

AGENDA

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, APRIL 23, 2002

Preliminary Matters

Roll Call: 7:00 p.m.

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

- a) Proclamation Celebrating Young Americans and Dia de los Ninos
- b) Proclamation for National Child Abuse Prevention Month
- c) Proclamation for Child Care Appreciation and the Bananas organization
- d) Proclamation for Peace

Comments from the City Manager: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Comments from the Public: *A total of 30 minutes is scheduled. Each speaker is limited to a maximum of 3 minutes.*

Council Action: *The City Council may take action related to any subject listed on the Agenda.*

Consent Calendar

The Council will consider removal and addition of items to the Consent Calendar prior to voting on the Consent Calendar. All items remaining on the Consent Calendar will be approved in one motion. Items removed from the Consent Calendar will be taken up after the "Action Calendar" unless the Council reorders the agenda.

1. **Confidentiality of Taxpayer Information (CF 75-01)** *(first reading 04/16/02 – unanimous)*

From: City Manager

Recommendation: Adopt second reading of an Ordinance adding Chapter 7.26 to the Berkeley Municipal Code (BMC) to protect all confidential information provided by taxpayers to the City, and repealing Section 9.04.090.

Contact: Fran David, Finance, 981-7300

Consent Calendar

2. **Lease Agreement for 1900 Addison Street** *(first reading 04/16/02 –unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a twenty-one month lease agreement and any necessary amendments with Sasha Shamzad for real property located at 1900 Addison Street, in an amount not to exceed \$232,115 including monthly lease payments, operating expenses, property taxes, insurance and minor tenant improvements to house the offices of Youth Works, Police Review Commission, and other personnel and activities as may be required; and approving two additional two-year options to extend the term of the lease.
Contact: Rene Cardinaux, Public Works, 981-6300

3. **Amendment To Creeks Ordinance Definition Of “Creek” And Adding A Provision To Allow For The Establishment Of Fees (CF 55-01)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) section 1 7.08.030.A to redefine “creek” allowing the City to maintain maps reflecting the presence of such creeks for the guidance of the public and adding a provision to allow for the establishment of fees for the administration of the chapter.
Contact: Manuela Albuquerque, City Attorney, 981-6950

4. **Creation Of Sick And Vacation Payouts Fund**
From: City Manager
Recommendation: Adopt a Resolution establishing Fund 878 as the Sick and Vacation Payouts Fund for the purpose of accounting for payouts of unused and terminal sick and vacation benefits.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000

5. **Berkeley Boosters Request for An Advance of \$50,000 from FY 2003 Contract Funds**
From: City Manager
Recommendation: Adopt a Resolution advancing \$50,000 from the FY 2003 Berkeley Boosters contract funds to bridge the gap in securing grant funds and reduce the FY 2003 contract by the same amount.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000

6. **Amendment To FY 2002 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Annual Appropriations Ordinance No. 6635-N.S. for Fiscal Year 2002 based upon changes in funding in the amount of \$3,681,796.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Consent Calendar

7. **Savo Island Project Area Loan Agreement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the amendment to the loan agreement between the Berkeley Redevelopment Agency and the City Retiree Medical Trust Fund in the amount of \$600,000 to provide assistance to affordable housing development located in or outside the Savo Island project area and approve findings pursuant to Health and Safety Code Section 33334.2(g).
Contact: Phil Kamlarz, Deputy City Manager, 981-7000
8. **Grant: Federal Emergency Management Agency Assistance To Firefighters**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to apply for and accept a grant from the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program in the amount of \$241,823 to fund program activities in Fire Operations and Firefighter Safety.
Contract: Reginald Garcia, Fire, 981-3473
9. **Purchase Order Increase For Lincoln Pool Supplies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a Purchase Order and any amendments with Lincoln Pool Supplies for pool chemicals and equipment for a period of three years, through June 30, 2004, in an annual amount not to exceed \$55,000, with approved inflationary adjustments in Fiscal Years 2003 and 2004.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
10. **Contract: Sports Court Renovation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to contract with Vintage Contractors, Inc. for sports court renovations at Cedar Rose Park and Strawberry Creek Park to increase amount by \$58,000, for a total not to exceed \$248,000 for the period ending January 10, 2003.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
11. **Purchase Order: Radio Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the sole source purchase of radio equipment from MCE East Bay, Apex Industry Service, Inc. for purchase of replacement parts and base station radios for various City vehicles in an amount not to exceed \$151,000 for the period July 1, 2001 through June 30, 2002.
Contact: Rene Cardinaux, Public Works, 981-6300

