

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, DECEMBER 5, 2000

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### Preliminary Matters

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**Roll Call:** 7:08 p.m. All present.

**Ceremonial Matters:**

**Swearing In of Councilmembers Elected on November 7, 2000**

**Introduction of Darryl Moore, New Trustee of Peralta Community College District**

**Proclamation: World AIDS Day**

**Proclamation: Longfellow School Day**

**Action:** Conducted swearing in of new Councilmembers, introduced Trustee Moore, and presented Proclamations.

**Comments from the City Manager:**

Congratulated Councilmembers on their election and re-elections and welcomed new Councilmember Hawley.

The Public Works Department is the first in California and the fourth in North America to be awarded accreditation by the

Library Director Adelia Lines has resigned due to illness effective November 30.

**Comments from the Public:** Nine speakers

**Youth Forum:** Three speakers.

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### Consent Calendar

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

**1. Confirming Results of General Municipal Election (to be delivered)**

**From:** City Manager

**Recommendation:** Adopt a Resolution confirming the results of the November 7, 2000 General Municipal Election and confirming adoption of the following documents: 1) three Bond Measures - Measure P (Library Improvements Bond), Measure Q (Disaster Fire Protection Bond), Measure R (Warm Water Pool Facilities Bond); 2) six Ordinances - Measure S (Park Maintenance Tax), Measure T (Streetlight Tax), Measure U (Business License Tax), Measure V (Library Gann Reauthorization), Measure W (Parks Gann Reauthorization), Measure X (EMS Gann Reauthorization), Measure Y (Rent Eviction Controls); and 3) one Resolution - Measure Z (Low-Rent Housing Resolution).

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

**Action:** Adopted Resolution No. 60,850-N.S. confirming results; adoption of Ordinance No. 6597-N.S., Ordinance No. 6598-N.S., Ordinance No. 6599-N.S., Ordinance No. 6600-N.S. Ordinance No. 6601-N.S. and Ordinance No. 6602-N.S. (Measures S, U, V, W, X, Y with Ordinances effective December 15, 2000) and Resolution No. 60,851-N.S. (Measure Z). Measure T did not pass.

**2. 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. 60,852-N.S.

**3. Regulation of Indoor Entertainment Events** (*first reading - unanimous*)

**From: City Manager**

**Recommendation:** Adopt second reading of an 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 Ordinance No. 6603-N.S. Effective January 4, 2001.

**4. Certified Unified Program Agency (CUPA) Program**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to establish a new financial fund for the "Certified Unified Program Agency" program.

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

**Action:** Adopted Resolution No. 60,853-N.S.

**5. Memorandum of Understanding: Oil Spill Incident Command and Management**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to sign the Memorandum of Understanding (MOU) between the State of California and the County of Alameda relating to Oil Spill Incident Command and Management.

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

**Action:** Adopted Resolution No. 60,854-N.S.

**6. Contract: Geotechnical and Material Testing**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Signet Testing Labs, Inc. to provide geotechnical and material testing services for the Martin Luther King, Jr. Civic Center, Berkeley Public Library and other projects by increasing the contract amount by \$150,000 for a new contract total not to exceed \$650,000.

