

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, SEPTEMBER 17, 2002

Preliminary Matters

Roll Call: 7:01 p.m. – All present

Comments from the City Manager: The California Coastal Commission, the City of Berkeley, and local sponsors, present the annual Shoreline and Aquatic Park Clean-Up on Saturday, September 21 from 8:00 a.m.-12:30 p.m

Comments from the Public: 12 speakers heard

Consent Calendar

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

- 1. Repealing and Reenacting the Massage Parlor Permit Ordinance** (*First Vote – Unanimous, September 10, 2002*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Chapter 9.32 to codify the application requirements for a therapeutic massage permit; to allow the police to conduct criminal background checks on applicants and those individuals involved in the operation of a massage parlor; and to eliminate the requirement that a permittee be convicted of two public or criminal offenses before revocation of the permit can occur.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Ordinance No. 6708-N.S.
- 2. Lease: City's Central Duplicating and Mail Services (2055 Center Street)** (*First Vote – Unanimous, September 10, 2002*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement with RILCO-CENTER, LLC for a portion of 2055 Center Street to be used for the City's Central Duplicating and Mail Services, and authorizing rental payments of \$5,250 per month, for a total of \$63,000 in FY 2003, based on the letter of confirmation from Seagate Properties and authorizing additional operating expenses of \$12,000 for maintenance and utilities.
Contact: Fran David, Finance, 981-7300
Action: Adopted Ordinance No. 6709-N.S.

- 3. Administrative Penalty Ordinance and Resolution Establishing Penalties** *(First Vote – Unanimous, September 10, 2002)*
From: City Manager
Recommendation: 1) Adopt second reading of an Ordinance adding Chapter 1.28 to the Berkeley Municipal Code (BMC) authorizing administrative penalties for violations of City Ordinances and amending Section 1.20.020 relating to violations; and 2) adopt a Resolution establishing administrative penalties for violation of City Ordinances.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Ordinance No. 6710-N.S. and Resolution No. 61,763-N.S.
- 4. Fiscal Year 2004 and 2005 Biennial Budget Process and Calendar**
From: City Manager
Recommendation: Approve the FY 2004 and FY 2005 biennial budget process calendar, including specific dates for special Council work sessions on the budget to be scheduled on January 28, March 25, and May 6, 2003 beginning at 5:30 p.m.
From: Phil Kamlarz, City Manager, 981-7000
Action: Approved recommendation.
- 5. Contract: Easy Does It**
From: City Manager
Recommendation: 1) Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Easy Does It in an amount not to exceed \$113,935 for the period of September, 2002 through June 30, 2003 for a total of \$787,855; and 2) authorize Easy Does It to charge a \$6 fee for transportation calls.
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 61,750-N.S. - Mayor Dean requested action on item 2) be held over to October 8, 2002.
- 6. Contract: Pre-Apprenticeship Construction Training**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Oakland Private Industry Council for pre-apprenticeship construction training to be provided by the Cypress Mandela/WIST (Women in Skilled Trades) Program for the period September 1, 2002 through June 30, 2003 in an amount not to exceed \$42,000.
Contact: Fred Medrano, Health and Human Services 981-5100
Action: Adopted Resolution No. 61,751-N.S.
- 7. Development of the 9th Street Bicycle Path**
From: City Manager
Recommendation: Adopt first reading of an Ordinance accepting an easement for the bicycle path across 1001 Ashby Avenue from Affordable Housing Associates (AHA) in exchange for waiver of the City's First Right of Refusal for a portion of the property owned by Union Pacific Railroad, and authorizing the City Manager to execute any documents necessary to complete the transaction.
Contact: Stephen Barton, Housing 981-5400
Action: Adopted first reading of Ordinance. Second reading scheduled for September 24, 2002.

- 8. Retiree Health Premium Assistance Plan and Trust Agreement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement the Retiree Health Premium Assistance Plan document and trust agreement that provides the terms and conditions for providing retiree medical coverage to non-sworn employees and elected officials.
Contact: Ron Brown, Human Resources 981-6800
Action: Adopted Resolution No. 61,752-N.S.
- 9. Contract: Retiree Health Premium Assistance Plan–Third Party Administrator**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with The Lipman Company, Inc. providing services for the Retiree Health Premium Assistance Plan to increase the amount by \$70,000 and to extend the term until December 31, 2004.
Contact: Ron Brown, Human Resources 981-6800
Action: Adopted Resolution No. 61,753-N.S.
- 10. Contract: University of California Berkeley, Bonner Americorps Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the University of California at Berkeley for the Bonner Americorps Program to provide mentors at the James Kenney Recreation Center in an amount not to exceed \$22,516 as the City’s match for the period September 1, 2002 to August 31, 2003.
Contact: Lisa Caronna, Parks and Waterfront 981-6700
Action: Adopted Resolution No. 61,754-N.S.
- 11. Grant: 2003 Cash-for-Trash Recycling Contest**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a grant application with the Alameda County Source Reduction and Recycling Board and Waste Management Authority for funding for a Cash-For-Trash Recycling Contest in the amount of \$69,462.
Contact: Rene Cardinaux, Public Works 981-6300
Action: Adopted Resolution No. 61,755-N.S.
- 12. Final Map: 2470-88 Martin Luther King Junior Way**
From: City Manager
Recommendation: Adopt a Resolution approving the Final Map of Tract Map 7383, a 9-unit condominium project located at 2470-88 Martin Luther King Junior Way.
Contact: Rene Cardinaux, Public Works 981-6300
Action: Adopted Resolution No. 61,756-N.S.

