

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, SEPTEMBER 24, 2002

### Preliminary Matters

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

**Ceremonial Matters:**

1. Proclamation in honor of the The Ohlone Greenway Natural and Cultural History Interpretive Exhibit.
2. Proclamation in honor of Berkeley Reads Lifelong Literacy and Learning for All.
3. Proclamation in honor of the 11th Annual Indigenous Peoples Day.

**Actions:** Presented Proclamations.

**Comments from the City Manager:**

1. The Police Review Commission will hold a *The Police and You* community meeting on September 25th, from 7:00 to 8:00 p.m., at Trinity United Methodist Church.
2. The How Berkeley Can You Be Parade will be held Sunday, September 29th at 12:00 p.m.

**Comments from the Public:** 9 speakers.

### Consent Calendar

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

1. **Parking Prohibited on Certain Marina Streets at Certain Times (CF-117-02)** (*First Vote – 9/17/02 Unanimous*)

**From:** Waterfront Commission

**Recommendation:** Adopt second 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.

Contact: Cliff Marchetti, Secretary, 644-6376, x224

**Action:** Adopted Ordinance No. 6711–N.S.

- 2. Development of the 9th Street Bicycle Path** (*First Vote – 9/17/02 Unanimous*)  
**From: City Manager**  
**Recommendation:** Adopt second 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 Ordinance No. 6712–N.S.
- 3. Contract: Restroom Renovation, Center Street Garage**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution increasing the expenditure authority for the City Manager by an additional amount of \$22,000, which will bring the total contingency expenditure under the contract to \$34,326, and the not to exceed amount of the contract to \$95,956, for the disabled accessible renovation of restrooms at Center Street Garage.  
Contact: John Rosenbrock, Capital Projects, 981-6331/Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 61,764–N.S.
- 4. “Smart Lights” Award Ceremony**  
**From: City Manager**  
**Recommendation:** Present awards at the October 8, 2002 Council Meeting to five companies who helped pioneer the “Smart Lights” energy efficient lighting program in Berkeley.  
Contact: Stephen Barton, Housing 981-5400  
**Action:** Approved recommendation. Awards scheduled for October 8, 2002.
- 5. Contract: 2.7% at Age 55 Retirement Formula for Miscellaneous Employees**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution of Intention to amend the City’s contract with the California Public Employees’ Retirement System (CalPERS) to provide the 2.7% at Age 55 Full and Modified Retirement Formula as set forth in California Code Section 21354.5 for local miscellaneous employees only to be effective January 5, 2003.  
Contact: Ron Brown, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 61,765–N.S.

**6. Contract: Sanitary Sewer Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1) approving plans and specifications for the sanitary sewer project located at Piedmont Avenue, Linden Avenue, Magnolia Street, Pine Avenue, Hill Road, Atlas Place, Summit Road, Ajax Place, Fairlawn Drive, California Street, Channing Way, and Spaulding Avenue; 2) accepting the bid of J. Howard Engineering, Inc.; and 3) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders in an amount not to exceed \$1,008,967 for the period of 220 calendar days from the notice to proceed.

Contact: Rene Cardinaux, Public Works, 981-6300

**Action:** Adopted Resolution No. 61,766–N.S.

**7. Inclusion of Cost of Automatic Gas Shutoff Valves in Seismic Rebate Portion of the Real Estate Transfer Tax**

**From: Mayor Dean**

**Recommendation:** Request the City Manager ensure that the purchase and installation of an automatic gas shutoff valve at the time of property transfer is eligible to be included in the seismic retrofit provision of the transfer tax regulations.

Contact: Shirley Dean, Mayor 981-7100

**Action:** Approved recommendation.

**8. Support Ballot Measure BB–\$1.05 Billion Bond Measure for Seismic Retrofit of BART**

**From: Mayor Dean**

**Recommendation:** Support Ballot Measure BB, to be voted on November 5, 2002 in Alameda, Contra Costa, and San Francisco counties, to allow BART to issue a \$1.05 billion bond, repayable over approximately 40 years, dedicated to the seismic retrofit of BART facilities; and ask the City Clerk to advise the Committee for BART Seismic Safety and the BART Board of the City's support and add the City to the official list of supporters.

Contact: Shirley Dean, Mayor 981-7100

**Action:** Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Armstrong/Olds; Noes–Worthington) to approve recommendation.

**9. Support AB 2651–Improve Conditions for Gay, Lesbian, Bisexual, and Transgender Foster Care Youth**

**From: Mayor Dean**

**Recommendation:** 1) Support AB 2651 (Chu) which reiterates and expands the rights and safety of all youth in foster care, especially gay, lesbian, bisexual, and transgender youth (GLBT), and the ability to place GLBT youth with foster parents of similar sexual orientation; and 2) ask the City Clerk to write Governor Davis (who has the enrolled bill on his desk) conveying Council's support.

