

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, JULY 23, 2002

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### Preliminary Matters

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

**Comments from the City Manager:**

1. The Eastshore Park Preliminary General Plan and Draft EIR is now available on the Eastshore Park website at [www.eastshorestatepark.com](http://www.eastshorestatepark.com) or may be picked up at Kinko's in Emeryville. One copy per person is free of charge. In addition, Regional Workshop #4 will be held on Thursday, August 15, 2002 at Hs Lordship's Restaurant at 7:00 p.m.

**Comments from the Public:** 12 speakers.

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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. **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. 61,689-N.S.

2. **Minutes for Approval**

**From:** City Manager

**Recommendation:** Approve the minutes for Council meeting of July 9, 2002 (regular).

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

**Action:** Approved minutes.

## Consent Calendar

3. **Restrictions on Barbecues and Fires on Public Property** (*First Vote – Absent - Spring, July 16, 2002*)  
**From: City Manager**  
**Recommendation:** Adopt the second reading of an Ordinance adding Berkeley Municipal Code (BMC) Chapter 6.15 entitled “Restrictions on Barbecues and Fires on Public Property.”  
Contact: Manuela Albuquerque, City Attorney 981-6950  
**Action:** Adopted Ordinance No. 6701–N.S.
4. **Environmental Impact Report and Use Permits: 3000 Shasta Road Fire Station**  
**From: City Manager**  
**Recommendation:** 1) Adopt a Resolution certifying an Environmental Impact Report (EIR), adopting findings and conditions, approving Use Permits and a Variance for a City Fire Station at 3000 Shasta Road and dismissing the appeals; and 2) adopting first reading of an Ordinance amending Ordinance 6321-N.S. to allow for the removal of one coast live oak tree at 3000 Shasta Road.  
Contact: Carol Barrett, Planning, 705-8105  
**Actions:** Adopted Resolution No. 61,690–N.S. and first reading of Ordinance (Abstain–Worthington). Second reading of Ordinance scheduled for September 10, 2002.
5. **Settlement Agreement: Pollack, et al. v. City of Berkeley, et al.**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. 795350-3 entitled Charles Pollack and Joanna Cooper v. City of Berkeley, et al. in the amount of \$265,000, of which the City will pay \$167,475, and the Bay Cities Joint Powers Insurance Authority will pay \$97,525.  
Contact: Manuela Albuquerque, City Attorney, 981-6950  
**Action:** Adopted Resolution No. 61,691–N.S.
6. **Settlement Agreement: Nagai v. City of Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. 797782-2 entitled Gordon and Barbara Nagai v. City of Berkeley in the amount of \$75,000.  
Contact: Manuela Albuquerque, City Attorney, 981-6950  
**Action:** Adopted Resolution No. 61,692–N.S.

7. **Support AB 363: Disclosure by Public Agency Attorneys of Wrongdoing by Public Agency Officials**  
**From: City Manager**  
**Recommendation:** Support AB 363, disclosure by public agency attorneys of wrongdoing by public agency officials, if it is amended as set forth in the letter from the California League of Cities.  
Contact: Manuela Albuquerque, City Attorney, 981-6950  
**Action:** Approved recommendation.
  
8. **Contract: Berkeley Convention and Visitors Bureau**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors Bureau and Film Office for \$269,590 in FY 2003 to provide for continued program development and marketing plan implementation to assist visitors.  
Contact: Thomas Myers, Economic Development, 981-705-8123  
**Action:** Adopted Resolution No. 61,693–N.S.
  
9. **Lease: Quality Computers (Ken Chu)–2435 Channing Way in the Sather Gate Mall for the Purpose of Operating a Computer Hardware/Software Retail Store**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the execution of a lease agreement and any amendments with Quality Computers at 2435 Channing Way in the Sather Gate Mall, at \$2,198 per month for the purpose of operating a computer hardware/software retail store for a period of five years with an option for an additional five years.  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted first reading of Ordinance. Second reading scheduled for September 10, 2002. Mayor Dean commended Finance for their role in resolving the financial problems of the Sather Gate Mall.
  
10. **Contract: Board and Care Facility**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with the Berkeley Food and Housing Project for the operation of the Russell Street Residence, a licensed board and care facility, to increase the amount by \$12,473 for a total not to exceed \$234,478 and to extend the term to June 30, 2003.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,694–N.S.

11. **Grant: Improving Physical Activities for Older Adults**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a four year grant application in collaboration with San Mateo County to the Robert Wood Johnson Foundation for funds in the amount of \$320,000 in FY 2003 to provide activities that increase the number of Berkeley adults age 50 and older who engage in regular physical activity; to accept the grant; to execute any resultant revenue agreements and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,695–N.S.
  
12. **Grant: Childhood Obesity Prevention and Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept a grant from the California Department of Health Services for funds in the amount of \$52,000 for the period August 1, 2002 to September 30, 2003 to provide nutrition education activities to reduce the number of low-income African-American and Latino children in Berkeley who are overweight or obese; to execute any resultant revenue agreements and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,696–N.S.
  
13. **Contract: Health Systems Consultant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with George F. Timson for the development and maintenance of medical data management and billing software for the Department of Health and Human Services to extend the term to June 30, 2003.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,697–N.S.
  
14. **Contract: Shelter Plus Care**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract in an amount not to exceed \$231,390 and any amendments with Bonita House, Inc. as sponsor under the Shelter Plus Care Program for the period of July 1, 2002 through June 30, 2005.  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Adopted Resolution No. 61,698–N.S.

15. **Salary Increase: Forestry Climber, Senior Forestry Climber and Forestry Climber Supervisor Classifications**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 59,798–N.S., Classification and Salary Resolution for S.E.I.U., Local 790 Employees, to increase the salary range for the Forestry Climber, Senior Forestry Climber and Forestry Climber Supervisor classification to provide for an equity salary increase.  
Contact: Ron Brown, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 61,699–N.S.
  
16. **Bus Transportation for Recreation Programs**  
**from: City Manager**  
**Recommendation:** Adopt a Resolution authorizing expenditures of up to \$60,000 for bus transportation provided by the Berkeley Unified School District (BUSD) for Parks and Recreation and Waterfront Department recreation programs for the period July 1, 2002 to June 30, 2003.  
Contact: Lisa Caronna, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 61,700–N.S.
  
17. **Contract: Elevator for the Health and Human Services Offices at 2344 6th Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specification for the construction of a new elevator for the Health and Human Services offices at 2344 6th Street; accepting the bid of Daniel Lyons Builders; and authorizing the City Manager to execute a contract and any amendments with Daniel Lyons Builders for the elevator construction in an amount not to exceed \$335,500.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted Resolution No. 61,701–N.S.
  
