

SUMMARY
BERKELEY CITY COUNCIL MEETING
Tuesday, May 13, 2003 – 7:00 p.m.
City Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 7:13 p.m. All present.

Ceremonial Matters:

1. Proclamation for Relay for Life Weekend on May 17-18, 2003.
2. Proclamation for Homeless Awareness Month, May 15th through June 15th.
3. Golden Lung Public Health Award from BREATH.
4. Certificates regarding Tobacco Control Legislation from American Lung Association.
5. Introduction of newly elected ASUC Officers.

Action: Awards presented; proclamations accepted; and introductions made.

Comments from the City Manager: None.

Comments from the Public: 9 speakers. Referred to the City Manager for a report at the meeting of May 20th on issues raised regarding 3045 Shattuck Avenue.

Comments from Youth: 3 speakers.

Consent Calendar – Recess Items

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

1. Contract: Low Income Program Revenues

From: City Manager

Recommendation: Adopt a Resolution: 1) authorizing the City Manager to execute a contract with the State Department of Community Services and Development for a U.S. Department of Energy Weatherization Assistance Program, in the amount of \$22,467 for the period of April 1, 2003 through January 31, 2004, to provide weatherization assistance for eligible residents of Berkeley, Albany, and Emeryville; 2) approving the Priority Plan; and 3) authorizing the City Manager to designate a representative to sign required fiscal and programmatic reports.

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 62,005–N.S.

Consent Calendar – Recess Items

2. Reprogramming FY 2001 Emergency Shelter Grant Funds

From: City Manager

Recommendation: Adopt a Resolution authorizing: 1) the reprogramming of \$29,258 in FY 2001 Emergency Shelter Grant funds previously awarded to Building Opportunities for Self-Sufficiency (BOSS) for purposes of funding a portion of the costs associated with removal of underground storage tanks at the Harrison House Shelter facility site; and 2) the reprogramming of \$34,690 in FY 2001 Emergency Shelter Grant funds, previously awarded to BOSS to Echo Housing in the amount of \$19,709, to Berkeley Food & Housing Project in the amount of \$8,479, and to the Women's Daytime Drop-in Center in the amount of \$6,503.

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 62,006–N.S.

3. Grant: Transportation Fund for Clean Air for BART Bikestation Expansion

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the Alameda County Congestion Management Agency for the Transportation Fund for Clean Air Program Manager grant program for \$86,136 in FY 2003 for the feasibility study, design, expansion and operation of the Downtown Berkeley BART Bikestation; 2) accept \$17,000 from Bay Area Rapid Transit (BART) as a cost-sharing contribution to the project; 3) accept the grant, and execute any resultant agreements and amendments; and 4) implement the project and appropriation of funding for related expenses, subject to securing the grant.

Contact: Peter Hillier, Transportation, 981-7000

Action: Adopted Resolution No. 62,007–N.S.

Consent Calendar

4. Approval of Minutes

From: City Manager

Recommendation: Approve the minutes for Council meetings of April 1, 2003 a) work session and b) regular, April 7, 2003 closed, and April 8, 2003 a) work session and b) regular.

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

Action: Approved minutes with the exception of April 8th regular, which were held over by Councilmembers Spring and Olds to add comments for the record.

5. Needle Exchange

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. 62,008–N.S.

- 6. Terminating a Non-Exclusive Franchise for Rubbish Hauling to Handy Can of Berkeley**
(First Reading – Unanimous)
From: City Manager
Recommendation: Adopt a second reading of an Ordinance, repealing Ordinance 6564–N.S. granting a non-exclusive franchise for rubbish hauling, and terminating the franchise with Handy Can of Berkeley.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Ordinance No. 6733–N.S. Effective June 12, 2003.
- 7. Lease Agreement: 2121 Allston Way** *(First Reading – Unanimous)*
From: City Manager
Recommendation: Adopt a second reading of an Ordinance authorizing the City Manager to execute a six-month lease agreement and any necessary amendments with The Magnes Museum for real property located at 2121 Allston Way, in an amount not to exceed \$100,000 which includes monthly lease payments, operating expenses, property taxes, insurance and minor tenant improvements to accommodate office space for the staff of Public Works Capital Improvement Projects (CIP), and Engineering divisions, Parks & Recreation and other personnel and activities as may be required.
Contact: John Rosenbrock, Capital Projects, 981-6331 and Rene Cardinaux, Public Works, 981-6300
Action: Adopted Ordinance No. 6734–N.S. Effective June 12, 2003.
- 8. Contract: Engineering Services for Harrison Street Skate Park**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Geomatrix Consultants, Inc. in an amount not to exceed \$57,000 to provide geotechnical and environmental consulting services to develop a permanent solution to prevent hexavalent chromium contaminated groundwater from entering the Harrison Street Skate Park.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 62,009–N.S.
- 9. Scheduling Council Work Sessions**
From: City Manager
Recommendation: Approve scheduling special Council Work Sessions at 5:00 p.m. prior to each Council meeting in June and July.
Contact: Phil Kamlarz, Deputy City Manager, 981-7000
Action: Approved recommendation.
- 10. Amendment: FY 2003 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the FY 2003 Annual Appropriations Ordinance No. 6693 for FY 2003 based upon recommended re-appropriation of unexpected FY 2002 funding and other adjustments authorized since July 1, 2002, in the amount of \$18,020,174.
Contact: Weldon Rucker, City Manager, 981-7000
Action: Adopted first reading of Ordinance. Second reading scheduled for May 20, 2003.

