

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, MAY 14, 2002

Preliminary Matters

Roll Call: 7:11 p.m. All present.

Ceremonial Matters:

- a. Proclamation Honoring Student Commissioners Day
- b. Proclamation honoring Marcus Ashley congratulating him on his UC Berkeley scholarship and his involvement in youth programs.

Actions: Presented proclamations.

Comments from the City Manager:

1. The Bay Trail West Frontage Road to the Ashby Interchange will be closed from May 15 through May 29 between the hours of 9 am and 3pm.
2. "Bike to Work Day" is on May 16. The City is sponsoring a breakfast from 7:00 to 10:00 a.m. in front of the Public Safety Building. The Health and Human Services Department will display bicycle safety equipment including helmets.
3. There will be an I-80 Pedestrian Bridge Workshop on May 18 from 10 a.m. to 12:00 p.m. to discuss ideas for Bridge enhancement.

Comments from the Public: 11 speakers.

Comments from Youth: 1 speaker.

Consent Calendar

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

1. **Needle Exchange Emergency Distribution**

From: City Manager

Recommendation: Adopt a Resolution reviewing and confirming the continued existence of a local emergency with regard to HIV transmission from use of HIV-infected needles among injection drug users, and authorizing the Local Health Officer to take steps to enable the operation of needle exchange emergency distribution.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Adopted Resolution No. 61,537-N.S.

2. **Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of: a) April 16, 2002 (closed), b) April 16, 2002 (regular), c) April 17, 2002 (closed), d) April 23, 2002 (closed).
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Approved minutes. (Abstain – Breland on April 17, 2002 (closed).

3. **Amendment To FY 2002 Annual Appropriations Ordinance** (*first reading 04/23/02 – unanimous*)
From: City Manager
Recommendation: Adopt second 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
Action: Adopted Ordinance No. 6685 –N.S. Effective June 13, 2002.

4. **Parking Enforcement – Citation Authority Amendments** (*first reading 04/23/02 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of 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
Action: Adopted Ordinance No. 6686 –N.S. Effective June 13, 2002.

5. **Right Of Entry To Inspect** (*first reading 04/23/02 – unanimous*)
From: City Manager
Recommendation: Adopt second 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
Action: Adopted Ordinance No. 6687–N.S. Effective June 13, 2002.

6. **Interim Controls On Office Development In The MU-LI (Mixed Use-Light Industrial) District** (*first reading 04/29/02 – Noes: Armstrong, Hawley, Olds and Dean*)
From: The Planning Commission
Recommendation: Adopt second reading of an Ordinance amending the Zoning Ordinance (BMC Title 23E.80.030) to prohibit for six months: (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.
Contact: Steve Solomon, Secretary, 705-8315
Action: Adopted Ordinance No. 6688–N.S. (Noes – Armstrong, Hawley, Olds, Dean) Effective June 13, 2002.

7. **Calling for a Consolidated General Municipal Election for November 5, 2002 and a Possible Runoff Election on December 3, 2002 to be Conducted by Mail**
From: City Manager
Recommendation: Adopt a Resolution: 1) calling for a General Municipal Election to be consolidated with the Statewide General Election to be held in Berkeley on November 5, 2002; 2) authorizing the City Clerk to conduct an all-mail ballot election on December 3, 2002 in the event of a runoff election; 3) requesting the Alameda County Board of Supervisors consolidate the City of Berkeley Municipal Election with the Statewide General Election; and 4) authorizing certain procedural and contractual actions.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 61,538–N.S.
8. **Library Gardens - Interim Parking Program Agreement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to negotiate and execute an Interim Parking Program Agreement with Library Gardens, L.P., which provides for valet parking at two city-owned parking facilities: Center Street Garage and Oxford Street Lot; and facilitates the implementation of additional parking mitigations required of the developer per the project's approved Notice of Decision for Use Permit #00-1000062 for the Library Gardens development at 2020 Kittredge Street.
Contact: Grace Maguire, 981-7008
Action: Withdrawn by the City Manager.
9. **Contract: Emergency Services to Persons with Severe Disabilities**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Easy Does It to provide emergency services to residents with severe disabilities for one year through June 30, 2003 in an amount not to exceed \$673,920.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000
Action: Adopted Resolution No. 61,539 –N.S.
10. **Purchase Orders: Electrical Equipment and Supplies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute purchase orders with Graybar Electric Company, Inc. for the purchase of electrical equipment and supplies in an amount not to exceed \$125,000 through June 30, 2002 and \$150,000 through June 30, 2003.
Contact: Fran David, Finance, 981-7300
Action: Adopted Resolution No. 61,540–N.S.
11. **Temporary Employment Agency Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing expenditures in an amount not to exceed \$75,000 for TAC Staffing Services to provide temporary employment services to the Department of Health and Human Services for the period July 1, 2001 to June 30, 2002.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,541 –N.S.

