

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, DECEMBER 12, 2000

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### Preliminary Matters

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**Roll Call:** 7:00 p.m. All present.

**Comments from the City Manager :**

A reception will be held before the Council meeting on December 19 in the first floor lobby of Old City Hall celebrating the accreditation award from the American Public Works Association.

The 17<sup>th</sup> Annual Telegraph Avenue Street Faire is being held starting Saturday December 16.

The City's holiday tree will be lighted for the holidays.

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

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### Consent Calendar

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**Action:** Moved, seconded, carried (Worthington/Olds; Absent - Armstrong) to adopt the Consent Calendar in one motion except as indicated.

1a. **Emergency Item - Investigation into Federal Civil Rights and Voting Rights Violations in Florida**

**From: Vice Mayor Shirek** - Demand that our Federal representatives, Senators Boxer and Feinstein, and Representative Lee, demand that United States Attorney General Janet Reno immediately open a full investigation into the Federal civil rights and voting rights violations that occurred in the state of Florida, and appoint a special prosecutor to take appropriate action.

**Action:** Moved, seconded, carried (Shirek/Worthington – Absent – Armstrong) making findings to add this matter as an emergency item to the Consent Calendar. Approved recommendation

1. **Unreinforced Masonry Retrofit Compliance** (*first reading vote: unanimous 12/5*)

**From: City Manager**

**Recommendation:** Adopt second 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:** Adopted Ordinance No. 6604-N.S. Effective January 11, 2000.

2.     **Settlement: Theda Williams v. City of Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Attorney to settle Public Liability Claim No. 00-220 in the matter of Theda Williams in the amount of \$13,000.  
Contact: Manuela Albuquerque, City Attorney, 644-6380  
**Action:** Adopted Resolution No. 60,863-N.S.
3.     **Settlement: Jeannie Morris v. City of Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the settlement of Public Liability Claim No. 00-045, Jeannie Morris, in the amount of \$25,000.  
Contact: Manuela Albuquerque, City Attorney, 644-6380  
**Action:** Adopted Resolution No. 60,864-N.S.
4.     **Legal Office Supervisor Classification**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 59,841-N.S., Classification and Salary Resolution for Unrepresented Employees to establish the classification of Legal Office Supervisor, with a monthly salary range of \$3672-4403, effective July 30, 1999, adjusted by the 4% COLA effective June 25, 2000, and abolish the Supervising Legal Secretary classification.  
Contact: Ron Brown, Human Resources, 665-7614  
**Action:** Adopted Resolution No. 60,865-N.S.
5.     **Memorandum of Understanding: Berkeley Fire Fighters Association**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions: 1) approving a new four year Memorandum of Understanding with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 with a term of July 9, 2000 through July 3, 2004; authorizing the City Manager to execute and implement the new labor agreement that includes certain adjustments to benefits retroactive to July 9, 2000; and 2) approving a new salary resolution for Representation Unit B that implements the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 58,803-N.S.  
Contact: Ron Brown, Human Resources, 665-7614  
**Action:** Adopted Resolution No. 60,866-N.S. and Resolution No. 60,867-N.S.
6.     **Public Safety Building Communication Tower Study**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a Request for Qualifications (RFQ) to recruit a consultant to perform a study of issues surrounding the Public Safety Building Communications Tower.  
Contact: Rene Cardinaux, Public Works, 665-3460  
**Action:** Adopted Resolution No. 60,868-N.S.

