

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, JULY 9, 2002

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### Preliminary Matters

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**Roll Call:** 7:10 p.m. All present.

**Ceremonial Matters:**

1. Vice Mayor Shirek recognized for being honored by the Board of Supervisors and other dignitaries including President Bush on her 91<sup>st</sup> birthday.

**Comments from the City Manager:**

1. Hate Crime Hotline, 981-5968, will be operational on Friday.
2. Police Chief Dash Butler was recognized for his service and invited to say a few words regarding his upcoming retirement.

**Comments from the Public:** 14 speakers.

**Comments from Youth:** 1 speaker.

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### Consent Calendar

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

1. **Fiscal Year 2003 Appropriation Ordinance** (*first reading 6/25/02 – Unanimous*)  
**From:** City Manager  
**Recommendation:** Adopt second reading of the FY 2003 Appropriation Ordinance.  
Contact: Phil Kamlarz, City Manager, 981-7000  
**Action:** Adopted Ordinance No. 6,693-N.S.
2. **Tax Rate: Fund Maintenance of Parks, Trees and Landscaping** (*first reading 6/25/02 – Unanimous*)  
**From:** City Manager  
**Recommendation:** Adopt second reading of an Ordinance levying a Fiscal Year 2003 special tax of \$.0961 per square foot of all improvements to fund the maintenance of parks, City trees, and landscaping in the City.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,694-N.S.

3. **Tax Rate: Emergency Medical Services** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance levying a Fiscal Year 2003 special tax of \$.025525 per square foot of all improvements to fund the provision of emergency medical services to Berkeley residents.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,695-N.S.
  
4. **Tax Rate: Emergency Services for the Severely Disabled** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance setting the Fiscal Year 2003 tax rate for the provision of emergency services for the disabled at \$0.00910 (.910 cents) per square foot of improvements.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,696-N.S.
  
5. **Tax Rate: Disaster Fire Protection-Measure Q** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance setting the Fiscal Year 2003 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,697-N.S.
  
6. **Tax Rate: General Obligation Bonds-Measure S** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance setting the Fiscal Year 2003 tax for Measure S General Obligation Bonds (Election of 1996) at 0.0450%.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,698-N.S.
  
7. **Tax Rate: Library Services** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance setting the Fiscal Year 2003 tax at \$0.1134 (11.34 cents) per square foot for dwelling units and \$0.1717 (17.17 cents) for industrial, commercial and institutional buildings.  
Contact: Phil Kamlarz, Deputy City Manager, 981-7000  
**Action:** Adopted Ordinance No. 6,699-N.S.

8. **Tax Rate: Fire Seismic General Obligation Bonds** (*first reading 6/25/02 – Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance setting the Fiscal Year 2003 tax rate for the Fire Seismic General Obligation Bonds (Election of 1992) at 0.0300%.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Ordinance No. 6,700-N.S.
  
9. **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. 61,659-N.S.
  
10. **Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for Council meetings of: a) June 11, 2002 (regular); b) June 18, 2002 (regular); c) June 25, 2002 (closed); d) June 25, 2002 (regular).  
Contact: Sherry M. Kelly, City Clerk, 981-6900  
**Action:** Approved minutes.
  
11. **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 \$248,508 for fitness center memberships for City employees and Legislative Assistants for the period from July 1, 2002 through June 30, 2003.  
Contact: Phil Kamlarz, City Manager, 981-7000  
**Action:** Adopted Resolution No. 61,660-N.S.

12. **Indecent Programming on Public, Educational and Government Channels (CF 77-02)**  
**From: City Manager**  
**Recommendation:** Adopt the first reading of an Ordinance adding Chapter 13.33 to Berkeley Municipal Code (BMC) imposing requirements concerning timing and adult content advisories on “Indecent Programming” on public, educational and government cable channels as defined, if the Council wishes to implement its directive of May 14, 2002  
Contact: Manuela Albuquerque, City Attorney, 981-6900  
**Action:** Removed from the Consent Calendar by Councilmember Spring and held over to July 23, 2002.
13. **Settlement Agreement: Mahmut Otus**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the property damage settlement of Public Liability Claim No. GHB 010589 submitted by Mahmut Otus in the amount of \$19,604.  
Contact: Manuela Albuquerque, City Attorney, 981-6900  
**Action:** Adopted Resolution No. 61,661-N.S.
14. **Contract: Family Caregiver Support Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to: 1) accept a three-year grant from the County of Alameda Area Agency on Aging for funds under Title III E of the Older Americans Act in the amount of \$94,428 for the period of July 1, 2002 to June 30, 2005 to provide support services to family caregivers; 2) execute any resultant revenue agreements and any amendments; and 3) execute a contract and any amendments with the City of Oakland’s Life Enrichment Agency Senior Companion Program to develop and administer a training program for senior companions for the period July 1, 2002 to June 30, 2005 in an amount not to exceed \$44,475.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,662-N.S.
15. **Certification of Environmental Impact Report and Approval of Structural Alteration Permit With Conditions – Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project (to be delivered)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution certifying the Environmental Report (EIR) and approving the Structural Alteration Permit with conditions and dismissing the appeals.  
Contact: Carol Barrett, Planning, 705-8105

**Actions:** Removed from the Consent Calendar by Spring. Moved, seconded, carried (Armstrong/Maio; Noes–Breland, Spring, Olds, Worthington) to adopt Resolution No. 61,663-N.S. and directing staff to come back to Council with a recommendation for a process that would include representatives of Turtle Island Monument to be involved in the development of the monument's design.