Contact: Rene Cardinaux, Public Works, 665-7550

**Action:** Adopted Resolution No. 60,855-N.S.

- 7. Police Department Motorcycle Purchase**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the City of Concord's bid procedures to satisfy the requirements of the Berkeley Charter Section 67 and authorizing a purchase order to McGuire Harley Davidson (of Walnut Creek in an amount not to exceed \$102,900 for the purchase of six Harley Davidson motorcycles.  
Contact: Rene Cardinaux, Public Works, 665-7550  
**Action:** Adopted Resolution No. 60,856-N.S.
- 8. Senior Building Inspector Classification**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 59,883-N.S., Classification and Salary Resolution for Local 535 Employees to adopt the classification of Senior Building Inspector and abolish classification of Senior Building Inspector (Housing, Electrical and Mechanical).  
Contact: Ron Brown, Human Resources, 665-7614  
**Action:** Removed from the Consent Calendar by Councilmember Breland. Moved, seconded, carried (Breland/Maio) to adopt Resolution No. 60,857-N.S.
- 9. Revenue Agreement: Low-Income Energy Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Low-Income Home Energy Assistance Program Emergency Contingency Funds (LIHEAP-ECF) revenue agreement and any amendments with the State Department of Community Services and Development in the amount of approximately \$30,000 for the period November 15, 2000 through December 31, 2001, to provide bill payment assistance and weatherization assistance to eligible residents of Berkeley, Albany, and Emeryville.  
Contact: Stephen Barton, Housing, 665-3481  
**Action:** Adopted Resolution No. 60,858-N.S.
- 10. Contract: High-Efficiency Traffic Signals**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Advanced Traffic Products for the purchase of high-efficiency light emitting diode (LED) green signals in amount not to exceed \$47,000.  
Contact: Stephen Barton, Housing, 665-3481  
**Action:** Adopted Resolution No. 60,859-N.S.
- 11. Fiscal Year 2001 Tax and Revenue Anticipation Notes**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution providing for the sale and issuance of Fiscal Year 2001 Tax and Revenue Anticipation Notes.  
Contact: Frances David, Finance, 665-7401  
**Action:** Adopted Resolution No. 60,860-N.S.

- 12. Children's Oral Health Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Alameda County Public Health Department for the provision of dental services, education and outreach to eligible elementary schools in Berkeley, in an amount not to exceed \$50,000, for the period July 1, 2000 through June 30, 2001, and approving an advance payment of \$25,000.  
Contact: Fred Medrano, Health and Human Services, 665-6879  
**Action:** Adopted Resolution No. 60,861-N.S.
- 13. Partnering with the University Avenue Association to Apply for a Transportation for Livable Communities Capital Grant**  
**From: Councilmembers Maio, Breland, Spring**  
**Recommendation:** Partner with the University Avenue Association (UAA) to apply for a Transportation for Livable Communities (TLC) capital grant of up to \$2,000,000 for streetscape improvements on University Avenue; appropriate \$24,500 from the parks budget to hire a landscape architect to assist staff and the community in preparing the application; and commit to the required 11.5% local match funds for this purpose.  
Contact: Councilmember Linda Maio, District 1, 644-6359; Councilmember Margaret Breland, District 2, 644-6400; Councilmember Dona Spring, District 4, 644-6266  
**Action:** Combined with Item 17. Approved recommendation.
- 14. North American "Rio+10" Preparatory Conference**  
**From: Councilmember Maio**  
**Recommendation:** Request that the City Manager express an interest in the City hosting the North American "Rio+10" Preparatory Conference, acquire additional information, and report back before December 15<sup>th</sup> for possible action.  
Contact: Councilmember Linda Maio, District 1, 644-6359; Councilmember Margaret Breland, District 2, 644-6400; Councilmember Dona Spring, District 4, 644-6266  
**Action:** Withdrawn by Councilmember Maio in consideration of passage of Item 18.
- 15. Fair Elections in Florida (to be delivered)**  
**From: Councilmember Maio**  
**Recommendation:** Because fair elections are essential to our democracy, it is requested that the Council go on record as expecting that a fair and democratic election be conducted in Florida, meaning that every vote should be counted; and as deploring irregular and illegal actions such as the one that occurred in Seminole County, Florida, wherein the Supervisor of Elections permitted only Republican party operatives to correct 4,700 Republican absentee ballot applications so they would not be thrown out; and that the Council take appropriate action to disseminate this position and encourage citizens, especially other elected officials and bodies, to take similar actions.  
Contact: Councilmember Linda Maio, District 1, 644-6359  
**Action:** Added Councilmember Armstrong as co-sponsor. Removed from the Consent Calendar by Councilmember Maio and held over to December 19, 2000.

