennial of the signing of the Declaration of Independence, July 4, 1976. A bronze plaque was placed on the site, memorializing the donation and the occasion of its dedication.

William C. Turnbull was a developer, the owner of Southampton Company, who also had a successful career as a publisher, founding North Point Press. North Point Press was a noted publisher of high-quality books, and his successes included Evan S. Connell's *Son of the*

Morning Star and *West with the Night*. Other authors published by North Point Press include Wendell Berry, M. F. K. Fisher, James Salter, Anne Lamott, Guy Davenport and Gary Snyder. He lived in Benicia and supported the arts and culture of Benicia as a generous donor. He also donated a complete collection of North Point Press publications to our City Library, which, sadly, is no longer held as a discrete collection. The City named William D. Turnbull Park in his honor—the location of the Robert Arneson “Benicia Bench.” He died in March 1991.

The gazebo structure was wood with a concrete foundation. In 1982, additional work was done to replace the wood deck and stairs with concrete, as well as additional foundation upgrades.

Over the years, multiple repairs have been completed to address dry rot and vandalism. The roof was replaced in the mid-1990s.

As of now, the structure is sound, although seismic upgrades and an accessible pathway are desirable.

Since its dedication, the gazebo has become an iconic structure in the City and is frequently depicted in marketing materials and artwork promoting and celebrating Benicia. For example, its image adorns notecards sold through Benicia Main Street, and it has recently been included on a mural downtown. (See Attachment 1: Depictions of the Benicia Gazebo in Art, Publicity, and Photography)

A decision to replace Turnbull’s gift to the City could be a disincentive to future donors to the City, as it could be seen as not honoring the expectation that the City would honor such gifts by keeping their legacy.

Needed Repairs and Upgrades

In 2018, a City Park Gazebo Replacement Project was undertaken, to consist of structural and seismic upgrades as well as accessibility improvements, including an accessible decomposed granite pathway meandering from the playground to the gazebo. As stated above, the bids came in higher than budgeted, and all bids were rejected. Since then, maintenance has continued but there has been no further activity to improve the gazebo or undertake desired seismic and accessibility improvements.

Public Art Gazebo Concept

In December 2018, Councilmember Steve Young initiated a two-step request process to ask the Council to consider the concept of soliciting proposals from artists to convert the gazebo into a piece of public art. Council agreed to discuss, and staff was directed to return with a staff report outlining the process and considerations for such an approach.

Based on feedback from all departments that would be involved, the following requirements would apply:

- Insurance requirements for volunteer workers would be a \$3 million policy, and such a policy would need to be carried by a sponsoring organization. This is based on insurance requirements from ABAG in the past.
- If workers were employed, prevailing wage requirements would need to be met.
- A water efficient landscape ordinance could come into play as well.

- For new construction, full compliance with the Americans with Disabilities Act would apply.
- Appropriate building permits for structural plans would be required.
- Design review would be required by the Historic Preservation Review Commission (HPRC) and the Parks, Recreation and Cemetery Commission (PR&CC).

The time frame for construction could impact the ability to hold special events in the park and the gazebo, which are frequently booked for events such as weddings and are a favorite photo-shoot location.

Impact on Other Public Art Initiatives

The Arts and Culture Commission has several initiatives and projects in the pipeline, including potential murals, improvements to the Camel Barn parking area, additional decorated benches, crosswalk decorations, and more. Given the amount of staff time needed to shepherd a project of the scale of the gazebo, some of these projects would need to be delayed.

PROJECTED TIMELINE:

Staff estimates a best-case scenario of a one-year schedule for proposals, approvals and permits, followed by construction, the timing of which depends on the final design. The following is a series of steps and estimated timelines for completion of a public art process for the gazebo:

- Research and writing of RFP / Call for Artists (see Attachment 2: Sample Public Art RFP): January 2020
- Issue Call for Artists: February 2020
- Proposal deadline: March 2020
- First review of proposals by Art Selection Panel: Late April 2020
- Second review if needed: Late May 2020
- Review by Public Art Committee: June 2020
- Review by Arts & Culture Commission: July 2020
- Review by Historic Preservation Review Comm: August 2020
- Review by Parks, Recreation & Cemetery Comm: August 2020
- Review by City Council: September 2020
- Communicate award to artist: September 2020
- Artist submits construction drawings: October 2020
- Building Division review: November 2020
- Needed revisions complete for Building: December 2020
- Encroachment permit: January 2021
- Building permit issued: January 2021
- Construction begins (weather permitting): February 2021
- Project complete: unknown

CONCLUSION:

Staff is not recommending replacing the existing gazebo with a public art project for the following reasons: respect for the legacy of the current gazebo as a gift to the City by a well-known benefactor; the iconic status of the current gazebo; the opportunity loss for other projects if the staff and Commission’s energy were devoted to this project; the unknown cost; and the fact that the existing structure is sound and replacement is not required.

NEXT STEPS:

Staff will continue to maintain the gazebo and when the construction climate is less competitive and bids are expected to be lower, will rebid the project.

ALTERNATIVE ACTIONS:

Council could choose to replace the existing gazebo with a public art process, and direct staff to initiate the process as described in this report. To do so, staff requests the following information:

- Would the budget for the project remain at the currently-remaining \$172,700?
- Are there any other parameters to be considered in issuing a call for artists (functionality, appearance, size)?

General Plan	Goal 2.28: Improve and maintain public facilities and services.
	Goal 2.30: Maintain and improve existing parks and recreation programs.
	Goal 3.6: Support and promote the arts as a major element in Benicia’s community identity.

Strategic Plan	Strategic Issue 4: Preserving and Enhancing Infrastructure
	Strategy 4.4: Provide adequate funding for ongoing infrastructure needs
	Strategic Issue 5: Maintain and Enhance a High Quality of Life

CEQA Analysis	This request for City Council direction is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” as the term is defined in the CEQA Guidelines Section 15378. At this time, staff requests direction from the City Council, which may result in establishment of a budget and parameters for a public art concept including appearance, size and function. The Council direction to be provided at this time may result in issuance of an RFP/Call for Artists but would not result in a physical change to the environment nor constitute approval of a specific proposal. At such time that a proposal is developed for a new gazebo or other public art, it will be evaluated in accordance with the California Environmental Quality Act.
----------------------	---

ATTACHMENTS:

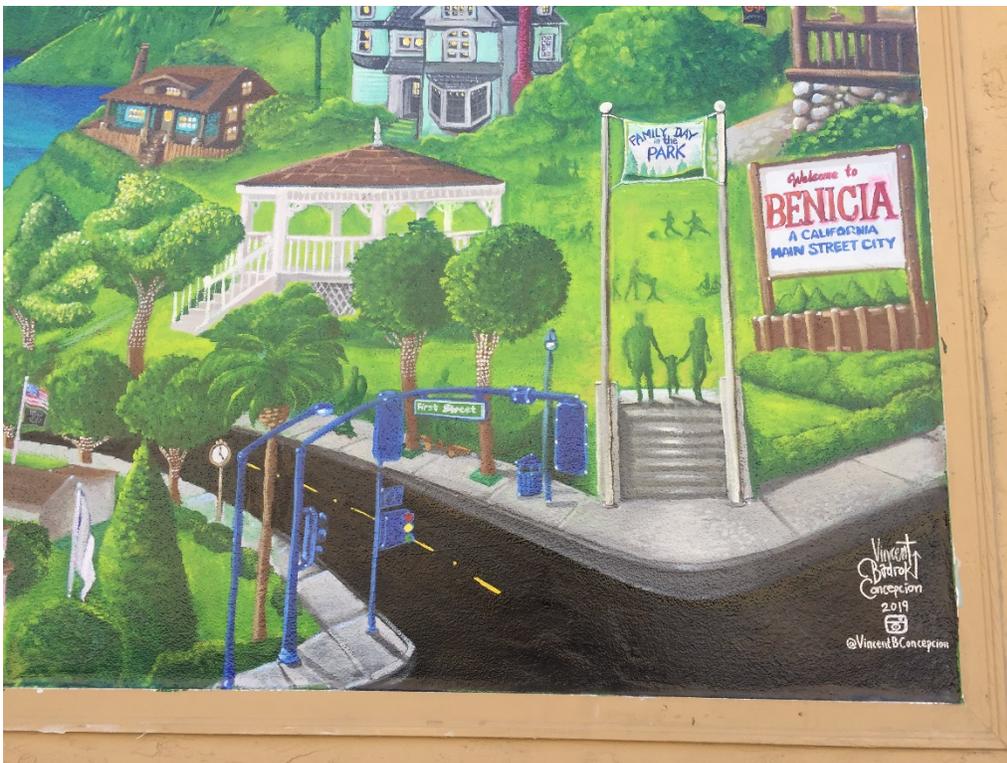
1. Depictions of the Benicia Gazebo in Art, Publicity, and Photography
2. Sample Public Art RFP

*For more information contact: David Dodd, Director of Library and Cultural Services
 Phone: 707.746.4340
 E-mail: ddodd@ci.benicia.ca.us*

Attachment 1 - Depictions of the Benicia Gazebo in Art, Publicity, and Photography



By Samantha McNally



By Vincent B. Concepcion

Attachment 1 - Depictions of the Benicia Gazebo in Art, Publicity, and Photography



"Our Gazebo," by Susan Street



By Rolando S. Barrero

Attachment 1 - Depictions of the Benicia Gazebo in Art, Publicity, and Photography



Greeting card illustration by Gay Roche; brochure from Benicia Industrial Park Association.

Attachment 1 - Depictions of the Benicia Gazebo in Art, Publicity, and Photography



Photographer unknown



Photographer unknown

PUBLIC ART INFORMATIONAL OVERVIEW

City Owned Wood & Steel Bench Program

The City of Benicia's Arts and Culture Commission's Public Art Program is seeking artists to design and implement the following public art projects throughout the community:

Neighborhood Public Art on City-Owned Benches

GENERAL OVERVIEW:

This public art opportunity is for artists or teams of artists to create dynamic installations that reflect the identity of not only the historic downtown neighborhood, but also be considered for selected Benicia Neighborhood benches. This can be approached abstractly or literally but must fall under the general theme: *Beautiful Benicia*. Benches within the Historic District must meet and fit within the historical context of the surrounding area .

Selection of Artists and Artwork:

Neighborhood Bench Public art submissions (see attached list of selected targeted benches) will be considered based on the following criteria:

- Media: All visual art forms and materials will be considered.
- Style: Artwork reflecting any school, movement or method style will be considered.
- Range: Artwork may be conceptual or tangible;
- Character: Artwork must be appropriate in scale, media, style, and content to the project and environment to which they relate.
- Those within Historical District must meet HPRC Design Guidelines (currently in final stages of review)
- Permanence: Consideration should be given to structural and surface integrity, and must be durable and require minimal maintenance.
- Design Elements: In addition to meeting aesthetic requirements, public bench art may also be asked to serve as a means of defining architectural space, e.g. establish focal points, clarify, identify or indicate boundaries, modify and/or enhance specific spaces.
- Public Safety/Liability: Artwork and art places must be free of unsafe conditions or other factors bearing on public liability.
- Diversity: The Public Art program should strive for diversity, reflecting the social, ethnic and cultural fabric of the City.

Artist Selection Criteria:

1. Artistic quality, including excellence in the artwork's craftsmanship, originality and integrity of the material used.
2. The appropriateness of the artwork to the surrounding community to include its scale, form, content, and design.
3. The relationship of the artwork to the social and cultural identity of the community where the artwork will occur.
4. The artist's ability to successfully complete the project on time and within the proscribed budget.
5. The artist's proposed materials and their appropriateness to the project with regard to structural and surface integrity, protection against theft, vandalism, public safety and weathering, and an analysis of long-term maintenance needs.
6. The artist's proposed method of installation of the artwork and an evaluation of safety and structural factors involved in the installation.
7. The durability of the materials and projected cost of maintenance of the artwork.

DETAILS FOR DECORATION OF CITY-OWNED BENCHES

Background

Public Benches are located throughout the city of Benicia and can be considered as an opportunity for incorporating artwork in the highly visible First Street area as well as nearby Library and community park areas by showcasing the flavor of each of the city's many neighborhoods, both historic and non historic, and various business and arts districts.

DETAILS

The City of Benicia Arts and Culture Commission is accepting applications from qualified artists for Public Art for the decoration of selected benches.

ARTIST QUALIFICATIONS AND SELECTION CRITERIA:

- Open to all Greater Bay Area residents
- Concept and imagery (50%)
- Artistic Excellence (30%)
- Previous Artwork Experience (20%)

ARTIST QUALIFICATIONS CONTENT AND REQUIREMENTS:

- General understanding and appropriateness of surroundings both in historic and non-historic districts
- Specific details of paints, decals and vinyl wraps to be used
- Compliance with community safety standards

APPLICATION PROCESS:

Please read this section carefully. Incomplete applications will not be considered. The applicant's name must not appear on the application pages. Your personal information will be on the Cover Sheet. You will be assigned a code that we will place on all the application pages. Applications must be received by the end of the day 10/15/2017. Artists must provide the following in an **electronic format and mail or deliver material to Benicia Library, 150 East L Street, Benicia, CA. 94510. For more information call Helaine Bowles at 707/746-4358 or email her at Hbowles@ci.benicia.ca.us.**

SUBMISSION TO INCLUDE:

- Completed Application Form;
- Current Resume/CV (PDF or Word format)-Note: if this is a group submission, submit a single resume for the entire team with individual resume integrated into one document;
- List of supplies used;
- **Concept Description & Design Mock-up—a description of the proposed installation drawn to scale with color using the provided image of the surface to closely represent the planned installation; no rough sketches;**
- Budget & Timeline—selected artists will be welcome to begin work as early as February 2019;
- Examples of Previous Work—include 1-3 samples of past and recent work with descriptions. Include location, commission organization and budget for the work submitted as illustrative examples; you may submit up to 2 designs;
- Send or deliver all above materials (jpeg images, electronic documentation in PDF or Word documents) on a storage drive or CD to:

Benicia Public Library,
150 East "L" St., Benicia, CA 94510
Attention: "Public Art Submission"

COMPETITION AWARDS:

- Benches \$400 + \$150 for materials

TIMELINE:

- Submission Call for Artist period: 10/15/18-11/26/18
- Art Selection Panel Review 11/30/18-12/5/18
- Public Art Committee Review: 12/20/18
- Benicia Arts and Culture Commission Review: 1/10/19
- City Council Review: ??
- Notification to Artists: ??
- Work Completion period: 2/1/19 to 3/30/19 Weather Permitting
- Once selected, work must be completed in the time frame above.

Finally, all submitting artists carefully review all of the information on these pages and submit questions or inquiries to Benicia Public Library, Attention: hbowles@ci.benicia.ca.us. **Please include email address and phone/text.**

Application Deadlines **11/26/18**

Please note the city reserves the right to limit the size and placement of the artist's signature and placement thereof.

Attachment: Application Form

The City reserves the right to reject any and all submissions.

*Thank you for your interest in becoming a part
of the art landscape of Benicia, California!*

R13



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
BUSINESS ITEMS

TO : City Manager

FROM : Interim Community Development Director

SUBJECT : **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 17.32 AND 17.84 OF THE BENICIA MUNICIPAL CODE PERTAINING TO CANNABIS DELIVERY-ONLY AND MICROBUSINESS USES (PUBLIC HEARING)**

EXECUTIVE SUMMARY:

The proposed project would amend Benicia Municipal Code Chapter 17.84 (Cannabis) to establish a license category for delivery-only cannabis operations and remove the limitation on the number of microbusinesses. Corresponding amendments would be made to Chapter 17.32 (Industrial Districts) of the Benicia Municipal Code in order to allow delivery-only uses with the approval of a use permit in the Limited Industrial (IL), General Industrial (IG), Waterfront Industrial (IW) and Industrial Park (IP) Districts. The proposed project would also increase the amount of cash and/or cannabis that delivery drivers may carry to \$5,000.

The proposed amendments are initiated pursuant to direction by the City Council on September 3, 2019. The Planning Commission recommended approval of the proposed amendments following a public hearing on October 2, 2019.

RECOMMENDATION:

Move to waive the first reading and introduce an ordinance (Attachment 1) of the City Council amending Chapter 17.84 (Cannabis Regulations) of the Benicia Municipal Code and find the ordinance exempt under the California Environmental Quality Act.

BUDGET INFORMATION:

Approval of delivery-only businesses would introduce a new revenue source. These businesses would generate 2% in excise tax plus an additional 1% in state sales tax and potentially another 1% in the City's local use and transaction tax (if the product is delivered within Benicia). Staff anticipates that we will have at least one delivery business within the next twelve months and that business could generate in excess of \$100,000 in total tax revenue.

BACKGROUND:

Prior City Council and Planning Commission Action

During consideration of amendments to regulations for retail cannabis uses on August 14, 2019, the Planning Commission recommended to the City Council that there be established a license

category for cannabis delivery-only operations. Such businesses would be permitted to sell cannabis and cannabis products to customers only through delivery and customers would not be permitted on the premises of a delivery-only operation. The Planning Commission further recommended that cannabis delivery-only operations and microbusinesses should be limited in location to the Industrial Park of the City of Benicia and that there should not be a limit on the number of businesses, but that each business should be subject to review of a use permit by the Planning Commission and a public safety license (see Attachment 2, “Planning Commission Minutes, August 14, 2019”).

The City Council subsequently considered the Planning Commission’s recommendation during a public hearing on September 3, 2019 and initiated the zoning amendment by directing staff to draft the amendments for consideration by the Planning Commission and City Council. The Council directed that industrial parcels south of I-780 also be eligible locations for microbusiness and delivery-only operations (see Attachment 3, “Excerpt City Council Minutes, September 3, 2019”).

Current Regulations

On February 20, 2018, the City Council adopted ordinances to allow cannabis business uses in specified zoning districts of Benicia. Cannabis microbusiness, manufacturing, cultivation and distribution uses are allowed in Limited Industrial (IL), General Industrial (IG), Water Related Industrial (IW), and Industrial Park (IP). Cannabis testing is allowed in IL, IG, IW, IP, and Office Commercial (CO).

BMC Section 17.84.050(A)(2) limits the number of cannabis microbusinesses to one (1). Delivery of cannabis is allowed only as a component of an approved cannabis retailer or microbusiness. BMC Section 17.84.050 (Cannabis businesses – General provisions) requires a minimum distance of 600 feet from schools for all cannabis businesses.

The BMC requires all cannabis uses to apply for and receive approval of a public safety license from the Police Chief. All cannabis uses also require approval of a use permit from the Planning Commission following a public hearing. All cannabis businesses must renew their public safety license annually through the Police Department, and all cannabis use permits must be reviewed annually by staff. To date, one use permit has been approved and one public safety license has been issued, both to a cannabis manufacturing use at 4690 East Second Street.

Proposed Amendments to Benicia Municipal Code

Delivery-Only Operations

The proposed cannabis delivery-only use would allow for non-storefront retail delivery of cannabis from industrial districts. These uses would be subject to approval of a use permit and public safety license, consistent with all other cannabis uses. The proposed amendments would not establish a limitation on the number of cannabis delivery-only retailer uses.

The proposed amendments would add Delivery-Only Operation to the list of cannabis uses permitted in Industrial Districts (BMC Chapter 17.32). Cannabis Delivery-Only Operations would also be added to the list of cannabis permit types provided in BMC Section 17.84.050.A.

