

**SUMMARY**  
**BERKELEY CITY COUNCIL REGULAR MEETING**  
**TUESDAY, OCTOBER 10, 2000**

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**Preliminary Matters**

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**Roll Call:** 7:07 p.m. All present.

**Ceremonial Matters:**

**Recognition of Dragon Boat Team.**  
**Proclamation - Breast Cancer Awareness Month**  
**Proclamation - Indigenous Peoples Day**  
**Proclamation – National Coming Out Day**  
**Actions:** Presented proclamations and awards.

**Comments from the City Manager:**

- The City is participating in the County Early Voting Program; residents can vote in the City Clerk's office through November 3.
- The General Plan draft has been released for public review and comment; meetings will be held on October 25 and November 8 for public responses.
- The employee held on August 26 was a huge success with over 600 employees, family and friends attending.

**Comments from the Public:** Ten speakers.

**Youth Forum:** No speakers.

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**Consent Calendar**

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**Action:** Moved, seconded, carried (Breland/Worthington) to adopt the Consent Calendar in one motion except as indicated.

**1. Needle Exchange Emergency Distribution**

**From:** City Manager

**Recommendation:** Adopt a Resolution reviewing and confirming the continued existence of a local emergency with regard to HIV transmission from use of HIV-infected needles among injection drug users, and authorizing the Director of Public Health to take steps to enable the operation of needle exchange emergency distribution.

Contact: Sherry Kelly, City Clerk, 644-6480

**Action:** Adopted Resolution No. 60,787-N.S.

- 2. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for Council meetings of: a) September 12, 2000 (special closed); b) September 12, 2000 (regular); c) September 19, 2000 (regular); d) September 26, 2000 (special closed) and e) September 26, 2000 (regular).  
Contact: Sherry M. Kelly, City Clerk, 644-6480  
**Action:** Approved minutes.
- 3. East Bay Municipal Utility District Permit to Connect to Sanitary Sewer** (*first reading vote: unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance adding Section 17.16.020 to the Berkeley Municipal Code (BMC) to include a reference to the existing authority under East Bay Municipal Utility District (EBMUD) Ordinance 311 which requires businesses and industries to obtain a permit from EBMUD prior to connecting to the sanitary sewer for all such entities located in the City of Berkeley.  
Contact: Rene Cardinaux, Public Works, 665-3460  
**Action:** Adopted second reading of Ordinance No. 6587-N.S. Effective: November 9, 2000.
- 4. Updated Conflict of Interest Code**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adopting a revised Conflict of Interest Code for the City and rescinding Resolution No. 60,306-N.S. (1999 Conflict of Interest Code.)  
Contact: Sherry Kelly, City Clerk, 644-6480  
**Action:** Adopted Resolution No. 60,788-N.S.
- 5. Contract: Furniture Move into the New Public Safety Building**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Cor-O-Van to provide moving services for the Public Safety Building, in an amount not to exceed \$59,230.  
Contact: Rene Cardinaux, Public Works, 665-3460  
**Action:** Adopted Resolution No. 60,789-N.S.
- 6. Communications Tower Study**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the procedures which include 1) citizen involvement in the establishment of the consultant's scope of work, the requests for qualification (RFQ) criteria, the selection of the consultant, and the review of the consultant's final report; 2) authorizing the City Manager to proceed with the preparation of the RFQ; and 3) directing the City Manager report back to Council with the RFQ document prior to issuance.  
Contact: Rene Cardinaux, Public Works, 665-3460  
**Action:** Withdrawn by the City Manager.

**7. Cable Television Rates and Charges**

**From: City Manager**

**Recommendation:** Adopt a Resolution taking no action on the cable television rates that AT&T Cable Services can charge for the Basic Service Tier and equipment and installation, effective June 1, 2000.

