

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, OCTOBER 15, 2002

Preliminary Matters

Roll Call: 7:04 p.m. – All present

Ceremonial Matters: Proclamation for National Coming Out Day

Action: Held over to October 22, 2002 meeting.

Comments from the City Manager: None.

Comments from the Public: 10 speakers.

Consent Calendar

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

1. **Smokefree Doorways (CF 23-02)** (*First Reading Vote – 10/08/02 Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 12.70, the Smoking Pollution Control Ordinance, of Title 12, Public Health, to add Section 12.70.030.U and to amend Sections 12.70.060A and 12.70.060D relating to a ban on smoking within 20 feet of entrances, exits, and air intake vents of buildings open to the public.

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

Action: Adopted Ordinance No. 6713–N.S. Effective: November 14, 2002

2. **Regulating Business Licenses** (*First Reading Vote 10/08/02 - Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Chapter 9.04 of the Berkeley Municipal Code (BMC), to delete references to any specific version of the Standard Industrial Classification (SIC) Manual.

Contact: Fran David, Finance 981-7300

Action: Adopted Ordinance No. 6714–N.S. Effective: November 14, 2002

3. **Adoption of the 2001 Berkeley Fire Code** *(to be delivered)*
 - a. **From: City Manager**

Recommendation: 1) Adopt a Resolution adopting findings as to the local climatic, geological, and topographical conditions rendering local fire standards that are more stringent than those mandated by the 2001 California Fire Code, 2) Adopt first reading of an ordinance repealing Chapter 19.48 of the Berkeley Municipal Code (BMC) 1997 Uniform Fire Code, and reenacting Chapter 19.48 to adopt with amendments, the 2001 California Fire Code and Uniform Fire Code Standards.
Contact: Reginald Garcia, Fire 981-3473
Action: Adopted Resolution No. 61,782-N.S. and first reading of Ordinance . Second reading on October 22, 2002.
 - b. **From: Housing Advisory Commission**

Recommendation: Approve the City Manager recommendation to adopt the proposed 2001 California Fire Code as amended except for the exclusion of the language contained in Section 1006.2.9.3.1.1 which reads “Nothing in this section shall preclude a rental or lease agreement from providing that a tenant has the responsibility for repair or maintenance of smoke alarms.”
Contact: Oscar A. Sung, Secretary, 981-5410
Action: Approved recommendation.
4. **Contract: Storage Lockers (CF 93-02)**

From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Shattuck Avenue Self Storage for the provision of storage lockers to individuals experiencing homelessness for the period October 1, 2002 through September 30, 2003 in an amount not to exceed \$47,520.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,783-N.S. and also referred to the City Manager feasibility of providing access to restrooms and also concerns for expansion of the program and making it more effective.
5. **Contract: Janitorial Services**

From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Universal Building Services for janitorial services for a period November 1, 2002 through June 30, 2003 in an amount not to exceed \$35,000.
Contact: Fred Medrano, Health and Human Services 981-5100
Action: Adopted Resolution No. 61,784-N.S.

6. **Shelter Plus Care Supportive Housing Grant Renewal Award**
From: City Manager
Recommendation: Adopt a Resolution: 1) accepting a grant renewal award of \$1,372,000 from the Federal Department of Housing and Urban Development for tenant-based rental assistance for formerly homeless individuals and families in the City's Shelter Plus Care Supportive Housing Program for a one-year period beginning May 24, 2002; and 2) authorizing contracts and/or contract amendments totaling \$47,998 with community based state agencies: Berkeley Food and Housing Project (\$16,000); Building Opportunities for Self-Sufficiency (\$16,000); Coalition for Alternatives in Mental Health (\$2,975); Homeless Action Center (\$10,048) and the Women's Daytime Drop-In Center (\$2,975).
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,785-N.S.

7. **Facility Payments: Community Breakfast Program** *(to be delivered)*
From: City Manager
Recommendation: Adopt a Resolution approving the payment of \$10,825 to Trinity United Methodist Church for facility payments relating to the operation of the Catholic Worker/Dorothy Day House community breakfast program; and authorizing monthly payments, beginning November 1, 2002, of \$2,055 to Trinity United Methodist Church for facility usage pending completion and approval of a lease agreement between the City of Berkeley and Trinity United Methodist Church.
Contact: Stephen Barton, Housing 981-5400
Action: Adopted Resolution No. 61,786-N.S.