18. **Contract: Architectural and Engineering Services for James Kenney Recreation Center**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Baker Vilar Architects to provide architectural and engineering services for the upgrade of James Kenney Recreation Center in an amount not to exceed \$60,000 for all services and reimbursable expenses for the period August 1, 2002 through December 31, 2003.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted Resolution No. 61,702–N.S.

19. **Final Map: Tract 7048 A, 5-Unit Condominium Project, 1320 Haskell Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Final Map of Tract Map 7048, a 5-unit condominium project located at 1320 Haskell Street.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted Resolution No. 61,703–N.S.
20. **Sewer Easement Deed Agreement: 11 Maryland Avenue**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance accepting an Easement Deed Agreement at 11 Maryland Avenue, for sanitary sewer pipe construction, with Andrew R. Greenwood and Sharan L. Ikeda (husband and wife) property owners.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted first reading of Ordinance. Second reading scheduled for September 10, 2002.
21. **Vacating the Northern Most 180.5 Feet of the Alley Between 9th and 10th Streets**  
**From: City Manager**  
**Recommendation:** 1) Adopt first reading of an Ordinance summarily vacating a portion of the public right-of-way, conveying the City’s interests in the vacated property to Carl and Susan Brodsky in exchange for the payment of \$8.70 per sq. ft. of easement to the City, said amount to cover the fair market value of the right-of-way to be vacated; and 2) use the money collected for creek and drainage improvements needed at Codornices Creek and 9th Street.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted first reading of Ordinance. Second reading scheduled for September 10, 2002.
22. **Contract: North Crossways Path Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specifications for the North Crossways Path Project; accepting the bid of AJW Construction Inc.; and authorizing the City Manager to execute a contract and any other amendments in an amount not to exceed \$30,000 for the period August 1, 2002 to December 30, 2002.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted Resolution No. 61,704–N.S.

23. **Contract: Parkside Drive and The Plaza Storm Drain Improvements and Street Reconstruction Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specifications for the Parkside Drive and The Plaza storm drain sewer improvements and street reconstruction project; accepting the bid of Andes Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$848,904 for the period of 160 calendar days.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted Resolution No. 61,705–N.S.
24. **Storm Sewer Easement Deed Agreements: 455 Boynton Avenue and 459 Boynton Avenue**  
**From: City Manager**  
**Recommendation:** Adopt first reading of Ordinances: 1) accepting an easement deed agreement for storm sewer drainage facilities with Paul Newacheck and Phyllis Fetto (husband and wife) of 455 Boynton Avenue; and 2) accepting an easement deed agreement for storm drainage facilities with Lisa Burnham of 459 Boynton Avenue.  
Contact: Rene Cardinaux, Public Works, 981-6400  
**Action:** Adopted first reading of Ordinances. Second readings scheduled for September 10, 2002.
25. **Contract: Replacement of Heating, Ventilation and Air Conditioning Equipment at South Berkeley Senior Center**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specifications for replacing heating, ventilation and air conditioning equipment at South Berkeley Senior Center at 2939 Ellis Street; accepting the bid of Walter Mork Co., Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$58,740.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 61,706–N.S.
26. **Contract: On-Call Traffic Engineer**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$30,000 for the period July 15, 2002 through June 30, 2003 with TJKM Transportation Consultants for on-call traffic engineering services.  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Adopted Resolution No. 61,707–N.S.

27. **Contract: On-Call Traffic Engineer**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$30,000 for the period July 15, 2002 through June 30, 2003 with DKS Associates for on-call traffic engineering services.  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Adopted Resolution No. 61,708–N.S.
28. **Designation of the Southern Pacific Railway Depot on the National Register of Historic Places**  
**From: Mayor Dean**  
**Recommendation:** Ask the City Manager to work with the Landmarks Preservation Commission, the Transportation Commission, the West Berkeley Project Area Committee, the Berkeley Architectural Heritage Association and other pertinent groups to formulate an application to have the Southern Pacific Railway Depot placed on the National Register of Historic Places.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Approved recommendation.
29. **Representing Strawberry Creek on Center Street**  
**From: Councilmember Spring**  
**Recommendation:** Grant permission to the Berkeley Arts Festival to affix a curving blue line of plastic, representing Strawberry Creek, on Center Street between Oxford Street and Shattuck Avenue.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Approved recommendation amended by Councilmember Armstrong to include a referral to the City Manager to ensure safety and disability issues are addressed.

30. **Oppose the Current Version of HR 3009 and Related Legislation (Omnibus Trade Legislation for the Americas, Chapter 11 of the North American Free Trade Agreement) with Respect to its “Takings” Provision and Support the Ongoing Efforts of Senator Kerry of Massachusetts to Correct the Deficiencies and Oppose Fast Track Provisions of International Trade Legislation**  
**From: Mayor Dean**  
**Recommendation:** Ask the City Clerk to write to Senator John Kerry of Massachusetts, with copies to our federal legislators and lobbyist, expressing support for Senator Kerry’s position opposing legislation that authorizes U.S. trade officials to negotiate trade agreements with other countries that allow foreign investors operating in this country to sue for money damages based on actions of federal, state or local governments that reduce the value of their investments. These suits would be heard by international arbitration panels that include foreign lawyers not trained in U.S. law, and their decisions would not be subject to review in U.S. courts.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Approved recommendation.
31. **Oppose the Patriot Act, Justice Department Directives and Executive Orders Preventing the Protection of Civil Rights and Liberties**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution opposing the Patriot Act, Justice Department directives and executive orders that prevent the protection of civil rights and liberties.  
Contact: Kriss Worthington, District 7, 981-7170  
**Actions:** Removed from the Consent Calendar by Councilmember Armstrong.  
Held over to September 10, 2002 by Councilmember Worthington.
32. **Refer Next Steps for Enforcement Actions for RUI One Corporation (Skates) to Comply with the Living Wage Ordinance**  
**From: Councilmember Worthington**  
**Recommendation:** Refer to the City Manager next steps for enforcement actions for RUI One Corporation (Skates) to comply with the Living Wage Ordinance.  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Approved revised recommendation to request that the City Manager enforce the lease between RUI One Corporation (Skates) and the City of Berkeley (which requires that it comply with all local laws, including the Living Wage Ordinance) by giving Skates notice of its breach of the lease in failing to comply with the City’s Living Wage Ordinance, serving formal notice on it to cure the breach or suffer a termination and forfeiture of its tenancy and authorize the City Attorney file an unlawful detainer (eviction) action, if necessary, to evict Skates from the Marina, should Skates fail to comply. The City Manager and City Attorney may take any other actions they deem necessary to enforce Skates’ compliance with the Living Wage Ordinance.

