

# SUMMARY

## BERKELEY CITY COUNCIL REGULAR MEETING

**TUESDAY, JUNE 25, 2002**

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### Preliminary Matters

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**Roll Call:** 7:22 p.m. All present.

**Ceremonial Matters:**

1. Proclamation in honor of Lesbian Gay Bisexual Transgender and Questioning Pride Month.
2. Proclamation honoring the Americans with Disabilities Act of 1990(ADA).

**Actions:** Presented proclamations.

**Comments from the City Manager:**

1. The Non-Profit Housing Association of Northern California and Greenbelt Alliance placed Berkeley on its "honor roll" of local governments taking action to address their share of the Bay Area's regional housing crisis.
2. The Young Adult Project will host a Community Day Picnic on Tuesday, July 2<sup>nd</sup> from 10:30 a.m. to 3:30 p.m. at Martin Luther King Jr. Youth Center.

**Comments from the Public:** 13 speakers.

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### Consent Calendar

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**Action:** Moved, seconded, carried (Breland/Worthington) 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.61,638 –N.S.

2. **Initiative Petition: Restricting Sale of Brewed Coffee**  
**From: City Manager**  
**Recommendation:** Refer to the City Manager a proposed initiative for a report to Council as to any of the impacts specified in Election Code section 9212.  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Action:** Removed from the Consent Calendar by Councilmember Breland and held over to July 9, 2002.
3. **Agreements: Public Health Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a managed care provider re-application to the State of California, Department of Health Services for general public health services; and to execute the resultant memorandum of understanding, provider agreements and any amendments with Blue Cross-California Care for public health services for the period March 31, 2002 to June 30, 2006.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 61,639–N.S.
4. **Contract: Organic Materials Hauling and Processing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Grover Landscape Services, Inc., for hauling and processing of organic materials, to increase the amount of the initial two-year contract term by \$125,000, and to increase the amount of the four-year extension period to \$2,839,600.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Removed from the Consent Calendar by Mayor Dean and held over to July 9, 2002.
5. **Contract: Live Oak Recreation Center Seismic Retrofit**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specifications for the Live Oak Recreation Center Seismic Retrofit; rejecting the protest of Rose Construction; accepting the bid of Angotti & Reilly; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders in an amount not to exceed \$607,200.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 61,640–N.S.
6. **Contracts: Medi-Cal Outreach Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute:  
1) an amendment to the grant agreement with the California Department of Health Services, Medi-Cal Eligibility Branch for the Medi-Cal Insurance Outreach Program, to accept additional funds in the amount of \$245,876 for a total of \$476,281; and 2) amendments to the contracts with Berkeley Unified School District (\$74,834), Bay Area Community Resources (\$8,920), Lifelong Medical

Care (\$92,906), Lincoln Child Care (\$1,960), Stiles Hall (\$8,920), and Tides Center (\$8,920) to educate and assist families in applying for health insurance and using preventative health care services, to increase the amounts by \$196,460 for a total not to exceed \$336,712 and to extend the terms to June 30, 2003.

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

**Action:** Adopted Resolution No. 61,641–N.S.

7. **Contracts: HIV Laboratory Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the plans and specifications to provide HIV antibody blood screening for the HIV/AIDS Program; accepting the bid of UNILAB; and authorizing the City Manager to execute contracts and any amendments with UNILAB and the Alameda County Public Health Laboratory to perform the HIV screening lab services in an amount not to exceed \$44,000 and \$24,500 respectively for the period July 1, 2002 to June 30, 2003.

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

**Action:** Adopted Resolution No. 61,642–N.S.

8. **Contracts: HIV Prevention and Education Program**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with the Berkeley Public Education Foundation (\$24,900), the California Prevention and Education Project (\$23,500), Catholic Charities (\$12,000), the Pacific Center for Human Growth (\$23,500), and the Women’s Daytime Drop-in Center (\$24,900) for HIV prevention and education services for the period July 1, 2002 to June 30, 2003.

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

**Action:** Adopted Resolution No. 61,643–N.S.

9. **Contract: Workers’ Compensation Actuarial Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with KPMG LLP in the amount of \$34,000 for actuarial services of the Workers’ Compensation self insurance program for the period of June 1, 2002 through June 30, 2003.