12. **Agreement: Low-Income Energy Program Revenue**
From: City Manager
Recommendation: Adopt a Resolution: 1) authorizing the City Manager to execute a U.S. Department of Energy Weatherization Assistance Program revenue agreement and any amendments, with the State Department of Community Services and Development, in the initial amount of \$15,609, for the period April 1, 2002 through January 31, 2003, to provide weatherization assistance for eligible residents of Berkeley, Albany, and Emeryville; 2) approving the Priority Plan; and 3) authorizing the City Manager to designate a representative to sign required fiscal and programmatic reports.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,542–N.S.
13. **Contract: Legal Services for Federal and State Tax Issues**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Hanson Bridgett Marcus Vlahos Rudy LLP in an amount not to exceed \$75,000 for legal services pertaining to federal and state tax issues for the period of July 1, 2001 through June 30, 2003.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,543–N.S.
14. **Salary Range: Police Review Commission Investigator Classification**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 58,841-N.S., Classification and Salary Resolution for Unrepresented Employees, to increase the salary range for the Police Review Commission Investigator to provide an equity salary increase.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,544–N.S.
15. **Supplemental Military Leave Benefit**
From: City Manager
Recommendation: Adopt a Resolution providing an additional six months supplemental military leave benefit to employees who have been called up to active duty as part of the United States response to the September 11, 2001 attacks.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,545–N.S.
16. **Grant: Summer Food Service Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the California State Department of Education, Child Nutrition and Food Distribution Division, for a Summer Food Service Program for children, and to execute any resultant agreements and amendments for the period of June 18, 2002 to October 19, 2002.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 61,546 –N.S.

17. **Purchase: Computer Support**
From: City Manager
Recommendation: Adopt a Resolution increasing a purchase order by \$10,000 with Compaq Computer Company for a total amount not to exceed \$35,000 for computer support.
Contact: D.E. Butler, Police, 981-5700
Action: Adopted Resolution No. 61,547–N.S.
18. **Downtown BART Station – Creation of Passenger Loading and Unloading Zone; and Taxi Stand Relocation**
From: City Manager
Recommendation: Approve the establishment of a passenger loading and unloading zone on Center Street (at Shattuck), and thereby, creating a BART drop-off zone for the Downtown BART Station. Adopt a Resolution amending Resolution No. 58,489–N.S. to eliminate the taxi stand on Shattuck Avenue and relocate the taxi stand to the south side of Center Street between Shattuck Avenue and Milvia Street (behind the new BART drop-off zone), and therefore, expanding the existing taxi stand already established on Center Street. Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) to add Section 14.40.160 to create a no-double parking zone for commercial vehicles along the taxi zone on Center Street. This ordinance is necessary to provide unhindered access for taxis in the newly established taxi zone.
Contact: Grace Maguire, 981-7008, Rene Cardinaux, Public Works, 981-6300, Fran David, Finance, 981-7300
Action: Adopted Resolution No. 61,548–N.S. and adopted first reading of Ordinance. Second reading scheduled for May 21, 2002.
19. **Fee Waiver: Claremont/Uplands Neighborhood Celebration**
From: Councilmember Armstrong
Recommendation: Adopt a Resolution waiving the special event and sound permit fees associated with the Claremont/Uplands Neighborhood Celebration on May 19th.
Contact: Polly Armstrong, District 8, 981-7180
Action: Adopted Resolution No. 61,549–N.S.
20. **Support for SB 532 Creating the California Renewables Portfolio Standard Program, Requiring the Purchase of Set Amounts of Renewable Energy By Retail Sellers of Electricity, and Creating, Extending, or Refining Various Other Measures to Promote the Use of Renewable Energy in California**
From: Mayor Dean
Recommendation: 1) Support SB 532 (Sher) that: a. requires the purchase of set amounts of renewable energy by retail sellers of electricity, through the creation of the California Renewables Portfolio Standard Program to be administered by the California Energy Resources Conservation and Development Commission; the goal is to increase the overall amount of renewable energy procured (now about 10%) to 20% by the year 2010, and maintain it at least 20% through 2030; b.) extends the life of the Public Interest Energy Research Program and the Renewable Energy Program; 2) request that the City

Clerk notify the bill's sponsor and our Sacramento legislative representatives and lobbyist; and 3) request that this matter be brought to the attention of the Alameda County Conference of Mayors with a request that other cities support SB 532.

Contact: Shirley Dean, Mayor, 981-7100

Action: Approved recommendation.

21. **Densification of Berkeley**

From: Mayor Dean

Recommendation: Request the City Manager review, evaluate, and report back to the Council as quickly as possible on the attached materials and conclusions relating to the "overdensification" of Berkeley, published by the Council of Neighborhood Associations (CNA) in its April 2002 CNA Newsletter; and schedule a special workshop session to discuss the meaning and measurement of density in Berkeley. The Planning Commission should be invited and public comment allowed.

Contact: Shirley Dean, Mayor, 981-7100

Action: Removed from the Consent Calendar by Councilmember Maio and held over to the meeting of May 28, 2002.

22. **Fee Waiver: Pro Arts Open Studio Event**

From: Councilmember Maio

Recommendation: Adopt a Resolution waiving all fees for the use of the West Berkeley Senior Center (including courtyard and some side rooms) for the Pro Arts Open Studio event to be held on the weekends of May 31 – June 2 and June 7-9.

Contact: Linda Maio, District 1, 981-7110

Action: Adopted Resolution No. 61,550–N.S.

