

SUMMARY

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, MAY 28, 2002

Preliminary Matters

Roll Call: 7:07 p.m. – Absent - Breland

Ceremonial Matters:

Proclamation in honor of Affordable Housing Week.

Action: Proclamation presented.

Comments from the City Manager:

1. On May 29, 2002 from 7:00 to 8:00 p.m. there will be a community meeting on Parks and Open Space Improvement Funds at the City's Corporation Yard, 1326 Allston Way. Volunteers of any group can acquire up to \$3,000 in funds for suitable projects.
2. On May 29, 2002 at 7:00 p.m. the Police Review Commission invites feedback at a Community Forum on Community Policing to be held at Rosa Parks Elementary School, 8th and Addison. This will be the first in a series.
3. On May 30, 2002 at 7:00 p.m. at Rosa Parks Elementary School, the Police Department will hold a community meeting regarding crime in the area.
4. On June 8, 2002, from 11:00 a.m. – 3:00 p.m. Berkeley Animal Care Services will hold an Open House, 2013 Second Street at Addison.

Comments from the Public: 17 Speakers Several councilmembers requested the City Manager provide an information report to Council regarding issues raised related to contracting out janitorial services to non-union workers at the Library and janitorial services at 1947 Center Street.

Consent Calendar

Action: Moved, seconded, carried (Worthington/Maio; Absent-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. 61,581-N.S.

2. **Easement: 725 Potter Street** *(first reading May 21, 2002 – unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to accept an easement for a fire hydrant and fire apparatus access between parcels at 725 Potter Street and 700 Heinz Street.
Contact: Reginald Garcia, Fire Chief, 981-3473
Action: Adopted Ordinance No. 6690–N.S. Effective June 27, 2002

3. **Sidewalk Food Vending** *(first reading May 21, 2002 – Noes – Breland, Maio, Spring, Worthington)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance repealing and reenacting Chapter 9.49 of the Berkeley Municipal Code regulating Food Vending on Sidewalks and Rights-of-Way.
Contact: Fran David, Finance, 981-7300
Action: Removed from Consent Calendar by Councilmember Worthington and held over to the meeting of June 11, 2002.

4. **Police Department Administrative Fingerprinting Fees** *(first reading May 21, 2002 – Unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 2.64.150 increasing the administrative fingerprinting fee from \$10 to \$20.
Contact: Dash Butler, Police Chief, 981-5700
Action: Adopted Ordinance No. 6691–N.S. Effective June 27, 2002

5. **Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of: a) April 23, 2002 (regular); b) April 29, 2002 (adjourned regular); c) April 30, 2002 (special); and d) April 30, 2002 (joint special).
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Approved minutes

6. **Abolish The Property Owners’ Council For The Telegraph Property And Business Improvement District And The Advisory Board For The North Shattuck Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution abolishing the Property Owners’ Council for the Telegraph Property and Business Improvement District, and the Advisory Board for the North Shattuck Business Improvement District and rescinding Resolution Nos. 59,493–N.S. and 61,068–N.S.
Contact: Tom Myers, Economic Development, 705-8180
Action: Adopted Resolution No. 61, 582–N.S.

7. **Settlement Agreement: Epstein v. City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. 833260-0 entitled Barbara Epstein v. City of Berkeley in the amount of \$70,000.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Resolution No. 61, 583-N.S.

8. **Appropriations Limit for Fiscal Year 2003**
From: City Manager
Recommendation: Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2003 at its meeting of June 25, 2002 and 2) the amount of the limit and the background materials used in its calculation will be available for public review in the City Clerk's Office on or before June 10, 2002.
Contact: Fran David, Finance, 981-7300
Action: Adopted Resolution No. 61,584-N.S.

9. **Contract: Commercial Kitchen**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the Community Development Block Grant contract with Berkeley Youth Alternatives (BYA) to extend the term to June 30, 2003 for development of a commercial kitchen.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,585-N.S.