16. **Contract: Sanitary Sewer Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1) approving plans and specifications for the Sanitary Sewer Project located at Hilldale Avenue, Keeler Avenue, Forest Lane, Poplar Street, Madera Street, Sierra Street, Merced Street, Colusa Avenue and Josephine Street; 2) accepting the bid of Darcy and Harty Construction, Inc.; and 3) authorizing the City Manager to execute a contract and any amendments, in an amount not to exceed \$1,166,856 for the period of 220 calendar days from the notice to proceed.

Contact: Rene Cardinaux, Public Works, 981-6300

**Action:** Adopted Resolution No. 61,664-N.S.

17. **Contract: Berkeley Bay Trail** *(to be delivered)*

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to re-program \$800,000 in the FY 2003 budget and execute an amendment to the contract with Bauman Landscape, Inc. for additional and emergency items of work for the Berkeley Bay Trail Project, increasing the contract amount by \$800,000, for a total not to exceed \$3,578,000 for the period through October 31, 2002.

Contact: Rene Cardinaux, Public Works, 981-6300

**Action:** Adopted Resolution No. 61,665-N.S. with a request by Councilmember Spring the design be forwarded to the Commission on Disability for review.

18. **Installation of Traffic Signal at 6th and Virginia**

**From: City Manager**

**Recommendation:** Adopt a Resolution adopting a Notice of Categorical Exemption for the 6th and Virginia Streets traffic signal and authorize issuance of a Request for Proposals to execute a contract and any amendments, extensions or other change orders in an amount not to exceed \$150,000 in order to install traffic signals at 6th and Virginia Streets.

Contact: Peter Hillier, Transportation, 981-7000

**Action:** Adopted Resolution No. 61,666-N.S.

19. **Contract: Signs on Bicycle Boulevards**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the bid of the Chrisp Company for assembling and installing signs for designated bicycle boulevards and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$51,450.  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Removed from the Consent Calendar by Councilmember Armstrong. Withdrawn by the City Manager.
20. **Support for AB 58: Continuing Net Metering for Large Generators of Renewable Energy and Rationalizing the Methods by Which Electricity Credits and Debits Are Calculated**  
**From: Mayor Dean**  
**Recommendation:** Support AB 58 (Keeley) continuing and rationalizing net metering of electricity between renewable energy generators and traditional utilities attached to the grid and ask the City Clerk to forward a letter to Assembly Member Keeley with a copy to Legislative Advocate Kathryn Lynch and the City's representatives and lobbyist in Sacramento.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Approved recommendation.
21. **Support for SB 530: Renewing Statewide Incentives for Renewable Energy Generation Systems**  
**From: Mayor Dean**  
**Recommendation:** Support SB 530 (Sher, Bowen and Assembly Member Wayne) to renew and expand statewide incentives for renewable energy and ask the City Clerk to forward the a letter to Senator Sher with a copy to Legislative Advocate Kathryn Lynch and the City's representatives and lobbyist in Sacramento.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Approved recommendation.
22. **Urge United States Ratification of the Treaty for the Rights of Women**  
**From: Mayor Dean**  
**Recommendation:** The City Clerk write to President Bush, Secretary of State Colin Powell, Senator Joseph Biden (Chair, Senate Committee on Foreign Relations), Senators Boxer and Feinstein and the City's Washington lobbyist expressing the City's support for ratification of the Treaty for the Rights of Women.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Approved recommendation.

23. **Support for SB 444: Modifying California Natural Disaster Assistance Program Loan Arrangements for Certain Borrowers**

**Recommendation:** 1) Support SB 444 (Perata) that modifies loan arrangements under California Natural Disaster Assistance Program (CALDAP) to the benefit of several Berkeley borrowers (as well as borrowers statewide) by: a) if the borrower dies and the household income is below 120% of the area median, allowing the assumption of these loans for up to five years by the original borrower's spouse, domestic partner or child if they are part of the original borrower's household and continue to reside in the dwelling as a principal residence. The loan must be repaid by the end of the five year period, b) permitting subordination of the loan to new financing if the borrower's household income is below 120% of the area median or in cases of extreme hardship where new borrowing is necessary for health and safety or to pay health care costs and if the State's security interest will not be jeopardized. Currently, subordination is permitted only where the borrower is at 80% or less of the area median, c) allowing an otherwise-legal foreclosure to be delayed so long as the State's security interest is not jeopardized, and d) requiring better loan administration, especially the sending of annual statements to CALDAP borrowers; 2) Request the City Clerk notify the bill's sponsor and the City's Sacramento legislative representatives and lobbyist; and 3) request the City Manager to consider, as part of any local CALDAP workout, a requirement that the affected Berkeley borrowers take part in an asset management course that would be informative as to the mechanics of home ownership, finance and upkeep and any current or future changes in the CALDAP program.