- 13. Grant: Bicycle Projects**
From: City Manager
Recommendation: Adopt a Resolution: 1) authorizing the City Manager to submit a grant application in an amount not to exceed \$80,777 to the Metropolitan Transportation Commission (MTC) for Transportation Development Act Article 3 funds in FY 2003 for the Santa Fe Right of Way Bicycle and Pedestrian Path, execute any resultant agreements and amendments and authorize implementation of the project, subject to securing the grants; and 2) declaring the City as eligible to request an allocation of Transportation Development Act (TDA) Article 3 funds pursuant to Section 99234 of the Public Utilities Code, that there is no pending or threatened litigation that might adversely affect the project or projects as described in Attachment B, or that might impair the ability of the City to carry out the project, that the City attests to the accuracy of and approves the statements in Attachment A and that a certified copy of the Resolution be forwarded to the Alameda County Congestion Management Agency for submission to MTC.
Contact: Peter Hillier, Transportation 981-7000
Action: Adopted Resolution No. 61,757-N.S.
- 14. Evaluation of Fee Structure for Zoning Appeals**
From: Councilmember Olds
Recommendation: Request the City Manager study and evaluate the consequences of increasing the amount of an appeal for citizens who reside beyond the 300 foot radius of the subject property and report back to Council within 60 days with a recommendation.
Contact: Betty Olds, District 6, 981-7160
Action: Approved recommendation.
- 15. Support AB 1634: Nutrition Education (Chan)**
From: Councilmember Breland
Recommendation: Send a letter to California Governor Gray Davis in support of AB 1634 to ensure nutrition education be part of a school health program and provide funding for local schools to plant instructional gardens.
Contact: Margaret Breland, District 2, 981-7120
Action: Approved recommendation.
- 16. NAACP National Membership Month**
From: Councilmembers Breland, Maio, Worthington and Vice Mayor Shirek
Recommendation: Proclaim the month of October NAACP National Membership Month
Contact: Margaret Breland, District 2, 981-7120; Maudelle Shirek, District 3, 981-7130; Linda Maio, District 1, 981-7110; Kriss Worthington, District 7, 981-7170
Action: Approved recommendation.
- 17. 2002 Walk to School Day**
From: Councilmembers Breland, Maio, Worthington, Spring
Recommendation: Support the 2002 Walk to School Day activities on October 2, 2002.
Contact: Margaret Breland, District 2, 981-7120; Linda Maio, District 1, 981-7110; Kriss Worthington, District 7, 981-7170; Dona Spring, District 4, 981-7140
Action: Approved recommendation.

- 18. Re-Energize our Graffiti Abatement Program**
From: Councilmember Armstrong
Recommendation: Ask the City Manager evaluate the City's efforts against graffiti and re-energize the Graffiti Abatement Program.
Contact: Polly Armstrong, District 8, 981-7180
Action: Approved recommendation.
- 19. Fee Waivers: Berkeley Arts Access Festival**
From: Councilmembers Worthington and Spring
Recommendation: Adopt a Resolution waiving the special event fees for use, sound and insurance permits for the use of MLK Civic Center Park and the Veterans Building on October 5, 2002 for the Arts Access Festival and provide the following in-kind services: 1) four portable accessible toilet and possible access to toilets behind Civic Center; and 2) eight trash cans and dumpster, solid waste services.
Contact: Kriss Worthington, District 7, 981-7170; Dona Spring, District 4, 981-7140
Action: Adopted Resolution No. 61,758-N.S.
- 20. Support ASUC's Bill to Include the Dietary Needs of Muslim and Jewish Students in the Dining Service Food Program**
From: Councilmember Worthington
Recommendation: Support the Associated Students of the University of California's (ASUC) bill to include the dietary needs of Muslim and Jewish students in the Dining Service Food Program and send a letter of support to Assistant Vice Chancellor of Residential and Student Service Program, Mr. Harry Le Grande.
Contact: Kriss Worthington, District 7, 981-7170
Action: Approved recommendation.
- 21. Destruction of Trees at Aquatic Park**
From: Councilmember Spring
Recommendation: Request that City Manager contact Southern Pacific Railroad and ask that they discontinue the current practice of topping and destroying trees between the rail road tracks and Aquatic Park.
Contact: Dona Spring, District 4, 981-7170
Action: Approved recommendation.
- 22. Support "Come Home Pacifica" and its Return to Berkeley**
From: Councilmember Worthington
Recommendation: Support the effort to return Pacifica's national office to Berkeley and send a letter to each of the interim Pacifica Board Members inviting, welcoming, and encouraging them to come home to Berkeley.
Contact: Kriss Worthington, District 7, 981-7170
Action: Approved recommendation.