33. **City of Albany Plans Regarding Marin Avenue**  
**From: Mayor Dean**  
**Recommendation:** Request the City Manager ask the City of Albany about the status of a proposal to reduce the number of traffic lanes on Marin Avenue in Albany and what subsequent traffic impacts on other streets, such as Gilman, would result from implementation of such a proposal and report back to Council.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Hawley/Armstrong; Noes–Worthington, Absent–Shirek) to approve recommendation.
34. **Fee Waiver: Fifth Annual Gospelfest and Health Fair**  
**From: Councilmember Breland**  
**Recommendation:** Adopt a Resolution waiving fees for the Fifth Annual Gospel Fest and Health Fair hosted by New Life Outreach Ministries, August 17, 2002 at San Pablo Park.  
Contact: Margaret Breland, District 2, 981-7120  
**Action:** Adopted Resolution No. 61,709–N.S.
35. **Fee Waiver: United Nations Association’s Fourth Annual Run for Peace**  
**From: Councilmember Breland**  
**Recommendation:** Adopt a Resolution waiving fees for the East Bay Chapter of the United Nations Association’s Fourth Annual Run for Peace on September 15, 2002 at the Berkeley Marina.  
Contact: Margaret Breland, District 2, 981-7120  
**Action:** Adopted Resolution No. 61,710–N.S.
36. **Update of the 5-Year Street Plan**  
**From: Public Works Commission**  
**Recommendation:** Adopt a Resolution adopting the update of the 5-Year Street Plan for FY 2003-2007.  
**a. From: City Manager**  
**Recommendation:** The City Manager concurs with the recommendation of the Commission’s report with the correction that at the time the Public Works Commission took action on this report, the funding of the street program was not made clear. The budget balancing plan provides that in FY 2003, the General Fund contribution will be reduced by 10% to \$1,575,000, but will be offset by an increase of \$175,000 in Measure B Sales Tax, thereby maintaining a total program budget of \$3,237,000.  
Contact: Jeffrey Egeberg, Secretary, 981-6400  
**Actions:** Removed from the Consent Calendar by Councilmember Spring. Moved, seconded, carried (Spring/Worthington; Noes–Olds, Absent–Shirek) to adopt Resolution No. 61,711–N.S.

37. **Endorsement: Relocation of Bus Stops and Implementation of Queue Jump Lanes on San Pablo Avenue**  
**From: Transportation Commission**  
**Recommendation:** Adopt a Resolution endorsing the relocation of bus stops and implement the queue jump lanes on San Pablo as part of the Alameda-Contra Costa County Transit District (AC Transit) Rapid Bus project.  
**a. From: City Manager**  
**Recommendation:** The City Manager concurs with the Commission report.  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Adopted Resolution No. 61,712–N.S. with a stipulation by Councilmember Breland that the San Pablo Avenue and Dwight Way neighbors are kept informed of what is happening.
38. **Dragon Boats in the Marina (CF 31-02)**  
**From: Waterfront Commission**  
**Recommendation:** Adopt a Resolution approving the use of an inside tie in the Berkeley Marina by the Berkeley Dragons and the California Dragon Boat Association and waive berthing fees.  
**a. From: City Manager**  
**Recommendation:** The City Manager concurs with the Commission report.  
Contact: Cliff Marchetti, Secretary, 644-6376 (ext 224)  
**Action:** Adopted Resolution No. 61,713–N.S.

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**Action Calendar – Election Matters**

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39. **Ballot Measures: Placing Measures on the November 5, 2002 Ballot**  
**From: City Manager**  
**Recommendation:** 1) Review and comment on ballot titles, texts, and City Attorney analyses and adopt Resolutions placing the following measures on the November 5, 2002 ballot: a) general obligation bond measure to renovate and seismically retrofit Old City Hall and make it fully accessible; b) general obligation bond measure to build a new Animal Shelter; c) tax for Pedestrian Safety Improvements; and d) increase of 0.5% to real property transfer tax for Affordable Housing; and 2) review and comment on City Attorney’s analysis for the Height Initiative.  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Actions:** Moved, seconded, carried (Armstrong/Hawley; Noes–Spring, Worthington) adopt Resolution No. 61,714–N.S placing the general obligation bond to renovate and seismically retrofit Old City Hall on the November 5, 2002 ballot.
- Moved, seconded, carried (Olds/Armstrong) to adopt Resolution No. 61,715–N.S. placing the general obligation bond measure to build a new Animal Shelter on the November 5, 2002 ballot.

Moved, seconded, carried (Spring/Worthington; Noes–Olds) to adopt Resolution No. 61,716–N.S. placing the tax for Pedestrian Safety Improvements on the November 5, 2002 ballot as amended.

Moved, seconded, carried (Hawley/Worthington; Noes–Olds) to adopt Resolution No. 61,717–N.S. placing the increase of 0.5% to real property transfer tax for Affordable Housing on the November 5, 2002 ballot as amended.

40. **Staff Analysis of Coffee Initiative Restricting Sale of Brewed Coffee**  
**From: City Manager**  
Contact: Thomas Myers, Economic Development, 705-8123  
**Actions:** Received and filed.
  
41. **Ballot Measures Pedestrian Safety Improvements and Clean Stormwater**  
**From: Public Works Commission**  
**Recommendation:** 1) Redefine the Pedestrian Safety Improvements measure in order to provide funds to carry out the pedestrian safety priorities of the Bicycle and Pedestrian Safety report and plan adopted in 2000; and 2) Statement of disappointment that Clean Stormwater Fee will not be on the November ballot.  
Contact: Jeff Egeberg, Secretary, 981-6406  
**Action:** Received and filed.
  
42. **Opposition to Height Initiative**  
**From: Vice Mayor Shirek**  
**Recommendation:** Adopt a Resolution opposing the height initiative.  
Contact: Maudelle Shirek, District 3, 981-7130  
**Action:** Moved, seconded, carried (Shirek/Armstrong; Abstain–Spring) to adopt Resolution No. 61,718–N.S.