Consent Calendar

- 11. Contract: I-80 Bicycle/Pedestrian Bridge Public Art Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Scott Donahue to commission four sculptural public artworks for the I-80 Bicycle/Pedestrian Bridge, located at the west end of Addison Street, for the period of June 1, 2003 through June 30, 2004, in an amount not to exceed \$113,000.
Contact: Tom Myers, Economic Development, 981-7530
Action: Removed from Consent Calendar by Councilmember Spring. Moved, seconded, carried (Worthington/Maio; Noes – Spring) to adopt Resolution No. 62,010–N.S.
- 12. Contract: South Berkeley Public Art Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Mr. Steve Gillman to commission “HERETHERE”, a public artwork for a South Berkeley site at the intersection of Adeline Street and Martin Luther King, Jr. Way, for the period of June 1, 2003 though June 30, 2004 in an amount not to exceed \$50,000.
Contact: Tom Myers, Economic Development, 981-7530
Action: Adopted Resolution No. 62,011–N.S.
- 13. Contract: Substance Abuse Counseling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Positive Outlook Consultant Services for the provision of substance abuse counseling and pretreatment services to pregnant and parenting women to increase the amount by \$10,000 for a total not to exceed \$55,000 for the period of July 1, 2002 to June 30, 2003.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,012–N.S.
- 14. Grant: Parenting Education Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the Alameda County Children and Families Commission (*Every Child Counts*) in FY 2003 for funds in the amount of \$150,000 to provide parenting education services to women enrolled in the Black Infant Health Program to increase knowledge, effective parenting skills and the use of well child care; 2) accept the grant and execute any resultant revenue agreements and amendments; and 3) implement the projects and the appropriation of funding for related expenses, subject to securing the grant.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,013–N.S.

- 15. Lease: 1767 Alcatraz Avenue**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with the option for a two-year extension with the South Berkeley Neighborhood Development Corporation (SBNDC) for real property located at 1767 Alcatraz Avenue in an amount not to exceed \$27,855 for the period of July 1, 2003 to June 30, 2006 to provide office space for the Black Infant Health Program.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted first reading of Ordinance. Second reading scheduled for May 20, 2003.
- 16. Contract: Lighting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Community Energy Services Corporation for lighting audit and installation services to increase the amounts from \$965,000 to \$1,067,607.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,014–N.S.
- 17. Contract: Rehabilitation of 3200 Adeline Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with A Better Way for an amount not to exceed \$70,000 and to extend the term to June 30, 2004 to complete the rehabilitation of 3200 Adeline Street.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,015–N.S.
- 18. Opposition: Assembly Bill 136–Extension of Workers’ Compensation Disability Leave of Absence for Public Safety Officers**
From: City Manager
Recommendation: Send a letter to Governor Gray Davis and the City’s state legislative representative’s to oppose enactment of AB 136 (Kehoe) that would extend workers’ compensation disability leave of absence from one year to two years for sworn police officers and fire fighters.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Approved recommendation.
- 19. Contract: Indexed Level 1959 Survivor Benefit for Fire Safety Members Only**
From: City Manager
Recommendation: 1) Rescind prior second reading of Ordinance No. 6728 held on February 25, 2003 as premature; and 2) adopt the second reading of an Ordinance to amend the City’s contract with CalPERS to provide the Indexed Level of 1959 Survivor Benefit as set forth in California Government Code Section 21574.5 for local fire employees only to be effective June 14, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Ordinance No. 6735–N.S. Effective June 12, 2003.

