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Home	<p style="text-align: center;">October 7, 2008 Regular Meeting</p> <p style="text-align: center;">BENICIA CITY COUNCIL</p> <p style="text-align: center;">REGULAR MEETING AGENDA</p> <p style="text-align: center;">City Council Chambers</p> <p style="text-align: center;">October 7, 2008</p> <p style="text-align: center;">7:00 P.M.</p> <p><i>Times set forth for the agenda items are estimates. Items may be heard before or after the times designated.</i></p> <p>I. <u>CALL TO ORDER (7:00 P.M.):</u></p> <p>II. <u>CLOSED SESSION:</u></p> <p>III. <u>CONVENE OPEN SESSION:</u></p> <p style="padding-left: 40px;">A. ROLL CALL</p> <p style="padding-left: 40px;">B. PLEDGE OF ALLEGIANCE</p> <p style="padding-left: 40px;">C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC</p> <p>IV. <u>ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:</u></p> <p style="padding-left: 40px;">A. ANNOUNCEMENTS:</p> <p style="padding-left: 80px;">1. Announcement of action taken at Closed Session, if any.</p> <p style="padding-left: 80px;">2. Openings on Boards and Commissions:</p> <p style="padding-left: 80px;">Sky Valley Open Space Committee:</p> <p style="padding-left: 120px;">One unexpired term to September 30, 2010</p> <p style="padding-left: 120px;">Economic Development Board</p> <p style="padding-left: 120px;">One full term to July 31, 2012</p> <p style="padding-left: 120px;">Human Services & Arts Board</p> <p style="padding-left: 120px;">One unexpired term to July 31, 2009</p> <p style="padding-left: 80px;">3. Mayor's Office Hours:</p> <p style="padding-left: 120px;">Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.</p> <p style="padding-left: 40px;">B. APPOINTMENTS:</p>			
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<p>In Government & Officials:</p> <p>Agendas and Minutes</p> <ul style="list-style-type: none"> City Council <ul style="list-style-type: none"> City Council Agendas City Council Minutes City Council / School Board Liaison Committee Civil Service Commission Economic Development Board Historic Preservation Review Commission Human Services and Arts Board 				

Board of Library Trustees
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 Parks, Recreation and Cemetery Commission
 Planning Commission
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 Traffic, Pedestrian and Bicycle Safety Committee
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C. PRESENTATIONS:**D. PROCLAMATIONS:**

1. [Recognition of National Red Ribbon Week – October 21 – 27, 2008](#)

2. [No Drugs Down the Drain! Week – October 4 - 11, 2008](#)

V. ADOPTION OF AGENDA:**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

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.

A. WRITTEN COMMENT**B. PUBLIC COMMENT****VII. CONSENT CALENDAR (7:30 P.M.):**

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

A. Approval of Minutes of [September 9, 2008](#) and [September 16, 2008](#). (City Clerk)**B. [Rescind and award of chlorine chemical contracts](#). (Public Works Director)**

This action allows the City to rescind the chemical contract with Sierra Chemical Company and award a chemical contract to Olin Chlor Alkali Products to furnish chlorine to the City of Benicia for the treatment of water for the remainder of fiscal year 2008/09. Sufficient funds are available in the Water Enterprise Fund.

Recommendation: Adopt a resolution rescinding the chemical contract with Sierra Chemical Company and awarding a chemical contract to Olin Chlor Alkali Products to furnish chlorine to the City of Benicia for the treatment of water for the remainder of fiscal year 2008/09 and authorizing the City Manager to sign the contract on behalf of the City.

C. [Award of construction contract for untreated water transmission line repair project](#). (Public Works Director)

The City's untreated water transmission line is a vital component of the water system that delivers untreated water to the Water Treatment Plant. Due to a break and subsequent repairs, a portion of this water line needs to be replaced along with the malfunctioning valves. Sufficient funds are available in the Water Major Capital Projects fund to cover the cost of the project.

Recommendation: Adopt a resolution accepting the bids for the

Untreated Water Transmission Line Repair Project, awarding the construction contract to Argonaut Constructors of Santa Rosa, in the amount of \$213,000, and authorizing the City Manager to sign the contract on behalf of the City.

D. Denial of claim against the City by James Lewis and referral to insurance carrier. (City Attorney)

This claim is for reimbursement of the towing expense incurred when Mr. Lewis's RV got stuck while pulling into the McDonald's restaurant on Second Street. Mr. Lewis claims the City is liable because of the approval of an alleged "unsafe" driveway design. There have been no prior claims due to this driveway entrance.

Recommendation: Deny the claim against the City by James Lewis.

E. Denial of claim against the City by Ronald King and referral to insurance carrier. (City Attorney)

This claim is due to a slip and fall at the city pool bathroom. Parks department staff has advised that there have not been complaints about this floor area and there were no foreign substances observed. The only other incidents involved with falls in the bathroom area involved children and horseplay.