23. **City-owned Vacant Lot/Property in between 1275 and 1283 University Avenue and John M. Doyle House at the Touriel/Darling Florist Site**

From: Councilmember Maio

Recommendation: Request the City Manager investigate the moving of the John M. Doyle house to the City owned vacant lot in between 1275 and 1283 University Avenue with the provision that a) it ensures a commercial use on the ground floor; and b) is to be a non profit commercial venture of an organization that the City currently supports or would support.

Contact: Linda Maio, District 1, 981-7110

Action: Withdrawn by Councilmember Maio

24. **Sustainable City Website and Buy Local/Buy Green Information**

From: Councilmembers Maio and Spring

Recommendation: Refer to the City Manager expanding the City's Website to include a section entitled "Sustainable City" that will include all of the City's relevant programs, and include "Buy Local/Buy Green" information on how to procure environmentally sound products that can be purchased at a local level.

Contact: Linda Maio, District 1, 981-7110, Dona Spring, District 4, 981-7140

Action: Approved recommendation.

25. **Budget Referral: Child Education Center**
From: Councilmembers Maio and Breland
Recommendation: Refer to the budget process a request from Child Education Center (CEC) for assistance in their move to the Adult School.
Contact: Linda Maio, District 1, 981-7110, Margaret Breland, District 2, 981-7120
Action: Approved recommendation.
26. **Scheduling of Adult and Sexually Explicit Programming on Public Access Television**
From: Councilmembers Armstrong, Hawley and Olds
Recommendation: Direct the City Attorney to develop an ordinance that regulates the hours during which Berkeley's local public access television station may schedule programming self-described as "for adult viewing" and/or "sexually explicit."
Contact: Polly Armstrong, District 8, 981-7180, Mim Hawley, District 5, 981-7150, Betty Olds, District 6, 981-7160
Action: Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Armstrong/Olds; Noes – Worthington; Absent - Spring) to approve the recommendation.
27. **Support for April 9th Protesters**
From: Councilmember Worthington
Recommendation: Adopt a Resolution that requests University of California Chancellor Berdahl to not take away students' opportunity for education and drop the suspensions for the April 9th protest. Also, request the District Attorney drop the charges for participating in the demonstration and protest rally.
Contact: Kriss Worthington, District 7, 981-7170
Action: Removed from the Consent Calendar by Councilmember Maio. Moved, seconded, failed (Maio/Spring; Noes – Hawley, Olds, Dean; Abstain – Armstrong, Breland) to adopt a resolution amended by Councilmembers Maio and Worthington.
28. **Creating a Hate Crimes Unit**
From: Councilmember Worthington
Recommendation: Refer to the City Manager and the Police Review Commission several city models of creating a Hate Crimes Unit. Also that the City Council send letters to our state officials in support of the Local Law Enforcement Act (HR 134 and S 625).
Contact: Kriss Worthington, District 7, 981-7170
Action: Removed from Consent Calendar by Councilmember Maio and held over to the meeting of May 28, 2002.
29. **Hate Crimes in Berkeley (to be delivered)**
From: Mayor Dean
Recommendation: Refer to the City Manager and appropriate commissions the development and implementation of a comprehensive City program to address hate crimes in Berkeley.
Contact: Shirley Dean, Mayor, 981-7100
Action: Removed from the Consent Calendar by Councilmember Maio and held over to the meeting of May 28, 2002.

30. **Support AB 1058 Requiring State Regulation of Greenhouse Gas Emissions From Motor Vehicles**
From: Mayor Dean
Recommendation: Support AB 1058 requiring state regulation of greenhouse gas emissions from motor vehicles, effective as of January 1, 2006 and applying to vehicle model years 2009 and later; and request that the City Clerk notify the bill's sponsors, Governor Davis, and the City's Sacramento legislative representatives and lobbyist.
Contact: Shirley Dean, Mayor, 981-7100
Action: Approved recommendation.
31. **Support for California Wild Heritage Wilderness Heritage Act of 2002**
From: Mayor Dean
Recommendation: Support U.S. Senator Barbara Boxer's California Wild Heritage Wilderness Act of 2002 (the California Wilderness Act), to be introduced shortly in the U.S. Senate, that would designate 2.4 million new California wilderness acres in 75 areas, and 21 wild and scenic rivers extending more than 452 miles; and request that the City Clerk notify Senator Boxer in accordance with the attached instructions, and the City's Washington lobbyist.
Contact: Shirley Dean, Mayor, 981-7100
Action: Approved recommendation.
32. **Fee Waivers: Summer Noon Music in Downtown**
From: Councilmember Spring
Recommendation: Adopt a Resolution 1) waiving the sound and special event permit fees for noon music in the downtown Berkeley Park Plaza for the following dates: June 6, 13, 20, 27, July 4, 11, 18, 25, 29; and 2) waiving the fees and give permission to hang a banner across Shattuck Avenue to promote the event.
Contact: Dona Spring, District 4, 981-7140
Action: Adopted Resolution No. 61,551-N.S. as amended by Councilmember Spring to withdraw the request to hang a banner.
33. **Exploration of old Safeway Site on Claremont Street for Playing Fields**
From: Councilmember Spring
Recommendation: Refer to the City Manager the suggestion from a previous public hearing that the old vacant Safeway site on Claremont Street in Oakland may be suitable for a hardball baseball diamond and/or other playing fields and request the City Manager come back with an information report on the suitability and the availability of this site for children's playing fields.
Contact: Dona Spring, District 4, 981-7140
Action: Approved recommendation.