10. **Contract: Rehabilitation Of 2418 8th Street For Transitional Housing For Homeless Youth**
From: City Manager
Recommendation: Adopt a Resolution: a) authorizing the City Manager to amend the contract with Berkeley Ecumenical Ministries Foundation to reallocate \$45,000 in FY 2001-02 of Community Development Block grant funds for the rehabilitation of the 2418 Eighth Street for use as a transitional housing facility for homeless youth.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,586-N.S.

11. **Replacement Of Help Loan With Housing Trust Funds For Jubilee Senior Homes**
From: City Manager
Recommendation: Adopt a Resolution approving the replacement of a loan from the Housing Enabled by Local Partnerships (HELP) in the amount of \$379,000 with a Housing Trust Fund loan and authorizing the City Manager to execute any loan agreements and other amendments related to this loan.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,587-N.S.

12. **Contract: Shelter Improvements**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the Emergency Shelter Grant (ESG) contract with Building Opportunities for Self-Sufficiency (BOSS) to extend the term of the contract to June 30, 2003 for shelter improvements.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 61,588-N.S.
13. **Salary Increase For The Animal Control Officer and Senior Animal Control Officer Classifications**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 59,798-N.S., Classification and Salary Resolution for S.E.I.U., Local 790 Employees, to increase the salary range for the Animal Control Officer and Senior Animal Control Officer classifications, to provide for an equity salary increase.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,589-N.S.
14. **Contract: Workers' Compensation Insurance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments and endorsements with Continental Casualty Company for \$195,411 to pay the insurance premium and brokerage commission to Willis Insurance Services of California, Inc., for excess workers' compensation insurance for the period of May 1, 2002 through May 1, 2003.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,590-N.S.
15. **Establish Records Manager Classification**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 60,051-N.S., Classification and Salary Resolution for Local One Employees, to establish the classification of Records Manager.
Contact: Ron Brown, Human Resources, 981-6800
Action: Adopted Resolution No. 61,591-N.S.
16. **Contract: Emergency Sewer Replacement Projects I**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with McNamara and Smallman Construction, Inc. for emergency sewer replacement and storm drain repair projects, by increasing the amount by \$194,000 and extending the contract time by 90 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,592-N.S.

17. **Contract: Emergency Sewer Replacement Projects II**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with J. Howard Engineering, Inc. for emergency sewer replacement projects by increasing the amount by \$178,000, and extending the contract time by 90 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,593-N.S.

18. **Street Rehabilitation FY 2002 Phase 2**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Street Rehabilitation FY 2002 Phase 2 Project; accepting the bid of Bay Cities Paving & Grading, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$2,784,682, for a period of 120 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 61,594-N.S.

19. **Solar Power in Municipal Buildings**
From: Councilmember Maio
Recommendation: Request the City Manager look into seeking assistance from Power Shift to utilize their tools in analyzing the prospects of converting Berkeley's municipal buildings to solar power.
Contact: Linda Maio, District 1, 981-7110
Action: Approved recommendation.

20. **University Avenue Median Project**
From: Mayor Dean
Recommendation: Request the City Manager to give the Council a brief verbal presentation this evening regarding the landscaping plans for the University Avenue Median and advise whether the Council needs to take any action at this time.
Contact: Shirley Dean, Mayor, 981-7100
Action: Approved recommendation and heard presentation.

21. **International Market Place/Food District**
From: Mayor Dean
Recommendation: Approve the concept of an International Market Place/Food District around the University and San Pablo intersection and request that the City Manager proceed with its implementation, including notification to those affected by the proposal, advising him to modify the district, as necessary and based upon public input, and to proceed with a marketing plan in collaboration with the Berkeley Convention and Visitors Bureau, Chamber of Commerce, University Avenue Association and others as may be helpful.
Contact: Shirley Dean, Mayor, 981-7100
Action: Removed from Consent Calendar by Councilmember Maio. Moved, seconded, carried (Maio/Spring; Absent-Breland) to commend the efforts of staff and the founding merchants of the International Market Place/Food Districts for the work that has been done.