- 23. Follow-Up on Commuter Check Program**
From: Councilmember Spring
Recommendation: Direct City Manager to implement a Commuter Check Transit Voucher Program for all City employees to cover all non-private vehicle commute travel including BART and vanpools which does not demand parking in central Berkeley.
Contact: Dona Spring, District 4, 981-7140
Action: Approved recommendation.
- 24. Residential Permit Parking Reform**
From: Councilmember Spring
Recommendation: Request the City Manager implement the administrative change reported to the Council on March 12, 2002 to allow Residential Preferential Parking permit holders to automatically purchase five one-day permits every year that are not designated by staff as applying to a specific date or license plate number.
Contact: Dona Spring, District 4, 981-7140
Action: Removed from Consent Calendar by Councilmember Armstrong. Held over to September 24, 2002.
- 25. Proclamation for National League of Cities Race Equality Week**
From: Councilmembers Worthington and Breland
Recommendation: Support the proclamation for National League of Cities Race Equality Week, September 23-29, 2002.
Contact: Kriss Worthington, District 7, 981-7170; Margaret Breland, District 2, 981-7120
Action: Approved recommendation.
- 26. Broadcasting the Women's Health Forum**
From: Councilmember Maio
Recommendation: Adopt a Resolution granting the Commission on the Status of Women \$240 to offset the cost of broadcasting and taping the Women's Health Forum being sponsored by the commission on Thursday, October 17, 2002.
Contact: Linda Maio, District 1, 981-7110
Action: Adopted Resolution No. 61,759-N.S.
- 27. The Ohlone Greenway Natural and Cultural History Interpretive Exhibit**
From: Councilmember Maio
Recommendation: Approve proclamation and presentation schedule to celebrate the dedication of the Ohlone Greenway Natural and Cultural History Interpretive Exhibit on September 24, 2002.
Contact: Linda Maio, District 1, 981-7110
Action: Approved recommendation.
- 28. Business License Tax Audit Annual Report Fiscal Year 2001**
From: City Auditor
Recommendation: Request the City Manager clear the findings and implement the recommendations contained in this report by January 31, 2003 and return to Council in March 2003 with a report on results achieved.
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.

- 29. Parks Recreation and Waterfront Cash Receipts/Cash Handling Audit**
From: City Auditor
Recommendation: Request the City Manager report back in March and July 2003 on progress made in implementing the Auditor's recommendations.
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
- 30. Treasury Cash Receipts/Cash Handling Audit**
From: City Auditor
Recommendation: Request the City Manager report back to Council in March and July 2003 on implementation of the auditor's recommendations.
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
- 31. Parking Prohibited on Marina Streets**
From: Waterfront Commission
Recommendation: Request the City Manager investigate prohibiting any parking of large trucks and trailers and other commercial trucks 24 hours per day on Seawall Drive, Spinnaker Way, Marina Boulevard, and University Avenue in the Marina.
a. From: City Manager
Recommendation: The City Manager concurs with the Commission's recommendation.
Contact: Cliff Marchetti, Secretary, 644-6376, x224
Action: Approved recommendation.
- 32. Parking Prohibited on Certain Marina Street at Certain Times (CF-117-02)**
From: Waterfront Commission
Recommendation: Adopt first reading of Ordinance amending Berkeley Municipal Code (BMC) to add section 6.20.255 to prohibit the parking of all vehicles and trailers between 2:00 a.m. and 6:00 a.m. daily on Seawall Drive, Spinnaker Way, Marina Boulevard, and University Avenue in the Marina.
a. From: City Manager
Recommendation: The City Manager concurs with the Commission's recommendation.
Contact: Cliff Marchetti, Secretary, 644-6376, x224
Action: Adopted first reading of Ordinance. Second reading scheduled for September 24, 2002.