## Action Calendar - Appeals

43. **Approval of Use Permits – 2119 University Avenue**
- a. Appeal filed by Howie Muir and Clifford Fred** of the April 2, 2002 Zoning Adjustments Board approval of the project to 1) demolish a commercial structure; 2) create gross floor area over 5,000 square feet; 3) create a 5 story mixed used development with 44 dwelling units and commercial area; 4) modify the off-street parking requirement; and 5) findings made related to CEQA.  
Contact: Sherry Kelly, City Clerk, 981-6900
- b. City Manager Report**  
**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board approval of use permits for a mixed-use building with 44 dwelling units and commercial area and dismissing the appeal.  
Contact: Carol Barrett, Planning, 705-8102
- c. Communications**
1. Clifford Fred  
**Action:** Moved, seconded, carried (Armstrong/Breland; Abstain–Spring, Worthington) to adopt Resolution No. 61,719–N.S. affirming the Zoning Adjustments Board approval of use permits and dismissing the appeal.  
Councilmember Spring noted she supports the Zoning Adjustments Board’s parking mitigation fee for projects.
44. **Approval of Use Permits and Variance – 2323 Glen Avenue**
- a. Appeal filed by Anne-Marie Lhermitte** of the April 11, 2002 Zoning Adjustment Board approval of the project adopting a Mitigated Negative Declaration and approving use permits with findings and conditions for the project to 1) construct an 829 sq. ft. addition to an existing single-family residence; 2) reduce required rear yard setback from 18 ft. to 17 ft.; and 3) a variance to reduce a required 30 ft. setback from a creek to 8 ft.  
Contact: Sherry Kelly, City Clerk, 981-6900
- b. Appeal filed on behalf of the Sierra Club, Urban Creeks Council, Friends of Strawberry Creek and Center for Biological Diversity** of the April 11, 2002 Zoning Adjustment Board approval of the project adopting a Mitigated Negative Declaration and approving use permits with findings and conditions for the project to 1) construct an 829 sq. ft. addition to an existing single-family residence; 2) reduce required rear yard setback from 18 ft. to 17 ft.; and 3) a variance to reduce a required 30 ft. setback from a creek to 8 ft.  
Contact: Sherry Kelly, City Clerk, 981-6900

**c. City Manager Report**

**Recommendation:** Adopt a Resolution remanding the approval of the variance and use permits to the Zoning Adjustments Board to reconsider the approval for a major residential addition within 30 feet of a culverted creek using the criteria established by Berkeley Municipal Code Section 23B.44.030–Variances and 17.08.050–Preservation and Restoration of Natural Watercourses.

Contact: Carol Barrett, Planning, 705-8102

**d. Communications**

1. Freya and Mark Read
2. Anne-Marie Lhermitte
3. Michael W. Graf-Law Offices of Thomas N. Lippe on Behalf of the Sierra Club, Urban Creeks Council, Friends of Strawberry Creek, and the Center for Biological Diversity
4. Jeff Miller-Director, Alameda Creek Alliance
5. Steve Bloom-Conservation Chair, Sierra Club (Northern Alameda County Regional Group)
6. Lisa Viani-Conservation and Outreach Coordinator, Urban Creeks Council of California
7. Janet Byron on Behalf of the Friends of Strawberry Creek
8. Brent Plater- Center for Biological Diversity
9. Juliet Lamont and Phil Price
10. Elizabeth Shaughnessy, Stephen W. Shaughnessy, unable to read
11. Jim Cassell, Valerie Bach
12. Mary Ann Brewin
13. Nancy Levin, David Cavacon
14. Amelia Ellis
15. Alan Gould, Diane A. Tokugawa
16. Eleanor C. Clarke

**Actions:** Moved, seconded, failed (Hawley/Armstrong; Noes – Breland, Maio, Olds, Spring, Worthington, Dean) a substitute motion upholding the Zoning Adjustments Board approval and dismissing the appeal.

Moved, seconded, carried (Olds/Worthington; Noes–Armstrong, Hawley) a main motion to adopt Resolution No. 61,720–N.S. remanding the approval of the variance and use permits to the Zoning Adjustments Board to reconsider the approval for a major residential addition within 30 feet of a culverted creek using the criteria established by Berkeley Municipal Code Section 23B.44.030–Variances and 17.08.050–Preservation and Restoration of Natural Watercourses.

45. **Approval of Use Permits and Environmental Impact Report Certification – 2450 Ashby Avenue (Alta Bates Medical Center)**
- a. Appeal filed by Timothy Smallsreed, Fred Krieger, Jon Bain and Mark Chekal** of the April 25, 2002 Zoning Adjustment Board approval of the project to 1) certify the Environmental Impact Report (EIR) and approve use permits for: 1) the operation Alta Bates Medical Center-Ashby Campus as a hospital subject to performance standards for external impacts; 2) the establishment of thresholds of standards impact generated by the Alta Bates Medical Center-Ashby Campus; and 3) exterior alterations related to Emergency/Radiology Departments.  
Contact: Sherry Kelly, City Clerk, 981-6900
- b. Appeal filed by Julie Shearer** of the April 25, 2002 Zoning Adjustment Board approval of the project to 1) certify the Environmental Impact Report (EIR) and approve use permits for: 1) the operation Alta Bates Medical Center-Ashby Campus as a hospital subject to performance standards for external impacts; 2) the establishment of thresholds of standards impact generated by the Alta Bates Medical Center-Ashby Campus; and 3) exterior alterations related to Emergency/Radiology Departments.
- c. City Manager Report** (*to be delivered*)  
**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board approval subject to the approved plans, mitigations, aggregate impact levels, findings and conditions and dismissing the appeals.  
Contact: Carol Barrett, Planning, 705-8102
- d. Communications:**
1. Timothy Smallsreed, Fred Krieger, Jon Bain, Mark Chekal  
**Action:** Advised by City Manager Rucker both appeals were dropped. No action necessary.
46. **Approval of Use Permits – 2471 Shattuck Avenue**
- a. Appeal filed by Howie Muir** of the April 25, 2002 Zoning Adjustment Board approval of the project adopting a Mitigated Negative Declaration and approving use permits with findings and conditions to: 1) demolish 3 existing commercial buildings; 2) construct a 5 story 85,460 sq. ft. mixed use building with 100 dwelling units and commercial area ; 3) establish a 2000 sq. ft. café with sidewalk seating; 4) modify lot coverage, side, front and rear yard setbacks and the number of off-street parking spaces; 5) reduce required setback abutting residential zones; 6) allow reconstruction of a 4,749 sq. ft. cinema; and 7) allow mechanical equipment, an elevator tower and various architectural elements to exceed height limit of 60 ft. to 72 ft.  
Contact: Sherry Kelly, City Clerk, 981-6900

**b. City Manager Report**

**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board approval of a Mitigated Negative Declaration and use permits to allow a mixed-use building with café and cinema; dismissing the appeal; and taking no action on fee deferrals.

Contact: Carol Barrett, Planning, 705-8102

**c. Communications:**

1. Patrick Kennedy

**Action:** Moved, seconded, carried (Armstrong/Breland; Absent–Spring) to adopt Resolution No. 61,721–N.S. affirming the Zoning Adjustments Board approval of a Mitigated Negative Declaration and use permits; dismissing the appeal; and taking no action on fee deferrals.