22. **Protest Cuts in Governor’s Budget that Affect Youth and Children**
From: Mayor Dean
Recommendation: Send a strongly worded letter to Governor Davis indicating our concern over proposed cuts that affect youth and children, that the letter include real life examples regarding impacts of these proposed cuts and that we propose alternative revenue sources.
Contact: Shirley Dean, Mayor, 981-7100
Action: Approved recommendation.
23. **Prohibit Overnight Parking on Lower University Avenue**
From: Councilmember Olds
Recommendation: Request the City Manager install “No Overnight Parking” signs on lower University Avenue west of the freeway exchange.
Contact: Betty Olds, District 6, 981-7160
Action: Approved recommendation.
24. **Hypertension Clinic**
From: Vice Mayor Shirek
Recommendation: Refer to the City Manager to plan and implement a hypertension clinic and adult diabetic/nutritional program.
Contact: Maudelle Shirek, Vice Mayor, District 3, 981-7130
Action: Approved recommendation.
25. **Commission Input on Ten-Year Review of Bayer Development Agreement**
From: Councilmember Spring
Recommendation: Allow input from members of the Peace and Justice Commission, Health Commission and Citizens’ Humane Commission at the public presentation of the ten-year public review of the Bayer Development Agreement.
Contact: Dona Spring, District 4, 981-7140
Action: Removed from Consent Calendar by Councilmember Olds and held over to the meeting of June 11, 2002.
26. **“Berkeley Unplugged” Energy Conservation Contest**
From: Berkeley Energy Commission
Recommendation: Adopt a Resolution to honor the ten winners of the First Annual “Berkeley Unplugged” Energy Conservation Contest.
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
Action: Adopted Resolution No. 61,595-N.S.

27. **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: Council direction provided on specific items listed below, with other items held over to the meeting of June 11, 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.

Action: Held over to the meeting of June 11, 2002.

b. 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 June 11, 2002.

b1. 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 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 June 11, 2002.

b2. Redistricting - Revised Item from Councilmember Spring

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 June 11, 2002.

b3. Charter Amendment changing the effective date of Redistricting

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 June 11, 2002.

c. Ballot Measure – Property Transfer Tax – Affordable Housing and Residential Seismic Safety 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 earthquake safety 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

Action: Moved, seconded, carried (Worthington/Maio; Noes-Olds; Absent-Breland) to incorporate Council comments and direct staff to continue to refine the language of the measure for placement on the November 2002 ballot.

d. 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 June 11, 2002.

e. 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: Moved, seconded, carried (Armstrong/Hawley; Noes-Worthington; Abstain-Spring ; Absent – Breland) to direct staff to provide a recommendation as to the best structural solution and draft appropriate ballot language. (Councilmember Spring asked the record to reflect that she abstained because there are unresolved ADA and seismic issues.)

f. 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: Moved, seconded, carried (Armstrong/Hawley; Abstain-Spring; Absent-Breland) to not place a measure on the November 2002 ballot to retrofit the Veterans Building.

g. Ballot Measure – Warm Water Pool

From: Councilmember Spring

Recommendation: Direct the City Manager and City Attorney to draft ballot measure language for a bond measure to be spent on a new pool if the Berkeley Unified School District decides to replace the building that the warm water pool is currently located in; and consider if additional funds may be needed for this option.

Contact: Dona Spring, District 4, 981-7140

Action: Moved, seconded, carried (Spring/Worthington; Abstain-Armstrong; Absent-Breland, Maio) to request that the City Manager work with the School District and determine whether a ballot measure is necessary to provide the flexibility needed to rehabilitate or to construct a new warm water pool facility at the present site, and if so to return to Council with ballot language.

