

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, NOVEMBER 21, 2000

Preliminary Matters

Roll Call: 7:26 p.m. All present.

Ceremonial Matters:

Proclamation Honoring Jane Brown for her contribution to the culture of dance and the lives of her students.

Action: Presented Proclamation.

Comments from the City Manager :

Today the Police Department and the Berkeley Boosters handed out 256 turkey baskets to needy families in Berkeley.

Comments from the Public:

Ten speakers heard and six speakers spoke honoring Councilmember Woolley for her service on the Council.

Emergency Items

Proclamation Honoring Adelia Lines, Director of Library Services

From: Mayor Dean, Councilmember Olds, Vice Mayor Shirek

Recommendation: 1) Approve as an emergency item; 2) approve Proclamation on behalf of the City Council; 3) suspend the rules and approve presentation.

Contact: Shirley Dean, Mayor, 644-6484; Betty Olds, Councilmember District 6, 644-6399; Maudelle Shirek, Councilmember District 3, 644-6243

Action: Presented Proclamation.

Harrison Street Playground Ground Water Pollution

From: City Manager

Recommendation: 1) Add this item to the Agenda because there is a need to take immediate action regarding treatment and disposal of hexavalent chrome and solvent-contaminated water that has been pumped out through the dewatering system under the Harrison Street skateboard park. The need for this action came to the attention of the City subsequent to the agenda being posted as required by the Brown Act; 2) adopt a Resolution confirming the City Manager authorization of an emergency contract with Electrochemical Design Associates to install a temporary treatment system; and 3) approve additional expenditures up to \$100,000 to treat and dispose of hexavalent chrome and solvent-contaminated water pumped out through the dewatering system under the skateboard park.

Action: Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 60,843-N.S. and adding request by Councilmember Worthington that the City Attorney actively research cost recovery from the responsible party. For the record, Councilmember Armstrong stated that she feels the City Attorney is bright enough to do this without Councilmember Worthington telling her to do so.

Consent Calendar

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

- Contract: 3% at Age 50 Retirement Formula for Fire Only** (*first reading vote - absent - Woolley 10/24*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending the City's contract with CalPERS to provide the 3% at Age 50 Retirement Formula for local fire employees only.

Contact: Ron Brown, Human Resources, 665-7614

Action: Adopted Ordinance No. 6593-N.S. (Absent - Woolley) Effective December 21, 2000.
- Subdivision Ordinance Amendments** (*first reading vote: unanimous 11/14*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code Chapter 21.16, Subdivisions, by adding Section 21.16.048 to codify existing practice with respect to review and approval of tentative subdivision maps which are required solely in order to permit the establishment of condominiums in newly constructed buildings in which the units which are proposed to be condominiums have never been rented.

Contact: Manuela Albuquerque, City Attorney, 644-6380

Action: Adopted Ordinance No. 6594-N.S. Effective December 21, 2000.

3. **Subdivision Ordinance Amendments - Appeal of Planning Commission** (*first reading vote: unanimous 11/14*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 21.16.050 adopting special procedures for certain appeals from decisions concerning subdivision maps.
Contact: Manuela Albuquerque, City Attorney, 644-6380
Action: Adopted Ordinance No. 6595-N.S. Effective December 21, 2000.
4. **Amendment to Housing Code - Gas Heating Equipment (CR 99-165, 99-173)** (*first reading vote: unanimous 11/14*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 19.40.040, Berkeley Housing Code, to add subsection 701.4 - Certification of Gas Heating Equipment, to ensure the proper functioning of gas heating appliances in residential units.
Contact: Stephen Barton, Housing, 665-3481
Action: Adopted Ordinance No. 6596-N.S. Effective December 21, 2000.
5. **Regulation of Indoor Entertainment Events**
From: City Manager
Recommendation: Adopt first reading of Ordinance repealing Berkeley Municipal Code (BMC) Chapter 9.44 regulating indoor entertainment events (Ordinance No. 3289-N.S., as amended) and adopting a new Chapter 13.46 regulating large indoor entertainment events.
Contact: Manuela Albuquerque, City Attorney, 644-6380
Action: Adopted first reading of Ordinance. Second reading December 5, 2000.
6. **Grant: Black Infant Health**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept a grant in the amount of \$100,000 from the Black Infant Health Program, Maternal Child Health Branch, California Department of Health Services, to implement a targeted program of intensive prenatal care outreach, social support, and empowerment for the African American community in Berkeley for the period July 1, 2000 through June 30, 2001, with continuous allocations annually, and to execute the resultant agreement and any amendments.
Contact: Fred Medrano, Health and Human Services, 665-6879
Action: Adopted Resolution No. 60,844-N.S.