47. **Approval of Use Permits - 2700 San Pablo Avenue**

**a. Appeal filed by Howie Muir and Douglas Press** of the Zoning Adjustments Board decision of February 28, 2002 and April 25, 2002 adopting a Mitigated Negative Declaration and approving use permits with findings and conditions for the project to 1) demolish an existing commercial building that is over 40 years old; 2) construct a 35,045 sq. ft. 4 story mixed-use building with 35 dwelling units and 5,266 sq. ft. of commercial area; and 3) allow an elevator tower room to exceed the 50-foot maximum height limit by 6 ft.

**b. From: City Manager**

**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board approval of a Mitigated Negative Declaration and use permits for the building; dismissing the appeal; and taking no action on fee deferrals.

Contact: Carol Barrett, Planning, 705-8102

**Action:** Moved, seconded, carried (Armstrong/Breland; Abstain–Worthington, Absent–Hawley, Spring) to adopt Resolution No. 61,722–N.S. affirming the Zoning Adjustments Board approval of a Mitigated Negative Declaration and use permits; dismissing the appeal; and taking no action on fee deferrals. (Councilmember Hawley recused herself at the recommendation of the City Attorney.)

## Action Calendar- Old Business

48. **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, 06/25/02 and 07/09/02*)
- 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:** Moved to the Consent Calendar by Councilmember Olds to approve recommendations 1 through 5; also referring to the Transportation Commission and staff consideration of establishing 15 mph speed limits for school zones.
49. **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, 06/25/02 and 07/09/02*)
- 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

**Actions:** Moved, seconded, (Spring/Worthington) a main motion to approve agreeing to donate \$3000 to Afghan victims with discretion by the City Manager to decide on the relief organization and to hold off allocating the funds until the September budget review.

Moved, seconded, carried (Armstrong/Hawley; Noes–Breland, Spring, Worthington, Absent–Maio) to refer to the budget process.

50. **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, 06/25/02 and 07/09/02)*

**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:** Moved, seconded, carried (Hawley/Spring; Abstain–Armstrong) to require hearings at the Zoning Adjustments Board for new auto related uses on University Avenue.

51. **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, 06/25/02 and 07/09/02)*

**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:** Moved, seconded, carried (Hawley/Armstrong) to refer to the City Manager issues related to drafting an ordinance with a progress report by the end of the year.

52. **Contract: Public Safety Building Tower Study** (*Held over by Armstrong from 05/21/02, 05/28/02, 06/11/02, 06/25/02 and 07/09/02*)

**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

**Actions:** Moved, seconded, carried (Maio.Spring; Noes–Armstrong, Olds, Absent–Shirek) to adopt Resolution 61,723–N.S. extending the contract through October 31, 2002 with the stipulation that the two options to be studied include relocating the towers to the top of the Civic Center Building and to a two tower (monopole) option on the ground at the Public Safety Building, and to take into consideration the flight pattern of birds.

53. **Support for April 9<sup>th</sup> Protesters** (Held over by Armstrong from 05/21/02, 05/28/02, 06/11/02, 06/25/02 and 07/09/02)  
**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 by Councilmember Worthington to September 10, 2002.
54. **Sidewalk Food Vending** (*First reading May 21, 2002 – Noes – Breland, Maio, Spring, Worthington*) (*Held over by Worthington from 05/28/02, 06/11/02, 06/25/02 and 07/09/02*)  
**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  
**Actions:** Moved to the Consent Calendar by Councilmember Breland and adopted Ordinance No. 6702–N.S. (Noes–Spring, Worthington).
55. **Policy for the Naming of Public Facilities (CF 266-00)** (*Held over from 05/28/02, 06/11/02, 06/25/02 and 07/09/02*)  
**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:** Moved, seconded, carried (Worthington/Maio) to send back to the Parks and Recreation Commission with Council's comments questioning the requirement of financial contributions and to consider other contributions to the community; whether a person needs to be deceased or not; and the prohibition of naming two facilities after the same person.

56. **Consolidation of Legislative Agenda Items** (Held over by Hawley from 06/11/02, 06/25/02 and 07/09/02)  
**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:** Moved, seconded, carried (Hawley/Maio) to approve recommendation with clarification that individual Councilmembers' items are to be consolidated as one item and a provision the policy will be evaluated in six months.
57. **Hate Crime Immediate Response Plan** (*Held over by Olds from 06/11/02, 06/25/02 and 07/09/02*)  
**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:** Moved to the Consent Calendar by Councilmember Olds.
58. **Ban on Purchase of Arsenic, Pentachlorophenol, and Creosote Treated Wood (CF161-01)** (*Held over from 06/11/02, 06/25/02 and 07/09/02*)  
**From: Community Environmental Advisory Commission**  
**Recommendation:** Adopt a Resolution prohibiting purchase of penachlorophenol, arsenic and creosote-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  
**Actions:** Moved, seconded (Olds/Shirek) a main motion to approve the City Manager recommendation.
- Moved, seconded, carried (Worthington/Spring; Noes–Hawley, Olds; Absent–Shirek) a substitute motion to adopt Resolution No. 61,724–N.S. prohibiting purchase of penachlorophenol, arsenic and creosote-treated wood by all City departments with the stipulation an exemption be granted by the Council in cases where there are no acceptable substitutes.

59. **Telecommunications Task Force Extension** (*Held over from 06/25/02 and 07/09/02*)

**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

**Actions:** Moved, seconded, failed (Spring/Worthington; Noes – Armstrong, Breland, Hawley, Olds, Shirek) a substitute motion to not extend the Task Force but to allow any prior member to sit on a Technical Advisory Committee.

Moved, seconded, carried (Hawley/Maio; Noes–Spring, Abstain–Dean, Worthington, Absent–Shirek) a main motion to take no action to extend the Task Force and for the City Manager to invite prior task force members to participate on a Technical Advisory Committee.

Councilmember Hawley commended and thanked the task force members for their contribution.

60. **Indecent Programming on Public, Educational and Government Channels (CF 77-02)** (*Held over by Spring from 07/09/02*)

**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

**a. From: Councilmember Spring**

**Recommendation:** Do not adopt an Ordinance to regulate “indecent” material on Berkeley Community Cable TV due to constitutional and other problems.

Contact: Dona Spring, District 4, 981-7140

**Action:** Moved, seconded, carried (Armstrong/Hawley; Noes–Maio, Spring, Worthington, Absent–Shirek) to adopt first reading of Ordinance. Second reading scheduled for September 10, 2002.