Contact: Ron Brown, Human Resources, 981-6800

**Action:** Adopted Resolution No. 61,644–N.S.

10. **Establish Classification: Revenue Collection Manager**

**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 Revenue Collection Manager.

Contact: Ron Brown, Human Resources, 981-6800

**Action:** Adopted Resolution No.61,645–N.S.

11. **Conflict of Interest Code**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution directing the City Clerk to review the City's Conflict of Interest Code and if any changes are necessary to submit a revised Code to the Council for approval, or if no changes are necessary to so notify the Council.  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Action:** Adopted Resolution No. 61,646–N.S.
12. **Increasing Payout of Unused Sick Leave**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Section 4.11 of Resolution No. 60,777-N.S. (Unrepresented Employee Manual) to increase the amount of payment of unused sick leave to 50% for those employees in Representation Units Z-1 (Confidential and Executive Management), Z-2 (Confidential Professional), and Z-3 (Confidential Clerical) having 28 or more years of service at time of termination or retirement.  
Contact: Ron Brown, Human Resources, 981-6806  
**Action:** Adopted Resolution No. 61,647–N.S.
13. **Transfer Tax Revenues From Special Tax Districts to Help Balance State Budget**  
**From: Councilmember Hawley**  
**Recommendation:** Request the City Manager write to East Bay legislators in Sacramento to: 1) convey opposition to the Governor's proposal to deflect tax revenues from special districts to help meet the State's obligation to fund education under Proposition 98; 2) ask that transportation districts be exempted from any transfer of their tax revenues to the State, because the budgets of transportation agencies will be adversely impacted this year by planned cuts in the State Transportation Assistance program; and 3) express support for SB 1255 (Burton and Aroner) that would help balance the State budget by reinstating top tax brackets for the wealthiest Californians (those earning \$250,000 and over per year).  
Contact: Mim Hawley, District 5, 981-7150  
**Action:** Approved recommendation.
14. **Support SB 1255**  
**From: Councilmember Spring**  
**Recommendation:** Request the City Manager write a letter to Governor Gray Davis and State Senator Don Perata asking them to support state legislation SB 1255 to restore upper level income brackets on Californians making over \$250,000 a year to reduce the state budget deficit and cut backs on the poor; and 2) request our State lobbyist be notified to request that she work for passage of this bill.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Approved recommendation.

15. **Join Berkeley Unified School District in Opposing Racial Privacy Initiative**  
**From: Councilmember Spring**  
**Recommendation:** Join the Berkeley Unified School District (BUSD) in passing a Resolution in opposition to the Racial Privacy Initiative (RPI).  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Adopted Resolution No. 61,648–N.S.
  
16. **Support AB 1080 California Alliance for Pride and Equality’s Domestic Partner Equal Benefits**  
**From: Councilmember Worthington**  
**Recommendation:** Support AB 1080 California Alliance for Pride and Equality (CAPE)’s Domestic Partner Equal Benefits.  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Approved recommendation.
  
17. **Fee Waiver: Capoeira Batizado Celebration**  
**From: Councilmember Spring**  
**Recommendation:** Adopt a Resolution waiving the: 1) block closure and loss of parking fees; 2) special event permit fee; 3) noise permit waiver; and 4) food booth permit, and deliver four trash cans for the July 6, 2002 event to be held in the Downtown Arts District on Addison Street.  
Contact: Dona Spring, District 4, 981-7140  
**Action:** Adopted Resolution No. 61,649–N.S.
  
18. **Update of the 5 Year Street Plan**  
**From: Public Works Commission**  
**Recommendation:** Adopt a Resolution adopting the update of the 5 Year Street Plan for Fiscal Year 2003-2007.  
Contact: Jeffrey L. Egeberg, Secretary, 981-6400
  - a. **From: City Manager**  
**Recommendation:** The City Manager concurs. However, at the time the Public Works Commission took action on this report, the funding of the street program was not clear. The budget balancing plan provides that in FY 2003 the General Fund contribution will be reduced by 10% to \$1,575,000, but will be offset by an increase of \$175,000 in Measure B Sales Tax, maintaining a total program budget of \$3,237,000.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Withdrawn by the City Manager.