7.     **Lease: 1947 Center Street**  
      **From: City Manager**  
      **Recommendation:** Adopt first reading of an Ordinance amending the City's lease agreement with 1947 Center Street Associates to increase the rent by \$2,688,063 for the five year extension period and extend the term through December 31, 2005 with an option to extend for an additional three years in order to house the staff of Public Works Engineering, Capital Improvement Projects and other City support services as may be needed at 1947 Center Street.  
      Contact: Rene Cardinaux, Public Works, 665-3460  
      **Action:** Adopted first reading of Ordinance. Second reading December 19, 2000.
8.     **Lease: 2081 Center Street**  
      **From: City Manager**  
      **Recommendation:** Adopt first reading of an Ordinance increasing the City Manager's expenditure authority by \$155,365 for the lease agreement with Seagate Shattuck Associates, LLC, for the property located at 2081 Center Street.  
      Contact: Rene Cardinaux, Public Works, 665-3460  
      **Action:** Adopted first reading of Ordinance. Second reading December 19, 2000.
9.     **Contract: Hazardous Waste Disposal, Universal Waste Disposal and Emergency Clean-Up**  
      **From: City Manager**  
      **Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Consolidated Waste Industries, Inc. for disposal of hazardous wastes and universal wastes generated by the City, and to provide emergency response, clean-up and disposal services for accidental hazardous substances release, or disposal of abandoned hazardous wastes. In the event that Consolidated Waste Industries is unable to perform said services in accordance with Federal and State regulations or City requirements in an emergency, authorize the City Manager to execute a contract with Sturgeon and Sons as the secondary contractor, and in the same manner execute a contract with Ecology Control as a tertiary contractor for said services in an amount not to exceed \$90,000 for the first year, with a total amount not to exceed \$500,000 on an as needed basis for the five year period. The total expenditure amount for work performed on all three contracts shall not exceed \$500,000.  
      Contact: Rene Cardinaux, Public Works, 665-3460  
      **Action:** Adopted Resolution No. 60,869-N.S.
10.    **Contract: News Clipping Service**  
      **From: City Manager**  
      **Recommendation:** Adopt a Resolution: 1)authorizing prior expenditures owed in excess of \$25,000 for news clipping services provided by ProFacto Research; and 2) authorizing the City Manager to execute a contract and any amendments with ProFacto Research in the amount of \$53,488 for the period July 1, 2000 through June 30, 2001.  
      Contact: Weldon Rucker, Acting City Manager, 644-6580  
      **Action:** Adopted Resolution No. 60,870-N.S.

11. **Contract: Downtown Berkeley Association/Main Street Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) Main Street Program for \$214,000 of Downtown Business Improvements District (BID)-generated funds and General Fund monies to support Downtown revitalization.  
Contact: Bill Lambert, Economic Development, 705-8180  
**Action:** Adopted Resolution No. 60,871-N.S.
  
12. **Contract: Mental Health Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept and appropriate \$92,060 from the Berkeley Unified School District to provide mental health services for Healthy Start programs at multiple school sites; and to execute the resultant agreement and any amendments for FY2001.  
Contact: Fred Medrano, Health and Human Services, 665-6879  
**Action:** Adopted Resolution No. 60,872-N.S.
  
13. **Cost of Netanyahu Event**  
**From: Councilmember Spring**  
**Recommendation:** Request the City Manager provide information regarding the costs to the taxpayers regarding the Netanyahu event at the Berkeley Community Theater and consider billing the promoter/s of the event for these expenses; and commend the City Manager, Police Chief and Police Department for their efforts to keep the peace at this event in a humane and professional manner.  
Contact: Dona Spring, Councilmember District 4, 644-6266  
**Action:** Removed from the Consent Calendar by Councilmember Worthington and held over to December 19, 2000.
  
14. **Illegal Sewer Line -Storm Drain Connections**  
**From: Councilmember Maio**  
**Recommendation:** Refer the matter of illegal connections between storm water drains and sanitary sewer lines to the staff and Public Works Commission to research the matter and come up with a plan to: 1) alert homeowners as to the health hazards of overflows caused by illegal storm drain connections to the sanitary sewer line on private property; 2) conduct an education campaign as to how homeowners can check for an illegal connection; and 3) if an illegal connection is detected, outline steps the homeowner would need to follow to eliminate the connection.  
Contact: Linda Maio, Councilmember District 1, 644-6359  
**Action:** Removed from the Consent Calendar by Councilmember Hawley and held over to December 19, 2000.