The municipal code currently contains regulations for Delivery Operations in BMC Section 17.84.100.F. These requirements would still apply to retailers and microbusinesses engaged in the delivery of cannabis and cannabis products. These requirements would now also apply to Delivery-Only Operations. Further, the amount of cash and/or cannabis products that may be carried at any one time would be increased from \$3,000 to \$5,000 in accordance with the current State regulations.

Microbusiness Operations

Currently, one microbusiness operation may be permitted in Benicia, subject to approval of a use permit and public safety license. The proposed amendments would remove the limitation on the number of microbusiness uses and would not modify zoning districts in which these uses may be allowed. The proposed amendment would align with the permitting for other cannabis uses in Benicia: there is no limitation on the number of licenses that may be granted for cultivation, manufacturing and distribution.

Planning Commission Recommendation

The Planning Commission conducted a public hearing on October 2, 2019. During the public hearing, one person spoke about public health concerns related to vaping and vape products. The Commission discussed whether CEQA analysis would be applied to individual use permit applications and whether there should be limitations on hours of operation for cannabis microbusinesses. Staff clarified that environmental impacts will be analyzed at the project level as a condition of and prior to the issuance of any use permits for cannabis operations. Such analysis may determine that the project as proposed may qualify for an exemption, or may require further environmental review. Additionally, hours of operation may be restricted by the conditions of approval based upon the characteristics of the use and the specific findings and criteria for a given application for a use permit.

Commissioner Apple requested that her concerns be noted, that there should be consistency and clarity in the permitted hours of operation and that it is not a good policy to allow for 24/7 operation. Following the public hearing, the Planning Commission adopted Resolution No. 19-8, recommending approval of the proposed ordinance (see Attachments 4 and 5).

The Planning Commission video can be viewed online at www.ci.benicia.ca.us/agendas.

Solano Airport Land Use Commission

Pursuant to the Public Utilities Code (PUC) Section 21676, any local agency whose general plan includes areas covered by an airport land use compatibility plan shall refer a proposed zoning ordinance or building regulation to the airport land use commission for review. The commission shall determine whether the proposal is consistent with the adopted airport land use compatibility plan. Benicia falls within the jurisdiction of the Travis Air Force Base Airport Land Use Compatibility Plan; therefore, proposed zoning amendments must be reviewed by the Solano County Airport Land Use Commission (ALUC).

The City of Benicia anticipates that the proposed amendments will be heard by the ALUC on November 14, 2019. The purpose of the hearing would be to evaluate the consistency of the proposed zoning amendments with the Travis Air Force Base Airport Land Use Plan.

NEXT STEPS:

Prior to adoption of the ordinance, the City Council must conduct a second reading, which is scheduled for November 19, 2019. If the amendments are adopted at the second reading, they would become effective 30 days later.

ALTERNATIVE ACTIONS:

The City Council could choose not to amend the cannabis ordinance for cannabis delivery-only or microbusiness uses or may choose to take an alternative action on amendments to the zoning ordinance. Changes to the proposed ordinance may require a subsequent hearing before the Planning Commission.

General Plan	Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life. Program 2.5.C: Evaluate future uses on a cost/revenue basis, taking into account economic diversity for the long term and environmental and community costs and benefits.
	Goal 2.6: Attract and retain a balance of different kinds of industrial uses to Benicia. Policy 2.6.1: Preserve industrial land for industrial purposes and certain compatible “service commercial” and ancillary on-site retail uses. Policy 2.6.2: Other land uses should not adversely affect existing industrial and commercial land uses.
	Goal 2.11: Encourage the retention and continued evolution of the lower Arsenal into a historic/cultural/commercial/industrial center of mutually compatible uses. Policy 2.11.1: Retain and expand the mix of compatible and balanced uses in the lower Arsenal area.
	Goal 2.13: Support the economic viability of existing commercial centers. Policy 2.12.1: Direct new commercial ventures first, towards Downtown, and second, to other existing economic centers (instead of dispersing resources to new areas).
	Goal 4.4: Reduce the incidence of substance abuse and strive for a drug-free community.
	Goal 4.6: Prevent and reduce crime in the community.

Strategic Plan	Strategic Issue #3: Strengthening Economic & Fiscal Conditions Strategy #1: Implement Economic Development Strategy Strategy #2: Strengthen Benicia Industrial Park competitiveness Strategy #3: Retain and attract business
	Strategic Issue #4: Preserving and Enhancing Infrastructure Strategy #4: Provide adequate funding for ongoing infrastructure needs

CEQA Analysis	The proposed ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060, subd. (c)(2) because the ordinances will not result in a direct or reasonably foreseeable indirect physical change in the environment and pursuant to CEQA Guidelines section 15061, subd. (b)(3) because there is no possibility the activity in question may have a significant effect on the environment. Furthermore, Business and Professions Code Section 26055(h) exempts from Division 13 of the Public Resources Code, the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity whereby the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13.
----------------------	---

ATTACHMENTS:

1. Draft Ordinance – Cannabis Delivery and Microbusiness Amendments
2. Planning Commission Minutes, August 14, 2019
3. Excerpt City Council Minutes, September 3, 2019
4. Draft Planning Commission Minutes, October 2, 2019
5. PC Resolution No. 19-8 Recommending Approval of the Ordinance Amending Chapters 17.32 (I Industrial Districts) and 17.84 (Cannabis Regulations) of Title 17 (Zoning) of the Benicia Municipal Code

For more information contact: Alan Shear, Interim Community Development Director

Phone: 707.746.4277

E-mail: ashear@ci.benicia.ca.us

CITY OF BENICIA

ORDINANCE NO. 19-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.32 (INDUSTRIAL DISTRICTS) AND CHAPTER 17.84 (CANNABIS REGULATIONS) OF TITLE 17 (ZONING), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on February 20, 2018, City Council adopted Ordinance 18-3, establishing new cannabis regulations by adding Benicia Municipal Code Chapter 17.84 and making further amendments to Title 17 (Zoning) related to cannabis; and

WHEREAS, the Planning Commission, at a special meeting on August 14, 2019, recommended initiation of an amendment to the Cannabis regulations to establish a license category for delivery-only operations and eliminate the cap on licenses for cannabis microbusiness operations; and

WHEREAS, the City Council, at a regular meeting on September 3, 2019, initiated the zoning amendment and directed that delivery-only and microbusiness uses be authorized in Industrial Districts and further directed that the regulations for cannabis delivery uses be modified to limit the value of cash and/or cannabis within the delivery vehicle to five-thousand dollars (\$5,000) consistent with State statute; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on October 2, 2019, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to cannabis delivery and microbusiness uses to the City Council; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing on the proposed amendments and introduced Ordinance No. _____ on October 15, 2019.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. Section 17.32.020 (IL, IG, IW and IP districts – Land use regulations) of Chapter 17.32 (Industrial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add the following use in alphabetical order (deletions in ~~strikethrough~~, additions in underline):

IL, IG, IW and IP Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	IL	IG	IW	IP	Additional Regulations
* * *					
Other Uses					
Cannabis Cultivation Operation	U	U	U	U	(O)
<u>Cannabis Delivery-Only Operation</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>(O)</u>
Cannabis Distribution	U	U	U	U	(O)
Cannabis Manufacturing Operation	U	U	U	U	(O)
Cannabis Microbusiness	U	U	U	U	(O)
Cannabis Testing Laboratory	U	U	U	U	(O)

Section 2. Chapter 17.84 (Cannabis) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows (deletions in ~~strike through~~, additions in underline):

Sections:

- 17.84.010 Purpose and intent.
- 17.84.020 Definitions.
- 17.84.030 Residential cultivation of cannabis.
- 17.84.040 Cannabis businesses – Use permit and license required to operate.
- 17.84.050 Cannabis businesses – General provisions.
- 17.84.060 Use permit for commercial cannabis activities – Requirements.
- 17.84.070 Criteria to review, issuance and/or denial of use permit for commercial cannabis activities.
- 17.84.080 Appeal from planning commission determination.
- 17.84.090 Suspension and revocation by planning commission.
- 17.84.100 Cannabis businesses – Conditions of operation.
- 17.84.110 Business license tax liability.
- 17.84.120 Annual review of cannabis businesses.
- 17.84.130 No vested rights.
- 17.84.140 Public nuisance.

17.84.010 Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, sale, delivery, testing and distribution of medical and adult-use cannabis in order to ensure the health, safety, and welfare of the residents of the city of Benicia. The regulations in this chapter are meant to ensure compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter the “state cannabis laws”) and are not intended to and do not interfere with a patient’s right to use medical cannabis as authorized by the state cannabis laws. Nor do these regulations criminalize the possession or cultivation of cannabis for medical or nonmedical purposes as permitted by the state cannabis laws. Cannabis businesses within the city must comply with all provisions of the Benicia Municipal Code for obtaining permits for a cannabis business and must comply with the state cannabis laws and all other applicable local and state laws. (Ord. 18-03 § 1).

17.84.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

“Applicant” means a person who is required to file an application for a cannabis business under this chapter, including an individual owner, managing partner, officer of a corporation, or any other dispensary operator, management member, employee, or agent of a cannabis business.

“Cannabis” shall have the meaning set forth in Business and Professions Code Section 26001(f) and as subsequently amended.

“Cannabis business” shall include:

1. Any business, facility, use, establishment, property, or location, whether fixed or mobile, where a commercial cannabis activity takes place.
2. Any building, facility, use, establishment, property, or location where any person or entity establishes, commences, engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any activity that requires a state license under Business and Professions Code Sections 26000 and following, including but not limited to cannabis cultivation, cannabis distribution, cannabis manufacturing, cannabis testing and cannabis retail sales, and the operation of a cannabis microbusiness.

“Cannabis product” shall have the same meaning as in Health and Safety Code Section 11018.1.

“Canopy” means all areas occupied by any portion of a cannabis plant, encompassing all vertical planes (i.e., stacking of plants), whether contiguous or noncontiguous on any one site. The canopy shall be measured by taking the longest length and widest width of existing plants (including all gaps, walkways, and open areas between plants) and multiplying the longest length by the longest width to get the area of the cannabis canopy. Each level of a stacked cultivation will be calculated as a separate canopy.

“Childcare center” means a licensed day care facility that provides nonmedical care to children under 18 years of age on a less than 24-hour basis, and includes infant centers, nursery schools,

preschools, extended day care facilities, large family day care homes, and school age child care centers.

“Commercial cannabis activity” shall include the cultivation, possession, manufacturing, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer or patient. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Distribution” means the procurement, storage, sale, and transport of cannabis and cannabis products between licensees.

“Drug paraphernalia” shall have the meaning set forth in California Health and Safety Code Section 11014.5, and as subsequently amended.

“Edible cannabis product” means cannabis that is intended to be used, in whole or in part, for human consumption.

“Identification card” shall have the meaning set forth in California Health and Safety Code Section 11362.712, and as may be amended from time to time.

“Learning center” means a facility that provides appointment- or classroom-based tutoring, test preparation, drivers’ education, instruction in science, technology, engineering, arts and math (STEAM), and similar instruction for school-aged youth, and state-licensed adult day programs for individuals with developmental or physical disabilities.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Medicinal cannabis” or “medicinal cannabis product” shall have the meaning set forth in California Business and Professions Code Section 26001(ai), which includes cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Operator” means any person responsible for management of the cannabis business, any person listed on the cannabis business’s articles of incorporation, any person owning an interest in the cannabis business, and any person that supervises another employee of the cannabis business.

“Owner” shall have that meaning set forth in Business and Professions Code Section 26001(al) and as it may be amended.

“Permittee” means any person issued a use permit for cannabis under this chapter.

“Physician” means a licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

“Property” means the designated structure or structures and land specified in the use permit for cannabis application that is owned, leased or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted.

“Public Park” means an area of land, owned by a public agency, including local, state and/or federal entities, that provides outdoor recreation facilities and programming or provides open space recreational opportunities.

“Qualified registration list” means the list established through a competitive process to determine the best applicants for use permits for cannabis businesses that have retail components, including microbusinesses.

“School” means any public or private school providing instruction in kindergarten or any of grades one to 12, consistent with curriculum content standards adopted by the California State Board of Education, inclusive, but does not include any private school in which education is primarily conducted in private homes.

“State cannabis laws” means and includes California Health and Safety Code Sections 11362.1 through 11362.45, 11362.5 (Compassionate Use Act of 1996) and 11362.7 to 11362.83 (Medical Marijuana Program); California Business and Professions Code Sections 26000, et seq. (Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)); all state laws enacted or amended pursuant to SB-94, Chapter 27, Statutes of 2017; the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; any license issued pursuant to MAUCRSA; and all other applicable laws of the state of California regulating cannabis or cannabis products.

“Testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products. (Ord. 18-03 § 1).

“Youth Center” shall have that meaning set forth in Section 11353.1 of the Health and Safety Code, as that section may be amended.

17.84.030 Residential cultivation of cannabis.

A. No more than six living cannabis plants for personal use may be cultivated at an individual residential unit. Cultivation must not be visible from a public place, including a public right-of-way, and shall only occur:

1. Inside an occupied and inhabited dwelling unit; or
2. Inside a fully enclosed, locked, and secured accessory structure to an occupied and inhabited dwelling unit located in the rear yard or side yard of the same lot where there is (a) no visual or minimal olfactory evidence of cultivation detectable from the public right-of-

way or from adjoining properties, (b) the structure is placed at least five feet from the rear yard and side yard property lines, and (c) the structure is no more than 10 feet tall.

B. The drying and processing of cannabis for personal use shall only occur in a fully enclosed structure and shall not be visible from a public place, including a public right-of-way.

C. Persons cultivating cannabis in a residence shall comply with all applicable building code requirements set forth in the Benicia Municipal Code, there shall be no use of gas products (CO₂, butane, propane, natural gas, etc.) on the property for purposes of cannabis cultivation, and the cannabis cultivation shall comply with Health and Safety Code Section 11362.2(a)(3) as it may be amended. (Ord. 18-04 § 1).

17.84.040 Cannabis businesses – Use permit and license required to operate.

It shall be unlawful for any person to engage in, to conduct or carry on (or to permit to be engaged in, conducted or carried on) in or upon property located within the city, the operation of a cannabis business unless that person has first obtained and continues to maintain in full force and effect a valid use permit for commercial cannabis activity issued by the city for that property and a valid cannabis public safety license issued by the city to the owner and/or operator of the cannabis business, pursuant to Chapter 9.60 BMC. (Ord. 18-03 § 1).

17.84.050 Cannabis businesses – General provisions.

A. Cannabis Businesses Allowed.

1. Only those types of cannabis businesses set forth in this section shall be allowed within the city. Any and all cannabis businesses, activities, nonprofits, associations, enterprises, collectives, cooperatives or dispensaries not expressly described herein are expressly prohibited.

- a. Cannabis retailer (“retailer”).
- b. Cannabis manufacturing operation (“manufacturer”).
- c. Cannabis testing laboratory (“testing labs”).
- d. Cannabis distributor (“distributor”).
- e. Cannabis cultivation operation (“cultivator”).
- f. Cannabis microbusiness (“microbusiness”).
- g. Cannabis delivery-only operations (“delivery”).

2. No more than one cannabis retailer is permitted in the city.

~~3. No more than one microbusiness is permitted in the city.~~

~~3~~4. An owner or operator of a cannabis business may own or operate more than one cannabis business within the city.

~~4~~5. All retail operations shall occur in a fully enclosed permanent structure.

B. Limitations on Location.

1. Permissible Zoning. Subject to limitations described in this chapter or other parts of the zoning ordinance, cannabis businesses may only operate in the zones specified in Division II or Division III of the zoning ordinance.

2. Areas and Zones Where Cannabis Businesses Are Not Permitted.

a. Cannabis Retailers – Applications Received Prior to September 10, 2018.

Notwithstanding subsection (A)(1) of this section, cannabis retail businesses whose retail cannabis proposals were received prior to September 10, 2018, may not operate on a parcel or lot located within 600 feet of a school that is in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

b. Cannabis Retailers – Applications Received After September 10, 2018.

Notwithstanding subsection (A)(1) of this section, cannabis retail businesses whose cannabis use permit and/or public safety license applications were received after September 10, 2018, may not operate on a parcel or lot located within 600 feet of a child care center, youth center, learning center, any residential district of the City, or public park, any of which were in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

c. All Other Cannabis Businesses. Notwithstanding subsection (A)(1) of this section, a cannabis business manufacturing operation, testing laboratory, distributor, cultivation operation, microbusiness or delivery-only operation may not operate on a parcel or lot located within 600 feet of a school that is in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

C. Transfer of Use Permits for Cannabis Businesses.

1. Permit – Site Specific. A permittee shall not operate a cannabis business under the authority of a use permit for a commercial cannabis activity at any place other than the address of the cannabis business stated in the application for the permit. All permits issued by the city pursuant to this chapter shall be nontransferable to a different location.

2. Transfer of a Permitted Commercial Cannabis Activity. A permittee shall not transfer ownership or control of a cannabis business or attempt to transfer a use permit for a commercial cannabis activity to another person unless and until the transferee obtains an amendment to the permit from the planning commission to the permitting requirements of this chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the community development department in accordance with all provisions of this chapter accompanied by the required transfer review application fee.

3. Request for Transfer with a Revocation or Suspension Pending. No use permit for a commercial cannabis activity may be transferred (and no permission for a transfer may be issued) when the community development department has notified the permittee in writing that the permit has been or may be suspended or revoked for noncompliance with this chapter and a notice of such suspension or revocation has been provided.

4. Transfer without Permission. Any attempt to transfer a use permit for commercial cannabis activity either directly or indirectly in violation of this chapter is declared void, and the permit shall be deemed revoked. (Ord. 18-03 § 1).

17.84.060 Use permit for commercial cannabis activities – Requirements.

A. Except as set forth in this chapter, use permits for commercial cannabis activities shall be processed in accordance with Chapter 17.104 BMC (Use Permits and Variances). The city council shall establish any necessary use permit procedures, by resolution, specific to commercial cannabis activities.

B. Use Permits for Retail and Microbusinesses. Because only one cannabis retailer and one cannabis microbusiness is permitted, an application period for ~~these~~ this businesses shall be established to allow the selection of the best applicants. The competitive process for selection of the best applicants to be placed on the qualified registration list shall be established by resolution of the city council.

C. Use permit for applications for cannabis retailers shall include a statement as to whether the use will include delivery of cannabis and cannabis products to locations outside the cannabis retail facility. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this chapter and state law.

D. The planning commission shall review and approve or deny all complete use permit applications for commercial cannabis activities by utilizing the criteria for approval or denial set forth in this chapter and by separate resolution of the city council. The planning commission shall only approve as many use permits for cannabis applications as permitted by BMC 17.84.050(A). After reviewing an application, the planning commission shall determine whether to issue the use permit for commercial cannabis activities with conditions, or deny the use permit for commercial cannabis activities.

E. Imposition of Permit Fees. Every application for a use permit for commercial cannabis activities shall be accompanied by an application fee (in an amount established by resolution of the city council) at an amount calculated to recover the city's full cost of reviewing and issuing

said permit and the filing of a complete required application pursuant to this chapter. The application fee shall be in addition to any other fees or costs, such as business license fees, permit fees, fingerprinting, photographing or background check, as may be imposed by the city or other governmental agencies. (Ord. 18-03 § 1).