- 20. Code Enforcement Supervisor and Code Enforcement Officer I/II Classifications**
From: City Manager
Recommendation: Adopt a Resolution: 1) amending Resolution No. 61,840-N.S., the Classification/Salary Resolution for PEU, Local One, to establish the Code Enforcement Supervisor classification, effective May 13, 2003, with a salary range for \$4,900 to \$5,918 per month, with a salary equity increase of 2% on July 6, 2003, a salary equity increase of 1% on July 4, 2004, and cost-of-living adjustments, in accordance with the current Local One Memorandum of Understanding (MOU); and 2) amending Resolution No. 61,805-N.S., the Classification/Salary Resolution for SEIU, Local 535, to establish the Code Enforcement Officer I/II classifications, effective May 13, 2003, with respective salary ranges of \$3,605 to \$4,326 and \$4,377 to \$5,192 per month, with cost-of-living adjustments in accordance with the current Local 535 MOU, and to abolish the Code Compliance Inspector and the Senior Code Compliance Inspector classifications, effective June 30, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,016–N.S.
- 21. Long-Term Disability Insurance**
From: City Manager
Recommendation: Adopt a Resolution approving a premium rate increase for the Unum Provident Life Insurance Company (formerly UNUM) Long-Term Disability insurance plan from 1.8% of the participant’s salary to 3.6% of the participant’s salary for an additional cost of \$40,738 for employees enrolled in the Supplementary Retirement and Income Plan I (SRIP I) effective February 1, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,017–N.S.
- 22. Temporary Employment Agency Services: Apple One**
From: City Manager
Recommendation: Adopt a Resolution approving an expense of up to \$30,000 for Apple One Temporary Employment Agency services for the period of July 1, 2002 to June 30, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,018–N.S.
- 23. Temporary Employment Agency Services: Staffing Solutions**
From: City Manager
Recommendation: Adopt a Resolution approving an expense of up to \$30,000 for Staffing Solutions Temporary Employment Agency services for the period of July 1, 2002 to June 30, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,019–N.S.

- 24. Temporary Employment Agency Services: Tac Staffing**
From: City Manager
Recommendation: Adopt a Resolution approving an expense of up to \$72,000 for Tac Staffing Temporary Employment Agency services for the period of July 1, 2002 to June 30, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,020–N.S.
- 25. Temporary Employment Agency Services: Volt Temporary Employment Agency**
From: City Manager
Recommendation: Adopt a Resolution approving an expense of up to \$104,000 for Volt Temporary Employment Agency services for the period of July 1, 2002 to June 30, 2003.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,021–N.S.
- 26. Traffic Maintenance Supervisor Classification**
From: City Manager
Recommendation: Adopt a Resolution establishing the classification of Traffic Maintenance Supervisor and amending Resolution No. 61,807-N.S., the Classification and Salary Resolution for SEIU Local 790 to include the classification and salary range for the Traffic Maintenance Supervisor.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,022–N.S.
- 27. Purchase: Hewlett-Packard Public Safety Computer**
From: City Manager
Recommendation: Adopt a Resolution finding that no reasonable alternative exists under the Berkeley Nuclear Free Act, and authorizing the City Manager to purchase a Hewlett Packard Alpha Computer for the City's Public Safety systems for a total amount not to exceed \$76,000.
Contact: Chris Mead, Information Technology, 981-6500
Action: Adopted Resolution No. 62,023–N.S.
- 28. Contract: Summer Food Service Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a reimbursement application to the California State Department of Education, Child Nutrition Services Division, in an amount not to exceed \$94,000 for a Summer Food Service Program for children, and to execute any resultant agreements and amendments for the period of June 23, 2003 to October 10, 2003.
Contact: Lisa Caronna, Parks Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 62,024–N.S.

- 29. Zoning for Municipal Animal Shelter**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Sections 23E.72.030, 23E.76.030 and 23E.80.030 of the Berkeley Municipal Code (BMC) for the purpose of permitting a Municipal Animal Shelter in the Mixed Use-Light Industrial, Mixed Use-Manufacturing and Manufacturing zoning districts and adding a definition to Section 23F.04.010 for a Municipal Animal Shelter.
Contact: Carol Barrett, Planning, 981-7400
Action: Adopted first reading of Ordinance. Second reading scheduled for May 20, 2003.
- 30. Purchase: Computerized Fingerprinting**
From: City Manager
Recommendation: Adopt a Resolution: 1) increasing a purchase order by \$35,000 for a total amount not to exceed \$40,000 to the State of California Department of Justice for computerized fingerprinting; and 2) establishing an annual purchase order in an amount not to exceed \$60,000 to continue use of the State of California's computerized fingerprinting system for seven years, FY2004-2010.
Contact: Roy Meisner, Police, 981-5900
Action: Adopted Resolution No. 62,025–N.S.
- 31. Contract: Elevator Modernization and Maintenance**
From: City Manager
Recommendation: Adopt a Resolution approving the plans and specifications for elevator modernization and maintenance; accepting the bid of Thyssen Krupp Elevator; and authorizing the City Manager to execute two contracts and any amendments, extensions or other change orders for: 1) elevator modernizations in an amount not to exceed \$287,721 and 2) a 5-year maintenance contract in an amount not to exceed \$193,000.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,026–N.S.
- 32. Contract: Bridget Transitional House Renovation**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Bridget Transitional House Renovation; 2) accepting the bid of Solid Builders, Inc.; 3) waiving all permit fees in the amount of \$11,585; and 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$285,000.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,027–N.S.