Contact: Shirley Dean, Mayor 981-7100

**Action:** Approved recommendation.

- 10. Parking Issues Relating to Eastshore State Park and the Berkeley Marina**  
**From: Mayor Dean**  
**Recommendation:** 1) With respect to parking plans for Eastshore State Park, as an alternative to building large-scale parking on the actual park lands in Berkeley, which is being considered by park planners, City Council support, to the extent feasible, day parking along the northern side of University Avenue at the Meadow and along the eastern side of Marina Boulevard (which is currently composed of gravel); and 2) propose that existing parking lots at the Marina be kept as is and not be further developed into concrete parking lots.  
Contact: Shirley Dean, Mayor 981-7100  
**Action:** Referred to the Parks and Recreation Commission and the Waterfront Commission.
- 11. Reallocation of \$1.16 Million in State Penalties Applied to Berkeley Unified School District, for the Benefit of BUSD (AB 2859)**  
**From: Mayor Dean**  
**Recommendation:** Ask the City Clerk to write Governor Davis (who will very shortly receive the enrolled bill) conveying Council's support and requesting his signature on AB 2859 (Arnoer), which reallocates penalties for which the Berkeley Unified School District (BUSD) is liable in a manner beneficial to BUSD.  
Contact: Shirley Dean, Mayor 981-7100  
**Action:** Approved recommendation.
- 12. Oppose California State Proposition 49: Before and After School Programs**  
**From: Councilmember Hawley**  
**Recommendation:** Oppose California State Proposition 49, which should require the State to provide up to \$550 million a year from the General Fund for before and after school programs. It would create continuing appropriation, without provisions for new funds to pay for the program, a sunset clause, or provisions for adequate, ongoing review.  
Contact: Mim Hawley, District 5, 981-7150  
**Action:** Removed from the Consent Calendar by Councilmember Breland. Moved, seconded, carried (Hawley/Worthington; Noes-Breland; Absent-Spring) to approve recommendation.
- 13. Oppose California State Proposition 51: Traffic Congestion Relief and Safe School Bus Act**  
**From: Councilmember Hawley**  
**Recommendation:** Oppose California State Proposition 51, which earmarks funding for 45 specified projects totaling \$910 million in 2003-04, with subsequent annual increases.  
Contact: Mim Hawley, District 5, 981-7150  
**Action:** Removed from the Consent Calendar by Councilmember Worthington and held over to October 8, 2002.

- 14. Public Forum on the Height Initiative**  
**From: Councilmember Armstrong**  
**Recommendation:** Ask the City Manager to sponsor a public forum on the Height Initiative (Measure P).  
 Contact: Polly Armstrong, District 8, 981-7180  
**Action:** Withdrawn by Councilmember Armstrong with the announcement of a debate regarding Measure P to be held at Berkeley Community Media Studio on October 3rd at 7:00 p.m. and to be broadcast on B-TV.
- 15. Resolution for the International Longshore and Warehouse Union's Contract Negotiations**  
**From: Councilmember Worthington**  
**Recommendation:** Support the Resolution for the International Longshore and Warehouse Union's (ILWU) contract negotiations.  
 Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Adopted Resolution No. 61,767–N.S.
- 16. Proclamation of 11th Annual Indigenous Peoples Day**  
**From: Councilmember Worthington**  
**Recommendation:** Support the proclamation of the 11th Annual Indigenous Peoples Day.  
 Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Approved recommendation. Proclamation presented following the adoption of the Consent Calendar.
- 17. Proclamation for National Coming Out Day October 11, 2002**  
**From: Councilmember Worthington**  
**Recommendation:** Support the proclamation for National Coming Out Day on October 11, 2002.  
 Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Approved recommendation. Proclamation to be presented on October 8, 2002.

<b>Action Calendar – Presentations</b>
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- 18. Tenth-Year Review of Effectiveness of Development Agreement for Bayer Corporation**  
**From: City Manager**  
 Contact: Carol Barrett, Planning, 981-7400  
**Action:** Presentation made.

## Action Calendar – Public Hearings

**19. Intention to Use Fiscal Year 2003 Citizens Option for Public Safety Grant Funding for a Youth Center**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion, adopt a Resolution authorizing the City Manager to accept and appropriate approximately \$208,000 in California Citizens Option for Public Safety (State COPS) grant funding for Fiscal Year 2003 to be used for matching funds for the Murray-Hayden Urban Park and Youth Service Program Grant Request submitted by Parks Recreation and Waterfront.

Contact: Roy Meisner, Police, 981-5700

**Public Testimony:** The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Hawley/Maio; Absent - Armstrong) to close public hearing.

**Action:** Moved, seconded, carried (Maio/Worthington; Absent - Armstrong) to adopt Resolution No. 61,768–N.S.

**20. 2002 Local Law Enforcement Block Grant**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion, adopt a Resolution to: 1) authorize the City Manager to accept and appropriate \$196,882 in Federal funds from the 2002 Local Law Enforcement Block Grant (LLEBG) Program to be used to continue funding a Patrol Officer position for a period of approximately 24 months; 2) transfer \$21,876 from the Police Department General Fund budget to cover the required local match; and 3) establish a trust account for these funds until they are expended.