61. **Strategic Plan Which Includes Council Identification of Two-Year Goals and Objectives as Part of the Upcoming Budget Consideration** *(Held over by Spring from 07/09/02)*

**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:** Moved, seconded, carried (Hawley/Olds; Absent - Breland) to approve recommendation amended by Councilmember Worthington to focus the process on the City's workplans.

62. **Oppose Current Version of SB 1243: Merger of the Metropolitan Transportation Commission and the Association of Bay Area Governments** *(Held over by Worthington from 07/09/02)*

**From: Mayor Dean**

**Recommendation:** Oppose 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

**Actions:** Moved, seconded, failed (Worthington/Spring; Noes – Hawley, Olds; Abstain – Armstrong, Breland, Dean; Absent – Shirek) a main motion to send letters expressing concerns with issues raised in the recommendation and raised by the Bay Area Transportation Coalition to be considered as the bill is amended.

Moved, seconded, failed (Hawley/Olds; Noes – Worthington; Abstain – Breland, Maio, Spring; Absent – Shirek) to send letters opposing this bill unless it is amended.

63. **Deconstruction of Bevatron by Lawrence Berkeley National Laboratory**  
**From: Councilmember Spring** (*Held over by Hawley from 07/09/02*)  
**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

**Actions:** Moved, seconded, carried (Hawley/Armstrong; Noes–Olds, Armstrong, Abstain – Spring; Absent–Shirek) a main motion to refer to the City Manager and Community Environmental Advisory Commission an analysis of recommendations 1 and 2 of the report.

Moved, seconded, failed (Spring/Worthington) a substitute motion to approve the recommendation severed as follows:

Failed (Noes – Armstrong, Hawley, Maio, Olds, Dean; Absent – Shirek) recommendation 1 as stated in the report.

Failed (Noes – Armstrong, Hawley, Olds, Dean; Absent – Shirek) recommendation 2 (with the exception of 2e) as stated in the report.

Failed (Noes – Armstrong, Breland, Hawley, Maio, Olds, Dean, Worthington; Absent – Shirek) recommendation 2e as stated in the report.

Failed (Noes – Armstrong, Hawley, Maio, Olds; Abstain – Dean; Absent – Shirek) recommendation 3 as stated in the report.

64. **Voting Delegates League of California Cities Conference** (*Held over from 07/09/02*)  
**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:** Moved to the Consent Calendar by Mayor Dean with appointment of Councilmember Hawley as delegate and the City Manager to designate a staff alternate.
65. **Hate Crime Response Plan** (*Held over from 7/09/02*)  
**From:** City Manager  
**Recommendation:** Ratify the City Manager's Hate Crimes Response Plan.  
Contact: Weldon Rucker, City Manager, 981-7000  
**Action:** Moved to the Consent Calendar by Councilmember Olds.
66. **Transfer of Cable Franchise** (*held over from 6/25/02 and 7/16/02*)  
**From:** City Manager  
**Recommendation:** Adopt a Resolution denying 'local consent' to the transfer of control of the AT&T cable franchise to AT&T Comcast.  
Contact: Phil Kamlarz, City Manager 981-7000  
**Action:** Moved to the Consent Calendar by Mayor Dean and adopted Resolution No. 61,725–N.S.

**67. Recycling of Radioactive Waste into Household Items** (*held over by Hawley from 7/16/02*)

**From: Councilmember Spring**

**Recommendation:** Adopt a Resolution, and prior to the end of the comment period on July 29, 2002, send a letter to the Secretaries of the US NRC, US DOT and US DOE, Representative Lee and Senators Boxer and Feinstein,

1) expressing great concern and opposition to the proposed rules that would a) deregulate radioactive wastes and materials, b) allow the deliberate dispersal of radioactive materials into raw materials, products, the market place and our surroundings, and c) weaken domestic nuclear transport regulations; and 2) requesting the US and international governments prohibit release of radioactive waste and materials from nuclear power and weapons into the marketplace.

Contact: Dona Spring, District 4, 981-7140

**Actions:** Moved, seconded, failed (Armstrong/Olds; Abstain – Breland, Maio, Spring, Worthington; Absent – Shirek) a substitute motion to direct the City Clerk to write letters to NRC, DOT and DOE and our legislative representatives asking that all steps be taken to eliminate the deliberate dispersal of radioactive materials into raw materials, products, the market place and our surroundings.

Moved, seconded, carried (Spring/Worthington; Noes – Armstrong, Hawley, Olds; Absent - Shirek) a main motion to approve recommendations 1 a and b.

Moved, seconded, failed (Spring/Worthington; Noes – Hawley, Olds; Abstain – Armstrong, Breland, Dean; Absent – Shirek) a main motion to approve recommendation 1c.

Moved, seconded, carried (Spring/Worthington; Noes – Hawley, Olds; Abstain – Maio; Absent – Shirek) to approve recommendation 2.

**68. Arctic Wildlife Refuge Resolution**

**From: Councilmember Spring**

**Recommendation:** Refer to the City Manager a selective purchasing resolution requiring the City to refrain from knowingly purchasing goods or services from a company that purchases, leases or develops oil fields in the coastal plain of the Arctic National Wildlife Refuge; 2) request that the City Manager write a letter to the head of the four companies that want to drill in the refuge informing them of the Council's opposition to drilling in the Arctic National Wildlife Refuge; and 3) send a letter to Berkeley's federal elected officials urging them to support the Arctic Refuge Wilderness bill and designate the coastal plain as a protected wilderness area.

Contact: Dona Spring, District 4, 981-7140

**Action:** Held over by Councilmember Spring to September 10, 2002.

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**Action Calendar – New Business**

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69. **Use Portion of Santa Fe Right-of-Way for Community Gardens and Retail Nursery (CF 47-02)**

**From: City Manager**

**Recommendation:** Take one of the following actions: 1) Ask BOSS Urban Gardening Institute (BUGI) to provide letters of endorsement from surrounding neighborhood organizations and bring results back to Council; or 2) direct the City Manager to develop an agreement with BUGI to file an application for a use permit for the portion of the Santa Fe right-of-way (SFROW) at Sacramento and Oregon Streets for community gardens and a retail nursery; or 3) not take any action to sell or dispose property along the SFROW until an assessment and inventory of the entire SFROW has been completed and any project can be considered in the context of a larger planning process.

Contact: Carol Barrett, Planning and Development, 705-8100

**Action:** Moved to the Consent Calendar by Councilmember Armstrong directing the City Manager to develop an agreement with BUGI to file an application for a use permit for the portion of the Santa Fe right-of-way (SFROW) at Sacramento and Oregon Streets for community gardens and a retail nursery. Councilmember Olds noted she did not want this to set a precedent for the Santa Fe Right-of-Way.