17.84.070 Criteria to review, issuance and/or denial of use permit for commercial cannabis activities.

A. Criteria for Issuance. In addition to the findings required by Chapter 17.104 BMC, the planning commission, or the city council on appeal, shall make all of the following findings in determining whether to grant, modify, or deny a use permit for any cannabis business:

1. The cannabis business applicant has been placed on the cannabis qualified registration list.
2. The use permit for cannabis application is complete and the applicant has submitted all information and materials required.
3. The proposed location of the cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons due to the cannabis business's proposed proximity to a school.
4. The proposed location of the cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons due to the cannabis business's proposed proximity to another permitted cannabis business.
5. The design of the storefront or structure within which the cannabis business will operate is architecturally-compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.
6. The proposed size of the cannabis business is appropriate to meet the needs of the local Benicia community for access to cannabis and that the size complies with all requirements of the city's zoning regulations.
7. The location is not prohibited under the provisions of this chapter or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the city's zoning regulations will be accomplished.
8. The cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises (especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.
9. The cannabis business is not likely to violate any provision of the BMC or conditions imposed by a city-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.

10. The applicant has not made a false statement of material fact or omitted a material fact in the application for a use permit for cannabis, as known at the time of determination on the application.

11. The cannabis business's site plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.

B. Supplemental Findings – Cannabis Manufacturing Operation. In addition to the findings required for the approval of a use permit for cannabis as set forth in subsection (A) of this section, the planning commission, or the city council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a use permit for cannabis for a manufacturer:

1. The manufacturing operation, as proposed, may utilize nonvolatile or volatile solvents for purposes of extracting cannabinoids. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the Benicia Municipal Code (BMC) including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.

2. The manufacturing operation includes adequate quality control measures to ensure any cannabis product manufactured at the site meets industry standards.

3. The manufacturing operation does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, odors or substances.

C. Supplemental Findings – Cannabis Testing Laboratory. In addition to the findings required for the approval of a use permit for cannabis as set forth in subsection (A) of this section, the planning commission, or the city council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a use permit for cannabis for a testing lab:

1. The owners, permittees, operators, and employees of the testing lab will not be associated with any other form of commercial cannabis activity.

2. The testing lab is accredited by an appropriate accrediting agency as approved by the state and further described in California Code of Regulations, Title 16, Section 5702 and as it may be amended.

3. The testing lab operating plan demonstrates proper protocols and procedures for statistically valid sampling methods and accurate certification of cannabis and cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.

D. Criteria for Denial. The planning commission shall deny an application that meets any one of the following criteria:

1. Any supervisor, employee, or person having a 10 percent or more financial interest in the cannabis business has been convicted of a felony or a drug-related misdemeanor reclassified by California Penal Code Section 1170.18 (Proposition 47) within the past 10 years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;
2. Any person who is listed on the application or is an owner or operator, is a licensed physician making patient recommendations for medical cannabis pursuant to Health and Safety Code Section 11362.7;
3. Any person who is listed on the application or is an owner or operator is less than 21 years of age;
4. The proposed cannabis business does not comply with the provisions of this chapter or state cannabis laws; and
5. The planning commission is unable to make a required finding contained in this chapter.

E. Planning Commission Determination. If the planning commission denies the application, the planning commission shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to BMC 17.84.080. (Ord. 18-08 § 1; Ord. 18-03 § 1).

17.84.080 Appeal from planning commission determination.

An applicant or any interested party who disagrees with the planning commission's decision to issue, issue with conditions, or to deny or revoke a use permit for a commercial cannabis activity may appeal the planning commission's decision to the city council in accordance with the appeal provisions of Chapter 1.44 BMC. (Ord. 18-03 § 1).

17.84.090 Suspension and revocation by planning commission.

A. Authority to Suspend or Revoke a Use Permit for Cannabis. Any permit issued under the terms of this chapter may be suspended or revoked by the planning commission under BMC 17.128.060.

B. In addition to the required findings set forth in BMC 17.128.060(D), a use permit for a commercial cannabis activity may be revoked if it appears to the planning commission that the cannabis business has violated any of the requirements of this chapter, the cannabis business is being operated in a manner which violates the operational requirements or security plan required by the zoning code, the cannabis business is being operated in a manner which constitutes a nuisance, the cannabis business has ceased to operate for thirty 30 days or more, or the cannabis business is being operated in a manner which conflicts with or violates state cannabis law.

C. Any use permit for a commercial cannabis activity revoked pursuant to this subsection shall be deemed to be expired and shall no longer entitle the permittee to any uses authorized by the use permit.

D. Revocation, expiration or nullification of a cannabis public safety license pursuant to BMC 9.60.060 and 9.60.070 shall automatically terminate the use permit for a commercial cannabis activity issued to the licensee and shall terminate the ability of the licensee to operate a cannabis business without initiation of revocation proceedings by the planning commission. (Ord. 18-03 § 1).

17.84.100 Cannabis businesses – Conditions of operation.

A. All Cannabis Businesses. All cannabis businesses shall be operated, maintained, and managed on a day-to-day basis in compliance with the following operational conditions and requirements:

1. State Licensing. A cannabis business shall maintain a state cannabis license at all times and shall comply with all applicable state licensing requirements, regulations, conditions, and standards. The failure to maintain a state license, revocation of a state cannabis license, or lapse in renewal of a state cannabis license shall be the basis for immediate termination of the right to operate a cannabis business under a city use permit for cannabis.

2. Cannabis Public Safety License. A cannabis business shall maintain a cannabis public safety license, issued under Chapter 9.60 BMC, at all times. The failure to maintain a cannabis public safety license, revocation of a cannabis public safety license, or lapse in renewal of a cannabis public safety license shall be the basis for immediate termination of the right to operate a cannabis business under a use permit for cannabis.

3. Employees. It shall be unlawful for the applicant, owner, operator, or any other person effectively in charge of any cannabis business to employ any person who is not at least 21 years of age.

4. Minors. Persons under the age of 21 years shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a person with an identification card as those phrases are defined by Health and Safety Code Sections 11362.79(c) and (f). Persons under the age of 18 years shall not be allowed on the premises of a cannabis business unless they are accompanied by a parent or guardian at all times. The entrance to cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.

5. Every cannabis business shall display, at all times during its regular business hours, the use permit for cannabis and cannabis public safety license issued for such cannabis business in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

6. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the cannabis business that sells alcoholic beverages, or otherwise allow alcoholic beverages to be possessed, distributed, or consumed on the premises.

7. No cannabis business shall be a retailer of tobacco products.

8. A cannabis business shall be considered a commercial or industrial use, as the case may be, relative to the city's parking requirements in Chapter 17.74 BMC in an amount most

similar to the uses contained in the parking requirements as determined by the community development director.

9. Smoking, ingesting, or consuming cannabis on the premises of a cannabis business shall be prohibited. A notice prohibiting smoking, ingesting and consuming cannabis shall be clearly and legibly posted in the cannabis business and shall not obstruct the entrance or windows.

10. Operation of a cannabis business shall not result in illegal redistribution or sale of cannabis obtained, or the use or distribution in any manner which violates state cannabis law or this chapter.

11. Odors. All cannabis businesses shall be sited and/or operated in a manner that prevents cannabis odors from being detected off site. All structures utilized for indoor cannabis cultivation shall be equipped and/or maintained with sufficient ventilation controls (e.g., carbon scrubbers) to eliminate nuisance odor emissions from being detected off site.

12. Site Plan.

a. The site plan shall include a lobby waiting area at the entrance to the cannabis business used to receive and screen customers (if applicable), employees, patrons, and guests of the cannabis business and a separate and secure designated area for dispensing cannabis (if applicable) and conducting other operations of the cannabis business.

b. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

13. Cannabis businesses shall not be enlarged in size (i.e., increased floor area) without the planning commission's prior review and approval and an approved amendment to the existing use permit for cannabis applied for and issued pursuant to the requirements of this chapter.

14. Security. The cannabis business shall at all times comply with all elements of its security plan, submitted as a part of its cannabis public safety license application pursuant to BMC 9.60.040.

15. Signage. The cannabis business shall comply with all applicable provisions of BMC Title 18.

16. Additional Conditions. The planning commission may impose additional conditions which it deems necessary to ensure that operation of the cannabis business will be in accordance with the standards and regulations provided in the zoning code, the standards set forth by separate resolution of the city council, and applicable state laws.

B. Supplemental Conditions – Retailers.

1. In addition to the conditions of operation set forth in subsection (A) of this section, a cannabis retail operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

2. Retailers shall not sell drug paraphernalia and implements that may be used to ingest or consume cannabis except where such sales and operations comply with Health and Safety Code Section 11364.5.

3. Retailers shall not be enlarged in size (i.e., increased floor area) without the planning commission's prior review and approval and an approved amendment to the existing use permit for cannabis applied for and issued pursuant to the requirements of this chapter.

4. Retailers that sell medicinal cannabis or medicinal cannabis products shall only sell, deliver, or give away medicinal cannabis or medicinal cannabis products to individuals authorized to receive medicinal cannabis or medicinal cannabis products in accordance with state cannabis laws. Retailers of medicinal cannabis or medicinal cannabis products shall require such persons receiving medicinal cannabis or medicinal cannabis products to provide valid official identification, such as a Department of Motor Vehicles driver's license or state identification card, each time he or she seeks to purchase medicinal cannabis or medicinal cannabis products.

5. Hours of Operation. Retailers may only operate during the hours between 10:00 a.m. through 8:00 p.m. The planning commission may further restrict a retailer's days and hours of operation as a condition of a use permit for cannabis. A retailer shall post its approved days and hours of operation on a sign located on the street frontage of the cannabis business in a manner consistent with the city's sign regulations set forth in BMC Title 18.

6. Retailers shall not have a physician on site to evaluate patients and/or provide recommendations for the use of medical cannabis.

7. State Seller's Permit. Retailers shall, at all times during operation, maintain a valid seller's permit required pursuant to California Revenue and Taxation Code Division 2, Part 1 (commencing with Section 6001).

8. A cannabis retail operation that delivers cannabis and/or cannabis products shall also be operated, maintained, and managed in compliance with the supplemental conditions set forth in subsections (1) through (7) of subsection (F) of this section.

C. Supplemental Conditions – Manufacturers. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis manufacturing operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

1. Manufacturers shall not engage in on-site retail sales of cannabis or cannabis products and shall not be open to the members of the general public.

2. Manufacturers may use extraction processes that employ nonvolatile or volatile solvents. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the BMC including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.

3. Standard of Equipment. Manufacturing, processing and analytical testing devices used by manufacturers must be UL (Underwriters Laboratories) listed or otherwise certified by an

approved third party testing agency or engineer and approved for the intended use by the city's building official and fire code official.

4. Food Handler Certification. All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products shall be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the property where that individual participates in the production of edible cannabis products.

5. Edible Product Manufacturing. Manufacturers that sell or manufacture edible cannabis products shall obtain a county health permit to sell and/or manufacture cannabis products. Permit holders shall comply with Health and Safety Code Section 13700 et seq. and county health permit requirements.

D. Supplemental Conditions – Cultivators. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis cultivation operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

1. Cultivators shall not engage in on-site retail sales of cannabis or cannabis products and shall not be open to members of the general public.
2. Outdoor Commercial Cultivation Prohibited. The cultivation of cannabis for commercial purposes may only be done within a fully enclosed space.
3. The cultivation of cannabis for commercial purposes shall be limited to 22,000 square feet of total canopy size per property.
4. Pesticides. The cultivation of cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
5. Screening. Cannabis plants shall not be easily visible from off site.
6. Operational Permit. The cultivation of cannabis may not be conducted without an indoor growing operational permit issued pursuant to BMC 8.28.060.

E. Supplemental Conditions – Microbusinesses.

1. ~~The retail aspect of microbusinesses shall be limited to deliveries only and a microbusiness. No on-site customers are permitted.~~ A microbusiness that engages in retail sales of cannabis and/or cannabis products shall sell cannabis and/or cannabis products to customers exclusively through delivery. The premises of a microbusiness shall not be open to the public.

If the microbusiness delivers cannabis and/or cannabis products, the microbusiness shall be operated, maintained, and managed in compliance with the supplemental conditions set forth in subsections (1) through (7) of subsection (F) of this section.

2. Microbusinesses shall not sell drug paraphernalia and implements that may be used to ingest or consume cannabis except where such sales and operations comply with Health and Safety Code Section 11364.5.
3. Microbusinesses that sell medicinal cannabis or medicinal cannabis products shall only sell, deliver, or give away medicinal cannabis or medicinal cannabis products to individuals authorized to receive medicinal cannabis or medicinal cannabis products in accordance with state cannabis laws. Retailers of medicinal cannabis or medicinal cannabis products shall require such persons receiving medicinal cannabis or medicinal cannabis products to provide valid official identification, such as a Department of Motor Vehicles driver's license or state identification card, each time he or she seeks to purchase medicinal cannabis or medicinal cannabis products.
4. Hours of Operation. The planning commission may restrict a microbusiness's days and hours of operation as a condition of a use permit for cannabis. Microbusinesses shall post their approved days and hours of operation on a sign located on the street frontage of the cannabis business in a manner consistent with the city's sign regulations set forth in BMC Title 18.
5. Microbusinesses shall not have a physician on site to evaluate patients and/or provide recommendations for the use of medical cannabis.
6. State Seller's Permit. Microbusinesses shall, at all times during operation, maintain a valid seller's permit required pursuant to California Revenue and Taxation Code Division 2, Part 1 (commencing with Section 6001).
7. Microbusinesses may use extraction processes that employ nonvolatile or volatile solvents. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the BMC including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.
8. Standard of Equipment. Manufacturing, processing and analytical testing devices used by microbusinesses must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third party testing agency or engineer and approved for the intended use by the city's building code official and fire code official.
9. Food Handler Certification. All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products shall be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the property where that individual participates in the production of edible cannabis products.
10. Edible Product Manufacturing. Microbusinesses that sell or manufacture edible cannabis products shall obtain a county health permit to sell and/or manufacture cannabis products. Permittees shall comply with Health and Safety Code Section 13700 et seq. and county health permit requirements.

11. Outdoor Commercial Cultivation Prohibited. The cultivation of cannabis for commercial purposes may only be done within a fully enclosed space.

12. The cultivation of cannabis for commercial purposes shall be limited to 22,000 square feet of total canopy size per property.

13. Pesticides. The cultivation of cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

14. Screening. Cannabis plants shall not be easily visible from off site.

15. Operational Permit. The cultivation of cannabis may not be conducted without an indoor growing operational permit issued pursuant to BMC 8.28.060.

F. Supplemental Conditions – Delivery-Only Operations. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis Delivery-Only Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

~~1. Delivery of cannabis to locations outside a permitted cannabis retailer shall only be permitted in conjunction with a cannabis retail facility that has a physical location and a retail storefront in Benicia open to the public or a licensed and permitted retail location outside of Benicia. A cannabis retailer shall not conduct sales exclusively by delivery.~~

21. Delivery of cannabis, whether from a facility located within or outside of Benicia, requires compliance with Chapter 9.60 BMC including obtaining the public safety license.

32. Any person who delivers cannabis shall have in possession a copy of all licenses and permits required by the state of California and the city.

43. A licensed cannabis business which is authorized to conduct deliveries in Benicia shall provide to the chief of police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The cannabis business shall update the list prior to any vehicle being added to or removed from service.

54. Payments may be made via credit card, check, other means of cashless payment, or by cash. Customers must be provided the option of making payments by noncash payments. Delivery drivers shall not carry more than a combined total of ~~\$3,000~~ \$5,000 in cash and/or cannabis or cannabis products at any one time while delivering cannabis and/or cannabis products under this chapter.

65. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis business, or any other distinctive marking associated with cannabis.

76. Delivery of cannabis shall be made directly to the residence or business address of the designated recipient. Deliveries to any other location are prohibited.

87. Deliveries of cannabis shall only occur only between the hours of 8:00 a.m. and 8:00 p.m.

8. Delivery-Only Operations shall sell cannabis and cannabis products to customers exclusively through delivery. A Delivery-Only Operation must have physical premises to store the cannabis goods for delivery. The premises of a Delivery-Only Operation shall not be open to the public.

G. Maintenance, Access to, and Inspection of Records.

1. Every cannabis business shall maintain on site, at the property designated for the operation of the cannabis business, all records of the cannabis business.

2. Financial Records. The cannabis business shall maintain a written accounting record or ledger of all cash, receipts, credit card transactions, reimbursements, (including any in-kind contributions), and any and all reasonable compensation for services provided by the cannabis business, as well as records of all operational expenditures and costs incurred by the cannabis business in accordance with generally accepted accounting practices and standards typically applicable to business records.

3. Record Retention Period. The records required in this subsection shall be maintained by the cannabis business for a period of five years and shall be made available to the city within 24 hours of written request, subject to the authority set forth in subsection (G)(4) of this section.

4. A duly designated city police department or finance department representative may enter and shall be allowed to inspect the premises of every cannabis business as well as the financial and membership records of the cannabis business required by this chapter at any time during the cannabis business's designated business hours, or at any appropriate time to ensure compliance and enforcement of the provisions of this chapter. It shall be unlawful for any owner, operator, or any other person having any responsibility over the operation of the cannabis business to refuse to allow, impede, obstruct or interfere with an inspection of the cannabis business or the required records thereof. (Ord. 18-10 § 1; Ord. 18-09 § 1; Ord. 18-08 §§ 2, 3; Ord. 18-03 § 1).

17.84.110 Business license tax liability.

An operator of a cannabis business shall be required to apply for and obtain a business tax certificate pursuant to Chapter 5.04 BMC as a prerequisite to obtaining a use permit for cannabis pursuant to the terms of this chapter. Cannabis businesses shall be subject to sales tax and other applicable taxes in a manner required by state law. (Ord. 18-03 § 1).

17.84.120 Annual review of cannabis businesses.

The community development department is hereby authorized to conduct an annual review of the operation of each permitted use permit for a commercial cannabis activity within the city for full compliance with the operational, recordkeeping, nuisance and other requirements of this chapter. A fee in an amount established by resolution of the city council shall be collected in order to reimburse the city for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any cannabis business which, upon completion of an annual review, is found not to be in compliance with the requirements of this chapter or which is

operating in a manner which constitutes a public nuisance. Staff may, based upon its annual review of the operation of a cannabis business, place on a planning commission meeting agenda, a proposal to suspend or revoke a use permit for cannabis. (Ord. 18-03 § 1).

17.84.130 No vested rights.

No person(s) shall have any vested rights to any permit, right or interest under this chapter, regardless of whether such person(s) cultivated, sold, distributed or otherwise engaged in acts related to the use of cannabis prior to adoption of the ordinance codified in this chapter. (Ord. 18-03 § 1).

17.84.140 Public nuisance.

Any use or condition caused or permitted to exist in violation of any provision of this chapter shall be and hereby is declared a public nuisance and may be summarily abated by the city pursuant to Code of Civil Procedure Section 731 or any other remedy available to the city. (Ord. 18-03 § 1).

Section 3. 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.