Action Calendar – FY 2003 Budget Discussion and Council Direction

28. **FY 2003 Budget Discussion and Council Direction**
From: City Manager
Recommendation: Continue budget discussion of City Manager's proposed balancing measures presented to the Council on April 30, 2002 and additional alternative reductions presented this evening, and provide the City Manager with direction.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000
Action: Continued budget discussion. Councilmembers Armstrong and Maio expressed support for and asked that the City Manager prepare and provide Council with a transition plan for moving civilian duties from sworn police officers to civilian staff so that sworn officers can concentrate on police duties.
29. **Sewer Service Fees**
From: City Manager
Recommendation: 1) Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 17.04.010 and 17.04.015, sewer service charges, imposition of liens, and appeals; and 2) adopt a Resolution increasing sewer service charges for residential and non-residential categories for FY 2003.
Contact: Rene Cardinaux, Public Works, 981-6300
a. From: Citizens Budget Review Commission (to be delivered)
Recommendation: Based on review of FY 2000 Sanitary Sewer Program expenses, request the City Manager implement the following budget directions for FY 2003: 1) Refer the findings and recommendations detailed in the report to the City Auditor for review and to the City Manager for response to recommendations regarding performance measures, accounting line definition improvements and budget recommendations; 2) increase sewer fees for FY 2003 by CPI only; 3) establish and implement performance measures to allow determination of unit costs necessary to allow financial planning for rehabilitation of the remaining sewer system under the City jurisdiction; and 4) improve accounting line item definitions to allow better tracking of revenues and expenses of the sewer and other programs especially for capital projects.
Contact: Paul Navazio, Secretary, 981-7000
Action: Held over to the meeting of June 11, 2002.
30. **Grant for Home at Last Animal Rescue Organization**
From: Citizens Humane Commission
Recommendation: Adopt a Resolution authorizing the City Manager to allocate a one time grant of \$35,000 to the nonprofit animal rescue organization, Home At Last, in addition to the yearly \$25,000 grant already allocated for expenses incurred in rescuing animals at the Berkeley Animal Care Shelter.
Contact: Kate O'Connor, 981-6601

a. From City Manager

Recommendation: The recommendation of the Commission affects budget and/or other programs.

Contact: Jim Hynes, City Manager, 981-7012

Actions: Moved, seconded, (Spring/Worthington) a main motion to approve the Commission's recommendations.

Moved, seconded, carried (Shirek/Armstrong; Noes- Spring, Worthington; Absent - Breland) a substitute motion to accept the City Manager's recommendation to refer to the budget process.

31. **Grant for Fix our Ferals Animal Rescue Organization**

From: Citizens Humane Commission

Recommendation: Adopt a Resolution authorizing the City Manager to allocate a one time grant of \$10,000 to the nonprofit animal rescue organization, Fix Our Ferals for expenses incurred in the next fiscal year by offering free trapping, spaying and neutering of Berkeley feral cats.

Contact: Kate O'Connor, 981-6601

a. From: City Manager

Recommendation: The recommendation of the Commission affects budget and/or other programs.

Contact: Jim Hynes, City Manager, 981-7012

Actions: Moved, seconded, (Spring/Worthington) a main motion to approve the Commission's recommendations.

Moved, seconded, carried (Shirek/Armstrong; Noes- Spring, Worthington; Absent - Breland) a substitute motion to accept the City Manager's recommendation to refer to the budget process.

32. **Humane Commission Funding Recommendations** (*Held over by Spring from 05/21/02*)

From: Councilmember Spring

Recommendation: Approve the Commission's funding recommendations for FY2003.

Contact: Councilmember Dona Spring, District 4, 981-7140

Action: Held over to the meeting of June 11, 2002.

33. **Civic Arts Grant Requests**

From: City Manager

Contact: Tom Myers, Economic Development, 705-8180

Action: Information Report received and filed.