Contact: Shirley Dean, Mayor, 981-7100

**Action:** Approved recommendation.

24. **Strategic Plan Which Includes Council Identification of Two-Year Goals and Objectives as Part of the Upcoming Budget Consideration**

**From: Mayor Dean**

**Recommendation:** Refer the establishment of a strategic planning process that includes identification by the Council of two-year goals and objectives as a part of the next two-year budget consideration to the City Manager. In making this referral, the Council makes it clear this is not a directive to the City Manager to establish a strategic plan process, nor is it a directive to hire a particular firm. The City Manager is requested to report back to the Council as to whether or not he recommends engaging in a strategic plan process, and if so, the elements of such a process and the timeframe in the budget process that it should occur.

Contact: Shirley Dean, Mayor, 981-7100

**Action:** Removed from the Consent calendar by Councilmember Spring and held over to July 23, 2002.

25. **Sponsor Breastfeeding Event, Waive Fees and Permit Donations**  
**From: Mayor Dean**  
**Recommendation:** Adopt a Resolution authorizing 1) the City Manager to sponsor an event to encourage breastfeeding to be held on August 3, 2002 in Martin Luther King, Jr. Park; 2) a waiver of Berkeley Municipal Code (BMC) Section 20.040 to allow a waiver of fees for event permit and insurance, vendor sound permits, maintenance deposit, staff installation of temporary street barrier, portable toilets and refuse cans, dumpsters and collection costs; and 3) permit donations and solicitation from sponsors to cover costs.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Adopted Resolution No. 61,667-N.S.
26. **Oppose Current Version of SB 1243: Merger of the Metropolitan Transportation Commission and the Association of Bay Area Governments**  
**From: Mayor Dean**  
**Recommendation:** Opposed the current version of SB 1243 (Torlakson) relating to a merger of the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG); encourage Senator Torlakson to amend the bill to ensure there is adequate representation of this region's core urban areas, an adequate system of decision-making accountability and transparency and a structure that encourages true regional partnership and consensus building; and ask the City Clerk to convey the substance of this recommendation to Senator Torlakson with copies to our Sacramento representatives and lobbyist, ABAG and MTC.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Removed from the Consent Calendar by Councilmember Worthington and held over to July 23, 2002.
27. **Fee Waivers: Redwood-Sequoia Week**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution supporting Redwood-Sequoia Week and waiving permit fees for the Redwood-Sequoia Congress March and special event activities September 14 -September 15 2002.  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Adopted Resolution No. 61,668-N.S.
28. **Oppose State Budget Cuts to California Arts Council**  
**From: Councilmember Worthington**  
**Recommendation:** Oppose the proposed State budget cuts to the California Arts Council and send letters to State representatives of the City's opposition.  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Approved recommendation.

29. **Fee Waiver: 17th Annual Berkeley Kite Festival**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution waiving fees for event, food, sound permits, insurance fees and police reserve fees associated with the 17th Annual Berkeley Kite Festival on July 27-28 2002 and approve the provision of eight portable toilets (including two handicap accessible), refuse containers and solid waste services and required number of parking enforcement officers determined by City staff.  
Contact: Kriss Worthington, District 7, 981-7170  
**Actions:** Removed from the Consent Calendar by Councilmember Olds. Moved, seconded, carried (Olds/Worthington; Absent - Maio) to adopt Resolution No. 61,669-N.S. waiving only the police reserve and parking enforcement fees estimated at \$2,000 to \$2,500 and asking the event coordinator make an effort to encourage the use of public transportation to the event.
30. **Excuse Councilmember Spring from July 16, 2002 Council Meeting**  
**From: Councilmember Spring**  
**Recommendation:** Excuse Councilmember Spring from the July 16, 2002 meeting due to the scheduling of hand surgery.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Approved recommendation.
31. **Support Peace and Justice Commission Recommendations Regarding Falun Gong**  
**From: Councilmember Spring**  
**Recommendation:** Adopt a Resolution supporting the Peace and Justice Commission's recommendations that the City adopt a Resolution and send a letter regarding complaints of government oppression and violence against members of the Falun Gong in Berkeley's sister city, the Haidian District of Beijing, China to the Mayor of our Chinese sister city and to other Chinese officials to investigate and advise of the situation and appeal to the Chinese government to resolve differences without resorting to violence.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Adopted Resolution No. 61,670-N.S. (Abstain-Armstrong, Olds)
32. **Deconstruction of Bevatron by Lawrence Berkeley National Laboratory**  
**From: Councilmember Spring**  
**Recommendation:** Adopt a Resolution to: 1) direct the City Manager write a letter to Director Shank of Lawrence Berkeley National Laboratory (LBNL) calling for cessation of all demolition of Bevatron and all handling, packaging and transport of all radioactive and hazardous materials and waste until an Environmental Impact Report (EIR) and an Environmental Impact Statement (EIS) under CEQA and NEPA has been submitted to the public well in advance of a public hearing for review and comment; 2) request the City Manager include in the letter to Director Shank a request for: a) copies of all shipping manifests