Section 4. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment and pursuant to CEQA Guidelines section 15060, subd. (c)(2) because the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. Furthermore, Business and Professions Code Section 26055(h) exempts from Division 13 of the Public Resources Code, the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity whereby the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13. The City Clerk shall file a Notice of Exemption with the County.

Section 5. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 6. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

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 _____, 2019, and adopted at a regular meeting of the Council held on the _____ day of _____, 2019, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

MINUTES OF THE
SPECIAL MEETING – PLANNING COMMISSION
AUGUST 14, 2019
7:00 P.M.

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

- 1) **OPENING OF MEETING**
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **ROLL CALL OF COMMISSIONERS**

Present: Commissioners Dravnieks-Apple, Catton, Macenski, Stock, and Chair Birdseye

Absent: Commissioners Eckmeyer and Mollica

Staff Present:

Alan Shear, Interim Community Development Director

Nira Doherty, Assistant City Attorney

Victoria Walker, Contractor

Mario Giuliani, Economic Development Director

Suzanne Thorsen, Principal Planner

Della Olm, Recording Secretary

- 4) **REFERENCE TO FUNDAMENTAL RIGHTS OF PUBLIC**
- 5) **ADOPTION OF AGENDA**

On motion of Commissioner Dravnieks-Apple, seconded by Commissioner Stock, the Planning Commission approved the agenda on a roll call by the following vote:

Ayes: Commissioners Catton, Dravnieks-Apple, Macenski, Stock, and Chair Birdseye

Noes: (None)

- 6) **OPPORTUNITIES FOR PUBLIC COMMENTS**

None

7) **WRITTEN**

None

8) **PUBLIC COMMENTS**

None

9) **REGULAR AGENDA ITEMS**

9.A Amendments to the Benicia Municipal Code pertaining to Cannabis Retailers and Discussion of Possible Revisions to Pertaining to Cannabis Delivery and Cannabis Microbusiness Uses

Cannabis Amendments Staff Report 

1. Draft Resolution with Exhibit A 

2. Excerpt Council Minutes 05072019 

3. Excerpt Council Minutes 05212019 

4. PC Draft Minutes 06052019 

5. Excerpt Council Minutes 06182019 

Ms. Thorsen, Principal Planner, provided a presentation.

Commissioner Stock asked for clarification and does not support the proposed changes to the zoning ordinance.

Vice Chair Macenski aired concerns about buffers and adjacency. He supports two retail locations for market competition reasons.

Commissioner Catton discussed the childcare center buffer and stated that she agrees with Commissioners Stock and Macenski.

Commissioner Apple discussed the public park buffer and inquired about the definition of public park in the staff report. Ms. Thorsen provided clarification. Commissioner Apple supports one permit as a trial run for cannabis retail in Benicia.

Mr. Giuliani, Economic Development Director, entered the meeting at 7:24pm.

Chair Birdseye supports issuing two cannabis retail licenses.

Vice Chair Macenski asked for clarification on the definition and intent of buffers. Ms. Doherty, Assistant City Attorney, provided clarification.

PUBLIC COMMENT:

None.

Vice Chair Macenski recommends that the staff report for the City Council reflects that further guidance is needed related to the applicability of the 600 foot buffer in regards to adjacency and how a parcel may qualify for exclusion from the buffer zone.

On motion of Commissioner Stock, seconded by Commissioner Macenski, the Planning Commission voted to deny the resolution recommending that the City Council of the City of Benicia adopt an ordinance amending Ch. 17.84 (Cannabis Regulations) of Title 17 (Zoning) of the Benicia Municipal Code, after a public hearing and determination that the project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA)., on a roll call by the following vote:

Ayes: Commissioners Catton, Dravnieks-Apple, Macenski, Stock, and Chair Birdseye
Noes: (None)

The Commissioners discussed microbusiness and delivery-only cannabis business locations.

Ms. Doherty provided input when asked for clarification on state law regarding cannabis businesses.

Mr. Giuliani provided clarification on tax revenue from cannabis sales in the City of Benicia.

The Commissioners recommend to the City Council that cannabis delivery-only and microbusinesses should be limited in location to the industrial park of the City of Benicia, but that there should not be a limit on the number of businesses. Each of these businesses

should be subject to review of a use permit by the Planning Commission and a public safety license. In addition, the Planning Commission recommends that the City Council should consider revising the 600 foot buffer zone to account for logical barriers of travel that are not intended for adjacent land uses such as a highway.

10) COMMUNICATION FROM STAFF

Ms. Thorsen introduced Ms. Walker, a contracted consultant who will assist the Community Development Department, including a focus on cannabis. She also introduced Ms. Danielle Crider, the new Associate Planner. Finally, she introduced Mr. Shear, Interim Community Development Director who is also Assistant City Manager.

Ms. Doherty asked for a Special Commission meeting reviewing the cannabis business applications by the end of August.

Mr. Giuliani informed that the first cannabis business in the city, Mar-Bay Gardens, should be up and running by mid-September.

11) COMMUNICATION FROM COMMISSIONERS

None.

12) ADJOURNMENT

Chair Birdseye adjourned the meeting at 8:22 P.M.

EXCERPT MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 3, 2019
6:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

CALL TO ORDER (6:00 P.M.)

Mayor Patterson called the Study Session to order at 6:00 p.m.

1) ROLL CALL

All Council Members were present.

2) PLEDGE OF ALLEGIANCE

Daryl Halls led the Pledge of Allegiance.

3) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

**4) STUDY SESSION - DISCUSSION OF PRIORITY DEVELOPMENT AREAS /
PRODUCTION DEVELOPMENT AREAS**

Suzanne Thorsen, Principal Planner, reviewed the staff report and a PowerPoint presentation.

Council Member Largaespada and Staff discussed transit funds possibly being used for charging stations, whether funds had to be used for roads, and whether they could be used for complex engineering projects such as slurry walls.

Council Member Campbell and Staff discussed the issue of the vehicle charging station program, possibly having a shuttle to get people from the new bus hub to their job, and the STA's agreement with Lyft to get riders to and from the bus hub.

Council Member Young and Staff discussed the downtown PDA, and affordable housing.

Vice Mayor Strawbridge and Staff discussed the issue of vehicle miles traveled (VMT), and the status of the ferry.

Mayor Patterson and Staff discussed the positive approach Benicia has taken with the housing element, affirming the City is on record with housing since the General Plan, VMT, what a Specific Plan was, the need to show the projects we have that are of great need, and the need to focus a lot of the resources on the City's infrastructure.

14) BUSINESS ITEMS

14.A - INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 17.84 OF THE BENICIA MUNICIPAL CODE PERTAINING TO RETAIL CANNABIS OPERATIONS (PUBLIC HEARING); AND DISCUSSION OF POSSIBLE REVISIONS PERTAINING TO CANNABIS DELIVERY AND MICROBUSINESS USES (Interim Community Development Director)

Staff Report - Cannabis Retail Amendments

1. Draft Ordinance - Cannabis Retail Amendments
2. Excerpt Council Minutes, May 7, 2019
3. Excerpt Council Minutes, May 21, 2019
4. Planning Commission Minutes, June 5, 2019
5. Excerpt Council Minutes, June 18, 2019
6. Planning Commission Draft Minutes, August 14, 2019
7. Buffer for Commercial Properties

ORDINANCE 19- - AN ORDINANCE AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.84 (CANNABIS REGULATIONS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE, AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Suzanne Thorsen, Principal Planner, reviewed the staff report and a PowerPoint presentation.

Nira Doherty, Assistant City Attorney, stated there was a typo in Chapter 17.84.050 Section B.2.A - on the third line replace 'use permit' with retail cannabis proposal. In subsection 2.B following use permit - add 'and/or public safety license'.

Council Member Largaespada asked for clarification on the process for tonight's discussion and whether the discussion on buffers and the number of retail cannabis businesses could be broken up into two separate discussions.

Council and Staff discussed the best way to handle the discussion tonight.

Mayor Patterson stated there did not appear to be three votes to change the buffer. Council is back to the two questions that the ordinance is addressing which are reducing the retail businesses from two to one, and adding the buffers with the appropriate definitions required.

Council Member Campbell discussed the issue of a freeway being a buffer impediment.

Vice Mayor Strawbridge discussed the buffer around the Southampton Shopping Center. Regardless of the freeway, children still congregate in that area.

Public Comment:

2. Mary Amey - Ms. Amey spoke in support of the Planning Commission's recommendations.

Mayor Patterson stated she was loathed to go against the Planning Commission's recommendations; however, they have not sat through 22 meetings. Although she does not agree with the approach, it is time to move on.

Council Member Young and Staff discussed the current buffer zones and the lack of properties that could entertain a retail cannabis business.

Council Member Campbell discussed his prior votes regarding buffers and the number of cannabis businesses allowed.

Council Member Young suggested a language change regarding 'may not operate on a parcel, any of which were in existence at the time a use permit for a cannabis business was issued'. He thought it should be changed to 'when a cannabis business is applied for.' Staff confirmed that language was acceptable and could be made tonight. Ms. Doherty suggested the language read 'within 600 feet of a school that is in existence at the time the use permit application is deemed complete by Staff.' Council confirmed the language suggested by Staff was acceptable.

Council Member Young requested another amendment to section 17.84.070 A 8, under reasons a permit could be denied, remove the language regarding 'overburdening a neighborhood' because if the above language suggested by Staff is changed, it would not be required.

Council Member Largaespada objected to removing the language regarding overburdening a neighborhood.

Staff cautioned Council that the language in 17.84.070 A 8 did not go before the Planning Commission. If the change is made, the ordinance would have to be brought back to the Planning Commission all over again. The only thing that was before the Planning Commission was the issue of reducing the retail businesses from two to one, and adding the buffers with the appropriate definitions.

Council Member Campbell made a motion to approve the Introduction and First Reading of the proposed ordinance, with the suggested language change by Staff. Council Member Largaespada seconded the motion.

Ms. Doherty clarified that the motion was to approve and waive the first reading of the ordinance that is before Council with the following changes: 1) to Section 17.84.050 B

2A - eliminate the words use permit in the third line to read 'retail cannabis proposal', 2) in Section 17.84.050 B 2B - the third line, add after the words 'use permit' and/or public safety license application, and 3) to Section 17.84.050 B 2A - change the wording 'is issued' in the 5th line to ' use permit for a cannabis application deemed complete by staff.'

Ms. Thorsen reviewed the concepts for future amendments.

Council Member Young suggested allowing a type of retail showroom that could be allowed with microbusinesses where patients could be counseled, pick items out, and then have them delivered.

Mayor Patterson stated that the idea was to remove the cap on the number of microbusinesses and to limit them to the Industrial Park.

Council Member Young and Staff discussed of a company having to list all vehicles used for delivery, with all the pertinent information, why we would need to duplicate the information the State is already collecting, and why the City is limiting the amount of cash a driver can carry to \$3,000. Council Member Young would like to mimic the State requirements to allow drivers to carry \$5,000.

Vice Mayor Strawbridge and Staff discussed the issue of deliveries.

Mayor Patterson stated there was consensus for giving direction to Staff to prepare language to amend the ordinance to remove the cap on microbusinesses, with the understanding it is limited to the Benicia Industrial Park - including the Lower Arsenal, and to allow the use/delivery only per State regulations and law.

Public Comment:

1. Gretchen Burgess - Ms. Burgess spoke in support of bringing business to Benicia that will bring tax dollars.

On motion of Council Member Campbell, seconded by Council Member Largaespada, Council approved the Introduction and First Reading of the above Ordinance, as amended with the three amendments as summarized by Staff, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge

Noes: Council Member Young, Mayor Patterson

*

*

*

MINUTES OF THE
SPECIAL MEETING – PLANNING COMMISSION
OCTOBER 2, 2019
6:00 P.M.

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

1) OPENING OF MEETING

Chair Birdseye opened the meeting at 6:30 P.M.

2) PLEDGE OF ALLEGIANCE

3) ROLL CALL OF COMMISSIONERS

Present: Commissioners Dravnieks-Apple, Eckmeyer, Macenski, and Chair Birdseye

Absent: Commissioners Mollica, Catton, and Stock

Staff Present:

Alan Shear, Interim Community Development Director

Nira Doherty, Assistant City Attorney

Victoria Walker, Contractor

Mario Giuliani, Economic Development Director

Suzanne Thorsen, Principal Planner

Della Olm, Recording Secretary

4) REFERENCE TO FUNDAMENTAL RIGHTS OF PUBLIC

5) ADOPTION OF AGENDA

On motion of Commissioner Macenski, seconded by Commissioner Dravnieks-Apple, the Planning Commission approved the agenda on a roll call by the following vote:

Ayes: Commissioners Dravnieks-Apple, Eckmeyer, Macenski, and Chair Birdseye

Noes: (None)

6) OPPORTUNITIES FOR PUBLIC COMMENTS

No public comments.

7) WRITTEN

None.

8) PUBLIC COMMENTS

None.

9) CONSENT CALENDAR

No items.

10) REGULAR AGENDA ITEMS

10.A Amendments to the Benicia Municipal Code pertaining to Cannabis Delivery-Only and Microbusiness Uses

Staff Report - Cannabis Microbusiness and Delivery 

1. Draft Resolution with Exhibit A 

2. Planning Commission Minutes August 14 2019 

3. Excerpt City Council Minutes September 3 2019 

Suzanne Thorsen, Principal Planner, provided a presentation.

Commissioner Eckmeyer and Nira Dougherty, Assistant City Attorney, discussed the analysis of environmental impacts for future use permits.

DRAFT

Commissioner Apple inquired about why hours of operation are not proposed for microbusiness and delivery-only businesses. She stated that she prefers consistency within the ordinance, since hours of operation are established for retail uses, and that she is concerned about 24/7 operations.

Commissioner Macenski commented that there may be unintended effects from establishing limitations on the hours of operation without considering unique location and use conditions.

PUBLIC COMMENT:

Bart Bright, a Benicia resident, expressed concern about recent vaping health problems and the types of products that businesses will sell.

On motion of Commissioner Macenski, seconded by Commissioner Dravnieks-Apple, the Planning Commission voted to approve the resolution recommending that the City Council of the City of Benicia adopt an ordinance amending Chapter 17.32 (I Industrial Districts) and Chapter 17.84 (Cannabis Regulations) of Title 17 (Zoning) of the Benicia Municipal Code (BMC), after a public hearing and determination that the project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) on a roll call by the following vote:

Ayes: Commissioners Dravnieks-Apple, Eckmeyer, Macenski, and Chair Birdseye

Noes: (None)

11) COMMUNICATION FROM STAFF

Ms. Thorsen provided an update on the City's review of SB-234, which amended the State regulations for large family daycares.

12) COMMUNICATION FROM COMMISSIONERS

Chair Birdseye announced two additional Planning Commission meetings this month.

13) ADJOURNMENT

Chair Birdseye adjourned the meeting at 6:58 P.M.

RESOLUTION 19-8 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF BENICIA ADOPT AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE CHAPTER 17.32 (I INDUSTRIAL DISTRICTS) AND CHAPTER 17.84 (CANNABIS REGULATIONS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE PERTAINING TO CANNABIS DELIVERY-ONLY AND MICROBUSINESS OPERATIONS, AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on February 20, 2018, City Council adopted Ordinance 18-3 establishing new cannabis regulations by adding Benicia Municipal Code Chapter 17.84 and making further amendments to Title 17 (Zoning) related to cannabis; and

WHEREAS, the Planning Commission, at a special meeting on August 14, 2019, recommended initiation of an amendment to the Cannabis regulations to establish a license category for delivery-only operations and eliminate the cap on licenses for cannabis microbusiness operations; and

WHEREAS, the City Council at a regular meeting on September 3, 2019 initiated the zoning amendment and directed that delivery-only and microbusiness uses be authorized in Industrial Districts and further directed that the regulations for cannabis delivery uses be modified to limit the value of cash and/or cannabis within the delivery vehicle to five-thousand dollars (\$5,000) consistent with State statute; and

WHEREAS, the proposed amendments to Benicia Municipal Code Chapter 17.32 and Chapter 17.84 reflect the City Council direction provided on September 3, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Benicia as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its finding, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff report, and other related materials.
3. The proposed amendments recommended by the Planning Commission are consistent with the City's General Plan.
4. The project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15060 of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect change in the

environment, and pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Benicia does hereby recommend that the City Council of the City of Benicia adopt the ordinance included as Exhibit A to this resolution, amending Chapter 17.32 (I Industrial Districts) and Chapter 17.84 (Cannabis Regulations) of Title 17 (Zoning) of the Benicia Municipal Code.

On motion of Commissioner Macenski and seconded by Commissioner Apple, the above Resolution is introduced and passed by the Planning Commission of the City of Benicia at a special meeting of the Commission held on the 2nd day of October 2019 and adopted by the following vote:

Ayes: Commissioners Apple, Eckmeyer, Macenski, and Chair Birdseye

Noes: None

Absent: Commissioners Catton, Mollica, and Stock

Abstain:


Kari Birdseye, Chair

October 2, 2019
Date

CITY OF BENICIA

ORDINANCE NO. 19-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.32 (I INDUSTRIAL DISTRICTS) AND CHAPTER 17.84 (CANNABIS REGULATIONS) OF TITLE 17 (ZONING), AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on February 20, 2018, City Council adopted Ordinance 18-3, establishing new cannabis regulations by adding Benicia Municipal Code Chapter 17.84 and making further amendments to Title 17 (Zoning) related to cannabis; and

WHEREAS, the Planning Commission, at a special meeting on August 14, 2019, recommended initiation of an amendment to the Cannabis regulations to establish a license category for delivery-only operations and eliminate the cap on licenses for cannabis microbusiness operations; and

WHEREAS, the City Council at a regular meeting on September 3, 2019 initiated the zoning amendment and directed that delivery-only and microbusiness uses be authorized in Industrial Districts and further directed that the regulations for cannabis delivery uses be modified to limit the value of cash and/or cannabis within the delivery vehicle to five-thousand dollars (\$5,000) consistent with State statute; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on October 2 and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to cannabis delivery and microbusiness uses to the City Council; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing on the proposed amendments and introduced Ordinance No. _____ on October 15, 2019.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. Section 17.32.020 (IL, IG, IW and IP districts – Land use regulations) of Chapter 17.32 (Industrial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add the following use in alphabetical order (deletions in ~~striketrough~~, additions in underline):

EXHIBIT A

IL, IG, IW and IP Districts: Land Use Regulations

- P – Permitted
 U – Use Permit
 L – Limited (See “Additional Use Regulations”)
 – – Not Permitted

	IL	IG	IW	IP	Additional Regulations
* * *					
Other Uses					
Cannabis Cultivation Operation	U	U	U	U	(O)
<u>Cannabis Delivery-Only Operation</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>(O)</u>
Cannabis Distribution	U	U	U	U	(O)
Cannabis Manufacturing Operation	U	U	U	U	(O)
Cannabis Microbusiness	U	U	U	U	(O)
Cannabis Testing Laboratory	U	U	U	U	(O)

Section 2. Chapter 17.84 (Cannabis) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows (deletions in ~~strike through~~, additions in underline):

Sections:

- 17.84.010 Purpose and intent.
 17.84.020 Definitions.
 17.84.030 Residential cultivation of cannabis.
 17.84.040 Cannabis businesses – Use permit and license required to operate.
 17.84.050 Cannabis businesses – General provisions.
 17.84.060 Use permit for commercial cannabis activities – Requirements.
 17.84.070 Criteria to review, issuance and/or denial of use permit for commercial cannabis activities.
 17.84.080 Appeal from planning commission determination.
 17.84.090 Suspension and revocation by planning commission.
 17.84.100 Cannabis businesses – Conditions of operation.
 17.84.110 Business license tax liability.
 17.84.120 Annual review of cannabis businesses.
 17.84.130 No vested rights.
 17.84.140 Public nuisance.

