

SUMMARY
BERKELEY CITY COUNCIL REGULAR MEETING
TUESDAY, JUNE 26, 2001

Preliminary Matters

Roll Call: 7:01 p.m. All present.

Ceremonial Matters:

Proclamation for Community Mediation Awareness Week

Action: Rescheduled to a future date by Mayor Dean.

Proclamation for June as Pride/Lesbian Gay Bisexual Transgender Mental Health Awareness Month

Action: Presented Proclamation.

Proclamation Honoring Phil Lesh

Action: Presented Proclamation.

Comments from the City Manager:

June 30 will be the first David Brower Day in Civic Center Park.

There will be a jazz festival on Sunday, July 1, in the Berkeley Marina from 11:00 a.m. to 1:00 p.m. sponsored by the Berkeley Arts Festival and the Friends of the Library.

The Annual 4th of July celebration will be held in the Berkeley Marina beginning at noon with fireworks starting at 9:00 p.m

The 4th Annual Bay to Barkers event, sponsored by the Berkeley Humane Society, will take place on July 8 in the Berkeley Marina.

Comments from the Public: Ten speakers. Request by speaker Ray Dobard regarding closed captioning equipment for commission meetings was referred to the City Manager.

Consent Calendar

Action: Moved, seconded, carried (Spring/Maio) to adopt Consent Calendar items 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 Local Health Officer to take steps to enable the operation of needle exchange emergency distribution.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 61,134-N.S.

2. **Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of: a).May 15, 2001 (special); b) May 15, 2001 (regular); c) May 22, 2001 (regular); d) June 5, 2001 (special); and e) June 5, 2001 (special).
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Approved minutes.

3. **Contract: 3% at Age 50 Retirement for Police** (*first reading vote 4/24 - unanimous*)
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 police employees only.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted second reading of Ordinance No. 6633-N.S. Effective: July 26, 2001.

4. **Lease: 2055 Center Street for Central Duplicating and Mail Delivery Facility** (*first reading vote 6/19 - unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a one-year lease agreement with Seagate Properties in an amount not to exceed \$63,000 for lease payments plus operating expenses of approximately \$18,000, for a total expense not to exceed \$81,000, to continue to house the Central Duplicating and Mail Services at 2055 Center Street.
Contact: Fran David, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6634-N.S. Effective: July 26, 2001.

5. **Contract: Youth Employment, Training and Park Maintenance Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Berkeley Youth Alternatives (BYA) to operate a youth employment, training and park maintenance project for an amount not to exceed \$85,000, for the period July 1, 2001 through June 30, 2002, with an option to extend the contract for an additional twelve months for an amount not to exceed \$85,000.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 61,135-N.S.

6. **Contract: Aquatic Park Site Preparation Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment for BRCO Constructors, Inc., increasing the total contract amount by \$8,713.57, for the Aquatic Park Site Preparation Project, for a new not-to-exceed total contract amount of \$207,308.57.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 61,136-N.S.

7. **Grant: Nutrition Education in the Latino Community**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) accept a grant in the amount of \$34,000 from the California Healthy Cities and Communities, Center for Civic Partnerships, for the support of nutrition promotion and education activities among Latinos, and to execute the resultant agreement and any amendments; 2) execute a contract and any amendments with the Bay Area Hispano Institute for Advancement, Inc., to provide bilingual nutrition education with social support for improved food choices and increased access to fresh fruits and vegetables through gardens and farmers' markets, in an amount not to exceed \$6,500, for the period May 1, 2001 through April 30, 2002; and 3) provide the Bay Area Hispano Institute for Advancement, Inc. with a two-month advance payment.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,137-N.S.

8. **Grants: Health Insurance Outreach**
From: City Manager
Recommendation: Adopt a Resolution authorizing submittal of grant applications to the Community Health Investment Fund and the State of California, Department of Health Services, for the Health Insurance Outreach Program, and authorizing execution of the resultant agreements and any amendments.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,138-N.S.