34. **Appointments: Mental Health Commission**
From: Mental Health Commission
Recommendation: Adopt a Resolution appointing Paul Clermont to the Mental Health Commission, Special Public Interest Category for a three-year term beginning May 14, 2002 and ending May 13, 2005; and re-appointing Sandi Harrington to the Mental Health Commission, Special Public Interest Category for a three-year term beginning June 22, 2002 and ending June 21, 2005.
Contact: Harvey Tureck, Secretary, 981-5213
a. City Manager's Report
Recommendation: The City Manager concurs with the content and recommendation of the Commission.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,552–N.S.
35. **Sister City: Palma Soriano, Cuba**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution establishing a sister city relationship with the Municipality of Palma Soriano in the Province of Santiago de Cuba.
Contact: Manuel Hector, Secretary, 981-5110
a. City Manager
Recommendation: The City Manager concurs with the content and recommendations of the Commission.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 61,553 –N.S. (Abstain – Armstrong)

Presentation

36. **EBMUD Public Power Study**
From: Berkeley Energy Commission
Recommendation: Adopt a Resolution encouraging the Board of Directors of the East Bay Municipal Utility District (EBMUD) to conduct a detailed engineering and economic analysis of various EBMUD roles in the public power business.
Contact: Neal De Snoo, Secretary, 981-5434
a. City Manager Report
Recommendation: The City Manager concurs with the content and recommendations of the Berkeley Energy Commission.
Contact: Stephen Barton, Housing, 981-5400
b. EBMUD Public Power Pre-Feasibility Report
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
Action: Presentation made. Moved, seconded, carried (Armstrong/Worthington) to adopt Resolution No. 61,554–N.S.

Action Calendar

Appeals:

37. **1801 University Avenue**

a. Appeal filed by Anil Dean of the Zoning Adjustments Board decision of February 14, 2002, which modified Use Permit #97-10000022 under Section 23B.56.020 of the Zoning Ordinance to extend the permitted hours of live music from 10:00 PM to 11:00 pm, Sunday through Thursday.

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

b. From: City Manager

Recommendation: Adopt a Resolution remanding the matter back to the Zoning Adjustments Board (ZAB) for a public hearing and dismissing the appeal.

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

c. Communications

1. Chris Zobrist

Action: Councilmember Maio recused herself due to a conflict of interest based on her residence being within 500 feet of the property. Moved, seconded, carried (Breland/Armstrong; Abstain – Spring; Absent – Maio) to adopt Resolution No. 61,555–N.S. upholding the Zoning Adjustments Board decision and dismissing the appeal.

38. **635 Santa Rosa Street**

a. Appeal filed by Greg and Sheila Steffan of the Zoning Adjustments Board decision of January 24, 2002, which approved Use Permit #01-20000002, a 725 square foot major residential addition.

Contact: Sherry Kelly, City Clerk, 981-6900

b. Appeal filed by Kenneth A. Freedman on behalf of Helen and Bill Hawkins of the Zoning Adjustments Board decision of January 24, 2002, which approved Use Permit #01-20000002.

c. Appeal filed by John and Sherry Zalabak of the Zoning Adjustments Board decision of January 24, 2002, which approved Use Permit #01-20000002.

d. From: City Manager

Recommendation: Adopt a Resolution upholding the Zoning Adjustment Board's decision to approve the Use Permit and dismissing the appeal.

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

e. Communications

- 1) Kenneth Freedman
- 2) Helen Hawkins, Greg and Sheila Steffen, and John and Sherry Zalabak
- 3) John and Sherry Zalabak
- 4) Greg and Sheila Steffan
- 5) Dennis Mulquenny

Action: Moved, seconded, carried (Hawley/Armstrong; Noes – Olds; Abstain – Dean) to adopt Resolution No. 61,556 –N.S. upholding the Zoning Adjustments Board decision and dismissing the appeal.

Ballot Measures

39. Potential Ballot Measures – November 2002

From: City Manager

Recommendation: 1) Give direction to the City Manager as to which ballot measures should be considered for the November 2002 ballot and give direction to the City Attorney to prepare ballot titles and financial analysis and return to Council no later than June 25, 2002 with the text, title and financial analysis; 2) for those proposed measures where ballot text language is being presented, approve or amend the ballot text language and give direction to the City Attorney to prepare ballot titles and financial analysis and return to Council no later than June 25, 2002; and 3) give additional direction to the City Manager and City Attorney to prepare ballot text, title and financial analysis for any additional ballot measures not included in the staff report that Council may wish to place on the November ballot and request that the text, title and financial analysis return to Council no later than June 25, 2002.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Actions on various ballot measures were taken as listed below with all other ballot measures being held over to the meeting of May 28, 2002.

a. Ballot Measure — Instant Runoff Voting Charter Amendment

From: City Manager

Recommendation: If the Council wishes to place a measure on the November 2002 ballot amending the charter to allow for Instant Runoff Voting (IRV): 1) review enclosed proposed charter amendment language and either approve the text or give direction for any changes and further direction to the City Attorney to prepare ballot title and financial analysis; and 2) give direction to the City Clerk to continue to follow-up and report back on status of IRV in California jurisdictions.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Held over to the meeting of May 28, 2002.