8. **Proclamation Honoring Fred Leif, Retiring Member of the Disaster Council**
From: Mayor Dean
Recommendation: Approve the proclamation honoring Fred Leif, retiring member of the Disaster Council, to be presented at the October 22, 2002 Council meeting.
Contact: Shirley Dean, Mayor 981-7100
Action: Approved recommendation. Proclamation on October 22, 2002.

9. **Use of Housing Trust Fund Monies for Problem Berkeley Residential Properties Under the California Disaster Assistance Program (CALDAP)**
From: Mayor Dean
Recommendation: Refer the problem Berkeley residential properties under the California Disaster Assistance Program (CALDAP) to the City Manager for consideration of the use of Housing Trust Fund monies to resolve building problems stemming from state repair loans to residents after the 1989 Loma Prieta earthquake.
Contact: Shirley Dean, Mayor 981-7100
Action: Approved recommendation amended by Councilmember Maio to also refer to the Housing Advisory Commission.

10. **Ban and Exchange of Mercury Thermometers**
From: Councilmember Worthington
Recommendation: Refer to the City Manager possible ban on the sale, import and manufacture of mercury thermometers in the City. Research the cost of sponsoring a mercury thermometer exchange for new digital thermometers.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from Consent Calendar by Councilmember Hawley and held over to October 22, 2002.

11. **Support CALPIRG's Campaign to Reduce Human Exposure to Mercury Based Products**
From: Councilmember Worthington
Recommendation: Support CALPIRG's campaign to reduce human exposure of mercury based products, and send a letter to the Director of the California Department of Toxic Substances Control proposing: 1) to provide economic incentives to encourage manufacturers to stop the production of mercury based products and instead use safer alternatives; 2) to create an effective enforcement plan for proper disposal of products containing mercury; 3) to allow and include new products to the list of mercury based products; and 4) to create an effective plan to collect used mercury, "retire" and contain it out of the way of human exposure and ecological harm.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
12. **Proclamation Honoring Falun Dafa Month in California**
From: Councilmember Worthington
Recommendation: Support a proclamation honoring Falun Dafa month in California.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation. (Abstain: Armstrong, Olds)
13. **Opposing Patriot Act, Justice Department Directives, and Executive Orders that Prevent the Protection of Civil Rights and Liberties**
From: Councilmember Worthington
Recommendation: Support the Resolution opposing the Patriot Act, Justice Department directives, and executive orders that prevent the protection of Civil Rights and Liberties.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from Consent Calendar by Councilmember Armstrong and held over to October 22, 2002.
14. **Notification of Fires and Major Crimes to Council**
From: Councilmember Olds
Recommendation: Request that the City Manager inform the Council about fires and major crime events in individual districts as soon as there is comprehensive information about the event.
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.
15. **Presentation by Dr. John Garmon, President of Vista Community College**
From: Mayor Dean
Recommendation: Waive Council rules and approve a brief presentation by Dr. John Garmon, President of Vista Community College, at the October 15 Council meeting, immediately after the Consent Calendar has been approved. Dr. Garmon wishes to share information about the Vista groundbreaking ceremony on October 23rd.
Contact: Shirley Dean, Mayor 981-7100
Action: Approved recommendation and presentation made.

16. **Response to Hate Graffiti at Pacific Center**

From: Councilmember Worthington

Recommendation: That the Council actively responds to the hate graffiti at the Pacific Center. This response will include but not be limited to offering a reward, and inclusion of this incident in the discussion for upcoming Town Hall forum on hate/crimes to be held on October 24th at 6:30 p.m. at the North Berkeley Senior Center.

Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action: Approved recommendation.

Presentations

17. **Willard, LeConte, Bateman Traffic Management and New Traffic Signals on Telegraph Avenue Information Report** *(to be delivered)*

From: City Manager

Contact: Peter Hillier, Transportation, 981-7000

Actions: Moved, seconded, carried (Worthington/Armstrong) to: 1) approve turning on the traffic signals at Russell/Telegraph and Stuart/Telegraph and upgrading the traffic signal at Derby/Telegraph as stated in the plan presented by staff; 2) consider a special traffic circle or other effective mitigation for Russell/Hillegass; and 3) develop a neighborhood notification system regarding upcoming traffic changes throughout the City to be published on the City's website.