## Action Calendar - Budget

### 19. Council Adoption of Fiscal Year 2003 Budget

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

**Recommendation:** Adopt a Resolution adopting the Fiscal Year 2003 Budget including: 1) approval of the City Manager's budget balancing plan to address the projected \$3.1 million General Fund deficit for FY 2003, first presented on April 30, 2002 and amended to respond to specific issues raised by the Council; 2) a contingency plan to address additional budget pressures that may impact the FY 2003 budget well after the commencement of the new fiscal year; and 3) a comprehensive process to guide development of recommendations needed to address a growing structural budget deficit projected in the next (FY 2004 and FY 2005) biennial budget cycle to include proposals for organizational restructuring to improve coordination and delivery of programs and services.

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

**Actions:** Moved, seconded, (Spring/Maio) a main motion to: 1) adopt the budget as proposed by the City Manager including a) approving the budget balancing plan, b) a contingency plan, and c) a process to guide development of recommendations needed to address additional budget deficits in the next budget cycle; 2) approve the Humane Commission's recommendations as proposed in Item 19b2; 3) approve carrying over Berkeley Free Folk Festival 2002 unspent FY 2002 monies to FY 2003; 4) allocate up to \$20,000 for an accessible stage at the Civic Center Park to come from the General Fund Capital Improvements budget; 5) refer to the City Manager additional budget requests as follows: a) Habitat for Humanity (\$25,000); b) a business coalition to assist small businesses in promoting shopping locally (\$50,000); c) monies for a car share program; and d) monies for traffic and parking enforcement; 6) refer to staff to look at funding a part time or full time pedestrian safety coordinator through existing funds ; and 7) eliminate wording in Attachment D related to changing the policies on layoffs and contracting out.

Moved, seconded, carried (Armstrong/Shirek; Noes – Spring, Worthington) a substitute motion to: 1) adopt Resolution No. 61,650-N.S. adopting the budget as proposed by the City Manager including a) approving the budget balancing plan, b) a contingency plan, and c) a process to guide development of recommendations needed to address additional budget deficits in the next budget cycle; 2) approve carrying over Berkeley Free Folk Festival 2002 unspent FY 2002 monies to FY 2003; 3) allocate up to \$20,000 for an accessible stage at the Civic Center Park to come from the General Fund Capital Improvements budget; 4) refer to the City Manager additional budget requests as proposed in the main motion as well as adding: a) \$10,000 to Aurora Theater, b) a review of unspent monies in the Animal Services budget with the intent to spend these funds for animal related services, and c) a public/private partnership for small local businesses; and 5) clarifying language in Attachment B to include "green buildings, green government and green businesses".

**b. Allocation of Animal Services Budget** *(held over from 06/11/02)*

**From: Citizens Humane Commission**

**Recommendation:** Adopt a Resolution authorizing the City Manager to split any monies left over from the Task Force's \$35,000 and the Humane Commission's \$50,000 in the Animal Services budget for FY 2002 between Home at Last Animal Rescue Organization and Fix Our Ferals Animal Rescue Organizations.

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

**Action:** Adopted Resolution No. 61,651-N.S. as part of adoption of the budget.

**b1. From: City Manager** *(held over from 06/11/02)*

**Recommendation:** While the City Manager supports the effort of animal rescue organizations in assisting and placing animals impounded at the Animal Shelter, it is recommended that the Council defer action on this specific item. Further direction is needed in establishing the appropriate and best use of funds provided to support Commission and Task Force recommendations consistent with the overall goals. It is recommended the City Manager convene a meeting to include shelter staff, representatives from volunteer rescue groups and the Humane Commission to develop specific recommendations as to staffing and funding levels related to volunteer rescue groups, consistent with overall shelter objectives.

Contact: Jim Hynes, City Manager, 981-7000

**Action:** Action taken in 19b.

**b2. Humane Commission Funding Recommendations** *(Held over by Spring from 05/21/02, 05/28/02 and 06/11/02)*

**From: Councilmember Spring**

**Recommendation:** Approve the Commission's funding recommendations for FY 2002.

Contact: Dona Spring, District 4, 981-7140

**Action:** Referred to the City Manager as part of adoption of the budget.

20. **Fiscal Year 2003 Appropriation Ordinance** *(to be delivered)*

**From: City Manager**

**Recommendation:** Adopt first reading of the FY 2003 Appropriation Ordinance.

Contact: Phil Kamlarz, City Manager, 981-7000

**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.

21. **Appropriations Limit for Fiscal Year 2003**

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing the appropriations limit at \$125,782,732 for Fiscal Year 2003 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