already shipped for all truckloads of radioactive and hazardous waste and materials from the Bevatron including for each all volumes of hazardous and radioactive materials and radioactivity in curies, b) the composition-characterization of the waste stream for each shipment, c) how the hazardous and radioactive materials and waste are handled and packaged and which U.S.D.O.T. regulations apply and how they are being implemented, d) which landfills in Richmond and Livermore will be used to bury some of the waste, e) how some of the radioactive waste will be recycled and which consumer goods will be affected, and f) what proportion is being left; and 3) that in accordance with BMC 12.90.100 A, B and C, the Council shall hold at least one well noticed hearing to decide the safest routes for transport of the hazardous and radioactive materials and waste from LBNL's Bevatron and request from LBNL a schedule of shipments so that the public could be notified particularly along the selected routes and also request that LBNL post on all involved trucks signage visible from fifty feet in both directions warning "Transportation of Nuclear Materials" and what are the risks for the citizens of Berkeley.

Contact: Dona Spring, District 4, 981-7140

**Action:** Removed from the Consent Calendar by Councilmember Hawley and carried over to July 23, 2002.

33. **West Berkeley Swimming Pool**

**From:** Councilmember Breland

**Recommendation:** Refer review of the feasibility of keeping the pool open all year round to the City Manager.

Contact: Margaret Breland, District 2, 981-7120

**Action:** Approved recommendation.

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**Action Calendar – Election Matters**

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34. **Initiative Petition Regulating Heights of Buildings in Berkeley on November 2002 Ballot**

**From:** City Manager

**Recommendation:** Take one of the following actions as provided by Section 92 (3 and 4) of the Charter: 1) pass an Ordinance without alteration within 20 days of the City Clerk's certification of sufficiency of the accompanying petition (subject to a referendary vote; or 2) adopt a Resolution placing the Ordinance without alteration on the ballot for the November 5, 2002 Election. If the Council approves placing the initiative on the ballot, provide comments on the City Attorney's analysis and ballot title.

Contact: Sherry M. Kelly, City Clerk, 981-6900

**Actions:** Moved, seconded, carried (Olds/Maio; Absent – Shirek, Worthington) to adopt Resolution No. 61,671-N.S. placing the measure on the ballot and asking the City Attorney to return on July 23, 2002 with revisions to her analysis.

35. **Staff Analysis of Initiative Petition Regulating Heights of Buildings**  
**From: City Manager**  
Contact: Carol Barrett, Planning and Development, 705-8100  
**Action:** Report received and filed.
36. **Initiative Petition Restricting Sale of Brewed Coffee to Organic, Fair-Trade, or Shade-Grown Certified Coffee on November 2002 Ballot**  
**From: City Manager**  
**Recommendation:** Take one of the following actions as provided by Section 92 (3 and 4) of the Charter: 1) pass an Ordinance without alteration within 20 days of the City Clerk's certification of sufficiency of the accompanying petition (subject to a referendary vote; or 2) adopt a Resolution placing the Ordinance without alteration on the ballot for the November 5, 2002 Election. If the Council approves placing the initiative on the ballot, provide comments on the City Attorney's analysis and ballot title.  
Contact: Sherry M. Kelly, City Clerk, 981-6900  
**Actions:** Moved to the Consent Calendar by Councilmember Breland. Adopted Resolution No. 61,672-N.S. placing the measure on the ballot.
37. **Initiative Petition: Restricting Sale of Brewed Coffee** *(Held over by Breland from 06/25/02)*  
**From: City Manager**  
**Recommendation:** Refer to the City Manager a proposed initiative for a report to Council as to any of the impacts specified in Election Code section 9212.  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Actions:** Moved to the Consent Calendar by Councilmember Breland. Approved recommendation.
38. **Amendment to Berkeley Municipal Code Section 11.56.070 (Ordinance No 5788-N.S. – Measure Q) on the November 2002 Ballot to Authorize Revision of the Waterfront Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution placing a measure on the November 5, 2002 ballot to amend the Berkeley Municipal Code Section 11.56.070 (Ordinance 5788-N.S. – Measure Q) to amend the Waterfront Specific Plan to change them amount and type of potential development on privately –owned property at the Berkeley Waterfront, so long as: development potential is not increased; any amendments are evaluated under the California Environmental Quality Act; and any amendments ensure that the property owner's constitutional rights are respected.  
Contact: Sherry Kelly, City Clerk, 981-6900/Manuela Albuquerque, City Attorney, 981-6950  
**Action:** Heard from representatives from Golden Gate Fields. Moved, seconded, carried (Olds/Worthington) to adopt Resolution No. 61,673-N.S. placing the measure on the ballot.

39. **Ballot Measures – Reports and Language on Measures and Placing Measures for Old City Hall Retrofit, New Animal Shelter, Pedestrian Safety Improvement Tax, and Increase to Real Property Transfer Tax for Affordable Housing on the November Ballot**

**From: City Manager**

**Recommendation:** Review and comment on ballot titles, texts and City Attorney Analyses and adopt Resolutions placing the following measures on the November 5, 2002 ballot: 1) general obligation bond measure to renovate, seismically retrofit, and improve accessibility to Old City Hall; 2) general obligation bond measure to build a new Animal Shelter; 3) tax for pedestrian safety improvements; and 4) increase to property transfer tax for Affordable Housing of 0.5%.