- 33. Contract: Relocation and Furniture Services for Tenant Improvement Work at 1947 Center Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Cor-O-Van for all necessary relocation and furniture refurbishment, supply, and installation services for the tenant improvement work for 1947 Center Street, and associated temporary relocations, in an amount not to exceed \$1,000,000 for the period between May 13, 2003 and September 1, 2005.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,028–N.S.
- 34. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Sanitary Sewer Project located at San Pablo Avenue; 2) accepting the bid of Harty Pipelines, Inc.; and 3) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$542,556 for the period of 190 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,029–N.S.
- 35. Contract: Seventh Street Improvements**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Seventh Street Improvements Project; 2) accepting the bid of Ray’s Electric; and 3) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$1,036,195 for a period of 150 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,030–N.S.
- 36. Contract: Public Safety Building Phase II, Construction of Secure Parking Lot**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Permco Engineering for an additional \$10,000 for a new total not to exceed \$90,000 for the purposes of providing for all the necessary technical support and a timely completion of construction of a secure parking lot for police and fire vehicles.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,031–N.S.
- 37. Contract: Sewer Rehabilitation Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with Gold Wing Engineering for a sanitary sewer rehabilitation project, to increase the amount by \$73,000 for a total amount not to exceed \$1,429,090 and extending the term by 60 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,032–N.S.

38. Appointments to Regional Bodies, Committees and Commissions; Appointment of Vice Mayor

From: Mayor Bates

Recommendation: Adopt a Resolution appointing councilmembers to regional boards, committees and commissions and appointing Councilmember Shirek as Vice Mayor, with all terms expiring January 1, 2005.

Contact: Tom Bates, Mayor, 981-7100

Action: Adopted Resolution No. 62,033–N.S.

39. AB 204 – The Transportation Fund for Clean Water

From: Mayor Bates

Recommendation: Adopt a Resolution supporting Assembly Bill 204 (Nation) to authorize a water quality mitigation fee of up to \$4 per vehicle per year to be assessed in Bay Area counties that choose to participate in the program; and 2) directing the City Clerk to write a letter to Assemblyman Joe Nation indicating the City of Berkeley’s support for the legislation.

Contact: Tom Bates, Mayor, 981-7100

Action: Adopted Resolution No. 62,034 –N.S.

40. Amendments to Berkeley Election Process

From: Mayor Bates and Councilmembers Worthington and Wozniak

Recommendation: Request that the City Manager and City Clerk explore possible changes to the City’s election process and report back with recommendations for action.

Contact: Tom Bates, Mayor, 981-7100, Kriss Worthington, Councilmember District 7, 981-7170 and Gordon Wozniak, Councilmember District 8, 981-7180

Actions: Removed from the Consent Calendar by Councilmember Worthington.

Moved, seconded, failed (Spring/Breland; Noes – Maio, Shirek, Hawley, Worthington, Wozniak, Bates; Absent – Olds) to table the discussion on campaign reform.

Moved, seconded (Maio/Wozniak) and severed to request staff explore possible changes and report back with options as follows:

- Extend time period between the general and runoff election (Carried – Noes – Spring)
- Review and implementation of Instant Runoff Voting options (Carried – Abstain – Wozniak, Bates)
- Schedule special elections to coincide with next regularly scheduled election (Carried – Noes – Breland, Spring; Absent – Olds)
- Explore changes to charter requirements for candidates running for office and candidate training standards including signatures in lieu of filing fees (Carried – Absent – Olds)
- Allow different contribution levels for district versus citywide races (Carried – Noes – Breland, Spring, Worthington; Absent – Olds)
- Explore public financing of election campaigns (Carried – Absent – Olds)

Consent Calendar

Moved, seconded, failed (Worthington/Maio; Noes – Shirek, Hawley, Wozniak, Bates; Absent – Olds) to explore lowering contribution limits for district races.

Moved, seconded, failed (Maio/Spring; Noes – Shirek, Hawley, Wozniak, Bates; Absent – Olds) to explore abolishing runoff elections.

- 41. Fee Waiver: Berkeley/Albany YMCA 100th Anniversary Event, July 19, 2003**
From: Councilmember Breland
Recommendation: Adopt a Resolution to waive the fees for the Berkeley/Albany YMCA 100th Anniversary Event, YMCA Day, to be held on July 19, 2003.
Contact: Margaret Breland, Councilmember District 2, 981-7120
Action: Adopted Resolution No. 62,035–N.S.
- 42. Fee Waiver: Chocolate and Chalk Art Festival**
From: Councilmember Hawley
Recommendation: Adopt a Resolution cosponsoring with the Solano Avenue Association the Chocolate and Chalk Arts Festival to be held on Solano Avenue during Memorial Day weekend, May 24 and 25, 2003, and waiving all related event and sound permit fees.
Contact: Miriam Hawley, Councilmember District 5, 981-7150
Action: Adopted Resolution No. 62,036–N.S.
- 43. Presentation by Civic Arts Commission**
From: Councilmember Hawley
Recommendation: Approve scheduling a 15 to 20 minute presentation by the Civic Arts Commission on June 10, 2003, to present information on the economic impact of the arts in Berkeley, a summary of the art organizations applying for Civic Arts Grants, and new and prospective public art installations.
Contact: Miriam Hawley, Councilmember District 5, 981-7150
Action: Approved recommendation to schedule a special meeting and a presentation by Civic Arts Commission for May 20th at 5:15 p.m. followed by a presentation regarding Animal Services at 5:30 p.m.
- 44. Exemption for Transfers Between Spouses and Domestic Partners to Create Joint Tenancies and Tenancies in Common**
From: Councilmembers Maio and Worthington
Recommendation: Amend Section 7.52.060.F of the Berkeley Municipal Code (BMC), adding an Exemption for Transfers Between Spouses and Domestic Partners to Create Joint Tenancies and Tenancies in Common.
Contact: Linda Maio, Councilmember, District 1, 981-7110 and Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted first reading of Ordinance. Second reading scheduled for June 10, 2003.