70. **I-80/Ashby Interchange Project**

**From: City Manager**

**Recommendation:** Request the Alameda County Congestion Management Agency (CMA) ask Caltrans to report on the feasibility of maximizing park land in the immediate vicinity of the San Francisco Bay at Ashby Avenue at the same time the I-80 at Ashby interchange is reconstructed, such as by relocating Frontage Road to the east.

Contact: Peter Hillier, Transportation, 981-7000

**Action:** Moved, seconded, carried (Maio/Worthington; Absent - Shirek) to approve recommendation.

71. **Appointment to the Water Transit Authority Community Advisory Committee and Affirming Interest in Ferry Service**

**From: City Manager**

**Recommendation:** Adopt a Resolution supporting the recommendations of the Transportation Commission which a) authorize the appointment of the Assistant City Manager for Transportation to participate in the Water Transit Authority Community Advisory Committee; b) authorize the City Manager to send a letter to the Water Transit Authority affirming Berkeley's interest in an environmentally responsible ferry service from Berkeley-Albany waterfront to San Francisco and other destinations in the Bay Area, such letter to be consistent with Policy T-9 of the Berkeley General Plan; c) take into account the Sierra Club's 14 points of concern; and d) ensure the ferry service be accessible to all levels of income and accessibility. This action accepts and incorporates reports from various other commissions.

Contact: Peter Hillier, Transportation, 981-7000

**Actions:** Moved to the Consent Calendar by Mayor Dean and Resolution No. 61,726-N.S. authorizing the appointment of the Assistant City Manager for Transportation to participate in the Water Transit Authority Community Advisory Committee.

Moved, seconded, failed (Worthington/Spring; Noes – Armstrong, Breland, Olds, Dean; Absent – Shirek) a substitute motion to stay neutral on the City's position for ferry service and to adopt Recommendation (c and d) and to revise (b) to send letters expressing concerns that any ferry service must be environmentally responsible and that there be consideration for the financial impact of public transit especially bus service and further amended by Councilmember Hawley to ask the Authority to consider adding seamless transit connections between feeders and ferries and to also consider AC Transit being designated as the operator.

Moved, seconded, carried (Hawley/Breland; Abstain – Worthington; Absent – Shirek) a main motion to approve recommendation (b, c, and d) and further amended by Councilmember Hawley to state Berkeley's interest in considering an environmentally responsible ferry service and to ask the Authority to consider adding seamless transit connections between feeders and ferries and to also consider AC Transit being designated as the operator.

72. **Impact of Taxicab Fare Rate Increase on Taxi Scrip Program Recipients**  
**From: Commission on Aging**  
**Recommendation:** Adopt a Resolution increasing the budget for the Taxi Scrip Program by an additional 20% to offset the increase in taxicab fares that was approved by Resolution No. 61,458–N.S and have the Commissions on Aging and Disability review any future rate increases prior to Council consideration.
- a. From: City Manager**  
**Recommendation:** There has been insufficient time to consider the implications of the recommendations and I request no action be taken until I have an opportunity to respond at the meeting of September 24, 2002.  
Contact: Lisa Ploss, Secretary, 981-5178  
**Action:** Moved to the Consent Calendar by Mayor Dean and approved City Manager recommendation.
73. **Funding for Additional Engineer**  
**From: Transportation Commission**  
**Recommendation:** Authorize the City Manager to fully fund the Office of Transportation, in order to hire additional engineering staff to complete traffic and transportation projects and priorities.
- a. From City Manager**  
**Recommendation:** The Office of Transportation has a current vacancy in traffic engineering. Recruitment and hiring for this position will be completed in the next 2-3 months. The Office of Transportation will reevaluate at the end of the calendar year on the need for an additional traffic engineer. Any request for additional funds will be referred to the FY 2004 budget process. Traffic Engineering staff will be supplemented by on-call traffic engineering contractual services to be provided by TJKM Transportation Consultants and DKS Associates (subjects of two other reports being presented at this meeting).  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Moved to the Consent Calendar by Mayor Dean and approved the City Manager recommendation.

## Information Reports

74. **Homeless Storage Locker Program (CF 93-02)**  
**From: City Manager**  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Received and filed.
75. **Spruce Street Pavement Rehabilitation Project**  
**From: City Manager**  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Received and filed.
76. **Preliminary Report on Lawrence Berkeley National Laboratory (LBNL) Treatability Studies (to be delivered)**  
**From: City Manager**  
Contact: Carol Barrett, Planning, 705-8102  
**Action:** Received and filed.
77. **Update on Telegraph Avenue Traffic Signal Installation; Traffic Safety Plan Improvements at Willard and LeConte Schools**  
**From: City Manager**  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Moved to Action by Mayor Dean. Moved to Consent Calendar by Councilmember Worthington to thank the City Manager and Assistant City Manager for Transportation for proposals and suggestions and ask that additional proposals be considered as part of the community process and to also refer all letters and e-mails to staff.
78. **Detectable Warnings for New Curb Ramp Installations**  
**From: Commission on Disability**  
Contact: Paul Church, Secretary, 981-6342  
**Action:** Received and filed.

## Communications

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

Page No.

1. Ferry Service
  - a. Margit Roos-Collins **Hawley**
  - b. Karl Reeh
  - c. Charles Smith
  - d. Steve Krieg
  - e. David Schneider
  
2. 2323 Glen Avenue
  - a. Jane and Tom Kelly
  
3. 2628 Telegraph
  - a. Karl Reeh
  
4. 1234 Martin Luther King **Dean**
  - a. Arden Petrov
  
5. Sudden Oak Death
  - a. Linda Maio
  
6. Gordon Wozniak **Spring, Worthington**
  - a. Dorothy Vance, Melanie Bellah, Jac Scharlin, Lorie Brillinger, Joan Levinson, Rena Evelyn Wolfe
  
7. BOSS Urban Gardening Institute proposal for lots at Sacramento and Oregon Streets
  - a. Rivka Mason, Garden Coordinator/Instructor for Malcolm X Elementary School
  - b. Janet Savage, Director, Center for Public Health Practice, UC Berkeley
  - c. Petition from The Neighbors of ROC – 36 signatures
  - d. Frankie Fraser, San Pablo Neighborhood Council
  - e. Pastor K.R. Woods, Covenant Worship Center **Breland**
  - f. Stephen Swanson, President, Berkeley Partners for Parks
  - g. Willie Phillips, West Berkeley Neighborhood Development Corporation
  - h. Beatriz Leyva-Cutler, Bay Area Hispano Institute for Advancement, Inc.
  - i. Karl Linn
  - j. Molly Fraker, Chez Panisse Foundation
  - k. Melanie Okamoto, Food Systems Project
  - l. Christine Cherdboonmuang, Farm Fresh Choice
  - m. Thomas Nelson, Community Food Security Coalition
  - n. Martin Bourque, ecology center