Contact: Roy Meisner, Police, 981-5700

**Public Testimony:** The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Hawley/Worthington; Absent - Armstrong) to close public hearing.

**Action:** Moved, seconded, carried (Maio/Worthington; Absent - Armstrong) to adopt Resolution No. 61,769–N.S.

## Action Calendar – Old Business

**21. Council Meeting Calendar: Year 2003** *(Removed by Councilmember Spring 9/10/02)*

**From: City Manager**

**Recommendation:** Adopt a Resolution (either Option A or Option B) establishing a calendar for the City Council regular meetings for the Year 2003 with starting times of 7:00 p.m. and workshop meetings to be scheduled on specific dates starting at 5:30 p.m.

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

**Action:** Moved, seconded, carried (Spring/Worthington; Absent - Armstrong) to adopt Resolution No. 61,770–N.S. (Option B) with the exception of adding October 7<sup>th</sup> and deleting October 28<sup>th</sup> from the calendar.

22. **Residential Permit Parking Reform** *(Removed by Councilmember Armstrong 9/17/02)*  
**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: Combined with Item 26. Moved, seconded, carried (Spring/Breland) to set public hearing after the first of the year.
23. **Campaign for Access and Reproductive Equity (CARE 2000) Postcard Writing Campaign** *(Removed by Councilmember Spring 9/17/02)*  
**From: Councilmember Worthington**  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Moved to the Consent Calendar by Councilmember Spring with encouragement to citizens to call the Capitol Switchboard at 202-224-3121 and to send letters.

<b>Action Calendar – New Business</b>
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24. **Loan Agreement: Assist with Alternative Housing Costs for Residents Displaced by the U.A. Homes Fire**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to develop loan terms and execute a loan agreement with Resources for Community Development, Inc. (RCD) for up to \$150,000 to assist with relocation costs for displaces of U.A. Homes located at 1040 University Avenue.  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Moved to the Consent Calendar by Councilmember Maio. Adopted Resolution No. 61,771–N.S.
25. **Support for Exploring a Joint Powers Authority for Playing Fields at Eastshore Park**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution supporting the City of Albany’s effort to form a Joint Powers Authority (JPA) for the purpose of developing, maintaining, and operating sports fields and facilities in Eastshore Park.  
Contact: Lisa Caronna, Parks and Waterfront 981-6700  
**Action:** Moved, seconded, carried (Worthington/Armstrong) to adopt Resolution No.61,772–N.S. with amendments to the Resolution language supporting the City of Albany’s effort to form a Joint Powers Agreement or Authority for the purpose of developing, maintaining, and operating sports fields and facilities in Eastshore Park and other locations in participating East Bay cities.

26. **Residential Preferential Parking Program** *(to be delivered)*  
**From:** City Manager  
**Recommendation:** Give direction to the City Manager on proposed changes to the Residential Preferential Parking Ordinance; administrative policies; and proposed fees and schedule a public hearing for new or increased fees.  
Contact: Fran David, Finance, 981-7300  
**Action:** Considered with Item 22. Moved, seconded, carried (Spring/Breland) to set a public hearing after the first of the year.

### Information Reports

27. **Early Voting for November 5, 2002 Election**  
**From:** City Manager  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Action:** Received and filed.
28. **Grant: Case Management Services–Postpartum Women**  
**From:** City Manager  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Received and filed.
29. **Fee Deferral Request for 2101 Milvia Street**  
**From:** City Manager  
Contact: Carol Barrett, Planning, 981-7400  
**Action:** Moved, seconded, carried (Spring/Worthington) to approve the fee deferral request with additional stipulations that a floor plan be developed and the money be available within two months in order that the interior build out for the Computer Technology Program can proceed.
30. **City of Albany Plans Regarding Marin Avenue (CF 123-02)**  
**From:** City Manager  
Contact: Peter Hillier, Transportation, 981-7000  
**Action:** Received and filed.

### Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations.*

#### **Closed Captioning of Council Meetings**

1. Ray Dobard (2)

#### **Sexy Shows on B-TV (Olds)**

2. BHighHo17

#### **Measure P, Residential Density and the Upper Limit of Development**

3. Howie Muir

**Berkeley Repertory Theater** (*Hawley*)

4. John DeClercq

**Habitot Children's Museum** (*Hawley*)

5. John DeClercq

**Berkeley Skate Park** (*Hawley*)

6. Doug Fielding

**Supplemental Reports and Communications #1**

**Item 13**      **Oppose California State Proposition 51: Traffic Congestion Relief and Safe School Bus Act**

7. Councilmember Hawley

**Item 25**      **Support for Exploring a Joint Powers Authority for Playing Fields at Eastshore Park**

8. Rhiannon

**Supplemental Reports and Communications #2**

**Item 12**      **Oppose California State Proposition 49: Before and After School Programs**

9. Councilmember Hawley

**Item 25**      **Support for Exploring a Joint Powers Authority for Playing Fields at Eastshore Park**

10. Parks and Recreation Commission

**Adjournment**

Adjourned at 10: 14 p.m.