7. **Grant: Low Birth Weight Prevention**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept a grant in the amount of \$10,000 from Alta Bates Medical Center Foundation to continue the development and implementation of a plan to address the disparity between percentages of African American and White low birth weight infants for the period July 1, 2000 through June 30, 2001, and to execute the resultant agreement and any amendments.
Contact: Fred Medrano, Health and Human Services, 665-6879
Action: Adopted Resolution No. 60,845-N.S.
8. **Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Carleton Street, Derby Street, Ward Street, Shattuck Avenue, Ellsworth Street, Dana Street and Telegraph Avenue; accepting the bid of McNamara and Smallman Construction, Inc; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$807,514 for a period of 210 calendar days.
Contact: Rene Cardinaux, Public Works, 665-3460
Action: Adopted Resolution No. 60,846-N.S.
9. **Contract: Refuse Truck Weight Scale Replacement**
From: City Manager
Recommendation: Adopt a Resolution approving the specifications for the Refuse Truck Weight Scale Replacement Project, rejecting the sole bid received; and authorizing the City Manager to negotiate and execute a contract and any amendments on the open market for an amount not to exceed \$40,000.
Contact: Rene Cardinaux, Public Works, 665-3460
Action: Adopted Resolution No. 60,847-N.S.
10. **Amend Council Rules of Procedure**
From: City Manager
Recommendation: Adopt a Resolution amending Article II, Section D of Resolution No. 60,589-N.S., Council Rules of Procedure, to eliminate language inconsistent with recent amendments by the Housing Authority and Redevelopment Agency to amend their Bylaws regarding meetings.
Contact: Sherry M. Kelly, City Clerk, 644-6480
Action: Adopted Resolution No. 60,848-N.S.

11. **Waive Fees for Presentation “Community Controlled Agriculture”**
From: Councilmember Worthington
Recommendation: Berkeley City Council waive fees for auditorium in Veterans Building for presentation “Community Controlled Agriculture: Reclaiming Power from Agribusiness in our Urban Neighborhoods and Local Communities” from the Bay Area Seed Interchange Library (BASIL), a project of the Ecology Center, on Saturday, December 9, 200 from 3:00 p.m. to 7:00 p.m.
Contact: Councilmember Kriss Worthington, 644-6398
Action: Adopted Resolution No. 60,849-N.S.

12. **Presentation from Concerned Citizens Regarding City Attorney’s Opinion of Conflict of Interest for Members of BAHA and Other Non profit Organizations**
From: Councilmember Worthington
Recommendation: Give time for presentation from concerned citizens regarding City Attorney’s opinion of conflict of interest for members of BAHA and other non profit organizations.
Contact: Councilmember Kriss Worthington 644-6398
Action: Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Worthington/Spring; Abstain – Dean, Maio; Absent - Armstrong, Olds) to approve recommendation and to request an opinion from an outside attorney who is mutually agreeable to the Commissioners involved and the City, as expeditiously as possible, and to ask an opinion from the Attorney General.

13. **Support for a Filipino National Strike**
From: Councilmember Maio
Recommendation: Support the actions of the Filipino people who are fighting for democracy and improved working and living conditions.
Contact: Councilmember Linda Maio, District 1, 644-6359.
Action: Approved recommendation. (Abstain - Armstrong)

14. **David Brower Memorial** *(to be delivered)*
From: Councilmember Maio
Recommendation: Co-sponsor David Brower Memorial event at the Berkeley Community Theater on Saturday, December 2nd; and Councilmember Maio prepare a proclamation on behalf of the entire City Council, to be displayed at the event.
Contact: Councilmember Linda Maio, District 1, 644-6359.
Action: Approved recommendation as revised to include the City to cosponsor the reception at the Veterans Memorial Building; and declaring July 1, David Brower's birth date, as David Brower Day in the City of Berkeley.

15. **Presentation by Neighbors for Fire Safety**
From: Councilmember Olds
Recommendation: Allot five minutes at the beginning of the City Council meeting of December 5, 2000 to Neighbors for Fire Safety to present petitions regarding the new hills fire house.
Contact: Councilmember Betty Olds, 644-6399
Action: Approved recommendation.
16. **Berkeley Guides: Emergency Funding and Referral to Mid-Year Budget Process**
From: Mayor Dean
Recommendation: Undertake the following measures with respect to the Berkeley Guides program of the Berkeley Boosters Association: 1) refer the guides request for an additional \$42,117 annually to the midyear budget process (see attached funding request); 2) request the City Manager identify funds in the amount of \$3,510 per month to enable the Berkeley guides to maintain current service levels until the guides request for additional funds is considered through the mid-year budget process; 3) request the City Manager to assist the guides in identifying and applying for outside grants; and 4) request the City Manager assist the guides in maintaining rent-free space in downtown Berkeley.
Contact: Mayor Shirley Dean, 644-6484
Action: Approved recommendation with the exception of recommendation #2 which was referred to the City Manager.
17. **Pedestrian and Traffic Safety on Ashby Avenue**
From: Mayor Dean and Councilmember Armstrong
Recommendation: Authorize the City Manager to seek and implement a Public Highway Safety Corridor Grant for the purpose of increasing pedestrian and traffic safety on Ashby Avenue, State Highway 13.
Contact: Shirley Dean, Mayor, 644-6484; Polly Armstrong, Councilmember District 8, 644-6401
Action: Approved recommendation.
18. **Berkeley Without Wires – A Citywide Plan for The Undergrounding of Utilities**
From: Undergrounding Utilities Task Force and Council Subcommittee on Undergrounding (To be delivered)
Recommendation: 1) Receive the report, Berkeley Without Wires, which is issued for Council information; 2) direct the Task Force to pursue a possible foundation grant to produce an outreach video on the subject.
Contact: Dick White, Chair, Utilities Undergrounding Task Force
a. City Manager Report
Recommendation: Concurs with content and recommendation of Task Force report.