Public Hearing on Land Use Appeals

34. **2517 Sacramento Street-** *(Continued only for limited purposes of taking comment on any new proposal or modification of proposals to the project as a result of mediation. At the meeting of May 28th the Council will receive a staff report and may take action.)*
- a. Appeal filed by Marie Bowman, appellant,** of the Zoning Adjustments Boards decision to approve a Mitigated Negative Declaration and Use Permit 01-10000085 to:
a) demolish an existing commercial structure; and b) construct a four-story 40,171 square foot mixed-use building with 40 dwelling units above 3,620 square feet of retail space at 2517 Sacramento Street in the C-SA (South Area Commercial) Zoning District.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. City Manager Supplemental Report** *(to be delivered)*
Contact: Carol Barrett, Planning and Development, 705-8102
- c. City Manager Report** *(see agenda packet of May 7, 2002)*
Recommendation: Adopt a Resolution adopting a mitigated negative declaration and approving Use Permit 01-10000085 to: a) demolish an existing commercial structure, b) construct a four-story 40,171 square foot mixed-use building with 40 dwelling units above 3,620 square feet of retail space at 2517 Sacramento Street in the C-SA (South Area Commercial) Zoning District, and c) dismissing the appeal.
Contact: Carol Barrett, Planning and Development, 705-8102
- d. Communications** *(see agenda packet of May 7, 2002)*
1. Honor Thompson
 2. Shari Huebner
 3. Rachel Rupert, Berkeley Chamber of Commerce
 4. Nancy Bickel, Lois Brubeck, Jean Safir, League of Women Voters
 5. Rachel Peterson, Urban Ecology
- e. Communications** *(see agenda packet of March 19, 2002)*
6. Howie Muir
 7. Nancy Pearlman
 8. Lisa and Paul Gerrard
 9. Leeyo
 10. Richard Entenman
 11. Cara Eisenberg
 12. Marie Bowman
 13. Bill Gutierrez
 14. Donald Martin
 15. Rena Rickles
 16. Karl Golden
 17. Helene Hunter
 18. Rosemary Hunter
 19. Kevin Zwick
- f. Communications** *(May 21, 2002)*
20. Kevin Zwick
 21. Helen Rippier Wheeler
 22. Howie Muir
- Contact: Sherry M. Kelly, City Clerk, 981-6900

Actions: Moved, seconded, carried (Shirek/Worthington; Noes – Dean; Abstain – Spring; Absent-Breland) to close the public hearing.

Moved, seconded, carried (Shirek/Maio; Noes – Olds, Dean; Abstain – Spring; Absent-Breland) to adopt Resolution No. 61, 596-N.S. upholding the decision of the Zoning Adjustments Board to approve a Mitigated Negative Declaration; approving the Use Permit as amended by Councilmember Hawley with conditions and modifications that the parking layout be redesigned to accommodate anywhere from two to five additional spaces and that the egress on Dwight Way be eliminated; and dismissing the appeal. (Councilmember Spring and Mayor Dean asked the record to indicate their support of an alternative proposal (A-2).

Action Calendar –Old Business

35. **Consider a Citywide 20 MPH Speed Limit in Residential Areas** (*Held over by Olds from 3/12/02, 03/19/02, 04/23/02, 04/29/02 and 5/14/02*)

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 streets 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 June 11, 2002.

36. **Assisting Afghan Victims of the Devastating Earthquakes** (*Held over by Breland from 04/16/02, 04/23/0, 04/29/02 and 5/14/02*)

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 June 11, 2002.

37. **Vandalized Berkeley Hillel and Other Incidents Aimed at the Jewish Community** *(Held over by Armstrong from 04/16/02, 04/23/02, 04/29/02 and 5/14/02)*
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: Revised by Councilmember Worthington to include offering a reward of \$5,000 per incident for the first two hate crime incidents that are solved. Item 37 combined for discussion and action with Items 42 and 43.
38. **Policy on Zoning Project Notices** *(Held over by Armstrong from 04/16/02, 04/23/02, 04/29/02 and 5/14/02)*
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 June 11, 2002.
39. **Support for New Auto Related Uses on University Avenue Contingent on a Public Hearing** *(Held over by Hawley from 04/16/02, 04/23/0, 04/29/02 and 5/14/02)*
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 June 11, 2002.
40. **Strengthening The Creeks Preservation Ordinance** *(Held over by Hawley from 04/23/02, 04/29/02 and 5/14/02)*
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 June 11, 2002.