Moved, seconded, failed (Worthington/Spring; Noes – Armstrong, Hawley, Olds, Shirek; Abstain – Maio) a substitute motion: 1) to approve the staff's plan regarding proposed traffic circles and mid-block one-lane pinch points with direction to staff to continue to consult with neighborhoods and the Bicycle Subcommittee of the Transportation Commission; 2) to approve staff's plan for traffic signals on Ashby/Hillegass and other traffic calming measures at Benvenue, Hillegass and Regent north of Ashby; 3) to extend this work to also include the Ward Street neighborhood; 4) to consult widely and beyond the one block of each proposed measure and obtain a 60% or greater affirmative response ; and 5) to return to Council with the results of the surveys prior to implementation of the plan for that area.

Moved, seconded, carried (Maio/Armstrong) a main motion: 1) to approve the staff's plan regarding proposed traffic circles and mid-block one-lane pinch points with direction to staff to continue to consult with neighborhoods and the Bicycle Subcommittee of the Transportation Commission; 2) to approve staff's plan for traffic signals on Ashby/Hillegass and other traffic calming measures at Benvenue, Hillegass and Regent north of Ashby; 3) to extend this work to also include the Ward Street neighborhood; and 4) to consult widely and beyond the one block of each proposed measure and obtain a 65% or greater affirmative response on the surveys prior to implementation of the plan for that area.

18. **FY 2003 First Quarter Budget Report and Recommendations** *(to be delivered)*

a: From: City Manager

Recommendation: 1) Adopt a Resolution authorizing \$170,000 in one-time FY 2002 carryover funds from FY 2003 salary savings for the following unbudgeted FY 2003 referrals: a) Willard Swimming Pool \$52,000; b) Green Building/Green Business Coordinator \$48,000; c) Strawberry Creek Study \$20,000; and d) Fiscal Impact Study – UC Long Term Development Plan \$50,000; 2) Institute a moratorium on additional new expenditures until the FY 2004 and FY 2005 Biennial Budget Cycle unless supported by corresponding revenue offsets; and 3) Direct the City Manager to develop a list of program reductions to address recurring budget shortfalls projected over the next five years to be presented as part of the special work session on the FY 2004 and FY 2005 Biennial Budget scheduled for January 28, 2003.

Contact: Phil Kamlarz, City Manager, 981-7000

b: From: Citizens Humane Commission

Recommendation: Direct the City Manager to assess veterinary costs at the Animal Shelter and budget an adequate amount to meet veterinary care needs this year and in future years.

Contact: Kate O'Connor, Secretary, 981-6601

c: From: City Manager

Recommendation: Adopt a Resolution authorizing the use of \$33,370 to cover costs of extra veterinary bills incurred at the Animal Shelter and \$29,400 for recurring costs of Task Force recommended Shelter improvements from the \$85,000 set aside for Humane Commission and Task Force recommendations in FY 2003 and in future years.

Contact: Kate O'Connor, Secretary, 981-6601

Actions: Moved, seconded, failed (Spring/Worthington; Noes – Armstrong, Breland, Hawley, Olds, Shirek, Dean) a substitute motion to: 1) approve the City Manager's recommendations; 2) refer to the City Manager and the budget process for the January budget meeting prior Council budget referrals for CARShare, Habitot, Shop Berkeley; and 3) hold over action on the Animal Shelter funding to the meeting of November 12, 2002.

Moved, seconded, carried (Hawley/Olds) a severed main motion as follows:

Approve City Manager recommendations 2 and 3 with an amendment by Councilmember Hawley that the City Manager also develop "criteria" for program reductions. (Abstain – Armstrong, Hawley)

Adopt Resolution No. 61,787-N.S. allocating \$52,000 in funding for the Willard Swimming Pool. (Abstain – Armstrong, Hawley)

Adopt Resolution No. 61,788-N.S. allocating \$48,000 for the Green Building/Green Business Coordinator. (Abstain – Armstrong, Hawley, Olds)

Hold over funding recommendations for the Strawberry Creek Study, the UC Long Term Development Plan Fiscal Impact Study and the Animal Shelter to the meeting of November 12, 2002. (Noes – Breland, Shirek, Worthington; Abstain – Armstrong)

Action Calendar – Public Hearings

19. **Establish a Parking Fine for the New No-Double Parking Zone for Commercial Vehicles on Center Street and Re-adopt the Parking Fine Schedule**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution establishing a parking fine of \$31 for the newly created No-Double Parking Zone for Commercial Vehicles on Center Street; and re-adopting the establishment of penalties for parking violations and late payment penalties; and rescinding Resolution No. 57,042-N.S. and all amendments.