Contact: Fran David, Finance, 981-7300

**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt Resolution No. 61,652-N.S.

22. **Temporary Appropriation for Payroll and Other Expenses**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2002 until the effective date of the Fiscal Year 2003 Annual Appropriations Ordinance.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt Resolution No. 61,653-N.S.
23. **Tax Rate: Fund Maintenance of Parks, Trees and Landscaping**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance levying a Fiscal Year 2003 special tax of \$.0961 per square foot of all improvements to fund the maintenance of parks, City trees, and landscaping in the City.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.
24. **Tax Rate: Emergency Medical Services**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance levying a Fiscal Year 2003 special tax of \$.025525 per square foot of all improvements to fund the provision of emergency medical services to Berkeley residents.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.
25. **Tax Rate: Emergency Services for the Severely Disabled**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the Fiscal Year 2003 tax rate for the provision of emergency services for the disabled at \$0.00910 (.0910 cents) per square foot of improvements.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.
26. **Tax Rate: Disaster Fire Protection-Measure Q**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the Fiscal Year 2003 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.

27. **Tax Rate: General Obligation Bonds-Measure S**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the Fiscal Year 2003 tax for Measure S General Obligation Bonds (Election of 1996) at 0.0450%.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.
28. **Tax Rate: Library Services**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the Fiscal Year 2003 tax at \$0.1134 (11.34 cents) per square foot for dwelling units and \$0.1717 (17.17 cents) for industrial, commercial and institutional buildings.  
Contact: Phil Kamlarz, Deputy City Manager, 981-7000  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.
29. **Tax Rate: Fire Seismic General Obligation Bonds**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the Fiscal Year 2003 tax rate for the Fire Seismic General Obligation Bonds (Election of 1992) at 0.0300%.  
Contact: Fran David, Finance, 981-7300  
**Action:** Moved, seconded, carried (Worthington/Hawley) to adopt first reading of Ordinance. Second reading scheduled for July 9, 2002.

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### Action Calendar – Ballot Measures

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30. **Ballot Measures – Review and Comment on Measures**  
**From: City Manager**  
**Recommendation:** Review and comment on ballot titles, City Attorney analysis and the text of proposed measures for the following: 1) special tax to fund maintenance and installation of pedestrian safety improvements; 2) special tax to for streetlights; 3) a general obligation bond to fund a new animal shelter; 4) a general obligation bond to fund the seismic retrofit of Old City Hall; 5) property transfer tax for affordable housing; and 6) special tax increasing the storm water fee.  
Contact: Phil Kamlarz, City Manager, 981-7000

**Actions:** Moved, seconded, carried (Worthington/Spring) to provide direction to staff on ballot language for a pedestrian safety improvement tax and a report on July 9, 2002.

Moved, seconded, carried (Worthington/Hawley; Noes - Breland, Maio; Abstain – Spring) to not place a tax for streetlights on the ballot.

Moved, seconded, carried (Spring/Worthington; Abstain – Armstrong) to provide direction to staff on ballot language for a new animal shelter and a report on July 9, 2002.

Moved, seconded, carried (Armstrong/Hawley; Noes – Worthington; Abstain – Spring) to approve wording for measure to go on the ballot for retrofit of Old City Hall and a report on July 9, 2002.

Moved, seconded, carried (Spring/Worthington; Noes – Armstrong, Hawley, Olds, Dean) to approve wording for a 0.50% property transfer tax increase for affordable housing to be placed on the ballot with report on July 9, 2002.

Moved, seconded, carried (Breland/Worthington; Noes – Hawley; Abstain – Maio) to not place a measure on the ballot for a storm water tax.

31. **Ballot Measure - Warm Water Pool** (*Held over from 6/11/02*)

**From: City Manager**

**Recommendation:** Provide direction to the City Manager on the Warm Water Pool project to 1) find a new site for the pool and issue new bonds not to exceed \$5 million or 2) work with Berkeley Unified School District to retain the pool on the existing site.

Contact: Phil Kamlarz, City Manager, 981-7000

**Action:** Moved to the Consent Calendar by Councilmember Spring to direct staff to work with the School District to retain the warm water pool at its current site and if necessary for staff to pursue a validation action on the approved ballot measure to allow for new construction rather than placing a new measure on the ballot.