41. **Densification of Berkeley** (*Held over by Maio from 05/14/02*)
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: Held over to the meeting of June 11, 2002.
42. **Creating a Hate Crimes Unit** (*Held over by Maio from 05/14/02*)
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: Discussion and action on Items 37, 42 and 43 were combined. See Item 43.
43. **Hate Crimes in Berkeley** (*Held over by Maio from 05/14/02*)
From: Mayor Dean
Recommendation: 1) Endorse the decision of the Police Chief to a) assign specific police personnel who will be accountable to investigate hate crimes on a priority basis; and b) provide additional training through the Anti-Defamation League to police personnel regarding all aspects of hate crimes; 2) refer to the City Manager the possibility of extending training through the ADL to other City employees at the discretion of the City Manager, and on a voluntary basis to members of commissions and the Council as space in the training group allows; 3) request the City Manager maintain a database of documented hate crimes that occur in Berkeley and advise Council whenever a hate crime is added to the database, and involve other local law enforcement agencies, such as the University of California in the database; 4) refer to the City Manager a request that he work with the Superintendent of the Berkeley Unified School District (BUSD) on an anti-hate poster contest in our elementary schools; 5) request the City Manager place an article in his next annual report, to be a “Report to the Community” on what has been occurring in Berkeley, the City’s response to it, and inviting the community to participate in various ways to make Berkeley a Hate Free Community;; 6) refer the City Manager and appropriate commissions the development and implementation of a comprehensive City program to address hate crimes; and 7) report back to the Council on a periodic basis on the development of such a program
Contact: Shirley Dean, Mayor, 981-7100
a. City Manager Information Report (*added as Supplemental Item*)
Contact: Dash Butler, Police Chief, 981-5700

Actions: Discussion and action on Items 37, 42 and 43 were combined.

Moved, seconded, (Worthington/Spring) a substitute motion severed and voted on as follows:

Failed (Noes – Hawley, Olds, Shirek, Dean; Abstain – Armstrong; Absent – Breland) to approve Item 37 as revised by Councilmember Worthington.

Failed (Noes – Hawley, Olds, Shirek, Dean; Abstain – Armstrong; Absent – Breland) to approve Item 42.

Failed (Noes – Hawley, Olds, Shirek, Dean; Abstain – Armstrong, Maio; Absent – Breland) to approve Item 43 with an amendment by Councilmember Worthington that the reference to identifying specific training organizations be eliminated.

Failed (Noes – Hawley, Olds, Shirek, Dean; Abstain – Armstrong; Absent – Breland) to provide for a public event as requested by Vice Mayor Shirek)

Moved, seconded, carried (Armstrong/Hawley; Absent - Breland) a main motion to refer to the City Manager for a proposal on how best to address concerns raised by the Council and members of the community and recommendations proposed in Items 37 as revised by Councilmember Worthington, Item 42 and Item 43 with additional recommendations by Councilmember Armstrong that the City attempt to do something similar to the model used after September 11th to bring people together in a peaceful manner; and including additional recommendation by Vice Mayor Shirek that there be a public event to receive public input; and additional recommendation by Councilmember Maio that the proposal include school programs to address this issue.

44. **Lockers for Homeless** (*Held over by Maio from 05/21/02*)

From: City Manager

Recommendation: Adopt a Resolution authorizing expenditures in an amount not to exceed \$39,000 to Shattuck Avenue Self-Storage to provide lockers for use by individuals experiencing homelessness for the period October 1, 2001 through September 30, 2002.

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

Action: Moved to Consent Calendar by Councilmember Maio and adopted Resolution No. 61,597-N.S. (Noes – Olds; Absent – Breland) Councilmember Maio requested the City Manager come back with less expensive options prior to contract expiration in September and Mayor Dean requested that the City Manager direct staff to meet with all neighborhoods involved.