b. Ballot Measure – Measure Q Relating to Development Potential on the North Basin Strip of the Berkeley Waterfront

From: City Manager

Recommendation: If Council wishes to place a measure on the November 2002 ballot making it explicit that the Council has the power to reduce development potential for the Waterfront within constitutional constraints, below the amounts currently contemplated by Measure Q, either approve the text or give direction for any changes and further direction for the City Attorney to prepare a ballot title and financial analysis.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved to the Consent Calendar by Councilmember Worthington to direct the City Attorney to prepare a ballot title and analysis.

c. Ballot Measure – Competitive Bidding Charter Amendment

From: City Manager

Recommendation: After researching this matter, staff does not recommend a charter amendment.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Consensus by the Council to not place a charter amendment on the ballot.

d. Ballot Measure – Redistricting Charter Amendment

From: City Manager

Recommendation: If the Council desires to place a measure on the ballot amending the charter related to the time in which to consider and take action on redistricting; give direction to the City Manager and the City Attorney on ballot text language prepared by the City Attorney or alternate proposals presented by Mayor Dean and Councilmember Spring.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Held over to the meeting of May 28, 2002.

d1. Charter Amendment To Extend Time To Redistrict After Decennial Census And Consolidating Council, Mayoral And Auditor Elections To Coincide With The Redistricting Cycles (Held over by Maio from 04/23/02 and 04/29/02)

From: Councilmember 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 occur 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 affect the current adopted redistricting plan.

Contact: Dona Spring, District 4, 981-7140

Action: Held over to the meeting of May 28, 2002.

d2. Redistricting - Revised Item from Councilmember Spring (May 14, 2002)

Recommendation: Postpone consideration of a charter amendment in response to the next decennial census count until 2004 when further solutions can be explored to deal with the problems of inaccurate census counts. Refer this agenda item's recommendations and the Mayor's agenda items recommendations on this topic to a future process.

Contact: Dona Spring, District 4, 981-7140

Action: Held over to the meeting of May 28, 2002.

d3. Charter Amendment changing the effective date of Redistricting (*Held over by Maio from 4/16/02 and 4/23/02*)

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 the current redistricting.

Contact: Shirley Dean, Mayor, 981-7100

Action: Held over to the meeting of May 28, 2002.

e. Ballot Measure – Property Transfer Tax – Affordable Housing and Soft Story Seismic Assistance

From: City Manager

Recommendation: If Council wishes to place a measure on the November 2002 ballot increasing the Property Transfer Tax by 0.25% for affordable housing and soft story seismic assistance, either approve the ballot text or give direction for any changes and further direction for the City Attorney to prepare a ballot title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Actions: Moved, seconded, (Worthington/Maio) a main motion to direct the City Manager to support placing a measure on the ballot for affordable housing and to redraft the ballot language to provide for specific percentages of money for each program and to make programs a high priority.

Moved, seconded, carried (Armstrong/Hawley; Noes – Olds) a substitute motion to consider comments and concerns by councilmembers and to take these into consideration when redrafting any ballot language.

e1. Affordable Housing Ballot Measure Information Report

From: Housing Advisory Commission

Contact: Oscar Sung, Secretary, 981-5410

Action: Held over to the meeting of May 28, 2002.

f. Ballot Measure –Animal Shelter Bond Measure

From: City Manager

Recommendation: If Council wishes to place a bond measure on the November 2002 ballot for new construction and/or improvements of the existing animal shelter, comment on project scope and give direction to the City Manager and City Attorney to prepare ballot title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Moved, seconded, carried (Breland/Olds) to direct the City Attorney to prepare a title and financial analysis for the November ballot for the acquisition and/or building of a new animal shelter.

f1. A New Animal Shelter in Berkeley *(to be delivered)*

From: Mayor Dean

Recommendation: Refer to the City Manager and the Citizens Humane Commission a request to evaluate several sites as possible locations for a new animal shelter, and that this site evaluation be completed in time for inclusion in the \$6.5 million November ballot measure now being prepared.

Contact: Shirley Dean, Mayor, 981-7100

Action: Withdrawn by Mayor Dean at the recommendation of the City Manager.

f2. Ballot Measures – Animal Shelter, Playing Fields, Aquatic Park

From: Councilmember Spring

Recommendation: Consider putting a bond measure on the November 2002 ballot as a way to assist in purchasing additional land near Aquatic Park for the following possible uses: playing fields for children, expansion of Aquatic Park and a new animal shelter.