Action Calendar – Presentations

33. Discussion and Possible Action Related to Proposed Swimming Pool Closures *(to be delivered)*

City Manager

Recommendation: Adopt a resolution to: 1) Keep West Campus pool open year round, provided that the Bears Swim Club agrees to increase its user fees by \$10,000 to a total of \$22,000 for the entire year; 2) Ensure that the existing senior aerobics program at West Campus pool operated by the Berkeley Unified School District (BUSD) Adult School Program remains open; 3) Close Willard pool for five months (11/15-4/12), provided the existing shower program for the homeless remains available; 4) Provide for a total of twenty (20) weeks of Physical Education (PE) Swim Programs at Willard Middle School (ten weeks in both the fall and spring seasons); and 5) Direct the City Manager to review the fee structure for all swim programs and their respective schedules, including consideration of rotating any pool closures, and report back to the Council during the next biennial budget process (FY 2004 and FY 2005).

Contact: Lisa Caronna, Parks and Waterfront, 981-6700

Action: Moved, seconded, carried (Worthington/Breland) to adopt Resolution No. 61,760-N.S. to approve recommendations 1, 2, and 5, and ask that staff work with a subcommittee of users to explore options for additional funding and usage. Deferred action on recommendations 3 and 4 until October 15, 2002 as part of budget discussion.

Action Calendar – Public Hearings

34. Fees for Floating Homes; Additional Person Charge for Live-Aboards; and Charter Vessels

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution amending Resolution 61,576-N.S. approving the following revisions to the rate schedule in the Berkeley Marina: 1) establish a berth rate schedule for the thirteen floating homes in the Marina at the same per four berth rate assessed to all berthers with 48 and 52 foot slips; 2) a floating home assessment of \$125 per month that is the same as the live-aboard fee assessed to the owner of a cruising live-aboard vessel; 3) establish a use fee of \$.50 per customer for charter vessels docked in private docks in the Marine; and 4) eliminate the \$50 per month fee for additional persons living aboard vessels in the Marina.

Contact: Lisa Caronna, Parks and Waterfront 981-6700

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Shirek/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Armstrong/Spring;) to adopt Resolution No. 61,761-N.S.

35. Fee for Tuolumne Camp

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution approving an increase of existing fees and establishment of new fees for Tuolumne Camp for the two-year period, October 1, 2002 through September 30, 2003 and rescind Resolution No. 61,080-N.S.

Contact: Lisa Caronna, Parks and Waterfront, 981-6700

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Spring/Breland) to close the public hearing.

Action: Moved, seconded, carried (Spring/Breland; Absent - Armstrong) to adopt Resolution No. 61,762-N.S.

Information Reports

36. Evaluation of Center Street Garage Evening Rates (CF 218-01)

From: City Manager

Contact: Fran David, Finance 981-7300/Peter Hillier, Transportation 981-7000

Action: Received and filed.

37. 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.

38. Campaign for Access and Reproductive Equity (CARE 2000) Postcard Writing Campaign

From: Councilmember Worthington

Contact: Kriss Worthington, District 7, 981-7170

Action: Moved to Action by Councilmember Spring and held over to September 24, 2002 .

Communications

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

Swimming Pools (Breland)

1. Terry Cochrell, Archeitect-South Pool User
2. Frederick J. Lupke
3. Lynda Winslow

AB-1058

4. Charlie Peters

AB-2637

5. Charlie Peters

SB-910 and SB-498

6. Joseph L. Dunn, Senator, 34th District

Closed Captioning

7. Ray Dobard

Stuart/Russell Traffic Signs **(Breland)**

8. Karl Reeh, President LeConte Neighborhood Association

Zoning Adjustments Board Broadcast

9. John Denton, Ruth Denton **(Olds, Dean) Mayor Dean requested report from City Manager on October 8, 2002**

Parking Permits **(Breland, Spring, Worthington, Dean)**

10. Temina Madon

Bolivar Drive in Aquatic Park **(Breland, Spring, Worthington, Hawley, Dean)**

11. Hank Resnik

Supplemental Reports and Communications #1

Item 33 Proposed Swimming Pool Closures (Breland)

12. Sydney Vilen
13. Daryn Glasgow
14. Lisa Buchberg and Ralph Kaywin
15. Jeanne Kortz and Jean Peters
16. Eileen and Johannes Moderbacher
17. Ursula Stoller

Supplemental Reports and Communications #2

Item 33 Swimming Pool Closures

18. Barbara Kirkpatrick, Principal-Berkeley Adult School
19. West Campus Pool Petition from Sydney Vilen

Race Equality Week-September 23-29, 2002

20. Karen Anderson, President-National League of Cities

Adjournment

The meeting adjourned at: 8:42 p.m.