32. **Ballot Measure – Charter Amendment for Elected Officials Salary Increase** (*Held over from 6/11/02*)

**From: Councilmember Spring**

**Recommendation:** Waive Council Rules to allow for discussion and possible at the meeting of June 18, 2002 to consider possible ballot measures that would allow voters to decide on pay increase for the School Board and Council.

Contact: Dona Spring, District 4, 981-7140

**Action:** Withdrawn by Councilmember Spring.

33. **Ballot Measure – Charter Amendment for School Board Salary Increase**  
**From: Board of Directors, Berkeley Board of Education**  
**Recommendation:** Place a charter amendment on the November ballot amending Article V, Section 19 of the Charter to increase the salary of members of the Board of Education to \$1,500 per month beginning in December 2002. That any remuneration not accepted by board members are used for their official expenses, and that the future cost of living adjustments be authorized. Financial impact to the City of increase to be \$37,500 per year.  
Contact: John Selawsky, Director, 644-6550  
**Action:** Moved, seconded, carried (Spring/Worthington; Abstain – Hawley) to approve placing a charter amendment on the ballot to raise school board salaries and to further direct staff to place on the agenda for July 9, 2002 a discussion of communications related to amending the Charter to include a Performance Auditor for the School District.

#### Action Calendar – Decision on Public Hearings

34. **Landmarks Preservation Commission Appeals of Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project** (*Refer to June 18, 2002 Agenda*)
- a. Appeal filed by Brandt-Hawley & Zoia, on behalf of Friends of Civic Center Park and the Art Deco Society of California** on the Landmarks Preservation Commission’s decision to certify the Final Environmental Impact Report (EIR) and approve the Structural Alteration Permit with conditions for the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project  
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. Appeal filed by the City of Berkeley** on the Landmarks Preservation Commission’s decision to approve the Structural Alteration Permit with conditions for the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project  
Contact: Sherry M. Kelly, City Clerk, 981-6900
- c. City Manager Report**  
**Recommendation:** 1) Decision on the appeals of the Landmarks Preservation Commission’s Notice of Decision to certify the Final Environmental Impact Report and to approve the Structural Alteration Permit for this project; 2) Adoption of Resolutions certifying the EIR and approving the Structural Alteration Permit with conditions; and 3) providing direction to the City Manager regarding the plan’s proposed removal of parking behind the Civic Center Building.  
Contact: Carol Barrett, Planning and Development, 705-8102

**Actions:** Moved, seconded, carried (Spring/Maio; Noes - Olds) to give direction to staff on the alteration permit stating preference for the staff's recommendations on all issues with the exception of the magnolia trees, the swings, creek, paving and the parking issues.

Moved, seconded, carried (Spring/Worthington) to leave the magnolia trees in place.

Moved, seconded, carried (Maio/Worthington; Noes – Olds, Abstain – Dean) to refer to staff the desire of the Council for more swings and that they be discreetly placed. Mayor Dean stated for the record that she preferred more swings and that they be visible.

Moved, seconded, carried (Spring/Maio; Noes – Armstrong, Olds) to state Council's desire that the plan does not preclude opening up Strawberry Creek.

Moved, seconded, carried (Armstrong/Worthington; Noes – Breland) to approve the Landmarks Preservation Commission's recommendation for flagstone as ultimate paving material with decomposed granite until the flagstone is installed.

Moved, seconded, carried (Spring/Maio; Noes – Worthington; Abstain – Dean) to approve staff's recommendation that the parking behind the Civic Center continue until the parking policy is rescinded and funding is available to implement a plan as proposed.

Resolutions certifying the EIR and approving Structural Alteration Permit scheduled for July 9, 2002.

35. **Transfer of Cable Franchise**

**From: City Manager**

**Recommendation:** Adopt a Resolution denying 'local consent' to the transfer of control of the AT&T cable franchise to AT&T Comcast.

