

SUMMARY

BERKELEY CITY COUNCIL MEETING TUESDAY, NOVEMBER 4, 2003 – 7:00 P.M. Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 7:03 p.m. Absent: Breland.

Ceremonial Matters:

1. Proclamation honoring the Berkeley Jazz School and designating November 7, 2003 Jazz Appreciation Day.

City Manager Comments:

1. Council meetings and other government programming are now broadcast on BTV channel 33 (previously channel 78). Public access programming is broadcast on channel 28 (previously channel 25).
2. Announcing the appointment of Lisa Caronna, as Acting Deputy City Manager, previously the Director of the Parks, Recreation and Waterfront Department.
3. Workshop sessions titled "How to Use the City of Berkeley Website to Obtain Information and Assist Citizens in Government Participation" begin Thursday, November 6th at 7:00 p.m. at the Public Library. Contact the Library at 981-6148 or the City Clerk at 981-6900 for details.

Public Comment: 11 speakers. Referred to City Manager comments made by Kent Brown regarding the City's home buyer assistance programs.

Youth Comments: None.

Consent Calendar

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

1. **Lease: California Department of Transportation** (*First reading – 10/21/03*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a five-year lease agreement with one five-year option to extend the term and any necessary amendments with the State of California Department of Transportation (CalTrans) for the vacant lot located at I-80/University Avenue underpass at Second Street, known as freeway lease area number 04-ALA-80-01 in an amount not to exceed \$61,500 which includes monthly lease payments, operating expenses, insurance, options and security deposit to accommodate storage space for City departments.

Contact: Rene Cardinaux, Public Works, 981-6330

Action: Adopted Ordinance No. 6,780 –N.S. Effective December 4, 2003 (Abstain – Olds, Shirek; Absent – Breland).

Consent Calendar

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for Council meetings of September 9, 2003 (regular); October 14, 2003 (special and regular); and October 21, 2003 (special and regular).
Contact: Sherry Kelly, City Clerk, 981-6900

Action: Approved minutes with the exception of minutes of September 9, 2003 (regular) removed from the Consent Calendar by Councilmember Maio and held over to November 18, 2003.

3. 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. 62,277 – N.S.

4. Grant Application: Local Housing Trust Fund Program *(to be delivered)*

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to: 1) apply for \$1 million in funding from the California Department of Housing and Community Development (HCD) Local Housing Trust Fund Program (LHTFP) and 2) to provide for a \$1.5 million match currently available in the Housing Trust Fund for the purpose of developing and increasing the supply of affordable housing and amending Resolution No. 62,240 – N.S.

Contact: Stephen Barton, Housing, 981-5430

Action: Adopted Resolution No. 62,278 – N.S.

5. City Manager's Contract Authority

From: City Manager

Recommendation: Adopt first reading of an Ordinance 1) amending the Berkeley Municipal Code (BMC) Section 7.18.010B to increase the City Manager's expenditure authority for capital improvements, including playground improvements and equipment, to \$100,000, 2) adding BMC Section 7.18.010C to increase the City Manager's general expenditure authority for supplies, equipment, and materials to \$50,000, and 3) amending BMC Section 7.18.020A to increase the City Manager's emergency expenditure authority for materials, supplies and equipment to \$50,000 and for public construction projects, playground improvements and equipment to \$100,000.

Contact: Fran David, Finance, 981-7200

Action: Removed from Consent Calendar by Councilmember Worthington and held over to November 25, 2003.

Consent Calendar

- 6. Grants: Measure B Bicycle and Pedestrian Countrywide Discretionary Fund**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit an application to the Alameda County Transportation Improvement Authority (ACTIA) for available grant funding through the Measure B Bicycle and Pedestrian Countrywide Discretionary Fund, Cycle 1: 2003/2004; and 2) execute related grant agreements and any amendments, and accept these grant funds, if awarded.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Adopted Resolution No. 62,279 – N.S.
- 7. Off-Peak Parking on the Northwest Corner of Monterey Avenue and Hopkins Street**
From: Councilmembers Hawley and Olds
Recommendation: Adopt a Resolution authorizing the City Manager to amend the MOU with the Alameda-Contra Costa Transportation District (AC Transit) to allow parking in the bus zone on the northwest corner of Monterey Avenue and Hopkins Street except during weekday morning peak commute periods.
Contact: Miriam Hawley, Councilmember District 5, 981-7150 and Betty Olds, Councilmember District 5, 981-7160
Action: Adopted Resolution No. 62,280 – N.S.
- 8. Painful Non-Curative Cosmetic Mutilation of Animals**
- a. From: Citizens Humane Commission**
Recommendation: Adopt a Resolution deploring the painful non-curative and cosmetic mutilation of any animals within the City of Berkeley.
Contact: Kate O'Connor, Secretary, 981-6601
- b. City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the commission's report.
Contact: Jim Hynes, City Manager, 981-7000
Action: Removed from Consent Calendar by Councilmember Maio. Moved, seconded, carried (Olds/Worthington; Absent – Breland) to adopt Resolution No. 62,281 – N.S. as amended by Councilmember Hawley.