Consent Calendar

12. **Contract: Green Building Design Assistance Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to waive competitive solicitation requirements and execute a contract and any amendments with the Green Resource Center (GRC) to provide green building design assistance to commercial development, to develop GRC organizational and fundraising capacity, and to develop a construction waste diversion plan, in an amount not to exceed \$50,000 from April 16, 2002 through June 30, 2003.
Contact: Weldon Rucker, City Manager, 981-7000
13. **Support AB 2242 Increasing State's Minimum Wage and Expanding Penalties for Violations**
From: Mayor Dean
Recommendation: Support AB 2242 that increases the penalties for violations of the State minimum wage law and that, as now being revised, will include indexing of the State minimum wage to inflation, and request that the City Clerk notify our Sacramento legislators and lobbyist of the City's support. Include in this correspondence a recommendation for vastly improved enforcement measures, as discussed below.
Contact: Shirley Dean, Mayor, 981-7100
14. **Approve the Substitution of the Public Art Sculpture, the *Peace Bell* for the Previously Approved Sculpture, *Millennia***
From: Mayor Dean
Recommendation: Approve the substitution of the *Peace Bell* for the previously approved work, *Millennia*.
Contact: Shirley Dean, Mayor, 981-7100
15. **Discontinue Use by Knapp Excavators, Inc. for the Storage of Landfill in the Waterfront Area South of University Avenue Known as The Brickyard**
From: Mayor Dean
Recommendation: Request that the City Manager review the Use Permit of Knapp Excavators, Inc. and determine if and how the existing permit for this use can be terminated; if appropriate, write a letter to the East Bay Regional Parks District (EBRPD) requesting the discontinuance of the use by Knapp Excavators of the waterfront area south of University Avenue known as the Brickyard for landfill storage, such discontinuance to be accomplished as soon as possible. If writing a letter to the Parks District is not the appropriate action, the Manager is requested to report to the Council on what other action it should take to terminate this use. The Manager is requested to report back to the Council on the outcome.
Contact: Shirley Dean, Mayor, 981-7100

Consent Calendar

16. **Fee Waiver: West Berkeley Market**
From: Councilmembers Maio and Breland
Recommendation: Adopt a Resolution waiving all fees including the application, sound and food sales permit fees for the West Berkeley Market's five Sunday festivals (June 2, July 14, August 11, September 15, October 27) being sponsored by the West Berkeley Neighborhood Development Corporation (WBNDC).
Contact: Linda Maio, District 1, 981-7110; Margaret Breland, District 2, 981-7120
17. **Fee Waiver: Co-Sponsorship of 19th Annual Himalayan Fair**
From: Councilmembers Maio and Hawley
Recommendation: Adopt a Resolution 1) cosponsoring and waiving all fees associated with the event scheduled for May 25 to May 26 at Live Oak Park. These fees shall include the park usage fee for Live Oak Park, the rent fee for the Live Oak Recreation Center, sound permit fees for Saturday and Sunday, May 25 and 26 from 1 to 5 p.m. and food permit fees and 2) waiving Berkeley Municipal Code (BMC) Section 20.24.040 to permit two banners to be hung over or near Shattuck Avenue, to be placed in consultation with staff.
Contact: Linda Maio, District 1, 981-7110; Mim Hawley, District 5, 981-7150
18. **Possible Discontinuation of East Bay Certified Nurse-Midwife Panel at Alta Bates Medical Center**
From: Mayor Dean
Recommendation: Ask the City Clerk to write to Warren Kirk, President and CEO of Alta Bates Summit Medical Center (Alta Bates), affirming Mayor Dean's letter of April 10, 2002, expressing its distress at the possible loss of certified nurse-midwife services in the area, and urging Alta Bates and other pertinent parties to meet to discuss ways for these services to continue.
Contact: Shirley Dean, Mayor, 981-7100
19. **California Renter Rights, Protections, and Housing Assistance Bills**
From: Councilmember Worthington
Recommendation: Support the California Renters Rights, Protection, and Housing Assistance Bills AB 2330, SB 1403, and SB 1227 and send letters to Assemblymembers Dion Arorner and Carol Migden, Senator Don Perata, Senator Kuehl, Senator Burton and Governor Gray Davis.
Contact: Kriss Worthington, District 7, 981-7170