17.84.010 Purpose and intent.

It is the purpose and intent of this chapter to regulate the cultivation, manufacturing, sale, delivery, testing and distribution of medical and adult-use cannabis in order to ensure the health, safety, and welfare of the residents of the city of Benicia. The regulations in this chapter are meant to ensure compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter the “state cannabis laws”) and are not intended to and do not interfere with a patient’s right to use medical cannabis as authorized by the state cannabis laws. Nor do these regulations criminalize the possession or cultivation of cannabis for medical or nonmedical purposes as permitted by the state cannabis laws. Cannabis businesses within the city must comply with all provisions of the Benicia Municipal Code for obtaining permits for a cannabis business and must comply with the state cannabis laws and all other applicable local and state laws. (Ord. 18-03 § 1).

17.84.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

“Applicant” means a person who is required to file an application for a cannabis business under this chapter, including an individual owner, managing partner, officer of a corporation, or any other dispensary operator, management member, employee, or agent of a cannabis business.

“Cannabis” shall have the meaning set forth in Business and Professions Code Section 26001(f) and as subsequently amended.

“Cannabis business” shall include:

1. Any business, facility, use, establishment, property, or location, whether fixed or mobile, where a commercial cannabis activity takes place.
2. Any building, facility, use, establishment, property, or location where any person or entity establishes, commences, engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any activity that requires a state license under Business and Professions Code Sections 26000 and following, including but not limited to cannabis cultivation, cannabis distribution, cannabis manufacturing, cannabis testing and cannabis retail sales, and the operation of a cannabis microbusiness.

“Cannabis product” shall have the same meaning as in Health and Safety Code Section 11018.1.

“Canopy” means all areas occupied by any portion of a cannabis plant, encompassing all vertical planes (i.e., stacking of plants), whether contiguous or noncontiguous on any one site. The canopy shall be measured by taking the longest length and widest width of existing plants (including all gaps, walkways, and open areas between plants) and multiplying the longest length by the longest width to get the area of the cannabis canopy. Each level of a stacked cultivation will be calculated as a separate canopy.

“Childcare center” means a licensed day care facility that provides nonmedical care to children under 18 years of age on a less than 24-hour basis, and includes infant centers, nursery schools,

preschools, extended day care facilities, large family day care homes, and school age child care centers.

“Commercial cannabis activity” shall include the cultivation, possession, manufacturing, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer or patient. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Distribution” means the procurement, storage, sale, and transport of cannabis and cannabis products between licensees.

“Drug paraphernalia” shall have the meaning set forth in California Health and Safety Code Section 11014.5, and as subsequently amended.

“Edible cannabis product” means cannabis that is intended to be used, in whole or in part, for human consumption.

“Identification card” shall have the meaning set forth in California Health and Safety Code Section 11362.712, and as may be amended from time to time.

“Learning center” means a facility that provides appointment- or classroom-based tutoring, test preparation, drivers’ education, instruction in science, technology, engineering, arts and math (STEAM), and similar instruction for school-aged youth, and state-licensed adult day programs for individuals with developmental or physical disabilities.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Medicinal cannabis” or “medicinal cannabis product” shall have the meaning set forth in California Business and Professions Code Section 26001(ai), which includes cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Operator” means any person responsible for management of the cannabis business, any person listed on the cannabis business’s articles of incorporation, any person owning an interest in the cannabis business, and any person that supervises another employee of the cannabis business.

“Owner” shall have that meaning set forth in Business and Professions Code Section 26001(al) and as it may be amended.

“Permittee” means any person issued a use permit for cannabis under this chapter.

“Physician” means a licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

“Property” means the designated structure or structures and land specified in the use permit for cannabis application that is owned, leased or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted.

“Public Park” means an area of land, owned by a public agency, including local, state and/or federal entities, that provides outdoor recreation facilities and programming or provides open space recreational opportunities.

“Qualified registration list” means the list established through a competitive process to determine the best applicants for use permits for cannabis businesses that have retail components, including microbusinesses.

“School” means any public or private school providing instruction in kindergarten or any of grades one to 12, consistent with curriculum content standards adopted by the California State Board of Education, inclusive, but does not include any private school in which education is primarily conducted in private homes.

“State cannabis laws” means and includes California Health and Safety Code Sections 11362.1 through 11362.45, 11362.5 (Compassionate Use Act of 1996) and 11362.7 to 11362.83 (Medical Marijuana Program); California Business and Professions Code Sections 26000, et seq. (Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)); all state laws enacted or amended pursuant to SB-94, Chapter 27, Statutes of 2017; the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; any license issued pursuant to MAUCRSA; and all other applicable laws of the state of California regulating cannabis or cannabis products.

“Testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products. (Ord. 18-03 § 1).

“Youth Center” shall have that meaning set forth in Section 11353.1 of the Health and Safety Code, as that section may be amended.

17.84.030 Residential cultivation of cannabis.

A. No more than six living cannabis plants for personal use may be cultivated at an individual residential unit. Cultivation must not be visible from a public place, including a public right-of-way, and shall only occur:

1. Inside an occupied and inhabited dwelling unit; or
2. Inside a fully enclosed, locked, and secured accessory structure to an occupied and inhabited dwelling unit located in the rear yard or side yard of the same lot where there is (a) no visual or minimal olfactory evidence of cultivation detectable from the public right-of-

way or from adjoining properties, (b) the structure is placed at least five feet from the rear yard and side yard property lines, and (c) the structure is no more than 10 feet tall.

B. The drying and processing of cannabis for personal use shall only occur in a fully enclosed structure and shall not be visible from a public place, including a public right-of-way.

C. Persons cultivating cannabis in a residence shall comply with all applicable building code requirements set forth in the Benicia Municipal Code, there shall be no use of gas products (CO₂, butane, propane, natural gas, etc.) on the property for purposes of cannabis cultivation, and the cannabis cultivation shall comply with Health and Safety Code Section 11362.2(a)(3) as it may be amended. (Ord. 18-04 § 1).

17.84.040 Cannabis businesses – Use permit and license required to operate.

It shall be unlawful for any person to engage in, to conduct or carry on (or to permit to be engaged in, conducted or carried on) in or upon property located within the city, the operation of a cannabis business unless that person has first obtained and continues to maintain in full force and effect a valid use permit for commercial cannabis activity issued by the city for that property and a valid cannabis public safety license issued by the city to the owner and/or operator of the cannabis business, pursuant to Chapter 9.60 BMC. (Ord. 18-03 § 1).

17.84.050 Cannabis businesses – General provisions.

A. Cannabis Businesses Allowed.

1. Only those types of cannabis businesses set forth in this section shall be allowed within the city. Any and all cannabis businesses, activities, nonprofits, associations, enterprises, collectives, cooperatives or dispensaries not expressly described herein are expressly prohibited.

- a. Cannabis retailer (“retailer”).
- b. Cannabis manufacturing operation (“manufacturer”).
- c. Cannabis testing laboratory (“testing labs”).
- d. Cannabis distributor (“distributor”).
- e. Cannabis cultivation operation (“cultivator”).
- f. Cannabis microbusiness (“microbusiness”).
- g. Cannabis delivery-only operations (“delivery”).

2. No more than one cannabis retailer is permitted in the city.

~~3. No more than one microbusiness is permitted in the city.~~

~~3~~4. An owner or operator of a cannabis business may own or operate more than one cannabis business within the city.

~~4~~5. All retail operations shall occur in a fully enclosed permanent structure.

B. Limitations on Location.

1. **Permissible Zoning.** Subject to limitations described in this chapter or other parts of the zoning ordinance, cannabis businesses may only operate in the zones specified in Division II or Division III of the zoning ordinance.

2. **Areas and Zones Where Cannabis Businesses Are Not Permitted.**

a. **Cannabis Retailers – Applications Received Prior to September 10, 2018.**

Notwithstanding subsection (A)(1) of this section, cannabis retail businesses whose retail cannabis proposals were received prior to September 10, 2018, may not operate on a parcel or lot located within 600 feet of a school that is in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

b. **Cannabis Retailers – Applications Received After September 10, 2018.**

Notwithstanding subsection (A)(1) of this section, cannabis retail businesses whose cannabis use permit and/or public safety license applications were received after September 10, 2018, may not operate on a parcel or lot located within 600 feet of a child care center, youth center, learning center, any residential district of the City, or public park, any of which were in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

c. **All Other Cannabis Businesses.** Notwithstanding subsection (A)(1) of this section, a cannabis ~~business~~ manufacturing operation, testing laboratory, distributor, cultivation operation, microbusiness or delivery-only operation may not operate on a parcel or lot located within 600 feet of a school that is in existence at the time the use permit application for a cannabis business is deemed complete by City staff. This distance shall be calculated as a straight line from any parcel line of the property on which the cannabis business is located to the parcel line of the real property on which the facility, building, or structure, or portion of the facility, building or structure, in which the listed use occurs or is located. Locational restrictions shall apply to an entire parcel if any portion of the parcel is located within the applicable buffer distance.

C. Transfer of Use Permits for Cannabis Businesses.

1. **Permit – Site Specific.** A permittee shall not operate a cannabis business under the authority of a use permit for a commercial cannabis activity at any place other than the address of the cannabis business stated in the application for the permit. All permits issued by the city pursuant to this chapter shall be nontransferable to a different location.

2. Transfer of a Permitted Commercial Cannabis Activity. A permittee shall not transfer ownership or control of a cannabis business or attempt to transfer a use permit for a commercial cannabis activity to another person unless and until the transferee obtains an amendment to the permit from the planning commission to the permitting requirements of this chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the community development department in accordance with all provisions of this chapter accompanied by the required transfer review application fee.

3. Request for Transfer with a Revocation or Suspension Pending. No use permit for a commercial cannabis activity may be transferred (and no permission for a transfer may be issued) when the community development department has notified the permittee in writing that the permit has been or may be suspended or revoked for noncompliance with this chapter and a notice of such suspension or revocation has been provided.

4. Transfer without Permission. Any attempt to transfer a use permit for commercial cannabis activity either directly or indirectly in violation of this chapter is declared void, and the permit shall be deemed revoked. (Ord. 18-03 § 1).

17.84.060 Use permit for commercial cannabis activities – Requirements.

A. Except as set forth in this chapter, use permits for commercial cannabis activities shall be processed in accordance with Chapter 17.104 BMC (Use Permits and Variances). The city council shall establish any necessary use permit procedures, by resolution, specific to commercial cannabis activities.

B. Use Permits for Retail and Microbusinesses. Because only one cannabis retailer and one cannabis microbusiness is permitted, an application period for ~~these~~ this businesses shall be established to allow the selection of the best applicants. The competitive process for selection of the best applicants to be placed on the qualified registration list shall be established by resolution of the city council.

C. Use permit for applications for cannabis retailers shall include a statement as to whether the use will include delivery of cannabis and cannabis products to locations outside the cannabis retail facility. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this chapter and state law.

D. The planning commission shall review and approve or deny all complete use permit applications for commercial cannabis activities by utilizing the criteria for approval or denial set forth in this chapter and by separate resolution of the city council. The planning commission shall only approve as many use permits for cannabis applications as permitted by BMC 17.84.050(A). After reviewing an application, the planning commission shall determine whether to issue the use permit for commercial cannabis activities with conditions, or deny the use permit for commercial cannabis activities.

E. Imposition of Permit Fees. Every application for a use permit for commercial cannabis activities shall be accompanied by an application fee (in an amount established by resolution of the city council) at an amount calculated to recover the city's full cost of reviewing and issuing

said permit and the filing of a complete required application pursuant to this chapter. The application fee shall be in addition to any other fees or costs, such as business license fees, permit fees, fingerprinting, photographing or background check, as may be imposed by the city or other governmental agencies. (Ord. 18-03 § 1).

17.84.070 Criteria to review, issuance and/or denial of use permit for commercial cannabis activities.

A. Criteria for Issuance. In addition to the findings required by Chapter 17.104 BMC, the planning commission, or the city council on appeal, shall make all of the following findings in determining whether to grant, modify, or deny a use permit for any cannabis business:

1. The cannabis business applicant has been placed on the cannabis qualified registration list.
2. The use permit for cannabis application is complete and the applicant has submitted all information and materials required.
3. The proposed location of the cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons due to the cannabis business's proposed proximity to a school.
4. The proposed location of the cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons due to the cannabis business's proposed proximity to another permitted cannabis business.
5. The design of the storefront or structure within which the cannabis business will operate is architecturally-compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.
6. The proposed size of the cannabis business is appropriate to meet the needs of the local Benicia community for access to cannabis and that the size complies with all requirements of the city's zoning regulations.
7. The location is not prohibited under the provisions of this chapter or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the city's zoning regulations will be accomplished.
8. The cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises (especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.
9. The cannabis business is not likely to violate any provision of the BMC or conditions imposed by a city-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.

10. The applicant has not made a false statement of material fact or omitted a material fact in the application for a use permit for cannabis, as known at the time of determination on the application.

11. The cannabis business's site plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.

B. Supplemental Findings – Cannabis Manufacturing Operation. In addition to the findings required for the approval of a use permit for cannabis as set forth in subsection (A) of this section, the planning commission, or the city council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a use permit for cannabis for a manufacturer:

1. The manufacturing operation, as proposed, may utilize nonvolatile or volatile solvents for purposes of extracting cannabinoids. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the Benicia Municipal Code (BMC) including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.

2. The manufacturing operation includes adequate quality control measures to ensure any cannabis product manufactured at the site meets industry standards.

3. The manufacturing operation does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, odors or substances.

C. Supplemental Findings – Cannabis Testing Laboratory. In addition to the findings required for the approval of a use permit for cannabis as set forth in subsection (A) of this section, the planning commission, or the city council on appeal, shall consider the following supplemental findings in determining whether to grant, modify, or deny a use permit for cannabis for a testing lab:

1. The owners, permittees, operators, and employees of the testing lab will not be associated with any other form of commercial cannabis activity.

2. The testing lab is accredited by an appropriate accrediting agency as approved by the state and further described in California Code of Regulations, Title 16, Section 5702 and as it may be amended.

3. The testing lab operating plan demonstrates proper protocols and procedures for statistically valid sampling methods and accurate certification of cannabis and cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.

D. Criteria for Denial. The planning commission shall deny an application that meets any one of the following criteria:

1. Any supervisor, employee, or person having a 10 percent or more financial interest in the cannabis business has been convicted of a felony or a drug-related misdemeanor reclassified by California Penal Code Section 1170.18 (Proposition 47) within the past 10 years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;
2. Any person who is listed on the application or is an owner or operator, is a licensed physician making patient recommendations for medical cannabis pursuant to Health and Safety Code Section 11362.7;
3. Any person who is listed on the application or is an owner or operator is less than 21 years of age;
4. The proposed cannabis business does not comply with the provisions of this chapter or state cannabis laws; and
5. The planning commission is unable to make a required finding contained in this chapter.

E. Planning Commission Determination. If the planning commission denies the application, the planning commission shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to BMC 17.84.080. (Ord. 18-08 § 1; Ord. 18-03 § 1).

17.84.080 Appeal from planning commission determination.

An applicant or any interested party who disagrees with the planning commission's decision to issue, issue with conditions, or to deny or revoke a use permit for a commercial cannabis activity may appeal the planning commission's decision to the city council in accordance with the appeal provisions of Chapter 1.44 BMC. (Ord. 18-03 § 1).

17.84.090 Suspension and revocation by planning commission.

A. Authority to Suspend or Revoke a Use Permit for Cannabis. Any permit issued under the terms of this chapter may be suspended or revoked by the planning commission under BMC 17.128.060.

B. In addition to the required findings set forth in BMC 17.128.060(D), a use permit for a commercial cannabis activity may be revoked if it appears to the planning commission that the cannabis business has violated any of the requirements of this chapter, the cannabis business is being operated in a manner which violates the operational requirements or security plan required by the zoning code, the cannabis business is being operated in a manner which constitutes a nuisance, the cannabis business has ceased to operate for thirty 30 days or more, or the cannabis business is being operated in a manner which conflicts with or violates state cannabis law.

C. Any use permit for a commercial cannabis activity revoked pursuant to this subsection shall be deemed to be expired and shall no longer entitle the permittee to any uses authorized by the use permit.

D. Revocation, expiration or nullification of a cannabis public safety license pursuant to BMC 9.60.060 and 9.60.070 shall automatically terminate the use permit for a commercial cannabis activity issued to the licensee and shall terminate the ability of the licensee to operate a cannabis business without initiation of revocation proceedings by the planning commission. (Ord. 18-03 § 1).

17.84.100 Cannabis businesses – Conditions of operation.

A. All Cannabis Businesses. All cannabis businesses shall be operated, maintained, and managed on a day-to-day basis in compliance with the following operational conditions and requirements:

1. State Licensing. A cannabis business shall maintain a state cannabis license at all times and shall comply with all applicable state licensing requirements, regulations, conditions, and standards. The failure to maintain a state license, revocation of a state cannabis license, or lapse in renewal of a state cannabis license shall be the basis for immediate termination of the right to operate a cannabis business under a city use permit for cannabis.

2. Cannabis Public Safety License. A cannabis business shall maintain a cannabis public safety license, issued under Chapter 9.60 BMC, at all times. The failure to maintain a cannabis public safety license, revocation of a cannabis public safety license, or lapse in renewal of a cannabis public safety license shall be the basis for immediate termination of the right to operate a cannabis business under a use permit for cannabis.

3. Employees. It shall be unlawful for the applicant, owner, operator, or any other person effectively in charge of any cannabis business to employ any person who is not at least 21 years of age.

4. Minors. Persons under the age of 21 years shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a person with an identification card as those phrases are defined by Health and Safety Code Sections 11362.79(c) and (f). Persons under the age of 18 years shall not be allowed on the premises of a cannabis business unless they are accompanied by a parent or guardian at all times. The entrance to cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.

5. Every cannabis business shall display, at all times during its regular business hours, the use permit for cannabis and cannabis public safety license issued for such cannabis business in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

6. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the cannabis business that sells alcoholic beverages, or otherwise allow alcoholic beverages to be possessed, distributed, or consumed on the premises.

7. No cannabis business shall be a retailer of tobacco products.

8. A cannabis business shall be considered a commercial or industrial use, as the case may be, relative to the city's parking requirements in Chapter 17.74 BMC in an amount most

similar to the uses contained in the parking requirements as determined by the community development director.

9. Smoking, ingesting, or consuming cannabis on the premises of a cannabis business shall be prohibited. A notice prohibiting smoking, ingesting and consuming cannabis shall be clearly and legibly posted in the cannabis business and shall not obstruct the entrance or windows.

10. Operation of a cannabis business shall not result in illegal redistribution or sale of cannabis obtained, or the use or distribution in any manner which violates state cannabis law or this chapter.