Contact: Manuela Albuquerque, City Attorney, 981-6950; Sherry M. Kelly, City Clerk, 981-6900

**Actions:** Moved, seconded, carried (Armstrong/Hawley; Noes–Spring, Worthington) to ask the City Attorney to make changes to the title and analysis and bring the final resolution back on July 23, 2002 for placing a measure on the ballot to renovate, seismically retrofit and make Old City Hall fully accessible.

Moved, seconded, carried (Worthington/Spring) to ask the City Attorney to make changes to the title and analysis and bring the final resolution back on July 23, 2002 for placing a measure on the ballot to build a new Animal Shelter.

Moved, seconded, carried (Worthington/Maio) to ask the City Attorney to make changes to the title, text and analysis and bring the final resolution back on July 23, 2002 for placing a measure on the ballot for a tax for Pedestrian Safety Improvements.

Moved, seconded, failed (Armstrong/Hawley; Noes – Breland, Maio, Olds; Abstain – Spring, Worthington) a substitute motion to place a measure on the ballot to increase the real property transfer tax by .25% for Affordable Housing.

Moved, seconded, carried (Spring/Maio; Noes–Armstrong, Olds, Dean) to ask the City Attorney to make changes to the title, text and analysis and bring the final resolution back on July 23, 2002 for placing a measure on the ballot to increase the real property transfer tax for Affordable Housing by 0.5%.

40. **Charter Amendment Increasing Compensation for School Board Directors on November Ballot**

**From: City Manager**

**Recommendation:** Review and comment on ballot title, text and City Attorney Analysis and adopt a Resolution placing a measure on the November ballot to amend Article V, Section 19 of the Charter to increase the compensation of School Board Directors.

Contact: Manuela Albuquerque, City Attorney, 981-6950; Sherry M. Kelly, City Clerk, 981-6900

**Action:** Moved, seconded, carried (Olds/Worthington) to adopt Resolution No. 61,674-N.S. placing the measure on the ballot.

41. **Charter Amendment Imposing an Audit Requirement on School Board**

**From: City Manager**

**Recommendation:** Council consideration of a citizen-sponsored recommendation that Council place a measure on the November 2002 ballot to condition approval of the Charter amendment concerning School Director remuneration increase on imposition of certain audit requirements on the Berkeley Unified School District. The Council may discuss placing a measure on the ballot amending the Charter or other implementing legislation to impose audit requirements on the School Board.

Contact: Manuela Albuquerque, City Attorney, 981-6950

**Action:** Moved, seconded, carried (Maio/Spring; Abstain-Olds) to refer this issue to the School Board and Superintendent (including the 2x2 Committee); requesting they seek expanded community involvement and the involvement of the Auditor's office; direct the City Attorney ask Assembly Member Aroner to request an Attorney General Opinion regarding the legal issues; and that the School Board and City staff provide the Council with quarterly progress reports and final recommendations within one year.

42. **Argument and Rebuttal Information Report**

**From: City Manager**

Contact: Sherry M. Kelly, City Clerk, 981-6900

**Action:** Received and filed.

43. **Ballot Measure Increasing Business License Fees on Rental Income Properties (to be delivered)**

**From: Councilmember Maio**

**Recommendation:** Place on the November 2002 ballot a measure to increase by 2% the business license fees on rental income properties for those units that have come to market under the Costa-Hawkins Bill and benefited from vacancy decontrol rent increases.

Contact: Linda Maio, District 1, 981-7110

**Action:** Withdrawn by Councilmember Maio.

## Action Calendar- Old Business

44. **Consider a Citywide 20 MPH Speed Limit in Residential Areas** (*Held over by Olds from 03/12/02, 03/19/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02, 06/11/02 and 06/25/02*)
- a. From: Councilmember Worthington**  
**Recommendation:** Refer to the Transportation Commission consideration of a citywide 20 MPH speed limit in residential areas.  
Contact: Kriss Worthington, District 7, 981-7170
- b. From: Mayor Dean**  
**Recommendation:** Propose the following substitute for the motion currently contained in the item above: (New language underlined, language to be omitted is shown in ~~strike through~~.) Refer to the staff and Transportation Commission for evaluation the proposal to consider a ~~citywide~~ 20 MPH speed limit in residential areas. Their consideration specifically is to include the following: 1) limiting consideration to streets that are designated residential; 2) developing criteria under which a street would be eligible for a 20 MPH designation; 3) developing a process which would be used when a specific street or streets are to be considered for a 20 MPH designation; and 4) determining the costs involved and recommendations for how such costs would be met in the budget. The staff and Transportation Commission are to return to the Council for approval of their recommendations.  
Contact: Shirley Dean, Mayor, 981-7100
- c. From: Mayor Dean**  
**Recommendation:** Add 5) the issue of enforcement feasibility and costs should be an integral part of the evaluation, including the development of the criteria for designation of particular streets.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Held over to July 23, 2002.
45. **Assisting Afghan Victims of the Devastating Earthquakes** (*Held over by Breland from 04/16/02, 04/23/0, 04/29/02, 05/14/02, 05/28/02, 06/11/02 and 06/25/02*)
- From: Councilmember Spring**  
**Recommendation:** Adopt a Resolution granting \$3000 to assist the Afghanistan victims of the devastating earthquakes; and request the City Manager to give City employees information on this opportunity to donate to the relief efforts.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Held over to July 23, 2002.