45. **Contract: Public Safety Building Tower Study** (*Held over by Armstrong from 05/21/02*)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with MACRO Corporation for the Public Safety Building (PSB) Communications Tower study, increasing the contract by \$43,296, for a total amount not to exceed \$93,296 for field strength tests of the possible tower replacement alternatives for the period May 15, 2002 through August 30, 2002.
Contact: Rene Cardinaux, Public Works, 981-6300; John Rosenbrock, Capital Projects, 981-6331
a. From: Councilmember Spring
Recommendation: Request the City Manager return to Council after consulting with the Citizens Committee on the Public Safety Building Communications Tower to recommend appropriate next steps, including a public review process, to consider the execution of another contract with a consultant for further study of one or more alternatives to the present tower, and to develop a scope of work for such a consultant – all toward a goal of selecting a preferred alternative to the present tower.
Contact: Councilmember Dona Spring, District 4, 981-7140
Action: Held over to the meeting of June 11, 2002.
46. **Peace and Justice Resolution Calling for an Injunction to Stop Oxidation Incineration** (*Held over by Armstrong from 05/21/02*)
From: Councilmembers Spring, Worthington
Recommendation: Approve the recommendations of the Commission and adopt a Resolution authorizing funds in the amount of \$15,000 to support a lawsuit, and an injunction to stop the oxidation-incineration of all radioactive mixed waste at the National Tritium Labeling Facility (NTLF), to be filed by the Committee to Minimize Toxic Waste, (CMTW) against the State of California Department of Toxic Substance Control for failure to require Lawrence Berkeley National Laboratory (LBNL) to do an Environmental Impact Report (EIR) under CEQA and an Environmental Impact Statement (EIS) under NEPA.
Contact: Councilmember Dona Spring, District 4, 981-7140; Kriss Worthington, District 7, 981-7170
Action: Held over to the meeting of June 11, 2002 at the request of the City Manager.
47. **Support for April 9th Protesters** (*Held over by Armstrong from 05/21/02*)
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: Held over by Councilmember Worthington to the meeting of June 11, 2002.

Action Calendar – New Business

48. **Grant Application for Safe Routes To School**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to CalTrans for \$335,900 of Safe Routes to School funds for traffic safety improvements at Malcolm X Elementary School; and to execute any resultant agreements and amendments.
Contact: Peter Hillier, Transportation, 981-7000
Action: Moved to Consent Calendar by Councilmember Olds and adopted Resolution No. 61,598-N.S. with an amendment by Councilmember Worthington that the grant be increased by \$25,000 for educational purposes if feasible.
49. **Policy for the Naming of Public Facilities (CF 266-00)**
From: Parks and Recreation Commission
Recommendation: Adopt a Resolution approving the proposed policy for the naming and renaming of public facilities developed by the Parks and Recreation Commission.
Contact: Jay Kelekian, Secretary 981-6700
a. From: City Manager
Recommendation: The City Manager takes no position concerning the Commission's recommendations.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Held over to the meeting of June 11, 2002.

Information Reports

50. **“Buy Berkeley” Local Business Preference Program (CF 192-00)**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
51. **Bid Solicitations And Request For Proposals**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.

Communications

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

1. East Shore State Park
 - a. Mark Wieder
 - b. Dorothy Headley
 - c. Shauna Haines
 - d. Julia Cato

2. Parking in Berkeley
 - a. Weily Soong **Maio, Spring**

3. Conflict in the Middle East
 - a. Dave Love (9 communications)
 - b. Robert Feldman

SUPPLEMENTAL COMMUNICATIONS AND AGENDA REPORTS

Item 21 International Market Place/Food District

4. Manjul Batra, Past President UAA

Item 27 Potential Ballot Measures – November 2002

5. Peter Gaposchkin

Item 34 2517 Sacramento Street

6. Matt Raimi
7. Rhiannon, Oceanview Tenants Association

Item 41 Densification of Berkeley

8. Howie Muir

Item 46 Peace and Justice Resolution Calling for an Injunction to Stop Oxidation

9. LA Wood

Adjournment

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

Adjourned at: 11:24 p.m.