Contact: Phil Kamlarz, City Manager 981-7000

**Action:** Moved to Consent Calendar by City Manager with a recommendation that this matter be held over to July 16, 2002.(Noes- Worthington)

**Action Calendar – Old Business**

36. **Consider a Citywide 20 MPH Speed Limit in Residential Areas** (*Held over by Olds from 03/12/02, 03/19/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02 and 06/11/02*)
- a. 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  
**Action:** Held over to the meeting of July 9, 2002.
- b. 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 July 9, 2002.
- c. From: Mayor Dean**  
**Recommendation:** Add 5) the issue of enforcement feasibility and costs should be an integral part of the evaluation, including the development of the criteria for designation of particular streets.  
Contact: Shirley Dean, Mayor, 981-7100  
**Action:** Held over to July 9, 2002.
37. **Assisting Afghan Victims of the Devastating Earthquakes** (*Held over by Breland from 04/16/02, 04/23/0, 04/29/02, 05/14/02, 05/28/02 and 06/11/02*)  
**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 July 9, 2002.

38. **Policy on Zoning Project Notices** (*Held over by Armstrong from 04/16/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02 and 06/11/02*)  
**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 July 9, 2002.
39. **Support for New Auto Related Uses on University Avenue Contingent on a Public Hearing** (*Held over by Hawley from 04/16/02, 04/23/02, 04/29/02, 05/14/02, 05/28/02 and 06/11/02*)  
**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 July 9, 2002.
40. **Strengthening the Creeks Preservation Ordinance** (*Held over by Hawley from 04/23/02, 04/29/02, 5/14/02, 05/28/02 and 06/11/02*)  
**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 July 9, 2002.

41. **Densification of Berkeley** (*Held over by Maio from 05/14/02, 05/28/02 and 06/11/02*)

**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:** Moved to Consent Calendar by Councilmember Maio and approved recommendation amended by Councilmember Maio to refer to the Planning Commission Subcommittee on Density prior to coming back to the Council and for the City Manager to determine the format and timing for the discussion before the Council with a request that this happen prior to the November 2002 election.

42. **Contract: Public Safety Building Tower Study** (*Held over by Armstrong from 05/21/02, 05/28/02 and 06/11/02*)

**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

**Action** Held over to July 9, 2002.

**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: Dona Spring, District 4, 981-7140

**Action:** Held over to July 9, 2002.

43. **Peace and Justice Resolution Calling for an Injunction to Stop Oxidation Incineration** (*Held over by Armstrong from 05/21/02, 05/28/02 and 06/11/02*)
- a. From: Councilmembers Spring and 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 July 9, 2002
- b. From: Peace and Justice Commission**  
**Recommendation:** 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, to be filed by the Committee to Minimize Toxic Waste, against the State of California Department of Toxic Substance Control for failure to require Lawrence Berkeley National Laboratory to do an Environmental Impact Report under CEQA and an Environmental Impact Statement under NEPA.  
Contact: Manuel Hector, Secretary, 981-5110  
**Action:** Held over to July 9, 2002
- c. From: City Manager**  
**Recommendation:** That no action be taken on the recommendation of the Peace and Justice Commission requesting Council to authorize 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.  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Held over to July 9, 2002
44. **Support for April 9<sup>th</sup> Protesters** (*Held over by Armstrong from 05/21/02, 05/28/02 and 06/11/02*)  
**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 9<sup>th</sup> 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 to July 9, 2002.

45. **Sidewalk Food Vending** (*First reading May 21, 2002 – Noes – Breland, Maio, Spring, Worthington*) (*Held over by Worthington from 05/28/02, 06/11/02*)  
**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:** Held over to July 9, 2002
46. **Policy for the Naming of Public Facilities (CF 266-00)** (*Held over from 05/28/02 and 06/11/02*)  
**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  
**Action:** Held over to July 9, 2002.  
**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 July 9, 2002.
47. **Contract: Maintenance for the Energy Management System of the Public Safety Building** (*Held over by Spring from 06/11/02*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Pacific Coast Trane Service for maintenance services of the energy management system at the Public Safety Building to increase the amount by \$32,900 for a total not to exceed \$53,985 for the period of July 1, 2002 through June 30, 2003; and further authorizing the City Manager to execute any amendments necessary to approve an option to extend the contract for four additional one-year periods up to a maximum of five years, for a total amount not to exceed \$196,000 for the entire agreement.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Spring. Adopted Resolution No.61,654 –N.S.