46. **Policy on Zoning Project Notices** (*Held over by Armstrong from 04/16/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02, 06/11/02 and 06/25/02*)  
**From: Councilmember Spring**  
**Recommendation:** That the Council refer to the City Manager and ask that he return with a timely response to the request for adoption of a policy that the Zoning Officer include, as a matter of course in both the notice and the summary that appear on Zoning Adjustments Board agendas; 1) the total lot-size of the project site, in square feet; 2) the number of affordable units, and the depth of their affordability, as well as a brief reference to how that number accords with the requirements of BZO Section 23C. 12.030; 3) the total number of dwelling units in the project, or square feet of gross floor area for non-residential projects; 4) the maximum residential density for the project-site; 5) the total square footage of any commercial or other non-residential area of the project; 6) the total number of floors of the project; and 7) the average and maximum height of the project.  
Contact: Dona Spring, District 4, 981-7140  
**Actions:** Moved to Consent Calendar by Councilmember Armstrong. Approved recommendation.
47. **Support for New Auto Related Uses on University Avenue Contingent on a Public Hearing** (*Held over by Hawley from 04/16/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02, 06/11/02 and 06/25/02*)  
**From: Councilmember Spring**  
**Recommendation:** Support allowing new auto related uses on University Avenue with the requirement that all new auto related uses are subject to a public hearing before approval or disapproval.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Held over to July 23, 2002.
48. **Strengthening the Creeks Preservation Ordinance** (*Held over by Hawley from 04/23/02, 04/29/02, 5/14/02, 05/28/02, 06/11/02 and 06/25/02*)  
**From: Councilmember Spring**  
**Recommendation:** Request that the City Attorney return by the first meeting in July with a finalized version of the revised Creek Preservation ordinance that will better protect our creeks to prevent any kind of development such as paving or creating driveways within 30 feet of a creek or underground creek or a culverted creek; and that the City strengthen its policy to open all underground creeks wherever possible.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Held over to July 23, 2002.

49. **Contract: Public Safety Building Tower Study** (*Held over by Armstrong from 05/21/02, 05/28/02, 06/11/2 and 06/25/02*)

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with MACRO Corporation for the Public Safety Building (PSB) Communications Tower study, increasing the contract by \$43,296, for a total amount not to exceed \$93,296 for field strength tests of the possible tower replacement alternatives for the period May 15, 2002 through August 30, 2002.

Contact: Rene Cardinaux, Public Works, 981-6300; John Rosenbrock, Capital Projects, 981-6331

**a. From: Councilmember Spring**

**Recommendation:** Request the City Manager return to Council after consulting with the Citizens Committee on the Public Safety Building Communications Tower to recommend appropriate next steps, including a public review process, to consider the execution of another contract with a consultant for further study of one or more alternatives to the present tower, and to develop a scope of work for such a consultant – all toward a goal of selecting a preferred alternative to the present tower.

Contact: Dona Spring, District 4, 981-7140

**b. From: Citizens' Budget Review Commission**

**Recommendation:** Request that 1) any action related to moving the tower be deferred until a comprehensive study of alternatives is complete; 2) the \$500,000 in General Fund appropriations included in the FY 2003 budget for the tower be released and funding for the project be deferred until the City's fiscal outlook improves.

Contact: Phil Kamlarz, City Manager, 981-7000

**c. From: City Manager**

**Recommendation:** The Council has previously taken action indicating its intent to relocate the Tower. A study of specific alternatives is planned for FY 2003. Consistent with Council's expressed intent, as well as preliminary cost estimates, the FY 2003 budget has recently been amended to provide \$500,000 in support of this project.

Contact: Phil Kamlarz, City Manger, 981-7000

**Action:** Held over to July 23, 2002.

50. **Peace and Justice Resolution Calling for an Injunction to Stop Oxidation Incineration** (*Held over by Armstrong from 05/21/02, 05/28/02, 06/11/02 and 06/25/02*)

**a. From: Councilmembers Spring and Worthington**

**Recommendation:** Approve the recommendations of the Commission and adopt a Resolution authorizing funds in the amount of \$15,000 to support a lawsuit, and an injunction to stop the oxidation-incineration of all radioactive mixed waste at the National Tritium Labeling Facility (NTLF), to be filed by the Committee to Minimize Toxic Waste, (CMTW) against the State of California Department of Toxic Substance Control for failure to require Lawrence Berkeley National Laboratory (LBNL) to do an Environmental Impact Report (EIR) under CEQA and an Environmental Impact Statement (EIS) under NEPA.