Contact: Dona Spring, District 4, 981-7140

Action: Held over to the meeting of May 28, 2002.

g. Ballot Measure – Old City Hall Seismic Retrofit Bond Measure

From: City Manager

Recommendation: If Council wishes to place a bond measure on the November 2002 ballot for seismic retrofit and improved council chambers at Old City Hall, comment on the project scope and give direction to the City Manager and City Attorney to prepare ballot title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Held over to the meeting of May 28, 2002.

h. Ballot Measure – Veterans Building Seismic Retrofit Bond Measure

From: City Manager

Recommendation: If Council wishes to place a bond measure on the November 2002 ballot for seismic retrofit and renovation of the Veterans Building, comment on project scope and give direction to the City Manager and City Attorney to prepare ballot title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Held over to the meeting of May 28, 2002.

i. Ballot Measure – Street and Pedestrian Safety Lighting Tax

From: City Manager

Recommendation: If Council wishes to place a special tax on the November 2002 ballot to address the current deficit to the street lighting fund and provide additional funds to address pedestrian lighting and safety issues at dangerous intersections, give direction to the City Manager to prepare ballot text, title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Moved, seconded, carried (Armstrong/Maio) to direct the City Attorney to prepare ballot text, a title and financial analysis for the November ballot.

j. Ballot Measure – Clean Stormwater Tax

From: City Manager

Recommendation: If Council wishes to place a special tax on the November 2002 ballot to increase the clean stormwater tax, provide direction to the City Manager on the amount of tax (staff is recommending \$25 to \$50 increase per residential parcel) and further direction to the City Manager and City Attorney to prepare ballot text, title and financial analysis.

Contact: Phil Kamlarz, Deputy City Manager, 981-7000

Action: Moved, seconded, carried (Armstrong/Maio; Noes – Worthington) to direct the City Attorney to prepare ballot text, a title and financial analysis for the November ballot.

Action Calendar

Old Business:

40. **Revocation of Use Permit #7263 – Tune Up Masters – 1698 University Avenue**
(Public Hearing closed on 04/16/02)

From: City Manager *(March 19th)*

Recommendation: Adopt a Resolution revoking the Use Permit 7263 for noncompliance with the Use Permit conditions, including those imposed by Resolution No. 58,425-N.S., for auto service use at 1698 University Avenue (Tune Up Masters).

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

a. City Manager Supplemental Report *(March 19th)*

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

Actions: Moved, seconded, (Maio/Worthington) a main motion to reopen the public hearing and to continue the public hearing to June 18, 2002.

Moved, seconded, carried(Armstrong/Hawley; Noes – Maio, Abstain - Worthington; Absent- Spring) a substitute motion directing the City Manager and City Attorney to develop conditions under which Tune-Up Masters could operate until its lease expires in approximately two years.

Moved, seconded, carried (Armstrong/Hawley; Noes – Maio; Abstain – Worthington; Absent – Spring) to adopt Resolution No. 61,557-N.S. as prepared by the City Attorney which imposes additional conditions on, and staying revocation of, Use Permit 7263 for an auto service use by TuneUp Masters and further amended by councilmembers to include additional conditions with the stipulation that Tune Up Masters will have one week to accept the additional conditions or TuneUp Masters operation at this site will be terminated by the City.

41. **Consider a Citywide 20 MPH Speed Limit in Residential Areas** (*Held over by Olds from 3/12/02, 03/19/02, 04/23/02 and 04/29/02*)
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
From: Mayor Dean
Recommendation: Propose the following substitute for the motion currently contained in the item above: (New language underlined, language to omitted in shown in ~~strike through~~.) Refer to the staff and Transportation Commission for evaluation the proposal to consider a citywide 20 MPH speed limit in residential areas. Their consideration specifically is to include the following: 1) limiting consideration to street that are designated residential; 2) developing criteria under which a street would be eligible for a 20 MPH designation; 3) developing a process which would be used when a specific street or streets are to be considered for a 20 MPH designation; and 4) determining the costs involved and recommendations for how such costs would be met in the budget. The staff and Transportation Commission are to return to the Council for approval of their recommendations.
Contact: Shirley Dean, Mayor, 981-7100
Action: Held over to the meeting of May 28, 2002.
42. **Assisting Afghan Victims of the Devastating Earthquakes** (*Held over by Breland from 04/16/02, 04/23/02 and 04/29/02*)
From: Councilmember Spring
Recommendation: Adopt a Resolution granting \$3000 to assist the Afghanistan victims of the devastating earthquakes; and request the City Manager to give City employees information on this opportunity to donate to the relief efforts.
Contact: Dona Spring, District 4, 981-7140
Action: Held over to the meeting of May 28, 2002.
43. **Vandalized Berkeley Hillel and Other Incidents Aimed at the Jewish Community** (*Held over by Armstrong from 04/16/02, 04/23/02 and 04/29/02*)
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
Action: Held over to the meeting of May 28, 2002.

44. **Policy on Zoning Project Notices** (*Held over by Armstrong from 04/16/02, 04/23/02 and 04/29/02*)

From: Councilmember Spring

Recommendation: That the Council refer to the City Manager and ask that he return with a timely response to the request for adoption of 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 BZO 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

Action: Held over to the meeting of May 28, 2002.

45. **Support for New Auto Related Uses on University Avenue Contingent on a Public Hearing** (*Held over by Hawley from 04/16/02, 04/23/02 and 04/29/02*)

From: Councilmember Spring

Recommendation: Support allowing new auto related uses on University Avenue with the requirement that all new auto related uses are subject to a public hearing before approval or disapproval.

Contact: Dona Spring, District 4, 981-7140

Action: Held over to the meeting of May 28, 2002.

46. **Strengthening The Creeks Preservation Ordinance** (*Held over by Hawley from 04/23/02 and 04/29/02*)

From: Councilmember Spring

Recommendation: Request that the City Attorney return by the first meeting in July with a finalized version of the revised Creek Preservation ordinance that will better protect our creeks to prevent any kind of development such as paving or creating driveways within 30 feet of a creek or underground creek or a culverted creek; and that the City strengthen its policy to open all underground creeks wherever possible.