11. Odors. All cannabis businesses shall be sited and/or operated in a manner that prevents cannabis odors from being detected off site. All structures utilized for indoor cannabis cultivation shall be equipped and/or maintained with sufficient ventilation controls (e.g., carbon scrubbers) to eliminate nuisance odor emissions from being detected off site.

12. Site Plan.

a. The site plan shall include a lobby waiting area at the entrance to the cannabis business used to receive and screen customers (if applicable), employees, patrons, and guests of the cannabis business and a separate and secure designated area for dispensing cannabis (if applicable) and conducting other operations of the cannabis business.

b. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

13. Cannabis businesses shall not be enlarged in size (i.e., increased floor area) without the planning commission's prior review and approval and an approved amendment to the existing use permit for cannabis applied for and issued pursuant to the requirements of this chapter.

14. Security. The cannabis business shall at all times comply with all elements of its security plan, submitted as a part of its cannabis public safety license application pursuant to BMC 9.60.040.

15. Signage. The cannabis business shall comply with all applicable provisions of BMC Title 18.

16. Additional Conditions. The planning commission may impose additional conditions which it deems necessary to ensure that operation of the cannabis business will be in accordance with the standards and regulations provided in the zoning code, the standards set forth by separate resolution of the city council, and applicable state laws.

B. Supplemental Conditions – Retailers.

1. In addition to the conditions of operation set forth in subsection (A) of this section, a cannabis retail operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

2. Retailers shall not sell drug paraphernalia and implements that may be used to ingest or consume cannabis except where such sales and operations comply with Health and Safety Code Section 11364.5.

3. Retailers shall not be enlarged in size (i.e., increased floor area) without the planning commission's prior review and approval and an approved amendment to the existing use permit for cannabis applied for and issued pursuant to the requirements of this chapter.

4. Retailers that sell medicinal cannabis or medicinal cannabis products shall only sell, deliver, or give away medicinal cannabis or medicinal cannabis products to individuals authorized to receive medicinal cannabis or medicinal cannabis products in accordance with state cannabis laws. Retailers of medicinal cannabis or medicinal cannabis products shall require such persons receiving medicinal cannabis or medicinal cannabis products to provide valid official identification, such as a Department of Motor Vehicles driver's license or state identification card, each time he or she seeks to purchase medicinal cannabis or medicinal cannabis products.

5. Hours of Operation. Retailers may only operate during the hours between 10:00 a.m. through 8:00 p.m. The planning commission may further restrict a retailer's days and hours of operation as a condition of a use permit for cannabis. A retailer shall post its approved days and hours of operation on a sign located on the street frontage of the cannabis business in a manner consistent with the city's sign regulations set forth in BMC Title 18.

6. Retailers shall not have a physician on site to evaluate patients and/or provide recommendations for the use of medical cannabis.

7. State Seller's Permit. Retailers shall, at all times during operation, maintain a valid seller's permit required pursuant to California Revenue and Taxation Code Division 2, Part 1 (commencing with Section 6001).

8. A cannabis retail operation that delivers cannabis and/or cannabis products shall also be operated, maintained, and managed in compliance with the supplemental conditions set forth in subsections (1) through (7) of subsection (F) of this section.

C. Supplemental Conditions – Manufacturers. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis manufacturing operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

1. Manufacturers shall not engage in on-site retail sales of cannabis or cannabis products and shall not be open to the members of the general public.

2. Manufacturers may use extraction processes that employ nonvolatile or volatile solvents. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the BMC including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.

3. Standard of Equipment. Manufacturing, processing and analytical testing devices used by manufacturers must be UL (Underwriters Laboratories) listed or otherwise certified by an

approved third party testing agency or engineer and approved for the intended use by the city's building official and fire code official.

4. Food Handler Certification. All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products shall be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the property where that individual participates in the production of edible cannabis products.

5. Edible Product Manufacturing. Manufacturers that sell or manufacture edible cannabis products shall obtain a county health permit to sell and/or manufacture cannabis products. Permit holders shall comply with Health and Safety Code Section 13700 et seq. and county health permit requirements.

D. Supplemental Conditions – Cultivators. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis cultivation operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

1. Cultivators shall not engage in on-site retail sales of cannabis or cannabis products and shall not be open to members of the general public.
2. Outdoor Commercial Cultivation Prohibited. The cultivation of cannabis for commercial purposes may only be done within a fully enclosed space.
3. The cultivation of cannabis for commercial purposes shall be limited to 22,000 square feet of total canopy size per property.
4. Pesticides. The cultivation of cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
5. Screening. Cannabis plants shall not be easily visible from off site.
6. Operational Permit. The cultivation of cannabis may not be conducted without an indoor growing operational permit issued pursuant to BMC 8.28.060.

E. Supplemental Conditions – Microbusinesses.

1. ~~The retail aspect of microbusinesses shall be limited to deliveries only and a microbusiness. No on-site customers are permitted. A microbusiness that engages in retail sales of cannabis and/or cannabis products shall sell cannabis and/or cannabis products to customers exclusively through delivery. The premises of a microbusiness shall not be open to the public.~~

If the microbusiness delivers cannabis and/or cannabis products, the microbusiness shall be operated, maintained, and managed in compliance with the supplemental conditions set forth in subsections (1) through (7) of subsection (F) of this section.

2. Microbusinesses shall not sell drug paraphernalia and implements that may be used to ingest or consume cannabis except where such sales and operations comply with Health and Safety Code Section 11364.5.
3. Microbusinesses that sell medicinal cannabis or medicinal cannabis products shall only sell, deliver, or give away medicinal cannabis or medicinal cannabis products to individuals authorized to receive medicinal cannabis or medicinal cannabis products in accordance with state cannabis laws. Retailers of medicinal cannabis or medicinal cannabis products shall require such persons receiving medicinal cannabis or medicinal cannabis products to provide valid official identification, such as a Department of Motor Vehicles driver's license or state identification card, each time he or she seeks to purchase medicinal cannabis or medicinal cannabis products.
4. Hours of Operation. The planning commission may restrict a microbusiness's days and hours of operation as a condition of a use permit for cannabis. Microbusinesses shall post their approved days and hours of operation on a sign located on the street frontage of the cannabis business in a manner consistent with the city's sign regulations set forth in BMC Title 18.
5. Microbusinesses shall not have a physician on site to evaluate patients and/or provide recommendations for the use of medical cannabis.
6. State Seller's Permit. Microbusinesses shall, at all times during operation, maintain a valid seller's permit required pursuant to California Revenue and Taxation Code Division 2, Part 1 (commencing with Section 6001).
7. Microbusinesses may use extraction processes that employ nonvolatile or volatile solvents. Extractions using a volatile solvent, including butane, must be conducted in a professional, closed-loop extraction system. All extraction processes used shall comply with the BMC including the fire and life safety code and with state cannabis laws and be recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act.
8. Standard of Equipment. Manufacturing, processing and analytical testing devices used by microbusinesses must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third party testing agency or engineer and approved for the intended use by the city's building code official and fire code official.
9. Food Handler Certification. All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products shall be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the property where that individual participates in the production of edible cannabis products.
10. Edible Product Manufacturing. Microbusinesses that sell or manufacture edible cannabis products shall obtain a county health permit to sell and/or manufacture cannabis products. Permittees shall comply with Health and Safety Code Section 13700 et seq. and county health permit requirements.

11. Outdoor Commercial Cultivation Prohibited. The cultivation of cannabis for commercial purposes may only be done within a fully enclosed space.

12. The cultivation of cannabis for commercial purposes shall be limited to 22,000 square feet of total canopy size per property.

13. Pesticides. The cultivation of cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

14. Screening. Cannabis plants shall not be easily visible from off site.

15. Operational Permit. The cultivation of cannabis may not be conducted without an indoor growing operational permit issued pursuant to BMC 8.28.060.

F. Supplemental Conditions – Delivery-Only Operations. In addition to each of the conditions of operation set forth in subsection (A) of this section, a cannabis Delivery-Only Operation shall be operated, maintained, and managed in compliance with the following supplemental conditions:

~~1. Delivery of cannabis to locations outside a permitted cannabis retailer shall only be permitted in conjunction with a cannabis retail facility that has a physical location and a retail storefront in Benicia open to the public or a licensed and permitted retail location outside of Benicia. A cannabis retailer shall not conduct sales exclusively by delivery.~~

21. Delivery of cannabis, whether from a facility located within or outside of Benicia, requires compliance with Chapter 9.60 BMC including obtaining the public safety license.

32. Any person who delivers cannabis shall have in possession a copy of all licenses and permits required by the state of California and the city.

43. A licensed cannabis business which is authorized to conduct deliveries in Benicia shall provide to the chief of police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The cannabis business shall update the list prior to any vehicle being added to or removed from service.

54. Payments may be made via credit card, check, other means of cashless payment, or by cash. Customers must be provided the option of making payments by noncash payments. Delivery drivers shall not carry more than a combined total of ~~\$3,000~~ \$5,000 in cash and/or cannabis or cannabis products at any one time while delivering cannabis and/or cannabis products under this chapter.

65. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis business, or any other distinctive marking associated with cannabis.

76. Delivery of cannabis shall be made directly to the residence or business address of the designated recipient. Deliveries to any other location are prohibited.

87. Deliveries of cannabis shall only occur only between the hours of 8:00 a.m. and 8:00 p.m.

8. Delivery-only Operations shall sell cannabis and cannabis products to customers exclusively through delivery. A Delivery-only Operation must have physical premises to store the cannabis goods for delivery. The premises of a Delivery-only Operation shall not be open to the public.

G. Maintenance, Access to, and Inspection of Records.

1. Every cannabis business shall maintain on site, at the property designated for the operation of the cannabis business, all records of the cannabis business.

2. Financial Records. The cannabis business shall maintain a written accounting record or ledger of all cash, receipts, credit card transactions, reimbursements, (including any in-kind contributions), and any and all reasonable compensation for services provided by the cannabis business, as well as records of all operational expenditures and costs incurred by the cannabis business in accordance with generally accepted accounting practices and standards typically applicable to business records.

3. Record Retention Period. The records required in this subsection shall be maintained by the cannabis business for a period of five years and shall be made available to the city within 24 hours of written request, subject to the authority set forth in subsection (G)(4) of this section.

4. A duly designated city police department or finance department representative may enter and shall be allowed to inspect the premises of every cannabis business as well as the financial and membership records of the cannabis business required by this chapter at any time during the cannabis business's designated business hours, or at any appropriate time to ensure compliance and enforcement of the provisions of this chapter. It shall be unlawful for any owner, operator, or any other person having any responsibility over the operation of the cannabis business to refuse to allow, impede, obstruct or interfere with an inspection of the cannabis business or the required records thereof. (Ord. 18-10 § 1; Ord. 18-09 § 1; Ord. 18-08 §§ 2, 3; Ord. 18-03 § 1).

17.84.110 Business license tax liability.

An operator of a cannabis business shall be required to apply for and obtain a business tax certificate pursuant to Chapter 5.04 BMC as a prerequisite to obtaining a use permit for cannabis pursuant to the terms of this chapter. Cannabis businesses shall be subject to sales tax and other applicable taxes in a manner required by state law. (Ord. 18-03 § 1).

17.84.120 Annual review of cannabis businesses.

The community development department is hereby authorized to conduct an annual review of the operation of each permitted use permit for a commercial cannabis activity within the city for full compliance with the operational, recordkeeping, nuisance and other requirements of this chapter. A fee in an amount established by resolution of the city council shall be collected in order to reimburse the city for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any cannabis business which, upon completion of an annual review, is found not to be in compliance with the requirements of this chapter or which is

operating in a manner which constitutes a public nuisance. Staff may, based upon its annual review of the operation of a cannabis business, place on a planning commission meeting agenda, a proposal to suspend or revoke a use permit for cannabis. (Ord. 18-03 § 1).

17.84.130 No vested rights.

No person(s) shall have any vested rights to any permit, right or interest under this chapter, regardless of whether such person(s) cultivated, sold, distributed or otherwise engaged in acts related to the use of cannabis prior to adoption of the ordinance codified in this chapter. (Ord. 18-03 § 1).

17.84.140 Public nuisance.

Any use or condition caused or permitted to exist in violation of any provision of this chapter shall be and hereby is declared a public nuisance and may be summarily abated by the city pursuant to Code of Civil Procedure Section 731 or any other remedy available to the city. (Ord. 18-03 § 1).

Section 3. 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.

Section 4. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the County Clerk.

Section 5. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 6. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

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 _____, 2019, and adopted at a regular meeting of the Council held on the _____ day of _____, 2019, by the following vote:

Ayes:

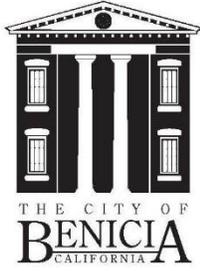
Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
BUSINESS ITEM

TO : City Manager

FROM : Finance Director

SUBJECT : **AMENDMENT TO MASTER FEE SCHEDULE FOR 2019-20**

EXECUTIVE SUMMARY:

An updated master fee schedule for the Police Department and Library is presented to the Council for adoption. On August 20, 2019, the City Council adopted an ordinance changing the procedures and regulation of massage businesses. The new process requires the establishment of a new fee that accurately reflects the amount of resources required to review and issue a Massage Registration Certificate. In addition, prior fees for massage permits can be eliminated. For the Library, the fee for a fax was inadvertently reduced to the amount of the scan fee. The fee for a fax should have remained at \$1 a page with a max of \$25.

RECOMMENDATION:

Adopt a resolution (Attachment 1) amending the Master Fee Schedule (Attachment 2) for the Police Department and Library, effective November 18, 2019, that incorporates the Massage Registration Certificate, eliminates prior permit fees for massage, and corrects the Library's faxing fee.

BUDGET INFORMATION:

The proposed fee amendment for the Police Department eliminates permitting fees which are no longer necessary and, in its place, establishes a lower fee for obtaining a registration. The lower fee is due to the decrease in staff time required. The fees for the Massage Registration Certificate will cover the costs spent on reviewing and providing the registration. The overall revenue change for the Police Department will be monitored and, if necessary, updated during the mid-year budget review. The correction of the fax fees results in no change to the Library revenue budget.

BACKGROUND:

On June 18, 2019, City Council adopted an updated Master Fee Schedule for 2019-20. This was a result of developing the budget and was based on fees in place at the time. Subsequently, there was a change to the municipal code and an inadvertent error was detected.

Departmental Changes

Information about the proposed changes is as follows:

❖ *POLICE*

The Benicia Police Department sought a change in the municipal code regarding regulation of massage businesses in Benicia Municipal Code Chapter 5.52. The Council has adopted that ordinance, and it is set to go into effect in the beginning of November, 2019.

As a result of that ordinance, several existing fees related to massage regulation can be eliminated, and a new fee for a massage registration certificate must be established. Under the adopted ordinance, staff recommended removing the permit requirement and replacing it with a requirement for certification with the state. In removing the permit requirement, the associated fees for the permitting scheme will no longer be relevant and can be eliminated. Those fees were: “Massage Establishment Permit” of \$715.00 and its renewal fee of \$332.00; “Massage Owner/Operator Permit” and “Massage Therapist Permit” of \$257.00 and the corresponding renewal fee of \$103.00. The newly adopted ordinance would establish in its place a “Massage Registration Certificate” with an associated fee of \$49.00, which would be reflected in the fee schedule. The fee for the “Massage Registration Certificate” reflects the resources that are spent on processing the registration.

❖ *LIBRARY*

The Library Department would like to adjust the fee for a fax to return to the amount charged the previous year which is \$1 per page with a max of \$25. The fee for a fax was inadvertently reduced to the fee for a scan in June 2019.

NEXT STEPS:

Staff will incorporate changes to the Master Fee Schedule as suggested and approved by Council.

ALTERNATIVE ACTIONS:

Make no changes to the fees, and the City will not be able to process massage registration certificates, and thus not be able to enforce the newly adopted and soon to be enacted ordinance regarding regulating massage businesses in the City of Benicia.

General Plan	The overarching goal of the General Plan is Sustainability.
---------------------	---

Strategic Plan	Strategic Issue # 3: Strengthening Economic and Fiscal Conditions Strategy #4: Manage City finances prudently
-----------------------	--

CEQA Analysis	Adoption of the Master Fee Schedule and the associated Benicia Municipal Code amendments do not constitute a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 (b) (4) which excludes government fiscal activities which do not involve commitment to a specific project which may have a direct or indirect effect on the physical environment. Therefore, the Master Fee Schedule is not subject to environmental review pursuant to CEQA Guidelines Section 15060 (c) (3).
--------------------------	--

ATTACHMENTS:

1. Resolution – Amendment to Master Fee Schedule for 2019-20
2. Proposed Master Fee Schedule for Police and Library

For more information contact: Cindy Mosser, Finance Director

Phone: 707.746.4217

E-mail: cmosser@ci.benicia.ca.us

RESOLUTION NO. 19-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO IMPLEMENT CHANGES AS APPROVED BY COUNCIL

WHEREAS, the City Council adopted Resolution #19-53a, approving an updated Master Fee Schedule that included a provision allowing for the implementation of an annual increase based on the San Francisco Bay Area Consumer Price Index (CPI) for the previous year; and

WHEREAS, notice of the time and place of the meeting, including a general explanation of the matter to be considered, was published in the Benicia Herald, a newspaper of general circulation, on September 29, 2019 and October 4, 2019, in accordance with Government Code §6062a; and

WHEREAS, the City Council repealed and replaced Benicia Municipal Code Chapter 5.52 on August 20, 2019; and

WHEREAS, the new version of Benicia Municipal Code Chapter 5.52 eliminates the need for permitting fees related to massage businesses, and replaces them with a Massage Registration Certificate; and

WHEREAS, the adoption of new processing fees does not constitute a project as defined by §15378(b)(4) of the California Environmental Quality Act Guidelines.

NOW, THEREFORE, the City Council of the City of Benicia hereby resolves as follows:

1. The new fees shall be rounded to the nearest \$1, as appropriate, as noted in Attachment 2 of the staff report;
2. That all fee changes to the Master Fee Schedule as presented on October 15, 2019 are approved. These changes are:
 - a. For the Police Department, establishing a Massage Registration Certificate fee and eliminating fees related to massage permits that are no longer needed.
 - b. For the Library, correcting the faxing fee.

BE IT FURTHER RESOLVED THAT this Resolution shall become effective November 18, 2019 to meet the required a 30-day waiting period.