Contact: Phil Kamlarz, Deputy City Manager, 644-6580

**Action:** Adopted Resolution No. 60,790-N.S. and amended by Mayor Dean to direct the City Manager to write to AT&T informing them of the reason for Council's action and to direct the City Manager to send letters to Senators Feinstein and Boxer and the League of California Cities asking what cities can do when they have little authority in the setting of rates and charges.

**8. Contracts: HIV Prevention and Education**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with the Berkeley Public Education Foundation, the California Prevention and Education Project, Catholic Charities, the Pacific Center for Human Growth and the Women's Daytime Drop-in Center, in amounts not to exceed \$24,900, \$23,500, \$12,000, \$23,500 and \$24,930, respectively, for HIV prevention and education services for the period July 1, 2000 to June 30, 2001.

Contact: Fred Medrano, Health and Human Services, 665-6879

**Action:** Adopted Resolution No. 60,791-N.S.

**9. Grant: Breastfeeding Program Expansion**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to accept a grant in the amount of \$500,000 from the California Endowment, CommunitiesFirst program, to expand the City of Berkeley Breastfeeding Peer Counselor program for the period October 1, 2000 through September 30, 2003, and to execute the resultant agreement and any amendments.

Contact: Fred Medrano, Health and Human Services, 665-6879

**Action:** Adopted Resolution No. 60,792-N.S.

**10. Contract: Food Services for Tuolumne Family Camp**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with SYSCO Food Services, Inc., for the provision of food services to the Tuolumne Family Camp, to increase the amount by \$40,000 for a total not to exceed \$215,00.

Contact: Fred Medrano, Health and Human Services, 665-6879

**Action:** Adopted Resolution No. 60,793-N.S. (Abstain - Councilmember Spring)

**11. Grants and Contract: Sustainable Building**

**From: City Manager**

**Recommendation:** Adopt two Resolutions: 1) authorizing the City Manager to submit grant applications to the California Integrated Waste Management Board for all available grants under the California Integrated Waste Management Act and to execute any resultant agreements, amendments, contracts and requests for payment; and 2) authorizing the City Manager, upon receipt of sufficient grant funds, to negotiate a scope of services and execute a sole source contract and any amendments with the Green Resource Center, in the amount of \$57,025, to provide personalized green building technical assistance for the architectural and building communities within San Francisco, Oakland and Berkeley.

Contact: Bill Lambert, Economic Development, 705-8180

**Action:** Adopted Resolution No. 60,794-N.S. and Resolution No. 60,795-N.S.

**12. Agreement: Hazardous Materials Emergency Planning Grant**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to accept and appropriate grant funds in the amount of \$22,995 from the Governor's Office of Emergency Services (OES) to reimburse costs to be incurred by the Toxics Management Division (TMD) of the Planning and Development Department, and other participating departments, for the Comprehensive Emergency Planning and Training Project.

Contact: Wendy Cosin, Planning and Development, 705-8108

**Action:** Adopted Resolution No. 60,796-N.S.

**13. East Bay Million Family Celebration Day**

**From: Councilmember Breland**

**Recommendation:** Approved a Proclamation for the East Bay Family Celebration scheduled for October 16, 2000.

Contact: Margaret Breland, Councilmember District 2, 644-6400

**Action:** Approved recommendation.

**14. October "Stop Cancer Where It Starts" Month**

**From: Councilmembers Breland and Worthington**

**Recommendation:** Adopt a Resolution establishing October as "Stop Cancer Where It Starts" month.

Contact: Margaret Breland, Councilmember District 2, 644-6400; Kriss Worthington, Councilmember District 7, 644-6398

**Action:** Removed from the Consent Calendar by Councilmember Armstrong. Moved, seconded, carried (Worthington/Breland) to approve Resolution No. 60,797-N.S. amended to add the following paragraph to the Resolution: "Whereas, radioactive materials are linked to cancer and reproductive harm and their unnecessary use in reproductive health should be discouraged"; and to revise a section to read: "Therefore, the City of Berkeley shall develop a proposed ordinance to eliminate PVC medical products, among other hazardous products, wherever possible with safer alternatives as a condition of hospital operations"; and to direct staff to return with a timeline for drafting the ordinance.

