

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, JULY 17, 2001

Preliminary Matters

Roll Call: 7:15 p.m. - All Present

Ceremonial Matters:

Proclamation: Community Mediation Awareness

Proclamation: Pedal for Peace

Cash for Trash Awards

Action: Proclamations and awards presented

Comments from the City Manager: The Martin Luther King Jr. Civic Center received the "Saving By Design Energy Efficient" award co-sponsored by the AIA and several electric companies.

Comments from the Public: Eleven speakers.

Consent Calendar

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

1. **Compatibility of Outside Employment by Board and Commission Members**

(CF 89-01) *(first reading vote 7/10 - unanimous)*

From: City Manager

Recommendation: Adopt second reading of an Ordinance adding Berkeley Municipal Code (BMC) Section 3.02.050 to provide for a Council determination as to whether outside employment of public officials is incompatible and providing for automatic termination of board and commission members under certain circumstances, as determined by Council.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted second reading of Ordinance No. 6643-N.S., effective August 16, 2001.

2. **Definition of "Public Safety and Emergency Services"; and Uses in Zoning Districts**
(first reading vote 7/10 - unanimous)
From: City Manager
Recommendation: Adopt second reading of an Ordinance adding a definition of "Public Safety and Emergency Services" to the Berkeley Municipal Code (BMC) Title 23 and adding these uses to the list of permitted uses in all zoning districts with a public hearing and use permit.
Contact: Wendy Cosin, Planning and Development, 705-8102
Action: Adopted second reading of Ordinance No. 6644-N.S., effective August 16, 2001.

3. **Marina Rules and Regulations** *(first reading vote 7/10 - unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance repealing and reenacting Berkeley Municipal Code Chapter 6.20, Marina Rules and Regulations, to: 1) add and clarify definitions; 2) strengthen the Marina Supervisor's ability to cancel or deny permits for unseaworthy vessels and provide berthers a means of overcoming a finding of unseaworthiness; 3) clarify the legal relationship with berthers; 4) modify safety measures; 5) prohibit the use of jetskis; 6) to allow berthers to stay aboard vessels for three consecutive days/nights; and 7) establish an appeals process and rules for charter vessels at private docks.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted second reading of Ordinance No. 6645-N.S., effective August 16, 2001.

4. **Ellis Act Mitigations (CF# 31-01)** *(first reading vote 7/10, Abstain – Olds, Dean)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.77 in order to require a landlord who is withdrawing his/her residential rental accommodations from rent or lease pursuant to Government Code Chapter 12.75 (Ellis Act) to offer other available rental units to displaced tenants and repealing Section 13.77.075 regarding the release of relocation assistance payments held in escrow by the City.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted second reading of Ordinance No. 6646-N.S., effective August 16, 2001. (Abstain – Olds)

5. **Permits for Parades, Street Events and Block Parties (CF# 15-01)** *(first reading vote 7/10 - unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance repealing and reenacting Berkeley Municipal Code Chapter 13.44, to update the City's regulations of permits for parades, street events and block parties.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted second reading of Ordinance No. 6647-N.S., effective August 16, 2001.

6. **Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the sanitary sewer project at Shasta Road, Tamalpais Road, Creston Road, Chabolyn Terrace, Modoc Street, Ensenada Avenue and Tulare Avenue, accepting the bid of McNamara Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$1,425,960, for a period of 150 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,172–N.S.
7. **Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the sanitary sewer project at Gilman Street, Kains Avenue, Stannage Avenue, Cornell Avenue, Talbot Avenue, Santa Fe Avenue and Masonic Avenue; accepting the bid of K. J. Woods Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$988,800, for a period of 130 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,173–N.S.
8. **Contract: Telecommunications Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Pacific Bell for telecommunications services, for a total contract amount not to exceed \$950,000 per annum, for the period July 1, 2001 to December 3, 2005.
Contact: Fran David, Finance, 981-7300
Action: Adopted Resolution No. 61,174–N.S.
9. **Lease: Tinker’s Workshop in Aquatic Park**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute an agreement and any amendments with Tinker’s Workshop to lease City property in Aquatic Park located at 80 Bolivar Drive for an amount not to exceed \$1,000 over a period of ten years.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted first reading of an Ordinance. Second reading July 24, 2001.
10. **Harrison Street Skate Park Project**
From: City Manager
Recommendation: Adopt two Resolutions: 1) adopting the subsequent mitigated negative declaration for the Harrison Street Skate Park Project; and 2) approving plans and specification for completion of the Harrison Street Skate Park; authorizing the City Manager during the Council recess to award and execute a contract and any amendments in

an amount not to exceed \$385,000; and allocating an additional amount not to exceed \$25,000 to retain professional services to inspect and test the construction work.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 61,175–N.S. and Resolution No. 61,176–N.S.