9. **Contracts: Youth Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with certain community-based agencies to provide support services to at-risk youth, in the amount of \$424,006 each year, for a total not to exceed \$848,012 for FY 2002 and FY 2003, with the second year contingent upon Council appropriating funds, and authorizing a two-month advance payment for each agency.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,139-N.S.

10. **Contracts: X-Ray and Laboratory Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with Alta Bates Medical Center, in an amount not to exceed \$40,000, for the period July 1, 2001 through June 30, 2003, and the State of California, Department of Health Services, in an amount not to exceed \$209,597, for the period July 1, 2001 through June 30, 2002, to provide x-ray and laboratory services.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,140-N.S.

11. **Contracts: Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with certain community-based organizations to provide health services in an amount not to exceed \$120,000 for the period July 1, 2001 through June 30, 2002.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,141-N.S.

12. **Deputy Director of Health and Human Services 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 Deputy Director of Health and Human Services, with a salary range of \$6,776 to \$9,066 per month.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,142-N.S.

13. **Contract: Downtown Berkeley YMCA**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA, in the amount of \$206,458, for fitness center memberships for City employees and Legislative Assistants, for the period July 1, 2001 through June 30, 2002.
Contact: Phil Kamlarz, Deputy City Manager, 981-7006
Action: Adopted Resolution No. 61,143-N.S.

14. **Final Map of Tract 7243**
From: City Manager
Recommendation: Adopt a Resolution approving the Final Map of Tract 7243, an eight unit condominium project consisting of four live work and four commercial condominium units located at 2700 8th Street.
Contact: Wendy Cosin, Planning and Development, 705-8102
Action: Adopted Resolution No. 61,144-N.S.

15. **Final Map of Tract 7216**
From: City Manager
Recommendation: Adopt a Resolution approving Final Map of Tract 7216, conversion of an existing five-unit Tenancy-in-Common (TIC) Project at 2830, 2832, 2834, 2836 and 2838 Webster Street to five condominium units.
Contact: Wendy Cosin, Planning and Development, 705-8102
Action: Adopted Resolution No. 61,145-N.S.

16. **Sale of Fire Apparatus to Acquire Aerial Ladder Truck**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to approve the sale of six fire engines using a broker, Fire Trucks Plus, Inc., and using the proceeds to acquire a reserve aerial ladder truck.
Contact: Rene Cardinaux, Public Works, 981-6300; Reginald Garcia, Fire, 981-3473
Action: Adopted Resolution No. 61,146-N.S.

17. **Contract: Emergency Sewer Replacement Projects**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with McNamara and Smallman Construction, Inc. for emergency sewer replacement projects by increasing the amount by \$228,000 and extending the contract by ninety calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,147-N.S.

18. **Fee Waiver: Public Hearing on AB 487 at North Berkeley Senior Center**
From: Councilmember Maio
Recommendation: Adopt a Resolution waiving the insurance and rental fees for the use of the North Berkeley Senior Center for a public hearing on AB 487 hosted by Assembly Woman Dion Aroner at the North Berkeley Senior Center.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Adopted Resolution No. 61,148-N.S.

19. **YMCA Presentation**
From: Councilmember Breland
Recommendation: Permit the YMCA organization to make a presentation to the Council on July 17, 2001 regarding their recruitment program for Head Start.
Contact: Margaret Breland, Councilmember District 2, 981-7120
Action: Withdrawn by Councilmember Breland.