Contact: Phil Kamlarz, Deputy City Manager 981-7006

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

Action: Moved, seconded, carried (Armstrong/Maio) to adopt Resolution No. 61,789-N.S.

20. **Increase Cost Per Square Foot of Building Valuation for Construction Projects**

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion adopt a Resolution 1) establishing the cost per square foot schedule published by the International Conference of Building Officials (ICBO), as the basis for calculating building valuation and building permit fees for new construction; and 2) establishing the policy of valuing construction projects determined to be a remodel or renovation at up to seventy-five percent of the value of new construction.

Contact: Carol Barrett, Planning and Development, 705-8102

Action: Withdrawn by the City Manager.

Information Report

21. **Cablecasting of Zoning Adjustment Board Meetings**

From: City Manager

Contact: Chris Mead, Information Technology 981-6500

Action: Moved to Action by Councilmember Armstrong. Held over to October 22, 2002.

Communications

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

Accessibility for the Disabled

1. Karen Craig - 2 communications (*Breland, Dean, Worthington, Maio*)

Bus Stop at San Pablo Avenue and Dwight Way

2. Mohamed Ahmed Alqassari, MAA/KLH-Annaher Grocery & Liquor, Inc (*Breland, Dean*)

California Alliance for Pride and Equality (CAPE)

- 3. Ilona M. Turner

Alameda County Computer Resource Center (ACCRC)

- 4. Karen Baker (*Breland, Dean*)

Residential Parking Plan (RPP Program)

- 5. Pam Speich, Carrie Sprague (*Spring, Dean*)

Traffic Management for Willard/Bateman/LeConte Neighborhoods

- 6. Petition with 49 signatures (LeConte Neighbors and LeConte Neighborhood Association)
- 7. Erna Andre
- 8. Amy Abern
- 9. Hilary Askenase
- 10. Ted
- 11. Robert Quesenberry
- 12. Sarah Calderon-Executive Director, Berkeley Dispute Resolution Service
- 13. Matthai Chakko (*Breland, Dean*)

Complaint About BCM. Cable Channels 25,78

- 14. Ernest Darden

Holiday Support: Free Parking Meters and Promotion Funds

- 15. Deborah Badhia, Berkeley Business District Leaders and Downtown Berkeley Association (*Breland, Dean*)

Space Preservation Act

- 16. Barbara Lee, Member of Congress (submitted by Leuren Moret) (*Breland, Dean*)

West Campus Pool

- 17. Sydney Vilen- Petition Pages (*Breland, Dean*)

Supplemental Reports and Communications #1

Item 17

Willard, LeConte, Bateman Traffic Management and New Traffic Signals on Telegraph Avenue Information Report

- 18. Pamela Dayton
- 19. John E.Z. Caner
- 20. Scott Mace
- 21. Melissa Lucas
- 22. Tomas Echeverria
- 23. John E. Z. Caner, Jr., President –Willard Neighborhood Association
- 24. Ward Street Neighbors-Petition

Item 18

FY 2003 First Quarter Budget Report and Recommendations

- 25. John E.Z. Caner, Jr., President –Willard Neighborhood Association
- 26. Karl Reeh, President-LeConte Neighborhood Association
- 27. Elena Vlahu-Scott, Willard PTA

Item 13

Opposing Patriot Act, Justice Department Directives and Executive Orders preventing the Protection of Civil Rights and Liberties

28. City Manager Information Report

Supplemental Reports and Communications #2

Item 17

Willard, LeConte, Bateman Traffic Management and New Traffic Signals on Telegraph Avenue Information Report

29. City Manager Report Illustrations

Item 18

FY 2003 First Quarter Budget Report and Recommendations

30. City Manager PowerPoint Presentation

31. Jill Poesner

32. John E.Z. Caner

33. Elena Vlahu-Scott

34. Karl Reeh

Adjournment

The meeting adjourned at 11:30 p.m.