Consent Calendar

20. **Save Our Starving Artists**
From: Councilmember Worthington
Recommendation: Refer to the City Manager what steps the City can take to assist these artists to continue to live in Berkeley including but not limited to: 1) provide staff advice to the artists to evaluate the feasibility of forming a co-op to purchase the building, 2) consider creating a policy and procedure for waving requirements for seismic strengthening (if required), and 3) consider waiving requirements for timing of seismic retrofit if building purchased by resident tenants.
Contact: Kriss Worthington, District 7, 981-7170
21. **Oppose Funding and Building of Delano II Prison**
From: Councilmember Worthington
Recommendation: Adopt a Resolution against the funding and building of Delano II Prison.
Contact: Kriss Worthington, District 7, 981-7170
22. **Increase in Underrepresented Minority Student Enrollment and the Elimination of the SAT Requirement in the University of California System**
From: Councilmember Worthington
Recommendation: Adopt a Resolution calling for an increase in underrepresented minority student enrollment and the elimination of the SAT requirement in the University of California system.
Contact: Kriss Worthington, District 7, 981-7170
23. **Charter Amendment To Extend Time To Redistrict After Decennial Census And Consolidating Council, Mayoral And Auditor Elections To Coincide With The Redistricting Cycles**
From: Councilmember Dona Spring
Recommendation: Add an amendment to the April 16, 2002 recommendation from Mayor Dean to change the effective date of redistricting by the Council requesting that the City Manager develop a charter amendment which would allow redistricting to occurs up to two years after the decennial census if necessary; and in order to prevent bifurcation of the residents in new and future redistricting plans, align all the council district elections as well as the mayoral election in the year 2004. This charter amendment should be placed on the Nov. 2002 ballot to be effective at the next round of redistricting. The change would not effect the current adopted redistricting plan.
Contact: Dona Spring, District 4, 981-7140

Consent Calendar

24. **Strengthening The Creeks Preservation Ordinance**
 From: Councilmember Dona 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.

Presentations

25. **Telecommunications Task Force: Findings and Recommendations**
 From: City Manager
 Contact: Roger Miller, Secretary of Telecommunications Task Force, 981-7000

Action Calendar

Appeals:

26. **Landmarks Preservation Commission Appeals of Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project** *(to be delivered)*
- a. Appeal filed by Brandt-Hawley & Zoia, on behalf of Friends of Civic Center Park and the Art Deco Society of California** on the Landmarks Preservation Commission's decision to certify the Final Environmental Impact Report (EIR) and approve the Structural Alteration Permit with conditions for the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project
 Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. Appeal filed by the City of Berkeley** on the Landmarks Preservation Commission's decision to approve the Structural Alteration Permit with conditions for the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project
 Contact: Sherry M. Kelly, City Clerk, 981-6900
- c. City Manager Report**
 Recommendation: Set a public hearing for June 18, 2002, regarding the appeals of the Landmarks Preservation Commission's Notice of Decision to certify the Final Environmental Impact Report and to approve the Structural Alteration Permit for this project and provide direction to the City Manager regarding the plan's proposed removal of parking behind the Civic Center Building.
 Contact: Carol Barrett, Planning and Development, 705-8102