Contact: Dona Spring, District 4, 981-7140

Action: Held over to the meeting of May 28, 2002.

47. **Support For Ed Rosenthal** (*Held over from 04/23/02 and 04/29/02*)
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. City Manager Report**
Recommendation: The City Manager recommends against adopting the Police Review Commission's request to have the City Attorney "file an 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
Action: Moved to Consent Calendar by Councilmember Breland to approve the City Manager's recommendation, that was understood to be acceptable to the Police Review Commission and authorized the sending of letters to legislators to recommend changes in federal law and regulations and to direct the City Attorney to monitor this case to determine if an amicus brief may be appropriate at the appellate level.

New Business:

48. **Contract: North Shattuck BID**
From: City Manager
Recommendation: 1) Adopt a Resolution establishing Fund 478 as the North Shattuck Business Improvement District Fund for the purpose of collecting and accounting for BID assessment revenues. 2) Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association for \$161,889 of BID funds to implement the Management District Plan for the North Shattuck Business Improvement District (BID).
Contact: Tom Myers, Economic Development, 705-8180
Action: Moved to Consent Calendar by Councilmember Hawley. Adopted Resolution No. 61,558–N.S. and No. 61,558A–N.S.
49. **Issuance of Special Tax Bonds** (*To be delivered*)
From: City Manager
Recommendation: Adopt a Resolution authorizing the issuance of 2002 Community Facilities District No. 1 Fire Protection Equipment Project Bonds in an amount not to exceed \$9,750,000; approving a form of indenture, a form of official notice of sale of bonds and notice of intention to sell bonds; authorizing the official statement relating thereto; and authorizing the execution of necessary documents.
Contact: Fran David, Finance, 981-7300, Reginald Garcia, Fire, 981-3473
Action: Moved to Consent Calendar by Councilmember Armstrong. Adopted Resolution No. 61,559–N.S.

50. **Fee Waiver And Deferral Request For Acton Courtyard Apartments, 2002 Acton/1392 University Avenue**
From: City Manager
Recommendation: Adopt a Resolution waiving \$78,000 in building permit related fees and defer remaining fees for which waiver was requested (except sewer connection fees) until one year after completion of construction. Applicant shall pay sewer connection fees when building permits are issued.
Contact: Carol Barrett, Planning and Development, 705-8102
Action: Moved, seconded, carried (Breland/Olds; Noes – Maio, Spring, Shirek and Worthington) to adopt Resolution No. 61,560–N.S.
51. **Inclusion of Accessible Pedestrian Signals in Countdown Signal Installations**
From: Commission on Disability
Recommendation: Instruct staff to delay the installation of countdown signals at designated intersections until accessible pedestrian signals (APS) are also installed on each of the signals currently receiving the countdown technology and/or until an audio component is also installed with the countdown signals.
Contact: Paul Church, Secretary, 981-6342
a. City Manager Report
Recommendation: Continue with the installation of the countdown signals at the designated test intersections scheduled to receive them. As a general rule, when substantial alterations are made to existing signals, or when new signals are being installed, accessible pedestrian signals should also be installed.
Contact: Peter Hillier, Transportation, 981-7000
Action: Moved to the Consent Calendar by Councilmember Hawley to approve the City Manager’s recommendation as amended by Councilmember Spring to make the lights accessible as soon as possible and when funding is available and referring to the Commission on Disability developing a priority list.
52. **Development Agreement with Bayer Corporation**
From: Peace and Justice Commission
Recommendation: Schedule a public hearing at a Council meeting to allow citizens to raise concerns about the Bayer Corporation as part of the ten year review process for the Development Agreement with Bayer Corporation; consider the testimony at the public hearing and the facts contained in this report as part of that review process; and refer this matter to any other commissions that have jurisdiction over various other aspects of the Development Agreement with Bayer to determine if Bayer is failing to properly fulfill its obligations in other areas.
Contact: Manuel Hector, Secretary, 981-5110
a. City Manager Report
Recommendation: Schedule a public presentation regarding the City’s ten year review of the Development Agreement with Bayer Corporation.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Moved to Consent Calendar by Councilmember Armstrong to approve the City Manager’s recommendation as amended by Councilmember Worthington to include discussion of the EcoPass program as part of the Bayer Development Agreement presentation.

Information Reports

53. **Investment Report: Quarter Ending March 31, 2002**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and Filed.
54. **Formal Bid Solicitations And Request For Proposals**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and Filed.
55. **Special Event Fee Waivers (CF 193-01)**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Received and Filed.
56. **Landmarks Preservation Commission Notice Of Decision: Approval Of The Structural Alteration Permit For: 2419 Haste Street - First Presbyterian Church Master Plan**
From: City Manager
Contact: Carol Barrett, Planning and Development, 705-8102
Action: Received and Filed.
57. **Fee Deferral Request For 2101 Milvia Street**
From: City Manager
Contact: Carol Barrett, Planning and Development, 705-8102
Action: Received and Filed.
58. **Grant: Used Oil Recycling Block Grants - 8th Cycle**
From: City Manager
Contact: Carol Barrett, Planning and Development, 705-8102
Action: Received and Filed.