11. **Contract: Removal of Public Trees**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with TruGreen LandCare for the removal of public trees for a three year period starting July 20, 2001, in an amount not to exceed \$72,000 each year, for a not-to-exceed total contract amount of \$216,000.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 61,177–N.S.
12. **Eastshore State Park Classification Designation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to encourage the State Parks and Recreation Commission to establish a classification for the Eastshore State Park that protects open space and wildlife habitat, mitigates toxins, parasites, and invasives, restores the overall health and integrity of the shoreline ecosystems, advocates that any park plan accommodate pedestrian and bicycle access, encourages the use of public transit, and includes a diversity of non-motorized user’s interests and activities.
Contact: Lisa Caronna, Parks and Waterfront, 91-6700
Action: Adopted Resolution No. 61,178–N.S.
13. **Federal Breast Cancer Program**
From: Councilmember Breland
Recommendation: Send a letter to Senator Jackie Speier, in support of a bill that would require California to take part in the law authorizing the state to help uninsured breast cancer victims pay for their treatment under the Breast and Cervical Cancer Presentation and Treatment Act.
Contact: Margaret Breland, Councilmember District 2, 981-7120
Action: Approved recommendation.
14. **Refund of Business License Taxes**
From: Mayor Dean
Recommendation: Request the City Manager amend the Berkeley Municipal Code (BMC) to allow the City to refund up to three years of business license taxes which have been paid erroneously, and return to Council with the proposed amendments in September, 2001.
Contact: Shirley Dean, Mayor, 981-7100
Action: Approved recommendation.
15. **Keeping MSGi Direct in Berkeley**
From: Councilmember Worthington
Recommendation: Adopt a Resolution supporting keeping MSGi Direct in Berkeley; send a letter to the National Labor Relations Board expressing the City’s support for MSGi remaining in Berkeley.
Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action: Removed from Consent by Councilmember Spring. Moved, seconded, carried (Worthington/Armstrong) to adopt Resolution No. 61,179-N.S.

16. **Youth Energy Services Program** *(to be delivered)*
From: Councilmember Maio
Recommendation: Approve a 15 minute presentation at the Council meeting of July 24, 2001 on the Youth Energy Services program.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Approved recommendation to schedule a 15-minute presentation on July 24, 2001.

Presentation

17. **Pedaling for Peace**
From: Mayor Dean and Councilmember Maio
Contact: Shirley Dean, Mayor, 981-7100; Linda Maio, Councilmember District 1, 981-7110
Action: Presentation heard. Proclamation received.

Public Hearings

18. **Telecommunications Antenna Moratorium** *(to be delivered)*
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt an Urgency Ordinance extending the moratorium on the installation of wireless telecommunications antennas for cellular and mobile phones and personal communications systems for an additional five months.
Contact: Wendy Cosin, Planning and Development, 705-8102
- a. Communications**
1. Kate Bernier
- Public Testimony:** The Mayor opened the public hearing - five speakers heard. Moved, seconded, carried (Worthington/Armstrong) to close the public hearing.
- Action:** Moved, seconded, carried (Worthington/Armstrong) to adopt Urgency Ordinance No. 6648-N.S.

Action Calendar

New Business:

19. **Voting Delegates – League of California Cities**
From: City Manager
Recommendation: Designate a voting delegate and alternate for the business meeting of the Annual League of California Cities meeting to be held on Saturday, September 15, 2001 at the Sacramento Convention Center, and direct the City Clerk to forward the name of the delegate and alternate to the League no later than August 17, 2001.
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Moved to Consent by Councilmember Worthington. Designated Councilmember Mim Hawley as the voting delegate and City Manager Weldon Rucker as the alternate.
20. **July 24, 2001 Meeting/Consider Special Meeting**
From: City Manager
Recommendation: Allow the City Manager to place Action items deemed necessary on the July 24, 2001 Council Agenda by suspending the Council Rule that prohibits Action Items and the deliberation of items removed from the Consent Calendar on the Council's Public Hearing Agenda. Council may wish to consider suspension of any other rules and/or addition of special meetings to provide for the completion of specific business prior to the Council's Summer Recess.
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Moved to Consent by Councilmember Spring to approve the recommendation to add City Manager and City Council actions items on the July 24, 2001 agenda.
21. **Rental Housing Safety Program**
From: City Manager
Recommendation: 1) Adopt first reading of an ordinance repealing and reenacting Berkeley Municipal Code Chapter 12.48, to establish a Rental Housing Safety Program requiring owners to certify compliance with rental housing safety standards established by the City and allowing the City to inspect rental units to ensure compliance with applicable laws or ordinances; 2) adopt a Resolution adopting a fee schedule which reduces fees for housing inspections and rescinding Resolution No. 60,655-N.S.; and 3) authorize the City Manager to develop a housing safety checklist form to be used by owners of rental housing when certifying that their units meet certain safety requirements
Contact: Stephen Barton, Housing, 981-5400
Action: Moved, seconded, carried (Worthington/Shirek) to approve the recommendation. Adopted Resolution No. 61,180-N.S. and adopted first reading of an Ordinance, amended to include co-ops, to change wording regarding annual inspections and to require a six-month review of the program. Second reading scheduled July 24, 2001.

Information Reports

22. **Alternative Methods to Eliminate the Use of Chalk by Parking Enforcement Representatives (CF# 01-28a)**
From: City Manager
Contact: D. E. Butler, Police, 981-5700
Action: Received and filed.
23. **Status Report on Installation of Countdown Pedestrian Crossing Signals (to be delivered)**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Received and filed.
24. **Moratorium on Additional Establishments Distributing Marijuana**
From: City Manager
Contact: Weldon Rucker, City Manager, 981-7000
Action: Received and filed.

Communications

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

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1. Regarding Firefighter lawsuit:
 - a. Robert da Roza **Spring, Breland**
 - b. Kees van Gato **Breland**
2. Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs, responding to Council letter of support of federal lawsuits against coal-fired plant polluters.
3. Lianne, regarding Berkeley Symphony request for emergency funding.
4. Susan Archuletta, regarding affordable housing for teachers. **Hawley, Olds, Breland, Dean**
5. Megan Schirle, regarding proposed building at 1797 Shattuck. **Spring**

SUPPLEMENTAL COMMUNICATIONS AND AGENDA REPORTS

Item 21 – Rental Housing Safety Program

6. Revised Ordinance by Housing Department

Item 18 – Telecommunications Antenna Moratorium

7. Earl Nicholas Selby, Attorney on behalf of AT&T, Cingular, Verizon, Sprint, and Nextel

Adjournment

The meeting adjourned at 10:20 p.m.