20. **In-Lieu Park Mitigation Payments in New Developments**
From: Councilmember Spring
Recommendation: Refer to the Planning Commission a request that they update the Berkeley Municipal Code with a revised ordinance for making specific findings that can be made to certain size developments to require in-lieu park mitigation payments from new development.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Removed from the Consent Calendar by Councilmember Olds and held over to July 10, 2001.
21. **Fee and Transfer Tax Waivers: Solar Panels**
From: Councilmember Spring
Recommendation: Request the City Manager waive all fees for permits to install solar panels and that funding for these waivers be taken from the additional utility taxes coming into the City, and that the City Attorney return to Council with an ordinance to give transfer tax credit for the cost of installing solar panels after state and federal rebates.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Removed from the Consent Calendar by Mayor Dean and held over to July 10, 2001.
22. **Fair Trade and Organic Coffee**
From: Councilmember Spring
Recommendation: Request the City Manager add the local company, Uncommon Grounds, who has been a leader in the Bay Area Fair Trade and Organic Coffee Campaign, to the preferred list of coffee vendors for all City departments and uses.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Approved recommendation.
23. **Landmarking of City-Owned Property**
From: Councilmember Hawley
Recommendation: Request the City Manager provide a presentation to the Council regarding the landmarking of city-owned properties, including 1) a list of all city-owned, landmarked properties; 2) a brief report on the implications of landmarking the structures and landscaping design at John Hinkle Park; and 3) a recommendation for revisions to Berkeley's Landmark Ordinance which would allow for staff and Council review of city financial and budgetary implications when landmarking city property, and resolution of conflicts with State and Federal law.
Contact: Mim Hawley, Councilmember District 5, 981-7150
Action: Approved recommendation.
24. **Claremont Hotel as an Oakland Landmark**
From: Councilmember Armstrong
Recommendation: Request the City Manager send a letter to the Oakland Landmarks Preservation Advisory Board endorsing on behalf of the City Council the request to landmark the Claremont Hotel as prepared by the Landmarking Committee of the Berkeley/Oakland Neighbors of the Claremont.
Contact: Polly Armstrong, Councilmember District 8, 981-7180
Action: Approved recommendation.

25. **Fee Waiver: Woman's Will Shakespeare Company**
From: Councilmember Armstrong
Recommendation: Adopt a Resolution waiving the special event permit fees associated with performances by Woman's Will Shakespeare Company in Live Oak Park on July 14 and 15.
Contact: Polly Armstrong, Councilmember District 8, 981-7180
Action: Adopted Resolution No. 61,149-N.S.
26. **Fee Waiver: Sixth Annual Watershed Environmental Poetry**
From: Councilmember Worthington
Recommendation: Adopt a Resolution 1) extending the sound permit from 11-5 p.m.; 2) waiving the fee to secure the use of the Veterans Memorial Building for bathroom access for the public, and the auditorium in the occurrence of rain for the Fifth Annual Watershed Environmental Poetry event in Martin Luther King, Jr. Civic Center Park, Saturday, September 8, 2001; 3) waive Berkeley Municipal Code (BMC) Section 20.24.040 to allow a Watershed Environmental Poetry banner across Shattuck Avenue and a stage banner above the Peace Wall; 4) waive City permits, staff fees, and necessary equipment associated with hanging the banners; and 5) allows access to the kiosk located outside of downtown Berkeley BART station on Center Street to display a poster and any information relating to the Watershed Environmental Poetry Event.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from the Consent Calendar by Councilmember Hawley. Moved, seconded, carried (Worthington/Spring; Absent- Breland) to adopt Resolution No. 61,150-N.S.
27. **Fee Waiver: 3rd Annual Berkeley World Music Festival**
From: Councilmember Worthington
Recommendation: Adopt a Resolution 1) waiving all fees, including fees for event, food, sound permits, insurance fees and police reserve fees associated with the Third Annual Berkeley World Music Festival on Sunday, August 26th, and allow an exemption to Berkeley Municipal Code Section 20.24.040, thereby allowing a banner to be hung across Telegraph Avenue (at Durant) advertising this event; 2) approve the City's provision of the following in-kind services for the World Music Festival: 10 portable toilets (including 3 handicap accessible toilets) provided by Public Works, assistance from Public Works in the hanging of banners, 20 trash cans with liners, dumpster and Solid Waste Services, and traffic signage and traffic engineering for the closure of Durant at Telegraph and Bowditch.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from the Consent Calendar by Councilmember Hawley. Moved, seconded, carried (Worthington/Spring; Absent- Breland) to adopt Resolution No. 61,151-N.S.