Action Calendar

27. **Landmarks Preservation Commission Appeal of Designation of 2004 & 2008 University Avenue**
- a. Appeal filed by Victor Touriel and Christopher J. Hudson** of the Landmarks Preservation Commission decision of February 4, 2002, which designated John M. Doyle House, 2004 & 2008 University Avenue as a Structure of Merit.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. City Manager Report** (*to be delivered*)
Recommendation: Remand the designation as a Structure of Merit to the Landmarks Preservation Commission to consider issues raised in the appeal.
Contact: Carol Barrett, Planning and Development, 705-8102
28. **Landmarks Preservation Commission Appeal of Designation of 1102 Tenth Street**
- a. Appeal filed by Carl Brodsky and Susan Nabeta-Brodsky** of the Landmarks Preservation Commission decision of February 4, 2002, which designated Thomas Jones House and Property, 1102 Tenth Street, as a Structure of Merit.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. City Manager Report** (*to be delivered*)
Recommendation: Remand the designation as a Structure of Merit to the Landmarks Preservation Commission to consider the issues raised in the appeal.
Contact: Carol Barrett, Planning and Development, 705-8102
29. **Zoning Adjustments Board Appeal of Use Permit A2354 – 959 Cragmont Avenue**
- a. Appeal filed by Melvin Honowitz** of the Zoning Adjustments Board decision of January 10, 2002, which approved modification of Use Permit A2354 to create a 400 square foot addition as part of an approved Use Permit to construct a 386 square foot second dwelling unit at 959 Cragmont Avenue.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. City Manager Report**
Recommendation: Adopt a Resolution affirming the Zoning Adjustments Board's approval of a Use Permit to construct a 400 square foot second story addition, and dismissing the appeal.
Contact: Carol Barrett, Planning and Development, 705-8102
- c. Communications**
- 1) Avi Atid

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code §5009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Action Calendar

Priority:

30. **Funding Recommendations For The FY 2002-2003 Community Development (CDBG) Program And Emergency Shelter Grant (ESG) Programs**

From: City Manager

Recommendation: Adopt a Resolution 1) approving the City Manager's final funding recommendations and budgets for the CDBG and ESG Programs; 2) authorizing the City Manager to execute contracts with agencies receiving funding and make two-month advance payments to those agencies; 3) allocating \$116,600 in Federal HOME monies to administer the HOME Program and placing \$1,049,400 into the Housing Trust Fund; and 4) authorizing the City Manager to finalize and submit the attached 2002 Annual Action Plan of the 5-year Consolidated Plan to the U.S. Department of Housing and Urban Development (HUD), which includes the applications for CDBG, ESG, and HOME Program funding, and to execute the resultant agreements.

Contact: Stephen Barton, Housing, 981-5400

a. Funding Recommendations For The FY 2002-2003 Community Development Block Grant (CDBG) Program And Emergency Shelter Grant (ESG) Program

From: Housing Advisory Commission

Recommendation: Approve the Housing Advisory Commission (HAC) funding recommendations for the FY 2002-2003 CDBG and ESG Program as contained in Exhibit 1 of the resolution contained in the City Manager's Council report on the same subject.

Contact: Oscar Sung, Secretary, 981-5410

Old Business:

31. **Parking Enforcement – Citation Authority Amendments** *(Held over by Maio from 2/19/02, 2/26/02, 3/12/02 and 03/19/02)*

From: City Manager

Recommendation: Adopt an Ordinance amending Berkeley Municipal Code (BMC) sections 6.24, 14.36, 14.40, 14.44, 14.52, and 14.64 relating to parking and stopping of vehicles to permit multiple citations, issuing citations at inoperable meters and correcting the parking meter fee rates.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000, D.E. Butler, Police, 981-5700, and Manuela Albuquerque, City Attorney, 981-6950

a. From: Councilmember Maio

Recommendation: Forward to the City Manager the following recommendations: 1) beginning immediately, insert a description of the pending changes into all citations for parking at broken meters beyond the official time limit, including the rationale for the new policy; 2) implement a "grace period" of several weeks before initiating enforcement; 3) consider implementing stepped up enforcement on Durant and Bancroft (pilot area) and studying its efficacy before removing the meters entirely; and 4) provide a brief description to Council of the outreach and communications effort, one that we can use in replying to constituents.