48. **Contract: Environmental Consultant Services for the Public Safety Building Phase II, Demolition of Hall of Justice and Fire Administration Building** (*Held over by Spring from 06/11/02*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ProTech Consulting and Engineering for environmental consultant services for the Public Safety Building Phase II, demolition of the Hall of Justice and Fire Administration Building for the period of July 2002 to February 2003, for a total amount not to exceed \$35,000.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Spring. Adopt Resolution No. 61,655–N.S.
49. **Contract: Public Safety Building Phase II, Demolition of Hall of Justice and Fire Administration Building** (*Held over by Spring from 06/11/02*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to; 1) approve plans and specifications for the Public Safety Building Phase II, Demolition of Hall of Justice and Fire Administration Building; 2) accept the bid of Evans Brothers Inc., and; 3) authorize the City Manager to execute a contract and any amendments in an amount not to exceed \$665,640.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Spring. Adopt Resolution No.61,656–N.S.
- a. Mitigation Implementation Measures for Public Safety Building, Phase II** (*to be delivered*)  
**Recommendation:** Adopt a Resolution approving full implementation of the mitigation measures and mitigation monitoring program and conditions of approval of the use permit for the Public Safety Building and directing staff to comply.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Spring. Adopt Resolution No.61,657–N.S.
50. **Consolidation of Legislative Agenda Items** (*Held over by Hawley from 06/11/02*)  
**From: Councilmember Maio**  
**Recommendation:** Adopt a policy that recommendations to support State or Federal legislative bills be consolidated into one item for those recommended for support, one item for those recommended for opposition, so as not to overburden the agenda.  
Contact: Linda Maio, District 1, 981-7110  
**Action:** Held over to July 9, 2002.

51. **Hate Crime Immediate Response Plan** (*Held over by Olds from 06/11/02*)  
**From: Councilmember Worthington**  
**Recommendation:** Support the Hate Crime Immediate Response Plan that includes:  
1) Agreeing to schedule a town hall meeting to show support for hate crime victims and developing a comprehensive plan for prompt effective responses, and prevention;  
2) offering a \$5,000 reward to provide an incentive to get information on two hate crimes that happened in Berkeley (if this works, consider expanding to other hate crimes too);  
3) endorsing the federal Hate Crimes Prevention Act HR 1343 and S 625;  
4) committing to racial and religious diversity in the training team to do hate crime training for Police Department, City staff, and boards and commissions.  
Contact: Kriss Worthington, District 7, 981-7170  
**Action:** Held over to July 9, 2002.
52. **Ban on Purchase of Arsenic, Pentachlorophenol, and Creosote Treated Wood (CF161-01)** (*Held over from 06/11/02*)  
**From: Community Environmental Advisory Commission**  
**Recommendation:** Adopt a Resolution prohibiting purchase of penachlorophenol, arsenic and creosote - treated wood (treated wood) by all City departments.  
Contact: Nabil Al-Hadithy, Secretary, 705-8155  
**Action:** Held over to July 9, 2002.  
**a. From: City Manager**  
**Recommendation:** Adopt a substitute Resolution to allow the use of treated wood for a limited time for maintenance of structures on or in water.  
Contact: Carol Barrett, Planning, 705-8101  
**Action:** Held over to July 9, 2002.
53. **Contract: Rest Room Renovation, Center Street Garage** (*Held over from 06/18/02 by Spring*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specifications for rest room renovations at Center Street Garage at 2025 Center Street; accepting the bid of Younger-Wunar, Inc.; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders in an amount not to exceed \$73,956.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Spring and adopted Resolution No. 61,658–N.S with a referral by Councilmember Spring to look at providing lighting for the ramp areas.

## Action Calendar – New Business

54. **Support for Assembly Bill 1800**  
**From: Commission on Disability**  
**Recommendation** Send a letter in support of State Assembly Bill AB 1800 which allows persons with disabilities legally using disabled parking placards or disabled license plates to be exempt from violations under local street sweeping  
Contact: Paul Church, Secretary, 981-6342  
**a. From: City Manager**  
**Recommendation:** Take no position on AB 1800 until clarification is provided regarding the amendments exempting cities from receiving fines for exceeding the clean water standards as a result of reduced street sweeping efficiency.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Moved to Consent Calendar by Councilmember Worthington to approve the City Manager's recommendation.
55. **Telecommunications Task Force Extension**  
**From: Telecommunications Task Force**  
**Recommendation:** Adopt a Resolution amending Resolution No. 61,152 N.S. extending the Telecommunications Task Force from June 30, 2002 to January 31, 2003.  
Contact: Roger Miller, Secretary, 981-7009  
**Action:** Held over to July 9, 2002.  
**a. From: City Manager**  
**Recommendation:** Take no action to extend the Task Force.  
Contact: Phil Kamlarz, Deputy City Manager, 981-7000  
**Action:** Held over to July 9, 2002.