**15. Accessibility Issues in 2180 Milvia Retrofit**

**From: Councilmember Spring**

**Recommendation:** Request the City Manager work with a committee of people versed in accessibility issues on the interior of the 2180 Milvia retrofit.

Contact: Dona Spring, Councilmember District 4, 644-6266

**Action:** Removed from the Consent Calendar by the City Manager. Moved, seconded, carried (Spring/Maio) to refer accessibility issues to the Commission on Disability (Unanimous) and to direct the City Manager to come back with costs of leveling the floors and putting hardwood floors in the conference rooms on the 5<sup>th</sup> and 6<sup>th</sup> floors and the copier work area of the 5<sup>th</sup> floor (Noes – Olds; Abstain - Armstrong).

**16. Business License Tax on Small Property Owners**

**From: Councilmember Spring**

**Recommendation:** Request the City Manager waive penalties and interest on owner-occupied rental properties of four units and smaller that were not sent business license fee notices by the City in 1998 and 1999.

Contact: Dona Spring, Councilmember District 4, 644-6266

**Action:** Item revised by Councilmember Spring. Removed from the Consent Calendar by Councilmember Olds. Moved, seconded, carried (Olds/Armstrong) to direct the City Manager to waive the penalty and interest for the period 1997, 1998 and 1999 on rental properties of three and fewer units on one parcel when the owner owns no other properties in the City of Berkeley and has not had a business license in the past for the same purposes.

**17. Peace and Justice Commission Review of Contracts with University of California**

**From: Councilmember Spring**

**Recommendation:** Adopt a Resolution 1) providing that all proposals to contract with entities engaged in work for nuclear weapons, including any contracts between the University of California Berkeley and the City which involve the provision of revenue to the University, and the exchange of services without monetary compensation, except for the nine contracts specifically enumerated in Resolution No. 59,763-N.S., be subject to review by the Peace and Justice Commission, prior to being noticed on any Council agenda; and rescinding Resolution No. 59,779-N.S.; and 2) authorizing the Peace and Justice Commission (a) to provide a rationale to the Council in keeping with the purposes of the Nuclear Free Act for repeated annual review of waivers of the Nuclear Free Berkeley Act for contracts with the University of California; and (b) that Council-approved reviews of waivers occur at least eight weeks prior to the time the contract is submitted to the Council, or at the earliest time when the City Manager becomes aware that actions being proposed will require a waiver of the Nuclear Free Berkeley Act.

Contact: Dona Spring, Councilmember District 4, 644-6266

**Actions:** Moved, seconded (Spring/Worthington) the main motion to approve the recommendation as revised by Councilmember Spring.

Moved, seconded, carried (Armstrong/Shirek; Noes - Breland, Spring, Woolley, Worthington) a substitute motion to hold this matter over to a future meeting at the request of the City Manager.

- 18. Number Dispensers at the Berkeley Post Offices**  
**From: Councilmember Armstrong**  
**Recommendation:** Formally petition the Postal Service to return the number dispensers to the Berkeley post offices so that customers are not forced to stand in long lines while waiting for service.  
Contact: Polly Armstrong, Councilmember District 8, 644-6401  
**Action:** Approved recommendation.
- 19. Move Public Comment to Beginning of Agenda**  
**From: Councilmember Worthington**  
**Recommendation:** Modify the Rules and Procedures for City Council to move the thirty minutes of public comment before ceremonial items and comments from City Manager to the beginning of the Council agenda.  
Contact: Kriss Worthington, Councilmember District 7, 644-6398  
**Action:** Removed from the Consent Calendar by Councilmember Armstrong. Moved, seconded, carried (Armstrong/Worthington; Noes - Dean) to refer the matter to the Council Subcommittee on Rules of Governance.
- 20. National Coming Out Day October 11, 2000**  
**From: Councilmember Worthington**  
**Recommendation:** Support a Proclamation for National Coming Out Day on October 11, 2000 in Berkeley.  
Contact: Kriss Worthington, Councilmember District 7, 644-6398  
**Action:** Approved recommendation and presented Proclamation.
- 21. Proclamation Honoring Congressman Ronald V. Dellums**  
**From: Mayor Dean and Vice Mayor Shirek**  
**Recommendation:** Approve a Proclamation honoring Congressman Ronald V. Dellums, to be presented by the Mayor at the October 25 dedication of the Ronald V. Dellums Federal Building in Oakland.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Worthington/Breland) to add Vice Mayor Shirek as co-sponsor of the item and to hold over to October 17, 2000.
- 22. Proclamation - Domestic Violence Awareness Month**  
**From: Mayor Dean**  
**Recommendation:** Approve presentation of a proclamation on Domestic Violence Awareness Month at the October 17 Council meeting which is a public hearing meeting.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Approved recommendation. Proclamation to be presented October 17, 2000.