Contact: Councilmember Dona Spring, District 4, 981-7140; Kriss Worthington, District 7, 981-7170

**b. From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution authorizing funds in the amount of \$15,000 to support a lawsuit, and an injunction to stop the oxidation-incineration of all radioactive mixed waste at the National Tritium Labeling Facility, to be filed by the Committee to Minimize Toxic Waste, against the State of California Department of Toxic Substance Control for failure to require Lawrence Berkeley National Laboratory to do an Environmental Impact Report under CEQA and an Environmental Impact Statement under NEPA.

Contact: Manuel Hector, Secretary, 981-5110

**c. From: City Manager**

**Recommendation:** That no action be taken on the recommendation of the Peace and Justice Commission requesting Council to authorize funds in the amount of \$15,000 to support a lawsuit, and an injunction to stop the oxidation-incineration of all radioactive mixed waste at the National Tritium Labeling Facility.

Contact: Fred Medrano, Health and Human Services, 981-5100

**Actions:** Moved the City Manager's recommendation to Consent Calendar by Councilmember Spring with further revision that staff prepare a preliminary report on July 23, 2002 regarding waste treatability studies at LBNL and the monitoring of hazardous substances.

51. **Support for April 9<sup>th</sup> Protesters** (*Held over by Armstrong from 05/21/02, 05/28/02, 06/11/02 and 06/25/02*)

**From: Councilmember Worthington**

**Recommendation:** Adopt a Resolution that requests University of California Chancellor Berdahl to not take away students' opportunity for education and drop the suspensions for the April 9<sup>th</sup> protest. Also, request the District Attorney drop the charges for participating in the demonstration and protest rally.

Contact: Kriss Worthington, District 7, 981-7170

**Action:** Held over to July 23, 2002.

52. **Sidewalk Food Vending** (*First reading May 21, 2002 – Noes – Breland, Maio, Spring, Worthington*) (*Held over by Worthington from 05/28/02, 06/11/02 and 06/25/02*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance repealing and reenacting Chapter 9.49 of the Berkeley Municipal Code regulating Food Vending on Sidewalks and Rights-of-Way.  
Contact: Fran David, Finance, 981-7300  
**Action:** Held over to July 23, 2002.
53. **Policy for the Naming of Public Facilities (CF 266-00)** (*Held over from 05/28/02, 06/11/02 and 06/25/02*)  
**From: Parks and Recreation Commission**  
**Recommendation:** Adopt a Resolution approving the proposed policy for the naming and renaming of public facilities developed by the Parks and Recreation Commission.  
Contact: Jay Kelekian, Secretary 981-6700  
**a. From: City Manager**  
**Recommendation:** The City Manager takes no position concerning the Commission's recommendations.  
Contact: Lisa Caronna, Parks and Waterfront, 981-6700  
**Action:** Held over to July 23, 2002.
54. **Consolidation of Legislative Agenda Items** (*Held over by Hawley from 06/11/02 and 06/25/02*)  
**From: Councilmember Maio**  
**Recommendation:** Adopt a policy that recommendations to support State or Federal legislative bills be consolidated into one item for those recommended for support, one item for those recommended for opposition, so as not to overburden the agenda.  
Contact: Linda Maio, District 1, 981-7110  
**Action:** Held over to July 23, 2002.

55. **Hate Crime Immediate Response Plan** (*Held over by Olds from 06/11/02 and 06/25/02*)  
**From: Councilmember Worthington**  
**Recommendation:** Support the Hate Crime Immediate Response Plan that includes:  
 1) Agreeing to schedule a town hall meeting to show support for hate crime victims and developing a comprehensive plan for prompt effective responses, and prevention; 2) offering a \$5,000 reward to provide an incentive to get information on two hate crimes that happened in Berkeley (if this works, consider expanding to other hate crimes too); 3) endorsing the federal Hate Crimes Prevention Act HR 1343 and S 625; 4) committing to racial and religious diversity in the training team to do hate crime training for Police Department, City staff, and boards and commissions.  
 Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Held over to July 23, 2002.
56. **Ban on Purchase of Arsenic, Pentachlorophenol, and Creosote Treated Wood (CF161-01)** (*Held over from 06/11/02 and 06/25/02*)  
**From: Community Environmental Advisory Commission**  
**Recommendation:** Adopt a Resolution prohibiting purchase of penachlorophenol, arsenic and creosote - treated wood (treated wood) by all City departments.  
 Contact: Nabil Al-Hadithy, Secretary, 705-8155  
**a. From: City Manager**  
**Recommendation:** Adopt a substitute Resolution to allow the use of treated wood for a limited time for maintenance of structures on or in water.  
 Contact: Carol Barrett, Planning, 705-8101  
**Action:** Held over to July 23, 2002.
57. **Telecommunications Task Force Extension** (*Held over from 06/25/02*)  
**From: Telecommunications Task Force**  
**Recommendation:** Adopt a Resolution amending Resolution No. 61,152 N.S. extending the Telecommunications Task Force from June 30, 2002 to January 31, 2003.  
 Contact: Roger Miller, Secretary, 981-7009  
**a. From: City Manager**  
**Recommendation:** Take no action to extend the Task Force.  
 Contact: Phil Kamlarz, Deputy City Manager, 981-7000  
**Action:** Held over to July 23, 2002.