Consent Calendar

- 45. Support AB 377 to Ban ‘Whistle Tips’ in Automobiles**
From: Councilmember Olds
Recommendation: Send a letter of support for AB 377, to ban “whistle tips” in automobiles to the California Assembly Appropriations Committee.
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.
- 46. Bicycle Penalty Violation for Riding on Sidewalk**
From: Councilmember Worthington
Recommendation: Refer to the City Manager, Transportation Commission, and the Commission’s Bicycle Subcommittee to change the bicycle penalty violation for riding on the sidewalk from misdemeanor to infraction of a low, flat rate ticket that does not become a misdemeanor; and explore the possibility of an educational campaign on these changes.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from the Consent Calendar by Councilmember Spring. Moved, seconded, carried (Worthington/Spring; Absent – Hawley, Olds) to approve recommendation.
- 47. Opposition to Patriot Act II**
From: Councilmember Worthington
Recommendation: Support sending letters to U.S. Representative Barbara Lee, U.S. Senator Barbara Boxer, and U.S. Senator Diane Feinstein to oppose the following parts or any similar ideas added to the Patriot Act II: the Domestic Security Enhancement Act of 2003 which trample our civil liberties and rights protected under our Constitution and Bill of Rights.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 48. Fee Waiver: Summer Noon Music in Downtown**
From: Councilmember Spring
Recommendation: Adopt a Resolution waiving sound and special event permit fees for noon music in the Downtown Park Plaza for June 5, 12, 19, 26 and July 3, 10, 17, 24, 31 and refer the Downtown Business Association’s request to hang a banner across Shattuck Avenue to promote the event to the City Manager.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Adopted Resolution No. 62,037–N.S.
- 49. UC Funding of TRiP**
From: Councilmember Spring
Recommendation: Request the City Manager write a letter to UC Chancellor Berdahl urging him to continue its funding match with the City for TRiP at \$224,550 a year.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Referred to the City Manager and the Mayor.

50. Fleet Vehicle Management Audit

From: City Auditor

Recommendation: Request the City Manager report back on October 14, 2003, regarding the implementation status of each of the recommendations in the report, and to set a date for a follow up report if any recommendations remain unimplemented at that time.

Contact: Ann Marie Hogan, City Auditor, 981-6750

Action: Approved recommendation.

51. Appointment: Board of Library Trustees

a. From: Board of Library Trustees

Recommendation: Adopt a Resolution approving the recommendation of the Board of Library Trustees to appoint Ms. Susan G. Kupfer for a four-year term ending May 13, 2007.

Contact: Jackie Griffin, Secretary, 981-6195

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendation of the Commission's Report.

Contact: Jackie Griffin, Library, 981-6100

Action: Adopted Resolution No. 62,038–N.S.

52. Paratransit Service Window Pick-up Times

a. From: Commission on Disability and Commission on Aging

Recommendation: Ask the City Manager to send a letter to the Presidents of the Board of Directors of AC Transit and BART asking them to direct staff to maintain the current service window for pick-ups at 20 minutes.

Contact: Paul Church, Secretary Commission on Disability, 981-6342 and Lisa Ploss, Secretary Commission on Aging, 981-5200

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendations of the Commission's Report.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Approved recommendation.

53. Appointment: Mental Health Commission

a. From: Mental Health Commission

Recommendation: Adopt a Resolution reappointing Nancy Gagnon to the Mental Health Commission, Special Public Interest Category, for the term May 14, 2003 through June 21, 2005.

Contact: Harvey Tureck, Secretary, 981-5123

b. From: City Manager

Recommendation: The City Manager concurs with the content of recommendations of the Commission.

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

Action: Adopted Resolution No. 62,039–N.S.

54. Proclamation: Mental Health Month

a. From: Mental Health Commission

Recommendation: Adopt a Resolution proclaiming May 2003 as Mental Health Month.

Contact: Harvey Tureck, Secretary, 981-5123

b. From: City Manager

Recommendation: The City Manager concurs with the content of recommendations of the Commission.

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

Action: Adopted Resolution No. 62,040–N.S.

55. Fee Waiver: Bay Area Shakespeare Festival Camp

a. From: Parks and Recreation Commission

Recommendation: Adopt a Resolution waiving all fees for the use of the John Hinkel Park Amphitheatre for the Bay Area Shakespeare Camp for the following dates: June 16-June 27; June 30-July 11; July 14-July 25; and August 11-August 22 in exchange for three low income scholarships for each session, for a total of twelve scholarships.