On motion of Council Member _____, seconded by Council Member _____, the above resolution is introduced and passed by the City Council of the City of Benicia at a regular meeting of the Council held on the 15th day of October, 2019 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

City of Benicia

Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
SERVICES & CHARGES				
Cassette Tapes, Audio & Video				
Per Tape/CD/DVD		\$ 35		\$ 35
False Alarm Charge				
Registration Fee	[3]	\$ 25		\$ 25
First false alarm in calendar year	[3]	\$ -		\$ -
Second false alarm in calendar year	[3]	\$ 100		\$ 100
Third false alarm in calendar year		\$ 200		\$ 200
Fourth and subsequent false alarm in calendar year		\$ 300		\$ 300
Response to non-registered alarm	[15]	\$ 100		\$ 100
Late Fee for invoice over 30 days	[3]	10% of invoice		10% of invoice
Fingerprinting				
DOJ Live Scan	[2, 17]	\$ 32		\$ 32
FBI Live Scan	[2, 17]	\$ 17		\$ 17
Live Scan (Non- profit employees, school employees, volunteers, foster/adoptive parent applicants, POST Napa Police Academy students)		\$ 27		\$ 27
Live Scan (All others)		\$ 69		\$ 69
Parking Violation				
Benicia Municipal Code Violations	[4]	\$ 51		\$ 51
Disabled Parking Violation	[4]	\$ 375		\$ 375
Photographs				
Per Compact Disk (CD)		\$ 84		\$ 84
Reports				
Traffic Collision Report				
First Five Pages		\$ 16		\$ 16
Each Additional Page		\$ 1		\$ 1
Crime Reports				
First Fifty Pages	[14]	\$ 16		\$ 16
Each Additional Page	[14]	\$ 0		\$ 0

City of Benicia

Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Stolen Vehicle Reports	[14]			
First Two Pages		\$ 16		\$ 16
Each Additional Page	[14]	\$ 0		\$ 0
Storage of Firearm(s)				
Administration Fee		\$ 208		\$ 208
Daily Storage Fee after Owner Notification	[9]	n/a		n/a
Vehicle Tow Releases				
Involving an Arrest, 14601 VC or 12500 VC Violation		\$ 184		\$ 184
All Other Towed Vehicles		\$ 184		\$ 184
Traffic Collision or Victim of Crime		\$ 184		\$ 184
Other Services & Charges				
ABC Letters (for-profit)		\$ 509		\$ 509
ABC Letters (non-profit)	[18]	\$ 5		\$ 5
Local Records Check		\$ 69		\$ 69
Repossessed Vehicle Release		\$ 35		\$ 35
VIN Verification	[16]	\$ 84		\$ 84
LICENSES & PERMITS				
Adult Business				
Initial Application Fee		\$ 715		\$ 715
Annual regulatory license renewal fee		\$ 103		\$ 103
Adult Business Non-Performer				
Initial Application Fee		\$ 257		\$ 257
Annual license renewal		\$ 103		\$ 103
Adult Performer				
Initial Application Fee		\$ 257		\$ 257
Annual license renewal		\$ 103		\$ 103
Bingo Permit				
(Per BMC 5.12.040) Not to Exceed		\$ 69		\$ 69
Renewal Permit		\$ 35		\$ 35

City of Benicia

Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Bicycle License & Registration				
Initial License		\$ 35		\$ 35
Renewal		\$ 35		\$ 35
Cardroom Employees Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 101		\$ 101
Permit Transfer		\$ 35		\$ 35
Concealed Weapons Permit	[1]			
Fortune Telling Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 101		\$ 101
Massage Establishment Permit	[8]			
Initial Permit		\$ 715		\$ 715
Renewal Permit		\$ 332		\$ 332
Massage Registration Certificate	[8]			
Registration Certificate		\$ -	New	\$ 49
Massage Owner/Operator Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 103		\$ 103
Massage Therapist Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 103		\$ 103
Mobile Food Vendor's Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 101		\$ 101
Solicitor Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 102		\$ 102

City of Benicia

Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Taxi Permit	[8]			
Initial Permit		\$ 257		\$ 257
Renewal Permit		\$ 101		\$ 101
Equivalent Fees and Charges	[5]			
Determined by Director		Varies		Varies
Related Fee Reduction	[5]			
Determined by Director		Varies		Varies
ANIMAL CONTROL				
Dog Licensing Fees	[6,13]			
Dog License - Unaltered Dog	[12]			
1 Year		\$ 60		\$ 60
2 Years		\$ 120		\$ 120
3 Years		\$ 180		\$ 180
Dog License - Altered Dog				
1 Year		\$ 25		\$ 25
2 Years		\$ 40		\$ 40
3 Years		\$ 60		\$ 60
Dog License - Unaltered Dog - Senior (65+) Rate				
1 Year		\$ 30		\$ 30
2 Years		\$ 60		\$ 60
3 Years		\$ 90		\$ 90
Dog License - Altered Dog - Senior (65+) Rate				
First Dog		\$ -		\$ -
Additional Dogs - 1 Year		\$ 15		\$ 15
Additional Dogs - 2 Years		\$ 20		\$ 20
Additional Dogs - 3 Years		\$ 25		\$ 25
Dog License - Late Fees	[4]			
After 30 days		\$ 16		\$ 16
After 60 Days		\$ 27		\$ 27

City of Benicia

Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Mini Pig Licensing Fees				
Mini Pig License - Unaltered	[11]			
1 Year		\$ 64		\$ 64
2 Years		\$ 122		\$ 122
3 Years		\$ 181		\$ 181
Mini Pig License - Altered	[11]			
1 Year		\$ 24		\$ 24
2 Years		\$ 43		\$ 43
3 Years		\$ 63		\$ 63
Other Animal Control Fees				
Pick Up Trapped Animals (Domestic)		\$ 208		\$ 208
Dog Redemption	[4]			
1st Offense		43		43
2nd Offense		64		64
3rd Offense		80		80
Future Offenses	[5]	\$75 plus \$15 Per Additional Violation		\$75 plus \$15 Per Additional Violation
Animal Disposal		\$ 104		\$ 104
Pick Up for Surrender		\$ 208		\$ 208
Bee Keeping Permit		\$ 54		\$ 54

City of Benicia Police Department Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
-----------------	-------	---------------------	----------	-----------------------

[Notes]

-
- [1] Handled by County Sheriff.
 - [2] Pass through fees.
 - [3] Punitive, set per City Ordinance.
 - [4] Punitive, set per City Municipal Code.
 - [5] The Police Chief shall determine an appropriate fee or fee reduction when conditions exist to warrant such an action.
 - [6] Results do not include County costs. City costs only.
 - [7] City no longer provides this service. Fee item should be deleted.
 - [8] DOJ and FBI fees apply separately. Analysis includes City costs and fees only.
 - [9] Charge for storage established per City policy, not evaluated by NBS as part of study.
 - [10] Fees from other City departments may apply. See Finance and Planning fee schedules.
 - [11] Fee not analyzed by NBS, rates provided by Resolution No. 17-66, provided by the City of Benicia.
 - [12] City permit tracking system does not provide breakout of what type of license is issued, total of all licenses permitted included here.
 - [13] City is choosing a cost recovery of over 100%, for justification see City staff report dated June 20, 2017 and Resolution 17-133.
 - [14] Reports to victims are given at no charge.
 - [15] Fee not analyzed by NBS.
 - [16] Benicia residents receive one free VIN verification per year.
 - [17] Fee set by other agency.
 - [18] Fee justified in NBS 2017 study but inadvertently omitted.

City of Benicia

Library Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Late Fees				
Late Fee Children's Materials - per day	[1]	\$ 0.10		\$ 0.10
Late Fee Adult & Youth Materials - per day	[1]	\$ 0.20		\$ 0.20
Lost or Damaged Material Charge				
Cost of replacement as indicated in the materials record		Actual Cost		Actual Cost
Lost or Damaged Material Processing Fee		\$ 10		\$ 10
Library Card Replacement		\$ -		\$ -
Internet/Public Access Printer [2]				
Black & White - per page		\$ 0.15		\$ 0.15
Color - per page		\$ 0.50		\$ 0.50
Internet/Public Access Computer Disk - per disc	[2]	\$ 1		\$ 1
Public Copier [2]				
Black & White: 8.5" x 11" - per page		\$ 0.15		\$ 0.15
B&W: 8.5" x 14" - per page		\$ 0.15		\$ 0.15
B&W: 11" x 17" - per page		\$ 0.30		\$ 0.30
Color: 8.5" x 11" , 8.5" x 14" - per page		\$ 0.50		\$ 0.50
Color: 11" x 17" - per page		\$ 1		\$ 1
Room Rental Per Hour [3]				
Edna Clyne		\$ 22		\$ 22
Dona Benicia		\$ 32		\$ 32
1/2 Dona Benicia		\$ 22		\$ 22
Piano Use in Meeting Room		\$ 10		\$ 10
Proctoring Fee				
First three hours		\$ 27		\$ 27
Additional per hour charge		\$ 5		\$ 5
Monitored Proctoring Fee				
First three hours		\$ 50		\$ 50
Additional per hour charge		\$ 10		\$ 10

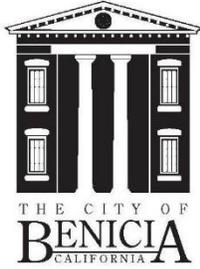
City of Benicia

Library Fee Schedule

Fee Description	Notes	Effective 9/1/19	Increase	Effective 11/15/19
Items for Purchase				
MP3 Cords		\$ 1.50		\$ 1.50
Earbuds		\$ 1		\$ 1
Miscellaneous Other Fees				
Interlibrary Loan (ILL) Charges: for items requested and filled for patrons		\$ 5		\$ 5
Refundable Rental Deposit	[4]	\$ 54		\$ 54
Unclaimed Hold Fee - per item		\$ 1		\$ 1
Flash Drive - per item	[2]	\$ 5		\$ 5
Blank Paper - per page	[2]	\$ 0.05		\$ 0.05
Blank Business Envelope - per envelope	[2]	\$ 0.25		\$ 0.25
Fax/Scanner - per page	[2]	\$ 0.15		\$ 0.15
Fax - per page	[2]		\$1 - \$25 max.	\$1 - \$25 max.
Equivalent Fees and Charges				
Determined by Department Director	[5]	Varies		Varies
Related Fee Reduction				
Determined by Department Director	[5]	Varies		Varies
<p>For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.</p>				

[Notes]

- [1] Penalty / punitive charge; not analyzed by NBS in fee study
 [2] Fee established to recover cost of materials only, not analyzed in fee study
 [3] Market based evaluation conducted with staff recommendations.
 [4] Refundable deposit set by City policy, not analyzed in fee study
 [5] The City Manager or City Manager's designee shall determine an appropriate fee or fee reduction when conditions exist to warrant such an action.



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

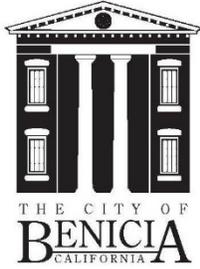
TO : Mayor Patterson
Council Member Campbell

FROM : Interim Community Development Director

SUBJECT : **MARIN CLEAN ENERGY (MCE)**

The following information is provided for your committee report at the October 15, 2019 Council meeting.

The next regular scheduled meeting is October 17, 2019. The meeting schedule and minutes can be found online at: <https://www.mcecleanenergy.org/meeting-archive/>.



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

TO : Mayor Patterson
Council Member Strawbridge

FROM : Public Works Director

SUBJECT : **SOLANO COUNTY WATER AGENCY**

The following information is provided for your committee report at the October 15, 2019 Council meeting.

The agenda for the regular board meeting on September 12, 2019 is attached. The minutes for the board meeting on August 8, 2019 are also attached. The agenda for the October 10th meeting is not available. The next regular board meeting will be on November 14, 2019 at the SCWA office.

ATTACHMENTS:

1. Minutes from the August 8, 2019 Board meeting
2. Agenda from the September 12, 2019 Board meeting

The Solano County Water Agency Board of Directors met this evening at the Solano County Water Agency office in Vacaville. Present were:

- Councilmember Steve Young, City of Benicia
- Vice-Mayor Scott Pederson, City of Dixon
- Mayor Harry Price, City of Fairfield
- Mayor Ronald Kott, City of Rio Vista
- Mayor Lori Wilson, City of Suisun City
- Mayor Ron Rowlett, City of Vacaville
- Mayor Bob Sampayan, City of Vallejo
- Supervisor Erin Hannigan, Solano County District 1
- Supervisor Monica Brown, Solano County District 2
- Supervisor John Vasquez, Solano County District 4
- Supervisor Skip Thomson, Solano County District 5
- Director Dale Crossley, Reclamation District No. 2068
- Director John Kluge, Solano Irrigation District

CALL TO ORDER

The meeting was called to order by Chair Thomson at 6:30 pm.

APPROVAL OF AGENDA

On a motion by Supervisor Vasquez and a second by Mayor Rowlett the Board unanimously approved the agenda.

PUBLIC COMMENT

There were no comments from the public.

CONSENT ITEMS

On a motion by Mayor Price and a second by Supervisor Vasquez the Board unanimously approved the following consent items:

- (A) Minutes
- (B) Expenditure Approvals
- (C) Purchase of Roll-out Bucket for John Deere 624K Wheeled Loader
- (D) Appropriations Limit for Fiscal Year 2019-2020

BOARD MEMBER REPORTS

There we no Board Member reports.

GENERAL MANAGER’S REPORT

In addition to the written report, General Manager Roland Sanford briefly discussed the status of the ongoing Dixon drainage study and noted that a Request for Proposals for the Phase II portion of the study will be advertised by the end of August, with the expectation that a contractor will be selected and under contract by November.

SOLANO WATER ADVISORY COMMISSION

There was no written or verbal report.

CREATION OF WATER RESOURCES TECHNICIAN I/II AND SENIOR WATER RESOURCES TECHNICIAN POSITIONS

LEGISLATIVE UPDATES

Mayor Kott reported that the Agency's legislative advocate contract has expired and that the Committee will be interviewing legislative advocate candidates in the near future, with the expectation that a recommended candidate and contract will be forwarded to the full Board in October or November.

The Committee reviewed U.S SB 1932, the Drought Resiliency and Water Supply Infrastructure Act, and recommend the Water Agency support US Senate Bill 1932 if amended to exclude funding for Cal Water Fix (now known as the Delta Conveyance Project). On a motion by Supervisor Vasquez and a second by Supervisor Hannigan the Board unanimously approved supporting U.S. SB 1932 if amended.

WATER POLICY UPDATES

1. Staff had nothing to report on emerging Delta and Water Policy issues.
2. The Water Policy Committee met late last month and will continue work on developing a water exchange policy for possible Board adoption later this year. The Committee is meeting next on August 26.
3. Supervisor Thomson stated that there were no updates for either the Delta County Coalition or the Delta Protection Committee.
4. There was no report on the activities of the Delta Conservancy.

CLOSED SESSION-GENERAL MANAGER'S PERFORMANCE EVALUATION AND POSSIBLE CONTRACT EXTENSION

The Board moved into closed session at 6:37 pm to conduct the General Manager's performance evaluation, the Board moved out of closed session at 7:06 pm, during closed session the Board and General Manager Roland Sanford agreed to extend the General Manager's current employment contract, which expires August 24, 2019, an additional 31 days to allow both parties sufficient time to negotiate a four-year employment contract that would extend into 2023.

TIME AND PLACE OF NEXT MEETING

Thursday, September 12, 2019 at 6:30 p.m., at the SCWA offices in Vacaville.

ADJOURNMENT

This meeting of the Solano County Water Agency Board of Directors was adjourned at 7:07 p.m.

Roland Sanford
General Manager & Secretary to the
Solano County Water Agency



BOARD OF DIRECTORS:

Chair:

Supervisor Skip Thomson
Solano County District 5

Vice Chair:

Mayor Ron Kott
City of Rio Vista

Mayor Elizabeth Patterson
City of Benicia

Mayor Thom Bogue
City of Dixon

Mayor Harry Price
City of Fairfield

Director Ryan Mahoney
Maine Prairie Water
District

Director Dale Crossley
Reclamation District No.
2068

Mayor Ron Kott
City of Rio Vista

Supervisor Erin Hannigan
Solano County District 1

Supervisor Monica Brown
Solano County District 2

Supervisor Jim Spering
Solano County District 3

Supervisor John Vasquez
Solano County District 4

Director John D. Kluge
Solano Irrigation District

Mayor Lori Wilson
City of Suisun City

Mayor Ron Rowlett
City of Vacaville

Mayor Bob Sampayan
City of Vallejo

GENERAL MANAGER:

Roland Sanford
Solano County Water
Agency

BOARD OF DIRECTORS MEETING

DATE: Thursday, September 12, 2019

TIME: 6:30 P.M.

PLACE: Berryessa Room
Solano County Water Agency Office
810 Vaca Valley Parkway, Suite 203
Vacaville

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **APPROVAL OF AGENDA**

4. **PUBLIC COMMENT**

Limited to 5 minutes for any one item not scheduled on the Agenda.

5. **CONSENT ITEMS** (*estimated time: 5 minutes*)

(A) **Minutes:** Approval of the Minutes of the Board of Directors meeting of August 8, 2019.

(B) **Expenditure Approvals:** Approval of the August 2019 checking account register.

(C) **Lake Berryessa Mussel Prevention Program Grant:** Adopt Resolution 2019-06 authorizing General Manager or designee to file grant application and execute grant agreements and any other documents necessary to secure Safeguarding the West from Invasive Species Grant funds for Lake Berryessa Mussel Prevention Program.

(D) **Sale of Surplus Property:** Approve Resolution 2019-07 authorizing sale of surplus equipment no longer needed or useful for ongoing and anticipated Lower Putah Creek restoration activities.

- (E) BayQWEL Training Program: Authorize General Manager to execute \$220,000 contract with the California Water Efficiency Partnership (CalWEP) on behalf of ten agencies (Solano County Water Agency, Alameda County Water District, Bay Area Water Supply & Conservation Agency, Contra Costa Water District, City of Napa, East Bay Municipal Water District, Santa Clara Valley Water District, San Francisco Public Utilities Commission, Sonoma Water, Zone 7 Water Agency) for implementation of 2-year Regional Bay Area Qualified Water Efficient Landscaper (BayQWEL) Training Program.

6. **BOARD MEMBER REPORTS** *(estimated time: 5 minutes)*

RECOMMENDATION: For information only.

7. **GENERAL MANAGER'S REPORT** *(estimated time: 5 minutes)*

RECOMMENDATION: For information only.

8. **SOLANO WATER ADVISORY COMMISSION REPORT** *(estimated time: 5 minutes)*

RECOMMENDATION: For information only.

9. **CURRENT NORTH BAY AQUEDUCT WATER TRANSFER POLICY** *(estimated time: 15 minutes)*

RECOMMENDATION: For information only.

10. **PUTAH CREEK RAINBOW TROUT GENETICS STUDY** *(estimated time: 15 minutes)*

RECOMMENDATION:

1. Authorize General Manager to execute 3-year contract with UC Santa Cruz for the Putah Creek Rainbow Trout Genetics Study – total cost not to exceed \$125,844.

11. **GENERAL MANAGER'S EMPLOYMENT AGREEMENT** *(estimated time: 10 minutes)*

RECOMMENDATION:

1. Authorize Chairman to execute agreement with Roland Sanford for continued employment as General Manager – four year term.

12. **LEGISLATIVE UPDATES** *(estimated time: 5 minutes)*

RECOMMENDATION:

1. Hear report from Committee Chair on activities of the SCWA Legislative Committee.

13. **WATER POLICY UPDATES** *(estimated time: 5 minutes)*

RECOMMENDATION:

1. Hear report from staff on current and emerging Delta and Water Policy issues and provide direction.
2. Hear status report from Committee Chair on activities of the SCWA Water Policy Committee.
3. Hear report from Supervisor Thomson on activities of the Delta Counties Coalition, Delta Protection Commission.
4. Hear report from Supervisor Thomson on activities of the Delta Conservancy.

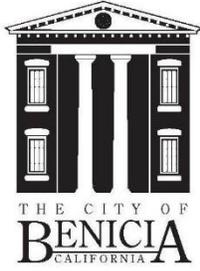
14. TIME AND PLACE OF NEXT MEETING

Thursday, October 10, 2019 at 6:30 p.m. at the SCWA offices.