Contact: Linda Maio, District 1, 981-7110

Action Calendar

32. **Consider a Citywide 20 MPH Speed Limit in Residential Areas** (*Held over by Olds from 3/12/02 and 03/19/02*)
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
33. **Proclamation Honoring Student Commissioners Day** (*Held over by Olds from 3/12/02 and 03/19/02*)
From: Councilmember Worthington
Recommendation: Support the proclamation honoring Student Commissioners Day.
Contact: Kriss Worthington, District 7, 981-7170
34. **General Plan** (*Held over from 03/19/2002*)
From: City Manager
Recommendation: Adopt a Resolution adopting the draft General Plan Introduction, Disaster Preparedness and Safety Element, Open Space and Recreation Element, Environmental Management Element, Economic Development and Employment Element, Urban Design and Preservation Element, Citizen Participation Element, and Implementation Element as amended by Attachments B1 and B2.
Contact: Carol Barrett, Planning and Development, 705-8102
35. **Campaign Finance Reform Through Public Finance of 2002 Berkeley Elections** (*Held over by Armstrong from 03/19/2002*)
From: Councilmember Worthington
Recommendation: That Council indicate our intention to implement campaign finance reform through partial matching fund public financing of the City of Berkeley elections this November, and request the City Manager to have attorneys review proposals for Berkeley campaign finance reform.
Contact: Kriss Worthington, District 7, 981-7170
36. **Students Voicing Opportunity and Increasing Commission Equity** (*Held over by Hawley from 03/19/2002*)
From: Councilmember Worthington
Recommendation: Adopt Resolution proposed by students titled "Students Voicing Opportunity and Increasing Commission Equity" in City of Berkeley Boards and Commissions.
Contact: Kriss Worthington, District 7, 981-7170

Action Calendar

37. **Relocation of Kenney Cottage to the Marina** *(Held over from 03/19/02)*
From: Landmarks and Preservation Commission
Recommendation: Budget up to \$10,000 to allow the Kenney Cottage to be moved from a temporary storage location at the Marina or other suitable location to a site for future use of the building.
Contact: Greg Powell, Secretary, 705-8114
a. City Manager
Recommendation: Do not approve any funds for relocation of Kenney Cottage to City property since taking on this project will require a substantial financial commitment to rehabilitate the cottage. Funds are not available for the project.
Contact: Carol Barrett, Planning and Development, 705-8102; Lisa Caronna, Parks and Waterfront, 981-6700
38. **Transfer of AT&T Cable Franchise to AT&T Comcast Corporation** *(Held over by Armstrong from 03/19/02)*
From: City Manager
Contact: Phil Kamlarz, Deputy City Manager, 981-7000
39. **Right Of Entry To Inspect** *(Held over by Dean from 04/16/2002)*
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 1.16.010 to eliminate the requirement that inspectors must provide 24 hours' written notice of their intention to inspect to an owner/occupant to make it consistent with current law and practice.
Contact: Manuela Albuquerque, City Attorney, 981-6950
40. **Charter Amendment Changing the Effective Date of Redistricting** *(Held over by Maio from 04/16/2002)*
From: Mayor Dean
Recommendation: Request the City Manager develop a charter amendment which would provide for redistricting two years after the decennial Census, with elections from the new districts to be held at the next general election following this revised redistricting process. This amendment should be placed on the November 2002 ballot to be effective at the next round of redistricting. The change would not effect current redistricting.
Contact: Shirley Dean, Mayor, 981-7100
41. **Willard Neighborhood Safe Routes to School Grant Implementation** *(Held over by Armstrong from 04/16/2002)*
From: Councilmember Worthington
Recommendation: Refer to the City Manager to establish an inclusive community process to finalize plans for the Willard Neighborhood Safe Routes to School grant implementation and the effects on the neighborhood, traffic, bike route and safety.
Contact: Kriss Worthington, District 7, 981-7170