**23. Animal Care and Control**

**From: Mayor Dean**

**Recommendation:** 1) Approve a communication from the City of Berkeley to the Commission on State Mandates supporting a ruling in their procedure CSM 98-TC-11 that the Hayden legislation, which attempt to end the euthanasia of adoptable and treatable animals, constitutes a state mandated reimbursable program and service; 2) approve attendance at the proposed October 26, 2000 public hearing on this subject to present the approved City position by one or more representatives from the Council who serve on the Animal Care and Control Task Force (Dean, Olds, Spring); and 3) request the City Manager provide the City financial data necessary to support the City's communication to CSM, and also follow up on these hearings and position the City so as to obtain all possible reimbursement.

Contact: Shirley Dean, Mayor, 644-6484

**Action:** Approved recommendation.

**24. Vindictive, Discriminatory, Sexist and Racist Prosecutions**

**From: Councilmember Woolley**

**Recommendation:** Adopt a Resolution: a) requesting the U.S. Attorney General and all officers of the U.S. courts discontinue: 1) all forms of racial, sexist, political and religious profiling in US law enforcement; 2) all forms of "secret evidence" prosecutions, in which accused are deported or held indefinitely, without charge, on the basis of evidence withheld from the defendants, their attorneys and the public; 3) all uses of conspiracy charges in political cases; b) request the Los Angeles District Attorney drop all charges against Sara Jane Olson and request the Governor of the State of California grant her a pardon; and c) urge our national elected representatives and the Congress of the United States to pass the pending legislation, H.R. 2121 and S. 3139 that would end the use of secret evidence in deportation proceedings.

Contact: Diane Woolley, Councilmember District 5, 644-6294

**Action:** Withdrawn by Councilmember Woolley until November 14, 2000.

**25. Sanitary Sewer Program**

**From: Councilmember Woolley**

**Recommendation:** Review and evaluate the City's current Sanitary Sewer Program and solicit recommendations and possible courses of action from the Public Works and Budget Commissions in order to be conversant with the state of Berkeley's sewer system for future budgeting, planning and priority setting: 1) Request the Public Works Commission review the current Sanitary Sewer Program and its Master Plan and report back to Council with: a) presentation on the City's Sanitary Sewer Program, including that portion of the program mandated by the Federal Environmental Protection Agency under a cease and desist order, b) recommendations on how to update the Sewer Master Plan, and c) possible financial strategies for the Plan's implementation; and 2) Request the Citizens Budget Review Commission to: a) investigate and report back on the use of Sewer Funds loaned to the General Fund, and b) recommend the amount of General Fund to be repaid to the Sewer Fund.

Contact: Diane Woolley, Councilmember District 5, 644-6294

**Action:** Removed from the Consent Calendar by Councilmember Spring. Moved, seconded, carried (Spring/Maio) to hold this matter over to November 14, 2000.