Communications

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

Page No.

1. Regarding housing **Worthington, Dean**
 - a. Howie Muir (5 letters)
 - b. Jamie Blackson Baker, Executive Director, Housing Consortium of the East Bay

2. Karen Maoz, regarding Green Building **Maio, Dean**
3. Merrilie Mitchett, regarding redistricting
4. Petition submitted by Ronald Rugato, regarding auto with excessive audio systems **Dean, Maio, Spring, Worthington – Directed the City Manager to provide a report**
5. Charles Smith, regarding electricity and East Bay Municipal Utilities District
6. Emily B. Longfellow, Miller Starr & Regalia, regarding Rental Housing Safety Program
7. Wendy Alfsen, regarding Dwight Way **Dean, Spring**
8. David Weber Shapiro, Northside Neighbors for Safety, regarding potholes on Gayley Road **Dean, Maio**
9. Greg Elverton, regarding the state of the City of Berkeley
10. Tim Hansen, regarding request for citizen’s review of City Attorney **Dean, Spring**
11. Julie Lamont, regarding Earth Day **Dean, Spring, Worthington**
12. William F. McGill, regarding janitorial contract at Berkeley Public Library **Dean, Worthington**
13. Alon Yu, regarding Southern Pacific Depot **Dean, Maio**
14. Regarding the Creek Ordinance **Dean, Spring, Worthington**
 - a. Julie Lamont (2 letters)
 - b. Karyn Hunt
 - c. Diane Tokugawa
15. Regarding Mu-Li moratorium
 - a. Joseph Slusky and Katie Hawkinson
 - b. Douglas Herst
16. Regarding Middle East
 - a. Deborah Heifetz-Yahav
 - b. Cindy Kaplan
 - c. Dave Loev (8 letters)
 - d. Maureen O'Sullivan
 - e. John Glansbeek
 - f. Estelle Ross (2 letters)
 - g. Cynthia Cooper
 - h. Sheila Braufman
 - i. Barbara Goodman

j. Asaf Yeshaya
k. David Goldman
l. Dorit Hochbaum
m. Gerald Schwartz
n. Gregory Rudoy
o. Jaleh Niazi
p. Jennifer Joseph
q. Jeremy Freedman
r. Lea Bergen
s. Michael Zitkin
t. Michelle Serlin
u. Michelle Suffian-Chilton
v. Richard Hirsch
w. Susan Mills (2 letters)
x. Tracy Youngstedt
y. Vera Aerov
z. Vicki Sommer
aa. Naomi Avissar
bb. Imad Dajani
cc. Delana Browning
dd. Harry Rubin
ee. Amr Sabry
ff. Ary Rotman
gg. Rula Borelli
hh. Victoria Ashley
ii. Mark Dayan
jj. Imad Dajani
kk. Laleh Behbehanian
ll. Greg Smith
mm. Imad Dajani
nn. Christine Bitar (3 letters)
oo. Joseph King
pp. Lina Chankar
qq. Ray Bergmann
rr. Shemon Salam
ss. Ann Sharon
tt. Steven Simrin
uu. Robert Feldman
vv. Elias Darraj
ww. Susan Abulhawa
xx. Catebla23@aol.com
yy. Chadi
zz. Walter Shepard

17. Steven Hill, regarding Instant Runoff Voting charter language

Supplemental Communications and Agenda Reports

Item 8 Library Gardens – Interim Parking Program Agreement

18. John DeClercq

Item 25 Budget Referral: Child Education Center

19. Janelle A. Noble

20. Judith Jamie Greenblatt

21. Tim Herring

Item 26 Scheduling of Adult and Sexually Explicit Programming on Public Access Television

22. Jim Hult

Item 27 Support for April 9th Protesters

23. John Cummins, Assistant Chancellor, UC Berkeley

Item 29 Hate Crimes

Revised Report from Mayor Dean

Item 37 1801 University Avenue Appeal

Anna de Leon

Item 39 Ballot Measure – Instant Runoff Voting

Staff Report

Item 40 Revocation of Use Permit #7263 – TuneUp Masters – 1698 University Avenue

24. Robert Zweben, Counsel for TuneUp Masters

Item 49 Issuance of 2002 Community Facilities District No. 1 (Disaster Fire Protection) Special Tax Bonds (Election of 2000) in the Amount of \$9,750,000

Staff Report

Item 50 Fee Waiver and Deferral Request for Acton Courtyards, 2002 Acton/1392 University Avenue

25. Carol Sullivan, Berkeley Way Neighborhood Association

26. Howie Muir

27. Elania Nanopoulos and Dale Sophiea

28. Clifford Fred

Adjournment

Action: Moved, seconded, carried (Worthington / Maio; Noes – Armstrong) to suspend Council Rules to extend the meeting to 11:30 to complete specific agenda items.

Moved, seconded, carried (Armstrong/Maio) to suspend Council Rules to extend the meeting to 12:00 to complete specific agenda items.

Moved, seconded, carried (Armstrong/Maio) to suspend Council Rules to extend the meeting to 12:15 to complete specific agenda items.

Adjourned at 12:12 p.m. in honor of a sister of the Order of Presentation Nuns who was killed by a vehicle outside of St. Josephs church on Saturday, May 11, 2002.