- 16. Development of the City's Oxford Parking Lot**  
**From: Councilmembers Maio, Spring and Worthington**  
**Recommendation:** Request that the Planning Commission establish a process to develop an RFP for the development of the Oxford site, that the City Manager assign the appropriate Planning and Housing Department staff to support this effort, and include a feasibility study on underground parking at the site by March, 2001.  
Contact: Councilmember Linda Maio, District 1, 644-6359; Councilmember Margaret Breland, District 2, 644-6400; Councilmember Dona Spring, District 4, 644-6266  
**Action:** Approved recommendation.
- 17. Transportation for Liveable Communities Grant Proposal**  
**From: Mayor Dean**  
**Recommendation:** Request the City Manager work with the University Avenue Association (UAA) to apply for a Transportation for Liveable Communities (TLC) capital grant for streetscape improvements on University Avenue.  
Contact: Mayor Shirley Dean, 644-6484  
**Action:** Combined with item 13. Approved the recommendation. Councilmember Hawley requested that the City Manager work with AC Transit on the matter.
- 18. International Council for Local Environmental Initiatives' (ICLEI) North America Preparatory Conference**  
**From: Mayor Dean**  
**Recommendation:** Request the City Manager reply to the inquiry of the International Council for Local Environmental Initiatives that the City of Berkeley agrees to host its North America Preparatory Conference and further that the Council request that representatives from the Community Environmental Advisory Commission, the Energy Commission and Manager-designated staff form a City Conference Liaison Committee to work with representatives of ICLEI regarding this matter.  
Contact: Mayor Shirley Dean, 644-6484  
**Action:** Approved recommendation.
- 19. Proclamation Honoring Peralta Community College District Trustee Tom Brougham**  
**From: Mayor Dean**  
**Recommendation:** Approve the drafting by Mayor Dean of a proclamation from the entire Council honoring retiring Peralta Community College District Trustee Tom Brougham.  
Contact: Mayor Shirley Dean, 644-6484  
**Action:** Approved recommendation.
- 20. Prohibiting the Use of Skateboards, Rollerblades, Bicycles, Scooters, and Similar Devices During Special Events**  
**From: Mayor Dean and Councilmember Hawley**  
**Recommendation:** Request the City Attorney draft an ordinance which would prohibit the use of skateboards, rollerblades, bicycles, scooters, and similar devices at special events when City streets have been closed and crowded conditions endanger pedestrians, but continuing to allow this use when pedestrian safety is not an issue.  
Contact: Mayor Shirley Dean, 644-6484; Councilmember Mim Hawley, Councilmember District 5, 644-6397

**Action:** Removed from the Consent Calendar by Councilmember Shirek and held over to December 19, 2000.

**21. City Staff Assistance to Respond to a Project of the National League of Cities on Public Finance for the 21<sup>st</sup> Century**

**From: Mayor Dean**

**Recommendation:** Approve the provision of City staff assistance to the Mayor's Office to participate as requested in the National League of Cities (NLC) project *Toward a System of Public Finance for the 21<sup>st</sup> Century: A Framework for Public Discussion*.  
Contact: Mayor Shirley Dean, 644-6484

**Action:** Removed from the Consent Calendar by Councilmember Worthington and held over to December 19, 2000.

**22. Objection to the Continued Siphoning of the Local Property Tax by the State of California**

**From: Mayor Dean**

**Recommendation:** Direct the City Manager to write to Governor Davis (with copies to Ms. Megan Taylor at the League of California Cities and the City's Sacramento representatives and lobbyist) expressing the City's strong disapproval of the Governor's veto of SB 1637, which would have returned a portion of local property taxes to local government, and to his recent decision to finance the rollback of the state sales tax by maintaining the large state budget surplus (financed by the diversion of local property taxes and other questionable measures)

Contact: Mayor Shirley Dean, 644-6484

**Action:** Approved recommendation.

**23. Re-Name Certain Streets in the Marina Area**

**From: Mayor Dean and Councilmember Olds**

**Recommendation:** Refer to the City Manager, Waterfront, Planning, Parks and Recreation, Transportation, and other Commissions as appropriate, this proposal to re-name certain streets west of I-80 as follows: 1) University Avenue (west of I-80), Marina Boulevard, and Spinnaker Way to become Cesar Chavez Drive; 2) University Avenue from Marina Boulevard to Seawall to become Tom Bates Boulevard; and 3) Seawall to become David Brower Way