Contact: Deborah Chernin, Secretary, 981-6715

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendations of the Commission's Report.

Contact: Lisa Caronna, Parks Recreation & Waterfront, 981-6700

Action: Adopted Resolution No. 62,041–N.S.

56. Alameda County Computer Updates to Probation Condition Information

a. From: Police Review Commission

Recommendation: Send a letter to the Alameda County Board of Supervisors requesting that computer records for the Alameda County Superior and/or Municipal Courts related to probation conditions be updated regularly and timely to ensure that accurate data regarding probation status and stipulation and stay away orders is available to police and other jurisdictions.

Contact: Barbara Attard, Secretary, 981-4950

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendations of the Commission's Report.

Contact: Weldon Rucker, City Manager, 981-7000

Action: Approved recommendation.

Action Calendar - Appeals

57. Appeal: 1936 Delaware Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the Zoning Adjustments Board's approval of Use Permit #02-10000060, to add two dwellings by enlarging an existing single-family dwelling by raising it one story and by constructing a second two-story building, and dismissing the appeal.

Contact: Carol Barrett, Planning, 981-7400

b. Appeal

1. Ted Kluger

c. Communications

1. Jane and Ted Kluger (3)
2. Patricia Hom
3. David Levy, Morrison & Foerster
4. Rena Rickles

Action: Moved, seconded, carried (Olds/Maio; Noes – Breland, Wozniak, Bates) to set for a public hearing. Scheduled for June 17, 2003.

58. Appeal: 2628 Telegraph Avenue

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board's approval of Use Permit #02-10000020, to approve a Use Permit to allow a 4-story mixed-use infill building at 2628 Telegraph Avenue with 15 dwelling units and 1,577 square feet of commercial space for a total floor area of 15,686 square feet, and dismissing the appeal.

Contact: Carol Barrett, Planning, 981-7400

b. Appeal

1. Robin Myren, Attorney on behalf of Dr. Thomas Stern

c. Communications

1. Cox, Padmore, Skolnik & Shakarchy

Action: Moved to the Consent Calendar by Councilmember Worthington to adopt Resolution No. 62,042–N.S. affirming the decision of the Zoning Adjustments Board and dismissing the appeal.

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 85009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Action Calendar – Old Business

59. Allocation of Funds for the Community Development Block Grant (CDBG), the Emergency Shelter Grant (ESG), and the HOME Programs, and Information on the Community Services Block Grant (CSBG)/General Fund (GF) Anti-Poverty Program; and the Measure O/General Fund Homeless Services Program

a. From: City Manager (*May 6, 2003 Report*)

Recommendation: Adopt a Resolution 1) approving proposals for funding under the Fiscal Year 2003-2004 Community Development Block Grant (CDBG) program and the Emergency Shelter Grant (ESG) program; 2) authorizing the City Manager to submit the Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) which includes the applications for CDBG, ESG, and Home Program Funding; 3) to execute the resultant agreements for the FY 2003-2004 CDBG and ESG funds with conditional two-year contracts for CDBG community agencies' projects in the public services category; and 4) instituting a new invoicing/reporting process for community contracts.

Contact: Stephen Barton, Housing, 981-5400

b. From: Housing Advisory Commission (*May 6, 2003 Report*)

Recommendation: Approve the Housing Advisory Commission funding recommendations for FY 2003-2004 CDBG, ESG Program, the Homeless Prevention Program, and the Consolidated Plan Annual Action Plan as contained in the City Manager's report of May 6, 2003.

Contact: Oscar Sung, Secretary, 981-5410

c. From: Human Welfare and Community Action Commission (*May 6, 2003 Report*)

Recommendation: Approve the City Manager's recommendations regarding funding to community agencies providing services to the poor.

Contact: Marianne Graham, Secretary, 981-5416

d. From: Homeless Commission (*May 6, 2003 Report*)

Recommendation: Approve the City Manager's recommendations regarding funding to community agencies providing homeless services with the following exceptions: 1) Allocate funds to the Berkeley Food and Housing Project in the amount of \$479,407; 2) Allocate funds to Building Opportunities for Self-Sufficiency (BOSS) in the amount of \$368,104; 3) Allocate funds to Jobs Consortium in the amount of \$19,387; and 4) Allocate funds to New Bridge in the amount of \$92,992.

Contact: Jane Micallef, Secretary, 981-5426

Action: Moved, seconded, carried (Hawley/Worthington) to approve the City Manager's revised recommendations and adopt Resolution No. 62,043–N.S. approving proposals for funding CDBG and ESG programs and to refer to the general fund budget process requests for funding from AHAP and Farm Fresh Produce.