28. **Telecommunications Task Force Extension**
From: Telecommunications Task Force
Recommendation: Adopt a Resolution authorizing an extension of the time period for the Telecommunications Task Force from June 30, 2001 to January 31, 2002.
Contact: Roger Miller, Secretary, 981-7009
- a. City Manager Report**
Recommendation: Concurs with the content and recommendations of the Commission.
Contact: Phil Kamlarz, Deputy City Manager, 981-7006
Action: Adopted Resolution No. 61,152-N.S.

Action Calendar

29. **Scheduling Special Meeting and Amending Council Meeting Schedule** (*oral report*)
From: City Manager
Recommendation: Consider scheduling special meetings and/or amending the Council Meeting Schedule prior to the Council Summer Recess in order to conduct Council business.
Contact: Manuela Albuquerque, City Attorney, 981-6960
- Actions:** Moved, seconded, carried (Hawley/Maio; Abstain - Armstrong) to schedule a special meeting on July 16, 2001 at 5:30 p.m. in the North Berkeley Senior Center for a continued public hearing on the Temple Beth El Project, Zoning Adjustments Board decision; and to set the date of July 16, 2001 for a public hearing on the Temple Beth El Project, Landmarks Preservation Commission decision.
- Moved, seconded, carried (Hawley/Maio; (Abstain - Armstrong) to schedule a special meeting on July 19, 2001 at 6:00 p.m., at the Council Chamber if available and if not at North Berkeley Senior Center, for further consideration and continued public hearings if necessary on the Temple Beth El Project.

Appeals:

30. **Zoning Appeal of Use Permit 2025 Rose Street**
a. Appeal filed by Fari Sabetimani of the Zoning Adjustments Board decision of March 22, 2001 which approved modification of Use Permit 97-10000003 pursuant to the State of California Permit Streamlining Act that approves a project when the City fails to act on it within sixty days of the date the application for the project is accepted as complete. The modified project permitted an addition to an existing non-conforming office building and construction of a new multi-family building with four dwelling units, to instead allow the construction of three dwelling units with attached garages.
Contact: Sherry Kelly, City Clerk, 981-6900

b. City Manager Report

Recommendation: Schedule a public hearing on the appeal for July 24, 2001.

Contact: Wendy Cosin, Planning and Development, 705-8102

c. Communications

1. Alice Waters, Owner, Chez Panisse Restaurant and Café
2. Letter with 147 signatures.
3. Rena Rickles, Attorney
4. Bob Richerson,

Action: Moved to Consent Calendar by Councilmember Maio to schedule a public hearing for July 24, 2001.

Public Hearings

31. Continued Public Hearing: Temple Beth El Project, 1301 Oxford Street *(public hearing opened and continued from 6/5)*

a. City Manager Report

Recommendation: Continue the public hearing to review the Zoning Adjustments Board's certification of a Final Environmental Impact Report and approval of Use Permit 99-10000079 for Congregation Beth El to: 1) construct and operate a Religious Assembly use; 2) permit an average height up to 35 feet where a maximum average height limit of 28 feet is allowed; and 3) allow demolition of two non-residential buildings; and, after receiving a report on the mediation process and testimony on the Board's action, continue the public hearing to June 26.

Contact: Wendy Cosin, Planning and Development, 705-8102

b. City Manager's Reports dated April 24 and April 17 regarding certification and hearing of Zoning Adjustments Board and Landmarks Preservation Commission decisions

c. Information - Ratified Mission Statement for the Mediation

d. Communications:

1. Daniel P. McLoughlin
2. Carol M. Connolly
3. Kevin Powell
4. Daniel Caraco
5. Viki Tamaradze
6. Walter Epp
7. Glenn M. Clark, President of the Board of BOSS
8. Jack Adler
9. Mrs. Minnie Adler
10. Stuart Kelman, Rabbi, Congregation Netivot Shalom
11. Jacalyn Mahler
12. Marcel and Margrit Schurman
13. Raphael Shannon
14. Gerald Derblich
15. Emily Schnitzer
16. Jesslyn Frankel Jamison
17. Annie Rigney