## Action Calendar

### Appeals:

26. **Appeal of Landmarks Preservation Commission Designation of 1960 San Antonio Road, 1984 San Antonio Road and 639 The Arlington, John Hopkins Spring Estate or the Cora Williams Institute, as a Landmark.**
- a. **Appeal filed by Larry Leon**, 1960 San Antonio Avenue.
- b. **City Manager Report** (to be delivered)  
**Recommendation:** Adopt a Resolution affirming the decision of the Landmarks Preservation Commission and dismissing the appeal.  
Contact: Wendy Cosin, Planning and Development, 705-8108
- c. **Communications**
1. Larry Leon  
Contact: Sherry M. Kelly, City Clerk, 644-6480  
**Action:** Moved, seconded, carried (Worthington/Armstrong; Abstain - Woolley) to adopt Resolution No. 60,798-N.S. affirming the decision of the Landmarks Preservation Commission and dismissing the appeal.

### Old Business:

*Reports and communications related to public hearings that were distributed to Council when the issue was first heard are not included. However, new material has been noted with an \*.*

27. **Assistance to East Bay Depot for Creative Reuse** (*held over by Councilmember Maio from September 26*)  
**From: Councilmember Maio**  
**Recommendation:** Direct the City Manager to provide assistance to the East Bay Depot for Creative Reuse, on an emergency basis, in the form of a rent guarantee, and develop the appropriate agreement between the City and the Depot to ensure the City is at no risk.  
Contact: Linda Maio, Councilmember District 1, 644-6359  
**Action:** Moved to Consent Calendar by Councilmember Maio revised to direct the City Manager to provide relocation assistance.
28. **Support Measure E – Peralta Community College District Bond Measure** (*removed from the Consent Calendar by Councilmember Shirek and held over from September 19 and September 26*)  
**From: Councilmembers Worthington and Spring**  
**Recommendation:** Support Measure E which is on the November ballot contingent upon Peralta Community College District enforceable written commitment to the City of Berkeley to insure completion of a permanent Vista Community College campus.  
Contacts: Kriss Worthington, Councilmember District 7, 644-6398; Dona Spring, Councilmember District 4, 644-6266  
**Action:** Moved, seconded, carried (Worthington/Maio) to hold the matter over to October 17, 2000.

29. **Pardon: Sarah Jane Olson (AKA Kathleen Ann Soliah)** *(Removed from the Consent Calendar by Councilmember Armstrong and held over from July 11, July 25, September 12.)*

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution requesting the Los Angeles District Attorney drop all charges against Sara Jane Olson (aka) Kathleen Ann Soliah), and for Judge James Ideman to dismiss all charges to end a vindictive prosecution; and request Governor Gray Davis to pardon Sara Jane Olson (aka Kathleen Ann Soliah) during her period of alleged activities with and on behalf of the Symbionese Liberation Army, so this turbulent period can finally be put to rest.

Contact: Manuel Hector, Secretary, 665-6880

**a. City Manager Report**

**Recommendation:** The City Manager takes no position concerning the recommendations of the Commission.

Contact: Fred Medrano, Health and Human Services, 665-6879

**Action:** Moved, seconded, carried (Worthington/Woolley; Noes - Armstrong, Olds, Dean) to hold the matter over to November 14, 2000.

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### Information Reports

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30. **Energy Services for Small Commercial Businesses**

**From: City Manager**

Contact: Stephen Barton, Housing, 665-3481

**Action:** Received and filed.

31. **Disaster Resistant Community Project Update**

**From: City Manager**

Contact: Weldon Rucker, Acting City Manager, 644-6580

**Action:** Received and filed.

32. **Status Report: Downtown Restrooms and Strawberry Creek Projects (CR 2000-179)**

**From: City Manager**

Contact: Rene Cardinaux, Public Works, 665-3460

**Action:** Received and filed.

33. **Request from Skates-on-the-Bay for Waiver from Provisions of the Living Wage Ordinance**