15. **Free Two-Hour Parking During Holiday Season**  
**From: Mayor Dean**  
**Recommendation:** Refer to the City Manager a proposal to initiate a new public-private partnership for the purpose of attracting shoppers to our downtown by providing free two-hour parking, with merchant validation, during the holiday season, commencing upon City Manager and Downtown Business Association agreement and continuing through January 1, 2001.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Withdrawn by Mayor Dean.
16. **Aquatic Park Expansion and Funding**  
**From: Mayor Dean**  
**Recommendation:** The City Manager investigate the possibility that funds may be available to acquire private property for the purpose of expanding Aquatic Park through two programs administered by the California State Parks Office, the Land and Water Conservation Fund and the Murray-Hayden Grant Program.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Removed from the Consent Calendar by Councilmember Worthington and held over to December 19, 2000.
17. **Proclamation Recognizing Police Officers for Meritorious Service**  
**From: Mayor Dean**  
**Recommendation:** Approve a Proclamation to be presented at the December 19 meeting recognizing the meritorious service of Police Officers Dozier, Lindenau, Louis, Luna, Mercado, Pon and Wilson during the May 23, 2000 fire at 1628 Josephine Street  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Approved recommendation. Proclamation to be presented on December 19, 2000.
18. **Excuse Mayor Dean from January 16, 2001 Meeting**  
**From: Mayor Dean**  
**Recommendation:** Excuse Mayor Dean from attending the January 16, 2001 Council meeting because of her participation in a U.S. Conference of Mayors 69<sup>th</sup> Winter Meeting in Washington, D.C.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Approved recommendation.
19. **Emergency Radio Station AM-1610**  
**From: Mayor Dean**  
**Recommendation:** Request the City Manager immediately evaluate upgrading the existing City Emergency Radio Station, totally replacing it, or developing an alternative; advise the Council on whether action needs to be taken without delay, and what funding source might be available in such a circumstance, or whether action and funding can be delayed to Mid Year Budget Review.  
Contact: Shirley Dean, Mayor, 644-6484  
**Action:** Approved recommendation.

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## Presentations

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20. **Environmental Economy Program, Sustainable Business Alliance-Berkeley, and The Green Resource Center**  
**From: City Manager**  
**Information Report**  
Contact: Bill Lambert, Economic Development, 705-8180  
**Action:** Heard presentation.

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## Public Hearings

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21. **Increase in Tuolumne Fees**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion adopt a Resolution approving an increase of fees for Tuolumne Camp for a one-year period effective January 1, 2001 and rescinding Resolution No. 59,989-N.S.  
Contact: Fred Medrano, Health and Human Services, 665-6879  
  
**Public Testimony:** The Mayor opened the Public Hearing. No speakers heard. Moved, seconded, carried (Maio/Armstrong) to close the public hearing.  
**Action:** Moved, seconded, carried (Maio/Armstrong) to adopt Resolution No. 60,873-N.S.
22. **Certification of Gas Heating Appliances - Filing Fees**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion adopt a Resolution establishing the proposed filing fee schedule for the Certification of Gas Heating Appliances Program.  
Contact: Stephen Barton, Housing, 665-3481  
  
**Public Testimony:** The Mayor opened the Public Hearing. One speaker heard.  
**Action:** Moved, seconded, carried (Armstrong/Breland) to continue the public hearing to January 23, 2001 to consider a broader range of possibilities including carbon monoxide detectors and to hear from technical experts.

23. **Tentative Map Condo Conversion - 1177-83 Delaware Street** *(continued from September 19, October 17, November 21)*
- 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:** Conduct a public hearing and upon conclusion adopt a Resolution 1) rejecting the appeal; and 2) affirming the decision of the Planning Commission granting the parcel map subject to the conditions required by Section 21.28.120 of the Berkeley Municipal Code (Subdivision Ordinance).  
 Contact: Wendy Cosin, Planning and Development, 705-8108
- c. Communications:**
1. Michael Lott
  2. Lisa Lerner
- Contact: Sherry Kelly, City Clerk, 644-6480
- Public Testimony:** The Mayor opened the Public Hearing. Four speakers heard. Moved, seconded, carried (Spring/Maio; Absent - Worthington) to close the public hearing. Decision to be made on December 19, 2000.