Recommendation: Deny the claim against the City by Ronald King.

F. Denial of claim against the City by DeSilva Gates Construction and referral to insurance carrier. (City Attorney)

This claim is the result of the lawsuit filed by the family of Colene Maiden. Ms. Maiden was crossing the intersection at Columbus Parkway and Rose Drive, and was struck by an automobile. She subsequently died from the injuries she sustained. The family alleges that the accident was due to construction in the area of the intersection. The family has filed a lawsuit against the developer, the city and DeSilva Gates Construction. DeSilva Gates Construction was a subcontractor hired by the owner of the property. The project applicant is required to defend and indemnify the city since that was a requirement of the permit.

Recommendation: Deny the claim against the City by DeSilva Gates Construction.

G. Second reading and adoption of an ordinance amending Title 9 (Public Peace, Morals and Welfare) to change the title of Chapter 9.28 from (Night Curfew) to (Youth Protection) and add Article 2 (Daytime Curfew) to Chapter 9.28 (Youth Protection) of the Benicia Municipal Code. (City Attorney)

On September 16, 2008, the City Council introduced an ordinance to provide for a daytime youth curfew. The proposed ordinance would prohibit unauthorized school age children from being present in public on school days during daytime curfew hours. Minimal staffing costs associated with enforcement and processing curfew violations can be absorbed by the Police Department. In addition, it is anticipated that this ordinance would have a positive financial impact on the Benicia Unified School District's budget as increasing attendance also increasing ADA (Average Daily Attendance) funding.

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

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

VIII. PUBLIC HEARINGS (7:40 P.M.):

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

A. Vacation of a portion of the West K Street right-of-way adjacent to 1356 West K Street and land exchange benefiting the West 14th/K Street public access. (Public Works Director)

This is the final step to complete the land exchange approved in concept by City Council in March, 2008, whereby the property owner of 1356 West K Street will dedicate the parcel immediately to the west to the City, which will become part of the West 14th/K Street public access in exchange for the City vacating and granting the street right-of-way dividing said property. City Council will complete the land exchange tonight by holding the public hearing, vacating the street, dedicating the new parcel to the owner of 1356 West K Street, and accepting the grant deed from said property owner.

Recommendation: Adopt the resolutions (1) ordering the vacation of a portion of West K Street right-of-way adjacent to 1356 West K Street and (2) approving a land exchange with the property owner of 1356 West K Street benefiting the West 14th/K Street public access.

B. Benicia Business Park Rezoning, Master Overlay, Vesting Tentative Map and Addendum (continued public hearing on traffic issues and action on the project by the City Council). (Community Development Director & City Attorney)

Attachments: Staff Report and Public Comment since June 3, 2008 Council Meeting

On June 3, 2008, the City Council considered the project and continued the public hearing on the project to allow additional traffic analysis to be completed regarding Robert Semple School and midday traffic on East Second Street. Per Subdivision Map Act Section 66452.2, it appears the City Council was required to act on the application at the June 3, 2008 meeting unless the applicant and Council agreed to an extension. The applicant agreed to extend the time for action to allow an additional traffic report to be prepared. Public comment was closed on non-traffic issues.

Recommendation: Hold the public hearing to consider traffic issues and approve the project by adopting resolutions (1) adopting the EIR Addendum, Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations (for a significant and unavoidable air quality impact due to ozone precursors), and associated Findings pursuant to the California Environmental Quality Act (CEQA); and (2) approving the proposed Rezoning, Master Plan Overlay and Vesting Tentative Map, with conditions (as may be modified by the City Council).

IX. ACTION ITEMS:**X. INFORMATIONAL ITEMS:****XI. COUNCIL MEMBER REPORTS:****XII. ADJOURNMENT (10:00 P.M.):**

Public Participation

The Benicia City Council welcomes public participation.

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

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

Disabled Access

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

Meeting Procedures









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






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

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

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

-  [IV-D-1 Proclamation.pdf](#)
-  [IV-D-2 Proclamation.pdf](#)
-  [VII-A-1 Minutes.pdf](#)
-  [VII-A-2 Minutes.pdf](#)
-  [VII-B Chemical Contract.pdf](#)
-  [VII-C Construction Contract.pdf](#)
-  [VII-D Denial of Claim.pdf](#)
-  [VII-E Denial of Claim.pdf](#)

-  [VII-F Denial of Claim.pdf](#)
-  [VII-G Curfew Ordinance.pdf](#)
-  [VIII-A Vacation West K St.pdf](#)
-  [VIII-B-1 BBP.pdf](#)
-  [VIII-B-2 BBP.pdf](#)

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