Action Calendar

42. **Location of the New Alameda County Juvenile Justice Facility and Funding for Supportive Programs for Families and Youth** *(Held over by Hawley from 04/16/2002)*
From: Councilmembers Maio, Shirek, and Hawley
Recommendation: Urge Alameda County to locate the new Juvenile Justice facility in northern Alameda County and to emphasize supportive programs for youth who are incarcerated and their families. Also urge the County to base the number of beds needed on sound research and the demonstrated success of supportive and diversionary programs in other counties.
Contact: Linda Maio, District 1, 981-7110; Maudelle Shirek, District 3, 981-7130, Mim Hawley, District 5, 981-7150
- a. **From: Councilmember Maio**
Recommendation: Oppose the current plan for the new Juvenile Justice Facility and urge Alameda County to locate the new facility in northern Alameda County and to emphasize supportive programs for youth who are incarcerated and their families. Also urge the County to reconsider its size and base the number of beds needed on sound research and the demonstrated success of supportive and diversionary programs in other counties.
Contact: Linda Maio, District 1, 981-7110
43. **Vandalized Berkeley Hillel and Other Incidents Aimed at the Jewish Community** *(Held over by Armstrong from 04/16/2002)*
From: Councilmember Worthington
Recommendation: Follow up on our designation of Berkeley as a hate free zone by bringing together representatives of different groups and individuals that have been the target of hate actions in Berkeley, in a city sponsored public event embracing all the affected communities.
Contact: Kriss Worthington, District 7, 981-7170
44. **Assisting Afghan Victims of the Devastating Earthquakes** *(Held over by Breland from 04/16/2002)*
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
45. **Anti-Graffiti Ordinance** *(Held over by Olds from 04/16/2002)*
From: Councilmember Hawley
Recommendation: Request that the City Manager draft an Ordinance that will enable the City to establish an effective graffiti abatement program for both private and public properties.
Contact: Miriam Hawley, District 5, 981-7150

Action Calendar

46. **Prompt Removal of Hate Graffiti** (*Held over by Olds from 04/16/2002*)
From: Mayor Dean and Councilmember Olds
Recommendation: Establish and enforce a policy that all hate graffiti reported to any City department by any source will be removed within 24 hours.
Contact: Shirley Dean, Mayor, 981-7100, Betty Olds, District 6, 981-7160
47. **Support for New Auto Related Uses on University Avenue Contingent on a Public Hearing** (*Held over by Hawley from 04/16/2002*)
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
48. **Policy on Zoning Project Notices** (*Held over by Armstrong from 04/16/2002*)
From: Councilmember Spring
Recommendation: Adopt a policy that the Zoning Officer include, as a matter of course in both the notice and the summary that appear on Zoning Adjustments Board agendas: 1) the total lot-size of the project site, in square feet; 2) the number of affordable units, and the depth of their affordability, as well as a brief reference to how that number accords with the requirements of the Berkeley Municipal Code (BMC) Title 23, section 23C.12.030; 3) the total number of dwelling units in the project, or square feet of gross floor area for non-residential projects; 4) the maximum residential density for the project-site; 5) the total square footage of any commercial or other non-residential area of the project; 6) the total number of floors of the project; and 7) the average and maximum height of the project.
Contact: Dona Spring, District 4, 981-7140

New Business:

49. **Predatory Home Lending Practices**
From: Housing Advisory Commission
Recommendation: Direct staff to research the issue of predatory lending and explore the feasibility of developing legislative action and/or an educational strategy to curb predatory lending practices.
- a. City Manager**
Recommendation: The City Manager concurs with the Housing Authority Advisory Commission's recommendation on the condition that the state superior court adjudicates in favor of the City of Oakland in the court action challenging Oakland's Predatory Home Lending Ordinance.
Contact: Stephen Barton, Housing, 981-5400