## Information Reports

56. **Election Information on City Website**  
**From: City Manager**  
Contact: Sherry Kelly, City Clerk, 981-6900  
**Action:** Received and filed.
57. **Status Report on Response to Hate Crimes** (*to be delivered*)  
**From: City Manager**  
Contact: Weldon Rucker, City Manager, 981-7000  
**Action:** Report will be delivered on July 9, 2002.
58. **General Audit Work Plan: Fiscal Year 2003**  
**From: City Auditor**  
Contact: Ann-Marie Hogan, Auditor, 981-6750  
**Action:** Received and filed.

59. **Telecommunications Action Plan (CF 65-01)**  
**From: Telecommunications Task Force**  
Contact: Roger Miller, Secretary, 981-7009  
**Action:** Received and filed.

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### Communications

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

#### Page

1. May 7, 2002 Planning Council Meeting
  - a. Howie Muir
2. Food Vending Ordinance
  - a. Ari DaSilva **Breland, Dean, Worthington**
  - b. A. Robin Orden, Senior Management Analyst, Finance Department
3. PEG Channel Programming
  - a. Maris Arnold
4. Height Initiative
  - a. Howie Muir
5. Ferry System **Hawley, Dean**
  - a. Hank Resnik
6. Middle East Conflict
  - a. Dave Love (3)
7. Telecommunications Task Force
  - a. Nancy Bickel **Hawley, Dean**
8. Sidewalks
  - a. Anne Marselis
9. Affordable Housing
  - a. Howie Muir
10. Eastshore State Park
  - a. Shirley Faircloth

11. Himalayan Fair
  - a. Barbara Mercer, Bob Baldock
12. Bayer Corporation
  - a. Leuren Moret
13. Warm Water Pool
  - a. Cindy Neveu
14. Radioactive Shipments
  - a. Leuren Moret
15. Police Protection
  - a. Sam Herbert **Breland, Worthington, Dean, Maio**
16. Green Building Program **Maio-** (All previous Green Building correspondence)
  - a. Gary Gerber **Maio**

**SUPPLEMENTAL AGENDA AND COMMUNICATIONS INFORMATION  
PART I**

**Item 13: Support SB 1255**

17. Copy of bill by Councilmember Hawley

**Item 19: Fiscal Year 2003 Biennial Budget**

**Home at Last Animal Rescue**

18. Jennifer Kaufer **Breland, Dean, Worthington**
19. Jundy Brock (3)
20. Yolanda Maker
21. Kate O'Connor

**Green Building Program**

22. Terry Cochrell
23. Eric Douglas **Breland, Dean, Worthington**
24. Buddy Williams **Breland, Dean, Worthington**
25. Matt Kyne
26. Dan Sawislak **Breland, Dean, Worthington**

**Item 30: Review and Comment on Measures**

27. Richard Thomason **Breland, Dean, Worthington, Hawley**

**Item 33: Charter Amendment for School Board Salary Increase**

- 28. David Krasnor **Breland, Dean, Worthington**
- 29. Michael Bauce **Breland, Dean, Worthington**
- 30. Yolanda Huang **Hawley Dean**
- 31. Michiko Murillo

**Item 34: Landmarks Preservation Commission Appeals of Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project**

- 32. Carol Thornton **Breland, Dean, Worthington**
- 33. Carrie Olson, LPC Chair

**Item 36b: Consider a Citywide 20 MPH Speed Limit in Residential Areas**

- 34. Revised recommendation by Mayor Dean

**PART II**

**Item 19a: Adoption of FY 2003 Budget**

- 35. Parks and Recreation Commission **Breland, Dean**

**Item 30: Review and Comment on Measures**

- 36. Transportation Commission Revisions to Pedestrian Safety Improvements  
**Breland, Dean**

**Item 43: Peace and Justice Resolution Calling for an Injunction to Stop Oxidation Incineration**

- 37. Robin Wendt

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**Adjournment**

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**Adjourned at 11:34 p.m.**