- o. Poki Stewart Namkung, Health Officer, City of Berkeley
  - p. John T. Selawaky, Berkeley School Board
  - q. Suzan Bateson, Alameda County Community Food Bank
  - r. Katy Mamen, International Society for Ecology & Culture
  - s. Beebo Turman, Berkeley Community Gardening Collaborative
  - t. Patrick Cooke, Professional Property Services
  - u. Jennifer Brown
  - v. Stephanie Roeser
  - w. Marcy Greenhut
  - x. Jennifer Yates
  - y. Mikko Jokela
  - z. Tom Bates
  - aa. Sarah Howthorne, Attorney, US Department of Education
  - bb. Joann Diaz
  - cc. Petition with 443 signatures
- 8. Bevatron Facility
    - a. Jane Kelly, Public Citizen **Dean**
    - b. Marylia Kelly, Tri-Valley CAREs **Dean**
  - 9. EcoPass Program
    - a. Karen Craig
  - 10. Free Speech
    - a. Charlie Smith
  - 11. B-TV Programming **Dean**
    - a. James Chanin

**SUPPLEMENTAL AGENDA AND COMMUNICATIONS INFORMATION  
PART I**

**Item 4:            Environmental Impact report and Use Permits–3000 Shasta Road Fire Station**

- 12.     S.L. Rennacker

**Item 37:         Endorsement: Relocation of Bus Stops and Implementation of Queue Jump Lanes on San Pablo Avenue**

- 13.     Ann Fulayter and Heidi Spanier (2)

**Item 39:         Ballot Measures–Placing Measures on the November 5, 2002 Ballot**

- 14.     Wendy Alfsen

**Item 40:**      **Staff Analysis of Coffee Initiative Restricting Sale of Brewed Coffee**

15.      Deborah Badhia, DBA, Executive Director

**Item 42:**      **Opposition to Height Initiative**

16.      Roger Van Ouytsel
17.      Sharon Hudson
18.      Walter Wood
19.      Pamela Thomas
20.      Marie Bowman and Robert Baum
21.      Manuela Albuquerque, City Attorney, Building Height Limit Analysis

**Item 43:**      **Approval of Use Permits–2119 University Avenue**

22.      Roger Van Ouytsel
23.      Walter Wood
24.      Pamela Thomas
25.      Gale Garcia
26.      Marie Bowman
27.      Marie Bowman and Robert Baum
28.      Clifford Fred

**Item 44:**      **Approval of Use Permits and Variance–2323 Glen Avenue**

29.      Christopher Kroll
30.      Stephanie Antalocy
31.      Linda Riebel
32.      Jennifer Hammett and David Jung
33.      Caitlin Smith
34.      Juliet and Phil Price
35.      Jane and Tom Kelly
36.      Suzanne Jones
37.      Carole Norris and Alan Kay
38.      J. Amelia Ellis
39.      Eleanor Clarke
40.      Gary Cook
41.      Rebecca Sutton
42.      David Steichen
43.      Carol Thornton

**Item 45:**      **Approval of Use Permits and Environmental Impact report  
Certification–2450 Ashby Avenue (Alta Bates Medical Center)**

- 44.     Marty Barclay **Worthington**
- 45.     Timothy Smallsreed, Fred Krieger, Mark Chekal and Jon Bain  
**Worthington**
- 46.     Mark Chekal **Worthington**
- 47.     Julie Shearer
- 48.     Smallsreed, Timothy H. **Worthington**

**Item 46:**      **Approval of Use Permits–2471 Shattuck Avenue**

- 49.     Roger Van Ouytsel
- 50.     Pamela Thomas
- 51.     Marie Bowman and Robert Baum
- 52.     Leslie Landberg

**Item 47:**      **Approval of Use Permits–2700 San Pablo Avenue**

- 53.     Roger Van Ouytsel
- 54.     Pamela Thomas
- 55.     Leslie Marks
- 56.     Peter Teichner and Barbara Bent
- 57.     Wayne Salge and illegible name
- 58.     Kenneth Martison
- 59.     Name illegible
- 60.     Ross and Gail Brown
- 61.     Diana Pipic and Douglas Press
- 62.     Peggy and Steven Walstead
- 63.     Rebecca Jordan and illegible name
- 64.     Julie Dickinson
- 65.     Laurie Bright
- 66.     Marie Bowman and Robert Baum

**Item 54:**      **Sidewalk Food Vending**

- 67.     Ari DaSilva

**Item 60:**      **Indecent Programming on Public, Educational and Government  
Channels**

- 68.     Nancy Carelton
- 69.     Jim Chanin

**Item 62: Oppose Current Version of SB 1243–Merger of the Metropolitan Transportation Commission and the Association of Bay Area Governments**

70. Gwen Regalia (2)

**Item 63: Deconstruction of Bevatron by Lawrence Berkeley National Laboratory**

71. Jane Kelly

**Item 67: Recycling of Radioactive Waste into Household Items**

72. Jane Kelly

**Item 68: Arctic Wildlife Refuge Resolution**

73. Erin Milfeit

**Item 69: Use Portion of Santa Fe Right-of-Way for Community Gardens and Retail Nursery**

74. Kate Clayton

75. Nancy Carlton

**Item 71: Appointment to the Water Transit Authority Community Advisory Committee and Affirming Interest in Ferry Service**

76. Dorothy Walker

77. Claudia Kawczynska

78. Ed Mendelsohy

79. Stanley Erickson

80. Helen Burke

81. Mark Stout

82. Margaret Pratley

83. Jane Selezven

84. Michael Bornstein

85. Mike Daley

86. Ed Bennett

87. Juliet Lamont

88. Steve Bloom

89. John Rizzo

90. Robert Raburn

91. Linda Perry

92. Jerry Holan

93. Water Transit Authority Pamphlet

94. Berkeley Ferry Committee and Friends of the Albany Ferry  
Information Sheet and Resolution
95. Norman La Force, Sierra Club Resolution

**Item 77: Update on Telegraph Avenue Traffic Signal Installation: Traffic  
Safety Plan Improvements at Willard and Leconte Schools**

96. Wim-Kees van Hout **Worthington**

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**Adjournment**

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Adjourned at 2:20 a.m. in memory of Roycelle Marshall Daryl and Mary Jeffers.