Action Calendar – Old Business

- 60. Bancroft and Telegraph Food Cart Vendors**
- a. From: Councilmember Worthington** (*Held over by Worthington from April 8, 2003*)
Recommendation: Support retaining two existing Bancroft and Telegraph food cart vendors until end of year.
Contact: Kriss Worthington, District 7, 981-7170
- b. From: City Manager**
Recommendation: Adopt a first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 9.49.055 relating to food vending on sidewalks.
Contact: Fran David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Worthington adoption of first reading of an Ordinance. Second reading scheduled for May 20, 2003.

Action Calendar – New Business

- 61. Contract: City Parking Garages and Parking Lots**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 61,873-N.S. to extend the agreement with AMPCO System Parking through August 31, 2003 and authorizing payment in an amount not to exceed \$442,000 for a period April 2, 2003 through August 31, 2003.
Contact: Fran Davis, Finance, 981-7300; Peter Hillier, Transportation, 981-7000
Action: Moved to the Consent Calendar by Councilmember Worthington and adopted Resolution No. 62,044–N.S. with a request by Councilmember Spring that the City Manager look at garage management issues.
- 62. Engineering Oversight for I-80 Sound Barrier Project**
From: City Manager
Recommendation: Adopt a Resolution allocating up to \$20,000 to provide staff oversight and management for an engineering consultant contract to prepare a Caltrans-required Type Selection Report for the I-80 Sound Barrier at Aquatic Park.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Moved, seconded, carried (Breland/Worthington; Abstain - Olds) to adopt Resolution No. 62,045–N.S.
- 63. Residential Permit Parking One-Day Permits**
From: Councilmember Spring
Recommendation: 1) Allow up to 20 “wild-card” one day residential parking permits to be purchases in advance on an annual basis; 2) allow residents to purchase one day and 14 day permits by mail at any time.
Contact: Dona Spring, Councilmember District 4, 981-7140
Actions: Moved, seconded, (Spring/Wozniak) a main motion to approve 15 wild cards a year to be issued by mail.
- Moved, seconded, carried (Maio/Worthington; Noes – Breland, Spring) to refer to the City Manager for a full report on June 17, 2003.

64. Amendment to Creeks Ordinance

a. From: Councilmembers Hawley and Olds

Recommendation: Request that the City Attorney revisit the definition of “creeks” in Section 17.08.030 of the Berkeley Municipal Code (BMC); and reconsider the recently adopted change in the ordinance in order to provide for broader staff input and a more public process.

Contact: Miriam Hawley, Councilmember District 5, 981-7150 and Betty Olds, Councilmember District 6, 981-7160

Action: By consensus, referred to the City Manager to work with Councilmembers Hawley, Olds and Worthington to come up with a format for a Council workshop.

b. From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) section 17.08.050 to allow for the development of an addition to a single-family home within the 30 foot required setback where the home is located over a culverted creek through the issuance of a use permit if specified findings are made.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved to the Consent Calendar by Councilmember Olds to adopt first reading of Ordinance. Second reading scheduled for May 20, 2003.

65. Green Building Program

a. From: Community Environmental Advisory Commission

Recommendation: Instruct the City Manager to adopt a Green Building Policy that requires the City to: 1) develop Green Building standards and requirements; 2) evaluate a Green Building Policy within one year; 3) fully fund the Green Building Coordinator position to develop the Program during FY 2003-2004; 4) encourage Leadership in Energy and Environmental Design (LEED) certification for private sector projects; and 5) require that all new construction over 5000 square feet meet, at minimum, the “LEED Silver” rating.

Contact: Nabil Al-Hadithy, 981-7461

b. From: City Manager

Recommendation: Encourage certification of City owned and operated construction projects to LEED Silver rating under the LEED Rating System or similar standard, where economically feasible. The City Manager will provide an implementation program by end of the calendar year and an evaluation of the Green Building Policy within two years. The City Manager’s proposed budget includes funding for the Green Building Program contingent upon approval of the increases in the Refuse and Permit Service Center funds.

Contact: Carol Barrett, Planning, 981-7400

Action: Moved, seconded, carried (Maio/Wozniak; Noes - Olds) to approve a recommendation proposed by Mayor Bates and further amended to: 1) refer to the City Manager with instructions to return with a draft ordinance within 6 months that does the following: a) initially, implement “LEED Certified” standards for city buildings over a specific square foot threshold; b) develop a schedule for phasing in the higher “LEED Silver” standard; c) include a specific exception for economic feasibility; d) encourage LEED certification for public and private sector projects; and e) refer the issue of a Green Building Coordinator to the budget process.