The Full Board of Directors packet with background materials for each agenda item can be viewed on the Agency's website at www.scwa2.com.

Any materials related to items on this agenda distributed to the Board of Directors of Solano County Water Agency less than 72 hours before the public meeting are available for public inspection at the Agency's offices located at the following address: 810 Vaca Valley Parkway, Suite 203, Vacaville, CA 95688. Upon request, these materials may be made available in an alternative format to persons with disabilities.

SEP.2019.bod.agnda



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

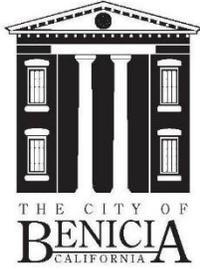
TO : Council Member Young
Council Member Largaespada

FROM : Interim Community Development Director

SUBJECT : **SKY VALLEY OPEN SPACE COMMITTEE**

The following information is provided for your committee report at the October 15, 2019 Council meeting.

These committee meetings are now scheduled on an as-needed basis. At this time, the next meeting date is unknown.



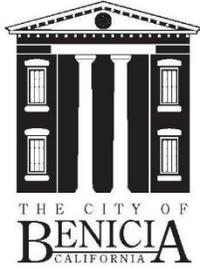
AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

TO : Council Members Campbell and Strawbridge
FROM : City Manager
SUBJECT : **SOLANO EDC BOARD OF DIRECTORS**

The following information is provided for your committee report at the October 15, 2019 City Council meeting.

A meeting of the Board of Directors was held on September 12, 2019 at Benicia Veterans' Memorial Hall. The agenda was previously issued. The minutes are not yet available.

The next meeting was on Thursday, November 14, 2019 at 9:00 a.m. at a location to be announced. The agenda is not yet available.



**AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT**

TO : Mayor Patterson
Council Member Largaespada

FROM : Public Works Director

SUBJECT : **SOLANO TRANSPORTATION AUTHORITY (STA)**

The following information is provided for your committee report at the October 15, 2019 Council meeting.

Attached is the agenda for the Board meeting on September 11, 2019. There was no meeting in August. The agenda for the regular board meeting will be on October 9, 2019 is not available. November 13, 2019 will be the Annual Awards hosted by the City of Fairfield. The next regular meeting will be in December.

ATTACHMENT:

1. Agenda from the September 11, 2019 Board meeting

MEETING AGENDA



**6:00 p.m., STA Board Regular
Wednesday, September 11, 2019
Suisun City Hall Council Chambers
701 Civic Center Drive
Suisun City, CA 94585**

Mission Statement: To improve the quality of life in Solano County by delivering transportation system projects to ensure mobility, travel safety, and economic vitality.

Public Comment: Pursuant to the Brown Act, the public has an opportunity to speak on any matter on the agenda or, for matters not on the agenda, issues within the subject matter jurisdiction of the agency. Comments are limited to no more than 3 minutes per speaker unless modified by the Board Chair, Gov't Code § 54954.3(a). By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency. **Speaker cards are required in order to provide public comment. Speaker cards are on the table at the entry in the meeting room and should be handed to the STA Clerk of the Board. Public comments are limited to 3 minutes or less.**

Americans with Disabilities Act (ADA): This agenda is available upon request in alternative formats to persons with a disability, as required by the ADA of 1990 (42 U.S.C. §12132) and the Ralph M. Brown Act (Cal. Govt. Code §54954.2). Persons requesting a disability related modification or accommodation should contact Johanna Masiclat, Clerk of the Board, at (707) 399-3203 during regular business hours at least 24 hours prior to the time of the meeting.

Translation Services: For document translation please call:
Para la llamada de traducción de documentos:
對於文檔翻譯電話
Đối với tài liệu gọi dịch:
Para sa mga dokumento tawag sa pagsasalin:
707-399-3239

Staff Reports: Staff reports are available for inspection at the STA Offices, One Harbor Center, Suite 130, Suisun City during regular business hours, 8:00 a.m. to 5:00 p.m., Monday-Friday. You may also contact the Clerk of the Board via email at jmasiclat@sta.ca.gov **Supplemental Reports:** Any reports or other materials that are issued after the agenda has been distributed may be reviewed by contacting the STA Clerk of the Board and copies of any such supplemental materials will be available on the table at the entry to the meeting room.

Agenda Times: Times set forth on the agenda are estimates. Items may be heard before or after the times shown.

ITEM

BOARD/STAFF PERSON

- 1. CALL TO ORDER/ PLEDGE OF ALLEGIANCE** Chair Price
(6:00 p.m.)
- 2. CONFIRM QUORUM/ STATEMENT OF CONFLICT** Chair Price
An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; (3) leave the room until after the decision has been made. Cal. Gov't Code § 87200.

<u>STA BOARD MEMBERS</u>							
Jim Spering	Lori Wilson	Elizabeth Patterson	Thom Bogue (Vice Chair)	Harry Price (Chair)	Ronald Kott	Ron Rowlett	Bob Sampayan
County of Solano	City of Suisun City	City of Benicia	City of Dixon	City of Fairfield	City of Rio Vista	City of Vacaville	City of Vallejo
<u>STA BOARD ALTERNATES</u>							
Erin Hannigan	Mike Segala	Lionel Largaespada	Steve Bird	Chuck Timm	Donald Roos	Dilenna Harris	Robert McConnell

3. APPROVAL OF AGENDA

4. OPPORTUNITY FOR PUBLIC COMMENT

(6:05 – 6:10 p.m.)

5. EXECUTIVE DIRECTOR’S REPORT – Pg. 7

(6:10 – 6:15 p.m.)

Daryl Halls

6. REPORT FROM THE METROPOLITAN TRANSPORTATION COMMISSION (MTC)

(6:15 – 6:20 p.m.)

Jim Spring,
MTC Commissioner

7. REPORT FROM CALTRANS

(6:20 – 6:25 p.m.)

8. STA PRESENTATIONS

(6:25 – 6:45 p.m.)

A. FASTER Bay Area Presentation

Stuart Cohen, FASTER Bay Area Committee,
and Gwen Litvak, Bay Area Council

B. Directors Reports:

1. Planning

2. Projects

3. Programs

Robert Guerrero
Anthony Adams
Ron Grassi/Lloyd Nadal

9. CONSENT CALENDAR

Recommendation:

Approve the following consent items in one motion.

(Note: Items under consent calendar may be removed for separate discussion.)

(6:45 – 6:50 p.m.)

A. Meeting Minutes of the STA Board Meeting of July 10, 2019

Johanna Masiclat

Recommendation:

Approve the Minutes of the STA Board Meeting of July 10, 2019.

Pg. 17

B. Draft Minutes of the STA Technical Advisory Committee (TAC) Meeting of August 28, 2019

Johanna Masiclat

Recommendation:

Receive and file.

Pg. 25

C. Fiscal Year (FY) 2019-20 Indirect Cost Allocation Plan (ICAP) Rate Application for Caltrans

Susan Furtado

Recommendation:

Approve the following:

1. STA’s ICAP Rate Application for FY 2019-20 at 59.76%; and
2. Authorize the Executive Director to submit the ICAP Rate

Application to Caltrans.

Pg. 31

- D. Updated Intercity Bus Replacement Capital Plan** Brandon Thomson
Recommendation:
 Approval of the following:
1. Updated Intercity Bus Replacement Funding Plan (September 2019) as specified in Attachment B adding four SolanoExpress buses for expansion of the Red Line;
 2. Authorize the Executive Director to allocate \$1,695,989 million in Fiscal Year (FY) 2019-20 STAF for the purchase of two SolanoExpress buses by Solano County Transit (SolTrans); and
 3. Program \$847,995 in FY 2020-21 STAF for the funding of one SolanoExpress Bus by SolTrans.
- Pg. 33**
- E. 2019 SolanoExpress Ridership and Analysis Study** Brandon Thomson
Recommendation:
 Authorize the Executive Director to:
1. Issue a Request for Proposal (RFP); and
 2. Enter into a contract for the SolanoExpress Ridership and Analysis Study for an amount not-to-exceed \$125,000.
- Pg. 43**
- F. STA Support of Full Implementation of SolTrans Automated Vehicle Location and Automated Passenger Counting (AVL/APC) System** Brandon Thomson
Recommendation:
 Authorize the Executive Director to:
1. Issue a Request for Proposal (RFP); and
 2. Enter into a contract not to exceed \$75,000 for the support of SolTrans transition to an automated AVL/APC system.
- Pg. 47**
- G. Addendum to the 2019 Solano County Pothole Report** Erika McLitus
Recommendation:
 Approve the Addendum to the 2019 Solano Countywide Pothole Report as shown in Attachment A.
Pg. 49
- H. Bicycle Advisory Committee (BAC) and Pedestrian Advisory Committee (PAC) Appointments** Triana Crighton
Recommendation:
 Approve the following:
1. Reappoint Mike Segala to the BAC for a three-year term; and
 2. Appoint Steve Olry to the PAC for a three-year term.
- Pg. 83**

- I. Authorize to Auction Former Solano Paratransit Buses** Brandon Thomson
Recommendation:
 Authorize the Executive Director to auction former Solano Paratransit Bus Numbers 2014 and 2015 and allocate the proceeds to the SolanoExpress Bus Replacement Program.
Pg. 89
- J. Amendment to Executive Director’s Employment Agreement** Bernadette Curry
Recommendation:
 Approve the Second Amendment to Executive Director Employment Agreement as shown in Attachment A.
Pg. 91

10. ACTION FINANCIAL ITEMS

- A. Conduct Public Hearing and Adopt Resolution of Necessity to Acquire Property by Eminent Domain, if necessary, for the I-80/I-680/SR 12 Interchange Project –Eastbound SR 12W to Eastbound I-80 Connector (Construction Package 2A)** Janet Adams
Recommendation:
1. Conduct a public hearing; and
 2. Adopt the attached Resolution of Necessity No. 2019-10 (Attachment B) to acquire by eminent domain, if necessary, the property needed for the I-80/I-680/SR 12 Interchange Project – Eastbound SR 12W to Eastbound I-80 Connector (Construction Package 2A) as specified in the Resolution of Necessity (Attachment B).
- (6:50 – 7:00 p.m.)
Pg. 95
- B. Funding Proposal for Vallejo Station Phase B** Janet Adams
Recommendation:
 Approve the following:
1. Authorize the STA Board Chair to send a letter to SF Bay Area Water Emergency Transportation Authority (WETA) requesting \$10M RM 3 funding from the Ferry Enhancement Program for Vallejo Station Phase B;
 2. Authorize the STA Board Chair to request \$10M RM 3 funding from the North Bay Transit Access Improvements contingent on WETA funding approval for Vallejo Station Phase B;
 3. Authorize the STA Board Chair to send a letter to the Vallejo Mayor and City Council requesting a commitment of \$5 M plus as the local match funding for the Vallejo Station Phase B project; and
 4. Authorize the Executive Director to enter into a funding agreement with the City of Vallejo for the completion of Vallejo Station Phase B.
- (7:00 – 7:10 p.m.)
Pg. 97

11. ACTION NON-FINANCIAL ITEMS

- A. Legislative Update** Vincent Ma
Recommendation:
Endorse the Final Draft of Caltrans' California Federal Surface Transportation Reauthorization Consensus Principles Document as shown in Attachment H.
(7:10 – 7:15 p.m.)
Pg. 101
- B. Status of Priority Development Areas (PDAs) and Priority Production Areas (PPAs) Designation and Implementation** Robert Guerrero
Recommendation:
Authorize the Executive Director to submit a letter responding to the Metropolitan Transportation Commission's Priority Development Area Action Plan.
(7:15 – 7:20 p.m.)
Pg. 157

12. INFORMATIONAL – DISCUSSION

- A. 2020 State Transportation Improvement Program (STIP) Priorities and Schedule** Janet Adams
(7:20 – 7:25 p.m.)
Pg. 171
- B. Regional Transportation Impact Fee (RTIF) – 4th Quarter Update Fiscal Year (FY) 2018-19** Anthony Adams
(7:25 – 7:30 p.m.)
Pg. 229

NO DISCUSSION

- C. Solano Safe Routes to School Program 4th Quarter Report for FY 2018-19** Lloyd Nadal
Pg. 233
- D. Summary of Funding Opportunities** Triana Crighton
Pg. 241
- E. 2019 STA Board and Advisory Committee Meeting Schedule** Johanna Masiclat
Pg. 245

13. BOARD MEMBERS COMMENTS

14. ADJOURNMENT

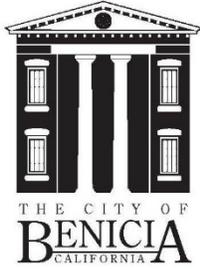
The next regularly scheduled meeting of the STA Board is at **6:00 p.m., Wednesday, October 9, 2019**, at the Suisun Council Chambers.

STA Board Meeting Schedule for Calendar Year 2019

6:00 p.m., Wednesday, October 9, 2019

5:00 p.m., Wednesday, November 13, 2019 (STA's 22nd Annual Awards – City of Fairfield)

6:00 p.m., Wednesday, December 11, 2019



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

TO : Council Member Young
Council Member Largaespada

FROM : Public Works Director

SUBJECT : **TRAFFIC, PEDESTRIAN, BICYCLE SAFETY COMMITTEE**

The following information is provided for your committee report at the October 15, 2019 Council meeting.

The TPBS Committee last met on July 18, 2019. Attached are the agenda from the July 18, 2019 meeting and the approved minutes from the May 30, 2019 Special meeting. The next regular meeting will be Thursday, October 17, 2019, in the City of Benicia Commission Room.

ATTACHMENTS:

1. Minutes – May 30, 2019 Special meeting
2. Agenda – July 18, 2019

Minutes
CITY OF BENICIA
TRAFFIC, PEDESTRIAN, AND BICYCLE SAFETY (TPBS) COMMITTEE
Special Meeting
Thursday, May 30, 2019
7:00 p.m.

1. Call to Order.

Meeting called to order at 7:00 p.m. by Vice Chair, Council Member Lionel Largaespada

1. Roll Call:

Present:

Vice Chair, Council Member Lionel Largaespada, Public Works Director William Tarbox, Police Lieutenant, Damiean Sylvester, Senior Civil Engineer, Nouae Vue, and Public Works Administrative Secretary, Lisa Kemmer

Absent: Chair, Council Member, Steve Young

2. Pledge of Allegiance

3. Fundamental Rights Statement was read by Committee Vice Chair, Council Member, Lionel Largaespada

2. Adoption of the Agenda

Upon a motion by William Tarbox, seconded by Damiean Sylvester, approved the agenda as presented.

3. Approval of February 27, 2019 Meeting Minutes

Upon a motion by William Tarbox, seconded by Nouae Vue, approved the minutes of February 27, 2019, as presented.

4. Public Comments:

Sabrina Boone, 375 West I Street, spoke about traffic safety and speeding on West J Street between 3rd and 4th Street and the need for stop signs and crosswalks.

Damiean Sylvester, will have Police enforcement in the area between the peak traffic times of 9-10 a.m. and 4-6 p.m.

Nouae Vue, Senior Civil Engineer, explained the traffic calming process and will forward application to Ms. Boone.

Nancy Lund passed out the new bicycle brochure to the Committee members.

5. Verbal Staff Updates

A. ATP Grant- Safe Routes to School at five schools in Benicia

Senior Civil Engineer, Nouae Vue, updated the Committee and members of the public on the grant status. Design has been completed and project going out to bid. Expect construction to begin summer of 2019.

B. HSIP Grant application for Military West & West 7th Street Intersection

Senior Civil Engineer, Nouae Vue, updated the Committee and members of the public on the grant status. Advertised project and the bids came in higher than the budget allows. Worked with Caltrans to approve additional funding of \$93,000 and has been approved. Will award contract once approved by City Council July 2, 2019. Construction to begin in August.

C. HSIP Grant application for East 5th & Vecino Street Intersection

Senior Civil Engineer, Nouae Vue, updated the Committee and members of the public on the grant status. This project has been advertised and is currently out to bid with bids due June 20, 2019. Will likely go to construction this summer.

D. HSIP Grant – Pedestrian Crossing (Hasting @ London & Military West @ West 5th)

Senior Civil Engineer, Nouae Vue updated the Committee and members of the public the City Engineering has met with Caltrans to move the authorization to design forward. Design to begin 2019/2020, with construction to take place 2020/2021.

E. HSIP Grant – Citywide Guardrail Improvements

Senior Civil Engineer, Nouae Vue, updated the Committee and members of the public on the status of grant. Have submitted a second application now for funding and have received nearly \$1 million in funding for guardrail improvements with no local match required.

6. ACTION ITEMS

None.

7. ADJOURNMENT

The meeting was adjourned at 7:20 p.m.



**BENICIA TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY COMMITTEE
TRAFFIC PEDESTRIAN & BICYCLE SAFETY (TPBS) COMMITTEE AGENDA**

**City Hall - Commission Room
July 18, 2019
7:00 PM**

1. Call To Order

1. Roll Call
2. Pledge of Allegiance
3. Fundamental Rights Statement

2. Adoption Of Agenda

3. Approval Of Minutes

3.A Approval of May 30, 2019 Minutes

[TPBS Minutes - Draft 5-30-19 Meeting](#)

4. Public Comments

5. Verbal Staff Updates

5.A ATP Grant - Safe Routes to School

5.B HSIP Grant - Application for Military West and West 7th Street Intersection

5.C HSIP Grant - Application for East 5th and Vecino Street Intersection

5.D Southampton Road - North Sidewalk

5.E Reservoir Road Closure

6. Action Items

None.

7. Adjournment

Next Meeting : October 18, 2019

8. Committee Members

Steve Young (Council Member/ Committee Chair)

Lionel Largaespada (Council Member/ Committee Vice Chair)

William Tarbox (Public Works Director)

Edward Criado (Police Department Representative)

Public Participation

The Benicia City Council and its Boards and Commissions welcome public participation.

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

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

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Alan Shear, the ADA Coordinator, at (707) 746-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

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

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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the

City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

Contact Your Council Members

If you would like to contact the Mayor or a Council Member, please call the number listed below to leave a voicemail message.

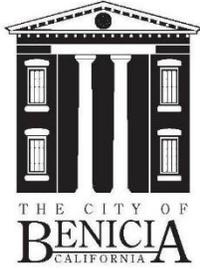
Mayor Patterson: 746-4213

Vice Mayor Strawbridge: 746-4213

Council Member Campbell: 746-4213

Council Member Young: 746-4213

Council Member Largaespada: 746-4213



AGENDA ITEM
CITY COUNCIL MEETING DATE – OCTOBER 15, 2019
COUNCIL MEMBER COMMITTEE REPORT

TO : Councilmember Largaespada

FROM : Interim Community Development Director

SUBJECT : **TRI-CITY AND COUNTY COOPERATIVE**
PLANNING GROUP “SOLANO OPEN SPACE”

The following information is provided for your committee report at the October 15, 2019, Council meeting.

The minutes from the most recent meeting on April 22, 2019 are not yet available. The next meeting has not been scheduled yet.

For a list of additional upcoming Solano County outdoor events please visit:
<http://solanoopenspace.org/AandE.asp>.