Contact: Mayor Shirley Dean, 644-6484

**Action:** Removed from the Consent Calendar by Councilmember Maio and held over to December 19, 2000.

**24. West Berkeley Air Quality Study**

**From: Mayor Dean**

**Recommendation:** Request the City Manager 1) develop a recommendation to the City Council on the scope of services necessary to conduct an adequate West Berkeley ambient air quality study and health risk assessment, which would interpret the results from the data of such a study; 2) in addition to the staff resources of the City, consult with the Community Environmental Advisory and Health Commissions, the Bay Area Air Quality Management District (BAAQMD), the California Department of Health Services, UC's School of Public Health, and others as he deems appropriate; and 3) consider the costs of such a study in conjunction with the mid-year budget review process.

Contact: Mayor Shirley Dean, 644-6484

**Action:** Removed from the Consent Calendar by Councilmember Maio and held over to December 19, 2000.

### Presentation

- 25. Presentation by Neighbors for Fire Safety Regarding New Hills Fire House**  
**From: Councilmember Olds**  
Contact: Councilmember Betty Olds, District 6, 644-6399  
**Action:** Heard presentation.
- 26. Staffing of Police Traffic Enforcement Team**  
**From: City Manager**  
Contact: Dash Butler, Police, 644-6568  
**Action:** Heard presentation. Requested the City Manager develop a proposed budget for officers strictly for traffic enforcement and a budget for residential parking enforcement officers. Also requested the City Manager present proposals for various speed reducing measures, education campaign, more officers on bicycles, and report on how the police department allocates staff. Mayor Dean requested the City Manager appeal to Sacramento and the schools to return Driver Education to school programs. Requested a policy to target unsafe drivers. Reports to be presented to Council in February.

### Action Calendar

#### Old Business:

- 27. Berkeley Without Wires A Citywide Plan for The Undergrounding of Utilities**  
**From: Undergrounding Utilities Task Force and Council Subcommittee on Undergrounding** (*Removed from Consent Calendar by Councilmember Worthington and held over from 11/21*)  
**Recommendation:** 1) Receive the report, "Berkeley Without Wires Principles" 2) authorize the City Manager to pursue and implement a grant from the Dunn Foundation for the production of a professional quality video tape to be used in community outreach concerning the subject of undergrounding utilities.  
Contact: Dick White, Chair, Utilities Undergrounding Task Force
- Actions:** Moved, seconded, carried (Worthington/Spring) to approve authorizing the City Manager to pursue and implement a grant.
- Moved, seconded, failed (Armstrong/Olds; Noes - Breland, Maio, Spring, Worthington; Abstain - Shirek) a motion to receive the report.
- Moved, seconded, carried (Worthington/Spring; Abstain – Armstrong, Olds, Dean) to hold over discussion and receipt of the report and Item 28 until such time as the report from the Public Works Commission comes before the Council. (Scheduled for December 19, 2000)

- 28. Rule 20B: - Undergrounding Utilities Districts** *(Removed from Consent Calendar by Councilmember Maio and held over from 11/21)*  
**From:** Undergrounding Utilities Task Forces  
**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  
**Action:** See Item 27. Held over to December 19, 2000.