Information Reports

- 66. Status Report: “Grow Your Business”**
From: City Manager
Contact: Tom Myers, Economic Development, 981-7530
Action: Received and filed.
- 67. Formal Bid Solicitations and Request for Proposals**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
- 68. Noise Regulations for Automobile Sound Systems (CF 181-02)**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Received and filed.
- 69. Certification of Berkeley’s Housing Element**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
Action: Received and filed.
- 70. Landmarks Preservation Commission Notice of Decision: Approval of Structural Alteration at 2300 Shattuck Avenue and 2334 Shattuck Avenue**
From: City Manager
Contact: Carol Barrett, Planning, 981-7400
Action: Received and filed.
- 71. Landmarks Preservation Commission Notice of Decision: Landmark Designations at 2119 Addison Street and 2231 Shattuck Avenue**
From: City Manager
Contact: Carol Barrett, Planning, 981-7400
Action: Received and filed.
- 72. Landmarks Preservation Commission Notice of Decision: Landmark Designations at 1 Maybeck Twin Drive, 1418-1420 Spruce Street and 2601 Hillegass Avenue**
From: City Manager
Contact: Carol Barrett, Planning, 981-7400
Action: Received and filed.
- 73. Guidelines for Installation of Audible Pedestrian Signals (CF 167-02)**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Received and filed.

Information Reports

74. **Business License Tax Program Audit Reports for FY 2002 and First Three Quarters of FY 2003**
From: City Auditor
Contact: Ann Marie Hogan, City Auditor, 981-6750
Action: Received and filed.
75. **One-Day Parking Permits for Seniors at North Berkeley Senior Center**
From: Commission on Aging
Contact: Lisa Ploss, Secretary, 981-5200
Action: Received and filed.
76. **Hill Fire Station, 3000 Shasta Road**
From: Fire Safety Commission
Contact: David Orth, Secretary, 981-5502
Action: Received and filed.
77. **Commendation to Police Department**
From: Police Review Commission
Contact: Barbara Attard, Secretary, 981-4950
Action: Received and filed.
78. **Marijuana Training for Police Officers**
From: Police Review Commission
Contact: Barbara Attard, Secretary, 981-4950
Action: Received and filed.
79. **Recognition to Police Department for improved relations with Critical Mass**
From: Police Review Commission
Contact: Barbara Attard, Secretary, 981-4950
Action: Received and filed.

Communications

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

Village of Berkeley, IL Commemorates 125th Anniversary of Berkeley, CA (Spring, Maio)

1. Michael A. Esposito, Village President

Mayor's Task Force on Permitting

2. Howie Muir

Leasing Space to the Catholic Worker

3. Maris1000@***.com

Parking on West Side of San Pablo, Between Delaware & University

4. Carol Denney

Communications

Dangerous Bus Stops (*Worthington, Spring*)

5. Howie Muir

Misrepresentation of Corporation Yard Landmarks (*Worthington, Spring*)

6. L A Wood

2514 Benvenue (*Spring*)

7. Sharon Hudson, Benvenue Neighbors Association

8. Sharon Hudson, letter from Carrie Olson

Lawrence Berkeley National Laboratory

9. Charles V. Shank

Bus Rapid Transit on Telegraph Avenue (*Worthington*)

10. Charles Siegel

Disposal of Batteries (*Spring*)

11. Roselyn B. Rosenfeld

Housing Inspection Fee

12. Theodore R. Edlin

Carol Barrett is OK, Berkeley's Process is Not

13. Richard Register

Resolution No. 61,965-N.S., Supporting World Health Organization and Framework Convention on Tobacco Control

14. Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs,
The White House

Funding for Schools

15. Jennifer Bates

Destruction of the John Doyle House

16. Richard Wesel

Supplemental Reports and Communications #1

Item 4: Approval of Minutes

17. Amendment to April 8, 2003 Minutes, Item 26.b: 2514 and 2516 Benvenue

Item 40: Amendments to Berkeley Election Process

18. Pat Cody

19. Clifford Fred (*Breland*)

Item 57: Appeal: 1936 Delaware Street

20. Ted Kluger (2)

21. Petition with 46 Signatures, submitted by Jayne Kluger

22. Rena Rickles

23. James Mellgren

24. Sydney Turnshek

Supplemental Reports and Communications #1

Item 59: Allocation of Funds for the Community Development Block Grant (CDBG), the Emergency Shelter Grant (ESG), and the HOME Programs, and Information on the Community Services Block Grant (CSBG)/General Fund (GF) Anti-Poverty Program; and the Measure O/General Fund Homeless Services Program

25. Revised Report - City Manager CDBG Funding Recommendations
26. Martin Bourque (*Breland*)
27. Stephen Swanson (*Breland*)
28. Kelly Stoddart
29. 41 Signed Petitions submitted by Winston Burton, BOSS
30. Todd Jailer
31. Shang-Mei Lee (*Maio*)

Item 64: Amendment to Creeks Ordinance (*Spring*)

32. Laure Olivier
33. Jean-Marie and Kathleen Letellier
34. Juliet Lamont (*Maio*)
35. Tom Kelly
36. Rene Rickles
37. Alan Gould (*Maio*)
38. Diane A. Tokugawa

Supplemental Reports and Communications #2

Item 57: Appeal: 1936 Delaware Street

39. Sydney Turnshek
40. James Mellgren

Item 64: Amendment to Creeks Ordinance

41. Rene Rickles
42. Juliet Lamont

Item 65: Green Building Program

43. Mayor Bates

Adjournment

Adjourned at 10:59 p.m.