**From: City Manager**

Contact: Fran David, Finance, 665-7401

**Action:** Received and filed.

34. **Measure W - Parks Tax Information (CR 2000-178)**

**From: City Manager**

Contact: Phil Kamlarz, Deputy City Manager, 644-6580

**Action:** Received and filed.

**35. Early Voting – October 10<sup>h</sup> Through November 3<sup>rd</sup>**

**From: City Manager**

Contact: Sherry M. Kelly, City Clerk, 644-6480

**Action:** Received and filed.

**Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations.*

- 1) Re: Relocation of Congregation Beth El at 1301 Oxford St., Berkeley.
  - a) Mary Ann Brewin **Woolley, Breland**
  - b) Forward by Diane A. Tokugawa: Ann L. Riley, Executive Director, Waterways Restoration Institute; Carol Thornton, Chair, Board of Directors, Lisa Biani, Outreach Coordinator, Urban Creeks Council of California; Bill Kier, Fisheries Ecologist, Kier Associates; Patrick Rutten, Northern California Supervisor, Protected Resources Division, U.S. Department of Commerce, national Oceanic and Atmospheric Administration, Nation Marine Fisheries Service; Robert W. Floerke, Regional Manager, Central Coast Region, Department of Fish and Game; Karl Linn; the Live Oak Codornices Creek neighborhood Association, (c/o Juliet Lamont) **Woolley, Breland**
  - c) Sarah Stadler
  - d) Charlotte Fishman
- 2) Leslie A. Levy, re: abandonment of portion of Woodmont Avenue **Maio**
- 3) Lark Tittle, General Manager, Skates, re: Proposed amendment to living wage ordinance
- 4) Anne Marsalis, re: care of the grounds at Saint John's Presbyterian Church, 2727 College Ave., Berkeley **Dean, Worthington**
- 5) Anne Marsalis, re: Recycling on College Avenue **Dean, Worthington**
- 6) Anne Marsalis, re: "Don's Auto Clinic", College Avenue @ Parker Street **Dean**
- 7) Panoramic Interests, re: Housing for the disabled **Breland**
- 8) Berkeley Business Advocate article, published by Berkeley Chamber of Commerce, re: 'Parisian style' solution to housing crisis
- 9) HuangK, re: Measure Y
- 10) Georgia Becker, re: Undergrounding **Woolley**
- 11) James Lissner, re: Cost of copies of police reports **Dean, Worthington**

- 12) D. Sequoia, re: Proposed update of Berkeley Conflict of Interest; inclusion of Citizens Humane Commission **Worthington**
- 13) Patrick Kennedy, re: 'Parisian style' solution to housing crisis **Breland**
- 14) Marcine Shaw, League of California Cities, President African American Caucus, re: Membership outreach **Breland**
- 15) Petition signed by 18 members of Hotel Employees & Restaurant Employees Union Local 2850, AFL-CIO, re: Living Wage to the Marina Zone **Breland**
- 16) Moises M. Carrasco, Regional Director, Seattle Regional Census Center, re: Census addresses
- 17) John Vance (*additional pages available for review in the City Clerk's office*).

SUPPLEMENTAL COMMUNICATIONS  
AND AGENDA REPORTS

**Item 16 - Business License Tax on Small Property Owners**

18. Councilmember Spring, revised report.

**Item 17 - Peace and Justice Commission Review of Contracts with University of California**

19. Councilmember Spring, revised recommendation.

**Item 25 - Sanitary Sewer Program**

20. Councilmember Spring, substitute motion.

**Item 28 - Support Measure E - Peralta Community College District Bond Measure**

21. Susan Duncan **Worthington**

**Item 29 - Pardon: Sarah Jane Olson (AKA Kathleen Ann Soliah)**

22. Elliot Cohen, Peace and Justice Commission.
23. Laura Cudier

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**Adjournments**

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**Action:** Moved, seconded, carried (Spring/Olds; Noes - Worthington) to extend the meeting to no later than 11:30 p.m.

The meeting adjourned in honor of Judy Foster at 11:30 p.m.