24. **Regulate Installation of Telecommunications Facilities**
- From: City Manager**
- Recommendation:** 1) Adopt a Resolution adopting a Mitigated Negative Declaration for amendment of Berkeley Municipal Code (BMC) to add new Chapter 16.10 and amend Title 23 (Zoning Ordinance) to regulate installation of telecommunications systems and equipment; 2) conduct a public hearing and upon conclusion, adopt first reading of an Ordinance regulating telecommunications providers in Berkeley regarding the time, place, and manner of their installation, operations, and maintenance activities; 3) initiate amendments to the Zoning Ordinance (BMC) Section 23D.08.060 and Subtitle 23F to prohibit dangerous fence structures and add regulations regarding the installation of telecommunications pedestals and related structures; and 4) refer the proposed amendments to the Planning Commission and request the Planning Commission consider the changes at a public hearing within 30 days as required by Section 23A.20.030 of the Zoning Ordinance.  
 Contact: Chris Mead, Information Systems, 665-7661; Manuela Albuquerque, City Attorney, 644-6380
- a. Communications**
1. Stephanie Manning
  2. Kevin Sutton
  3. Erica Etelson
  4. Northern California Telecommunications Coalition
  5. John Taylor
  6. Cecilia V. Estolano, Gibson, Dunn & Crutcher LLP
  7. Leonard Schwartzburd, Ph.d.
- Contact: Sherry Kelly, City Clerk, 644-6480

**Public Testimony:** The Mayor opened the Public Hearing. Thirteen speakers heard.

**Actions:** Moved, seconded, failed (Armstrong/Hawley; Noes – Breland, Maio, Worthington; Abstain – Shirek, Spring) to approve staff's recommendations 1 through 4.

Moved, seconded, carried (Spring/Worthington) a substitute motion to approve recommendations 1, 3 and 4. On the severed motion: (Noes - Olds; Abstain - Armstrong, Hawley, Dean) to hold open the public hearing and hold over Recommendation 2 to December 19, 2000.

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### Information Reports

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25. **Formal Bid Solicitations and Request for Proposals**  
**From: City Manager**  
Contact: Fran David, Finance, 665-7401  
**Action:** Received and filed.
  
26. **Grant Renewals: Public Health Services**  
**From: City Manager**  
Contact: Fred Medrano, Health and Human Services, 665-6879  
**Action:** Received and filed.
  
27. **Breast and Prostate Cancer Outreach Activities (CR# 158-00)**  
**From: City Manager**  
Contact: Fred Medrano, Health and Human Services, 665-6879  
**Action:** Received and filed.
  
28. **Earthquake Preparedness (CR# 206-00)**  
**From: City Manager**  
Contact: Reginald Garcia, Fire, 644-6665  
**Action:** Received and filed.
  
29. **Green Building Assistance for Single Family Residences (CR# 196-00)**  
**From: City Manager**  
Contact: Stephen Barton, Housing, 665-3481  
**Action:** Received and filed.

30. **Status Report on Skateboard Park Including Update on Expenditures** (*to be delivered*)  
**From: City Manager**  
 Contact: Phil Kamlarz, Deputy City Manager, 644-6580  
**Action:** Received and filed.
31. **Earthquake Preparedness (CR# 206-00)**  
**From: Disaster Council**  
 Contact: Reginald Garcia, Secretary, 644-6665  
**Action:** Received and filed.

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**Communications**

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

Page No.

