

SUMMARY

BERKELEY CITY COUNCIL SPECIAL MEETING THURSDAY, JULY 19, 2001 Council Chamber, 2134 Martin Luther King Jr. Way

ROLL CALL: 6:02 P.M. (Absent - Breland)

PUBLIC COMMENT: 1 speaker

CLOSED SESSION: *(The Council recessed into Closed Session immediately after Public Comment)*

**1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code
section 54956.9**

The project at 1301 Oxford Street sponsored by Congregation Beth El has generated communications from project opponents charging that the City has acted illegally. The most recent written communication in this regard was letter with 9 exhibits from Sharon Duggan delivered to the City Council on June 26, 2001; it is on file with the City Clerk. These charges were repeated at the Council meeting on July 16, 2001 by Ms. Duggan's co-counsel Ann Jennings and other speakers. Martin Dodd on behalf of the project applicant has also written an e-mail on file with the City Clerk's office dated July 12 asserting that the Council may violate federal law if it fails to approve the project as redesigned or if it reduces Beth El program further in order to provide for the future day lighting of the creek. Based upon these charges and counter-charges, the City Attorney believes that litigation concerning this project is very likely. The Council will meet with the City Attorney and special counsel to obtain legal advice regarding litigation which is likely to ensue as a result of any action the Council takes on the project.

Adjourned to Open Session - Roll Call: 7:05 P.M.

CONTINUED PUBLIC HEARING RE TEMPLE BETH EL COUNCIL REVIEW OF 1301 OXFORD STREET LANDMARKS PRESERVATION COMMISSION DECISION

2. City Manager Reports (*see appropriate agenda packet of April 17, April 24, and July 16, 2001 for additional reports and communications*)

Continued public hearing regarding the decision of the Landmarks Preservation Commission to deny the application of Congregation Beth El for a Structural Alteration Permit 00-40000029 as required by Berkeley Municipal Code Section 3.24.200 to alter a City Landmark at 1301 Oxford Street by construction of a building and related facilities for operation of a Religious Assembly use.

Contact: Wendy Cosin, Planning and Development, 705-8105

The City Council has continued the public hearing on its review of the Landmarks Preservation Commission decision. Anyone wishing to submit written material on this matter, should submit the material to the City Clerk prior to or at this meeting. Anyone wishing to speak at the continued public hearing on the Landmarks decision that has not already spoken on this matter should obtain a speaker card from the City Clerk at this meeting. The Council may close the public hearing, receive oral and/or written reports from staff and from the mediator, may ask questions of staff, the mediator, the applicant and members of the public and may take any action regarding this matter. Such actions may include but are not limited to reviewing, considering, discussing, deliberating on the matter, giving direction to staff, calling special meeting(s) to continue these discussions or take additional action.

Public Testimony: The Mayor reopened the public hearing. 9 speakers heard. Moved, seconded, carried (Shirek/Maio; Absent - Breland) to close the public hearing.

COUNCIL DISCUSSION AND QUESTIONS - TEMPLE BETH EL, 1301 OXFORD STREET - COUNCIL REVIEW OF ZONING ADJUSTMENTS BOARD DECISION

3. City Manager Reports (*see appropriate agenda packets of April 17, April 24, June 5, 2001, June 26, 2001 and July 16, 2001 for additional reports and communications*)

Council review, consideration, discussion and deliberation regarding 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.

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

The Council has closed the public hearing on the Zoning Adjustments Board matter except for questions, which the Council may pose to the staff or members of the public and any report from mediation. Written material will continue to be accepted. Anyone wishing to submit written material on this matter, should submit the material to the City Clerk prior to or at this meeting. The Council may receive oral and/or written reports from staff and from the mediator, may ask questions of staff, the mediator, the applicant and members of the public and may take any action regarding this matter. Such actions may include but are not limited to reviewing, considering, discussing, deliberating on the matter, giving direction to staff, calling special meeting(s) to continue these discussions or take additional action.

- 4.** The meeting adjourned at 9:25 p.m.