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

Action: Removed from the Consent Calendar by Councilmember Worthington and held over to December 5.

19. **Rule 20B: - Undergrounding Utilities Districts** *(To be delivered)*

From: Undergrounding Utilities Task Force

a. City Manager Report

Recommendation: Adopt a Resolution allocating \$50,000 for undergrounding utilities to be used for low-income individuals located within Rule 20B undergrounding utility districts.

Contact: Dick White, Chair, Utilities Undergrounding Task Force

a. City Manager Report

Recommendation: Concurs with content and recommendation of Task Force report.

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

Action: Removed from the Consent Calendar by Councilmember Maio and held over to December 5.

Public Hearings

20. **Tentative Map Condo Conversion - 1177-83 Delaware Street** *(continued from September 19, October 17)*

a. Appeal of Kenneth J. Schmier, Eric S. Schmier, David Darlington and Louise Lo of Planning Commission Decision of July 26, 2000.

Contact: Sherry Kelly, City Clerk, 644-6480

b. From: City Manager

Recommendation: Continue the public hearing to December 12, 2000.

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

c. Communications:

1. Kenneth J. Schmier, Eric S. Schmier

Contact: Sherry Kelly, City Clerk, 644-6480

Action: Moved, seconded, carried (Worthington/Maio) to continue the public hearing to December 12.

Presentations

21. **Telecommunications Ordinance: Preliminary Report**

Contact: Philip Kamlarz, Deputy City Manager, 665-7530

Action: Heard presentation.

Information Reports

22. **Public Health Clinic Outreach Program**

From: City Manager

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

Action: Councilmember Maio requested a report from the City Manager regarding the capacity of the Health Department to meet the demands of the increased work load.

23. **East Shore State Park Planning Process**

From: City Manager

Contact: Lisa Caronna, Parks and Waterfront, 644-6943 x222

Action: Received and filed.

Communications

The following communications were read, noted and filed, unless otherwise noted:

- 1) Re: Relocation of Congregation Beth El at 1301 Oxford St., Berkeley. **Breland**
 - a) Vick Bullman
 - b) Donn Logan
 - c) Dennis J. White and Carol F. White
 - d) Marcia Emery, Ph.D., Intuitive Management Consulting Company
- 2) Deborah Badhia, Executive Director, Downtown Berkeley Association, re: Downtown Business Improvement District Work Plan 2001.
- 3) Jonathan Romano, re: HIV treatment. **Shirek, Dean**
- 4) InetJalopy, re: Signage war, *(additional pages available for review in the City Clerk's office)*.
- 4a. Dan Chia, re: 1608 4th Street **Maio**
- 5) Greg VanMechelen, ADPSR Board Member, re: Green Resource Center in the Veterans Building. **Maio, Spring, Dean**
- 6) Charles Pappas, re: #1 Whitaker Avenue. **Dean, Spring**
- 7) Jonah Markowitz, re: Left turn arrow at Sacramento & Dwight. **Maio, Dean, Worthington, Breland, Spring**
- 8) Alan Gould, re: LPC commissioners advised by City Attorney not to serve on the commission on certain issues. **Worthington**
- 9) Horace Mitchell, Vice Chancellor Business and Administrative Services, University of California, Berkeley, re: Report on Telegraph Avenue Disturbance of October 14-15, 2000.

10) Howie & Connie Muir, re: 2700 San Pablo Avenue. **Breland, Dean**

SUPPLEMENTAL COMMUNICATIONS AND REPORTS

Item 12 - Presentation from Concerned Citizens Regarding City Attorney's Opinion of Conflict of Interest for Members of BAHA and Other Non-profit Organizations

11. Rachel A. Rupert, Chief Executive Officer, Berkeley Chamber of Commerce
12. Dennis Walton

Item 21 - Telecommunications Ordinance: Preliminary Report

13. Citizens Task Force on Telecommunications.

COMMUNICATIONS RECEIVED AT THE MEETING

14. Eleanor Pepples, re: Item 8, Sanitary Sewer Project.
15. Andy Katz, ASUC Office of External Affairs, re: Item 5 Indoor Entertainment Events

Adjournment

Action: Moved, seconded, carried (Worthington/Spring; Absent - Armstrong) to suspend the rules and continue the meeting to 11:15 p.m.)

The meeting adjourned at 11:14 p.m. in honor of David Brower.