1. Peter D. Venturini, Chief, Stationary Source Division, Air Resources Board, response to Council letter re: phase-out of methyl tertiary butyl ether (MTBE) from gasoline.
2. Terrence Jue re: no parking sign posted traffic ticket. **Maio, Breland, Worthington, Dean**
3. VISA1, re: Corporation Yard neighborhood tour and environmental inspection. **Worthington, Dean**
4. Randy Silverman, Convenor, Berkeley Gray Panthers, re: PG&E rate increase. **Spring, Worthington, Dean**
5. Sherry Smith, Chair, Berkeley Civic Arts Commission, re: increase in pay for Civic Arts Coordinator. **Dean**
6. Miya Rodolfo-Sioson, Chair, Commission on Disability, re: accommodation to attend Commission meeting by telephone. **Maio, Breland, Spring, Worthington, Dean**
7. Howie Muir re: West Berkeley Area Plan's "Nodal Development Concept". **Spring, Dean**
8. Re: 1301 Oxford, Congregation Beth El project
  - a. Juliet Lamont (three letters)
  - b. Eleanore Lee
  - c. Jeannie McGreevy
  - d. Danielle York
  - e. Amy Oppenheimer
  - f. Theodore E. Cohn

- g. Petition containing 23 signatures
  - h. Jaime Alcabes
  - i. Lillie Brum
  - j. Rebecca G. Lhermitte
  - k. Minnie Adler
  - l. Cynthia and Peter Hecker
  - m. Ralph Freeman
  - n. Jack Adler
  - o. David A. Jaffe
  - p. Melissa Rapp
  - q. John K. Huster
  - r. Bonnie and Max Cooperstein
  - s. Morgan Tharan
  - t. Isaiah Tharan
9. L. A. Wood re: Harrison Playing Field site. **Worthington**
  10. Janice Thomas, Panoramic Hill Association, re: UC Berkeley Memorial Stadium Permanent Lighting Project. **Worthington, Olds, Dean**
  11. Robert Hourula, re: project at 2422 - 5<sup>th</sup> Street. **Breland**

### **SUPPLEMENTAL COMMUNICATIONS AND AGENDA REPORTS**

#### **Emergency Item - Investigation into Federal Civil Rights and Voting Rights Violations in Florida**

**From: Vice Mayor Shirek** - Demand that our Federal representatives, Senators Boxer and Feinstein, and Representative Lee, demand that United States Attorney General Janet Reno immediately open a full investigation into the Federal civil rights and voting rights violations that occurred in the state of Florida, and appoint a special prosecutor to take appropriate action.

#### **Item 16 - Aquatic Park Expansion and Funding**

12. Stephen Swanson **Breland**
13. David Eifler **Breland**
14. Michael and Lisa Alvarez Cohen **Breland**
15. Robin Coulon **Breland**
16. Sharon and Richard Tamm **Breland**
17. Tom Rose
18. Alan Gould
19. Antoine Lagarde
20. Carol Thornton, Chair, Parks and Recreation Commission
21. Mayor Shirley Dean, supplemental information
22. Sylvia C. McLaughlin

23. Edward L. Bennett
24. Steve Most
25. Katy Wilson

**Regarding New Tobacco Shops**

26. Tim Moder

**Item22 - Certification of Gas Heating Appliances - Filing Fees**

27. Primo E. Facchini, C & S Enterprises, Incorporated.

**Item 24 - Regulate Installation of Telecommunications Facilities**

28. City Manager Weldon Rucker, supplemental information
29. City Manager Weldon Rucker, resolution regarding approving a mitigated negative declaration and revised ordinance.
30. Dona Spring, copies of opinion articles from the Berkeley Daily Planet.
31. Wesley Skow, Latham & Watkins

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**Adjournment**

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**Actions:** Moved, seconded, carried (Worthington/Maio) to suspend the rules to continue the meeting past 11:00 p.m., to hear the telecommunications public hearing and to have thirty minutes for discussion.

Moved, seconded, carried (Spring/Maio) to extend the meeting ten minutes to complete discussion of the matter.

Meeting adjourned in honor of Ann Gilbert at 12:20 a.m.