18. Unsigned
19. Clara Storch
20. Jessica Erickson
21. Noah Stein
22. Elanna Mariniello
23. Danielle Thal
24. Adam Poole
25. Chloe Rose Fineman
26. Naomi Drexler
27. Tasha Kayatsky
28. Julia Kessler
29. Adrienne Rosenberg
30. Alex Mog
31. Rachel Hamburg
32. Sophia Elson
33. Amanda Reynoso-Palley
34. Aaron Wilson
35. Max Lear
36. Aliza Sinkinson
37. 288 postcards.
38. Alan Gould
39. Joanna Weinberg and David Levine
40. Judith S. Tabb
41. Kim A. Smith, Pastor, Trinity United Methodist Church
42. Huston Smith
43. Hillary and Johathan Reinis
44. Dr. Carol Mimura and Prof. Jeremy Thorner
45. Emily and Bill Marthinsen
46. Brother V. Kenneth, F.S.C., Saint Mary's College High School
47. Jeffrey Hamilton
48. Barbara and Bill Hamilton-Holway, Unitarian Universalist Church of Berkeley
49. Mary Anna C. Colwell
50. Richard and Liz Bordow
51. David Bordow
52. Deni Bluestein
53. Andrew J. Walmsley, Rector, All Souls Parish
54. Rachel Trachten, Development Director, Rebuilding Together
55. Sarah Stadler
56. Diane Sequoia
57. Sheila Andres

Public Testimony: 39 speakers.

Action: Councilmember Worthington requested a report on the EIR regarding parking requirements. Mayor Dean requested a report on the impact on height requirements of the building with 3 foot underground parking and other parking concerns. The public hearing was continued to a special meeting on July 16, 2001 at 5: 30 p.m. in the North Berkeley Senior Center.

Information Reports

32. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issue in the Next 30 Days**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
33. **Fiscal Year 2002 General Audit Work Plan**
From: City Manager
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Received and filed.
34. **Landmarks Preservation Commission Notice of Decision: Designating Southern Pacific Railroad Depot as a City of Berkeley Landmark**
From: City Manager
Contact: Wendy Cosin, Planning and Development, 705-8102
Action: Received and filed.

Communications

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

1. Letter signed by eighteen persons regarding parking. **Worthington, Spring**
2. Kathy Berger and Glenda Rubin, Southside Community Safety Partnership, regarding Rental Housing Safety Program. **Breland, Spring**
3. Johanna Sedman, regarding temporary parking permits. **Olds, Spring**
4. Monica Lin, regarding parking ticket. **Breland, Worthington, Spring**
5. Letter with 21 signatures, regarding fatal accident at Hearst and Shattuck Avenues. **Worthington, Spring, Dean**
6. Eva Bansner, regarding definition of creeks ordinance. **Worthington, Spring**
7. Lenora Moore, President, South Berkeley Women's Health Center, regarding Berkeley Flea Market. **Breland, Spring**

**SUPPLEMENTAL COMMUNICATIONS
AND REPORTS**

Item 30 - Zoning Appeal of Use Permit 2025 Rose Street

c. Communications

5. Marcy Wong

Item 31 - Continued Public Hearing: Temple Beth El Project, 1301 Oxford Street

d. Communications

58. James H. Samuels, Vice President, E. Paul Kelly AIA Architecture
59. Daniel P. McLoughlin
60. Jane Kelly
61. Diane Sequoia
62. Eva Alexis Bansner
63. Daniel Caraco
64. Patrick Charles
65. G. Juri Komendant, Ph.D., S.E.
66. Barbara Fletcher Barbour
67. Lisa Viani, Outreach Coordinator, Urban Creeks Council
68. Ann L. Riley, Ph.D., Executive Director, Waterways Restoration Institute
69. Kirsten Cosby
70. Juliet Lamont
71. Sharon E. Duggan, Attorney
72. Keith Carson, Supervisor, Alameda County, 5th District

Adjournment

Action: Moved, seconded, carried, (Worthington/Maio; Noes – Armstrong, Breland; Absent – Spring) to extend the meeting until 11: 45 p.m. to complete specific items.

The meeting adjourned at 11:33 p.m.