### New Business

- 29. Unreinforced Masonry Retrofit Compliance**  
**From:** City Manager  
**Recommendation:** 1) Adopt a Resolution providing findings for modifying the Uniform Code for Building Conservation Standards for Seismic Retrofit; 2) adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Section 19.28.230 through 19.28.310, the Seismic Hazard Mitigation Program for Unreinforced Masonry Buildings, and readopting it with certain amendments as BMC Chapter 19.38.  
**Contact:** Wendy Cosin, Planning and Development, 705-8108  
**Action:** Moved, seconded, carried (Worthington/Spring) to adopt Resolution No. 60,862-N.S. and to adopt first reading of Ordinance. Second reading December 12, 2000. Directed the City Manager to provide a status report to Council every six months at the request of Mayor Dean.
- 30. Landmark Preservation Commission: Possible Conflict of Interest**  
**From:** City Manager  
**Recommendation:** Discussion and possible further action for a second opinion and oral update by City Attorney.  
**Contact:** Manuela Albuquerque, City Attorney, 644-6380  
**Action:** Held over to December 19, 2000.

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### Information Reports

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- 31. Safety Members' Pension Fund Annual Reports - FY2000**  
**From:** City Manager  
**Contact:** Frances David, Finance, 665-7401  
**Action:** Received and filed.
- 32. Annual Inflation Adjustment of Council Salaries**  
**From:** City Manager  
**Contact:** Phil Kamlarz, Deputy City Manager, 644-6580  
**Action:** Received and filed.
- 33. Council Agenda Addresses on Agenda/Web**  
**From:** City Manager  
**Contact:** Sherry M. Kelly, City Clerk, 644-6480  
**Action:** Received and filed.

## Communications

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

1. Dana Carl Pignolet, Pignolet Construction **Dean**
2. Barbara Lee, Member of Congress, re: Post Office Number Dispensers System **Breland**
3. Re: Relocation of Congregation Beth El at 1301 Oxford St., Berkeley
  - a. Arthur Gill
  - b. Louis Jonas
  - c. Christine Shen and Luis Berro
  - d. Gloria Goldberg, Harry Polland
  - e. Evelyn Elson
  - f. Alan Stephens
  - g. Dan R. Sukiennik
  - h. Ann V-Sukiennik, Ph.D.
  - i. Nancy Werthan
4. Re: Nextel telecommunications antennas **Olds, Maio, Spring, Worthington, Hawley**
  - a. Zelda Bronstein, President Thousand Oaks Neighborhood Association
  - b. Albert L. Magid
  - c. Charlotte Fishman
  - d. Melvin Lemberger and Dorothy Lemberger
  - e. Constance and Kevin Sutton
5. Petition signed by 50 persons, neighbors of Ashby Bart, re: Ed Roberts Campus **Breland, Worthington**
6. Re: 2700 San Pablo Avenue **Breland, Worthington**
  - a. David Levinson for Neighbors for Responsible Development
  - b. Patrick Kennedy
7. Robert Lichtman, re: Berkeley Way Parking Lot, Meter Timing **Breland, Spring, Worthington, Dean**
8. Deborah Badhia, Executive Director, Downtown Berkeley Association, re: Holiday Free Parking in City Garages **Breland**
9. Sandra Decker, re: Parking Ticket - Street Sweeping **Worthington, Dean**
10. Sabrina Klein, Executive Director, Julia Morgan Center for the Arts, re: Height bonus **Dean**
11. Norman La Force, Chair, East Bay Public Lands Committee, re: Eastshore State Park **Worthington, Dean, Hawley**

12. Zasa Swanson, President, Berkeley Partners for Parks, re: Acquisition of “American Soils” property as Public Park land **Maio, Breland, Spring, Dean**
13. Charles L. Smith, re: Miscellaneous tree issues **Maio**
14. Senator Don Perata, re: Increased funding for bicycle related activities
15. Howie Muir, re: San Pablo Zoning Ordinance **Worthington**
16. L.A. Wood, re: Regulatory Conflict of Interest and the City of Berkeley **Breland, Dean**  
Referred to the City Attorney.

#### **COMMUNICATIONS RECEIVED AT THE MEETING**

17. L. A. Wood, re: Pacific Steel Castings
18. Richard White, Chair, Utility Undergrounding Task Force, re: utility undergrounding.
- 19.

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#### **Adjournment**

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**Action:** Moved, seconded, carried (Worthington/Maio) to extend the meeting to 11:30.

The meeting adjourned at 11:30 p.m.