50. **Crisis In The Middle East**

From: Peace and Justice Commission

Recommendation: Adopt a Resolution 1) establishing a policy for the City of Berkeley prohibiting contracts for personal services and financial investments with those who do business in or with Israel and Palestine, and prohibiting the purchase of commodities produced in Israel and Palestine or provided by those who do business in or with Israel and Palestine until the United Nations declares that peace has been restored; 2) supporting the use of international peacekeeping forces to protect all civilians, health workers, and media workers in Palestine and Israel; 3) opposing all violations of law by the governments of Israel and Palestine, including the law of the Nuremberg Principles, the United Nations Charter, the Geneva Convention, and all human rights treaties; 4) calling for hearings in the United States Senate and House under the United States Foreign Assistance Act as to whether the government of Israel or Palestine “engages in a consistent pattern of gross violations of internationally recognized human rights,” making it ineligible for any United States “security assistance” without a waiver; 5) supporting all efforts by individuals and groups toward a just peace in Israel and Palestine, including the recommendation of the Berkeley Fellowship of Unitarian Universalists Social Justice Committee to wear armbands for peace; 6) opposing the sale of any United States weapons to foreign entities to be used against civilians; and 7) send copies this Resolution to Senators Barbara Boxer and Dianne Feinstein, Representative Barbara Lee, and the United Nations Human Rights Commission.

Contact: Manuel Hector, Secretary, 981-5110

a. From: City Manager

Recommendation: The City of Berkeley has a long history of supporting nonviolent resolutions to conflicts, and I concur with the Commission’s recommendations seeking a peaceful resolution to the current crisis in the Middle East.

I request that no action be taken on Recommendations 1, 4, 6 and 7 as there has been insufficient time to consider the implications of these recommendations. Staff will analyze these measures and submit a report for Council consideration at the meeting of May 28, 2002.

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

51. **Interim Controls On Office Development In The MU-LI (Mixed Use-Light Industrial) District** *(to be delivered)*

From: The Planning Commission

Recommendation: Adopt an Ordinance amending the Zoning Ordinance (BMC Title 23E.80.030) to prohibit for one year: (1) the conversions of existing building space from any other use to office; and (2) the development of new office uses (excluding ancillary office uses) in the mixed-use light industrial (MU-LI) zoning district. That the City Council revise its June 12, 2001 recommendation regarding interim controls on office development in the MU-LI to replace the terms “Green Economy” and “Green Business” with “Green Light Industry.”

Contact: Steve Solomon, Secretary, 705-8315

Action Calendar

a. From: City Manager *(to be delivered)*

Recommendation: That the City Council: 1) not adopt a moratorium on office conversion and development in the MU/LI district at this time; and 2) do not adopt an amendment altering the definition of office use for the MU-LI district; and 3) direct Staff to track applications and permitting activity in West Berkeley and report on a regular basis to the Council, Planning Commission and Zoning Adjustments Board; and 4) direct Staff to report to the Planning Commission on the mechanisms for tracking the use of space for artists and artisans within the context of existing Ordinance requirements.
Contact: Carol Barrett, Planning and Development, 705-8102

52. **U.S. Drug Enforcement Agency Raids of Bay Area Medical Marijuana Facilities**
From: Police Review Commission

Recommendation: That Council: 1) ask the City Manager to direct the Police Department not to cooperate with U.S. Drug Enforcement Agency investigations of or actions taken against medical marijuana clubs operating in the City in accordance with California state law and City ordinances; 2) issue a public statement supporting the law enforcement officials in San Francisco who have publicly stated that their job is to enforce the laws of the State of California approving the use of medical marijuana; 3) endorse HR 2592, a bill authored by Representative Barney Frank (D-Mass), "The States' Rights to Medical Marijuana Act" (attached); and 4) send letters detailing this action to Senators Barbara Boxer and Dianne Feinstein, Representative Barbara Lee, Attorney General John Ashcroft, and DEA Administrator Asa Hutchinson.
Contact: Barbara Attard, Secretary, 644-6716

a. From: City Manager

Recommendation: Do not support the Police Review Commission request 1) to direct the Berkeley Police Department not to cooperate with U.S. DEA investigations of or actions against medical marijuana clubs operating in the City of Berkeley in accordance with California state law and Berkeley City ordinances; and 2) issue a public statement supporting the law enforcement officials in San Francisco who have publicly stated that their job is to enforce the laws of the State of California approving the use of medical marijuana.