58. **Contract: Organic Materials Hauling and Processing** (*Held over by Dean from 06/25/02*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Grover Landscape Services, Inc., for hauling and processing of organic materials, to increase the amount of the initial two-year contract term by \$125,000, and to increase the amount of the four-year extension period to \$2,839,600.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved, seconded, carried (Spring/Worthington; Absent – Armstrong, Breland) to adopt Resolution No. 61,675-N.S. and requesting a report on food waste.

### Action Calendar – New Business

59. **Voting Delegates League of California Cities Conference**  
**From: City Manager**  
**Recommendation:** Designate a voting delegate and alternate for the business meeting of the Annual League of California Cities Conference on October 5, 2002.  
Contact: Sherry M. Kelly, City Clerk, 981-6900  
**Action:** Held over to July 23, 2002.
60. **Hate Crime Response Plan**  
**From: City Manager**  
**Recommendation:** Ratify the City Manager's Hate Crimes Response Plan.  
Contact: Weldon Rucker, City Manager, 981-7000  
**Action:** Held over to July 23, 2002.

### Information Reports

61. **Proposed State Budget Cuts for the Arts**  
**From: Peace and Justice Commission**  
Contact: Manuel Hector, Secretary, 981-5110  
**Action:** Received and filed.
62. **Formal Bid Solicitations and Request For Proposals Scheduled for Possible Issuance in the Next 30 Days**  
**From: City Manager**  
Contact: Fran David, Finance, 981-7300  
**Action:** Received and filed.

## Communications

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

Page No.

1. Berkeley Unified School District Salary Increase/Establishment of Auditor
  - a. Stephanie Allan
  - b. Tom DeMarcky
  
2. Initiative Petition Restricting the Sale of Brewed Coffee
  - a. Mike Montgomery
  - b. Terry Peterson
  - c. Rachel Rupert
  
3. Middle East Conflict (s)
  - a. Dave Love
  - b. Jake Berzon
  
4. Tritium Waste Treatment at LBNL
  - a. Ginny Lackner
  - b. Elmer Grossman **Dean, with a request for a report and recommendations from the City Manager**
  - c. Robin Wendt
  
5. Measure Q–North Basin Strip of Waterfront Ballot Measure **Breland, Dean**
  - a. Jennifer Hernandez
  
6. Affordable Housing Trust Fund
  - a. Senator Dianne Feinstein
  - b. Senator Barbara Boxer
  
7. Support for the Arts
  - a. Lisa Bullwinkel
  - b. Jan Zvaifler
  
8. Santa Fe Right of Way BOSS Urban Garden Institute Project
  - a. Tom Bates
  
9. Pedestrian Deaths and Injuries **Spring**
  - a. Frank Semko
  - b. Anne Marselis (2)
  
10. Restraining Order Enforcement
  - a. Anne Marselis

11. World Peace **Breland**
  - a. Jane Stillwater
  
12. UCB Payments under the Mitigation Implementation Agreement to the 1990 Long Range Development Plan **Breland**
  - a. Horace Mitchell, Vice Chancellor–Business and Administrative Services
  
13. Plastic Wrap/Microwave Carcinogen Link
  - a. Councilmember Linda Maio
  
14. Himalayan Fair **Maio, Spring, Worthington, Dean**
  - a. Karen Craig
  
15. Rental Housing Safety Program
  - a. John DeClercq
  
16. Response Regarding Copies of Petitions
  - a. President George W. Bush
  
17. Warm Water Pool **Maio, Dean**
  - a. Terry Cochrell
  - b. Bernard Finkle
  
18. Firework/Noise Complaint **Breland, Dean**
  - a. Sam Herbert
  
19. Food Vending Ordinance
  - a. Ari DaSilva
  
20. Martin Luther King Jr. Civic Center Park/Turtle Island Project **Breland, Spring, Worthington, Dean**
  - a. John Curl
  
21. Cure Covenant or Quit Issued to 1600 Pennsylvania Avenue, Washington, D.C.
  - a. Jane Stillwater
  
22. Transfer Tax
  - a. Laurie Capitelli

## SUPPLEMENTAL AGENDA REPORTS AND COMMUNICATIONS

**Item 15: Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project**

- 23. Charles L. Smith
- 24. Michael Katz

**Item 16: Sanitary Sewer Project**

- 25. Robert Krumme, Managing Partner, E\*Sorb Systems

**Item 36: Initiative Petition Restricting Sale of Brewed Coffee**

- 26. Deborah Badhia, Executive Director DBA Downtown Berkeley Association
- 27. Michael Katz

**Item 41: Charter Amendment Imposing an Audit Requirement on School Board**

- 28. Michiko Murillo
- 29. Michael Bauce
- 30. David Krasnor
- 31. Yolanda Huang
- 32. Linda A. Deaktor
- 33. Helga Holman, Ronald Rice
- 34. Mark S. Williams

**Item 49: Public Safety Building Tower Study**

- 35. Jane Phillips, Martha Riley Sharon Gallagher, Gail Ginett, Betsy Reeves, Diana Kuderna, Samantha

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### Adjournment

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Adjourned at 12:51 a.m. in memory of June Jordan's birthday.