Support the request to 3) endorse HR 2592, a bill authored by Representative Barney Frank (D-Mass), "The States Rights Medical Marijuana Act" (attached); and 4) send letters detailing this action to Senators Barbara Boxer and Dianne Feinstein, Representative Barbara Lee, Attorney General John Ashcroft, and DEA Administrator Asa Hutchinson.

Contact: D.E. Butler, Police, 981-5700

Action Calendar

53. **Support For Ed Rosenthal**
From: Police Review Commission
Recommendation: 1) Request the City Manager ask the City Attorney to file an amicus brief in support of Ed Rosenthal, who was arrested by the U.S. Drug Enforcement Agency (DEA), and offer assistance to his legal defense; 2) Request the City Manager prepare a letter in support of Mr. Rosenthal; and 3) Send letters detailing this action to Senators Barbara Boxer and Dianne Feinstein, Representative Barbara Lee, Attorney General John Ashcroft, and DEA Administrator Asa Hutchinson.
Contact: Barbara Attard, Secretary, 644-6716
- a. **From: City Manager**
Recommendation: The City Manager recommends against adopting the Police Review Commission's request to have the City Attorney "file and amicus brief" in the federal criminal prosecution of Ed Rosenthal and to write letters in this regard.
Contact: Manuela Albuquerque, City Attorney, 981-6950, D.E. Butler, Police, 981-5700
54. **Designation Of A Transportation-Related Project To Be Financed With The City's Housing Incentive Program Award**
From: City Manager
Recommendation: Adopt a Resolution designating a project to create a pedestrian and bicycle path on the Santa Fe Right-Of-Way (SFROW) between Strawberry Creek Park and Delaware Street, including a mid-block pedestrian-activated stop light on University Avenue, as the City's priority for expenditure of its \$1 million Housing Incentive Program (HIP) award, with allocation of funds to the SFROW to be conditioned on the Berkeley Montessori School granting public access through its property at 1310 University Avenue.
Contact: Carol Barrett, Planning and Development, 705-8102, Lisa Caronna, Parks and Waterfront, 981-6700, Peter Hillier, Transportation, 981-7000
- a. **From: Parks and Recreation Commission**
Recommendation: If the Berkeley Montessori School is willing to grant a public right-of-way, allocate the Housing Incentive Program Grant award to the proposed pedestrian and bicycle path on the Santa Fe Right-of-Way.
Contact: Jay Kelekian, Secretary, 981-6707

Information Reports

55. **Status of Disaster Preparedness Program**
From: Disaster Council
Contract: Reginald Garcia, Fire, 981-3473
56. **In-House Training Program**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100

Information Reports

57. **EBMUD Public Power Prefeasibility Report**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
58. **Rental Housing Safety Program (RHSP) Update**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
59. **Gun Legislation (CF 03-02)**
From: City Manager
Contact: D.E. Butler, Police, 981-5700

Communications

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

Page No.

1. Regarding the General Plan
 - a. Edna F. Todd
 - b. Howie Muir
 - c. Merrilie Mitchell
2. Jean Tepperman, regarding 2517 Sacramento Street
3. Jason Meggs, regarding Telegraph and Russell intersection
4. Juliet Lamont and Lisa Viani, regarding Codornices Creek
5. Susan K. Springborg, American Soils Property
6. Regarding 2323 Glen Avenue
 - a. Mary Ann Brewin
 - b. Juliet Lamont and Phil Price
7. Regarding West Berkeley moratorium
 - a. Doug Herst
 - b. Alfa Parts
 - c. Sandy Simon
 - d. Michael Goldin
 - e. Zack Pretti

Adjournment