Action Calendar – Ballot Measures – March 2, 2004 Election

- 9. Ballot Measure – Special Tax Measure for Fire Services**
- a. From: City Manager**
Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure related to a proposed special tax for fire protection and prevention services in the amount of either \$8 or \$10 million per year.
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Directed staff to revise ballot measure based on Council comments and to set a public hearing for the meeting of November 18, 2003 and a special meeting for 5:00 p.m. on November 18, 2003 to consist of a public portion and a closed session to discuss labor contracts and negotiations.

Action Calendar – Ballot Measures – March 2, 2004 Election

b. City Manager Information Report *(to be delivered)*

Contact: Paul Navazio, Budget Manager 981-7000

Action: Report received and filed.

10. Ballot Measure – Charter Amendment - Runoff Elections *(to be delivered)*

From: City Manager

Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure(s) related to: a) changing the date of runoff elections from 28 days after the general municipal election to the first Tuesday after the first Monday in February of the odd-numbered years and b) reducing the percent required to be nominated to the office of auditor, mayor or council member from 45% to 40%.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved, seconded, carried (Olds/Worthington; Absent – Breland) to approve ballot language for one charter amendment that would change the date of the runoff and lower the threshold to trigger a runoff. Ballot measure to return at the meeting of November 18, 2003 for public hearing and final review.

11. Ballot Measure – Charter Amendment - Instant Runoff Voting *(October 21, 2003)*

a. From: City Manager

Recommendation: 1) Determine whether the Council desires to place a charter amendment on either the March or November 2004 ballot to allow for instant runoff voting, when feasible and 2) if the Council desires to place a charter amendment on either the March or November ballot, review and comment on proposed charter language prepared by the City Attorney.

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

Action: Directed staff to revise the charter amendment based on Council comments. Ballot measure to return at the meeting of November 18, 2003 for public hearing and final review.

b. Information Report from Councilmember Spring *(November 4, 2003)*

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

Action: Received and filed.

12. Ballot Measure – Charter Amendment - Candidate Nomination Process *(to be delivered)*

From: City Manager

Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure related to: a) requiring candidates running for a council district office to be nominated by registered voters within the district; b) establishing a filing fee or signatures in lieu of a filing fee in addition to current requirements to run for office.

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

Action: Directed staff to revise the charter amendment based on Council comments and to notify other local officials. Ballot measure to return at the meeting of November 18, 2003 for public hearing and final review.

13. Argument and Rebuttal Process

From: City Manager

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Received and filed.

Action Calendar – Old Business

- 14. Contract: James Kenney Recreation Center Renovation** (*Held over from 10/14/03 and 10/21/03*)
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for renovation of the James Kenney Recreation Center; 2) waiving permit fees; 3) accepting the bid of Kin Wo Construction, Inc.; and 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$772,604.
Contact: Rene Cardinaux, Public Works, 981-6330
Action: Moved to Consent Calendar by Councilmember Maio and adopted Resolution No. 62,282 – N.S.
- 15. Contract: Financial Software Maintenance** (*Held over from 9/16/03, 10/14/03 and 10/21/03*)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into an agreement with H.T.E. Inc. for maintenance software for the City's financial system, FUNDS\$, for a total amount not to exceed \$250,000, for the period July 1, 2003 to June 30, 2005.
Contact: Chris Mead, Information Technology, 981-6500
Action: Withdrawn by the City Manager.
- 16. Public Safety Building Tower Study** (*Held over from 10/21/2003*)
- a. Councilmember Spring** (*November 4, 2003*)
Recommendation: Hold over this matter to the meeting of November 25, 2003.
Contact: Dona Spring, Councilmember District 4, 981-7140
- b. Information Report from City Manager** (*November 4, 2003*) (*to be delivered*)
Contact: Rene Cardinaux, Public Works, 981-6330
- c. From: Councilmember Spring** (*October 21, 2003*)
Recommendation: Conduct a public hearing as approved by the Council at the meeting of September 9, 2003 and upon conclusion direct the City Manager to replace the current industrial-design public safety building tower with two shorter towers with a flagpole design and increase their signal reliability with repeater antennas or other options or that it construct a one-pole antenna, sited as far away from the residents as possible.
Contact: Dona Spring, Councilmember District 4, 981-7140
- d. From: City Manager** (*October 21, 2003*)
Recommendation: Staff recommends that no further work be done on either the evaluation of the current tower or in the design of tower alternatives.
Contact: Rene Cardinaux, Public Works, 981-6330

Action Calendar – Old Business

e. Communications (*October 21, 2003*)

1. Betty Alcutt, McKinley Transitional House for Women and Children
2. Chris Knudsen (2)
3. Andrea DuFlon
4. Erica Etelson
5. Arthur and Carol Dembling
6. Carol Maharathy
7. Kirk McCarthy
8. Debra Golata

f. Supplemental Reports and Communication #1 (*October 21, 2003*)

18. Janet Levenson
19. Wendy Alfsen (2)
20. Michael Dove
21. Krys Upstill
22. Stephany Rach-Silba
23. Stephani Hesh
24. Harry Wiener and Anita White
25. Michael Popso
26. Harry Weiner
27. Connie and Kevin Sutton

g. Supplemental Reports and Communications #2 (*October 21, 2003*)

30. Janet Levenson

h. Communications (*November 4, 2003*)

1. John and Helen Wang

Action: Moved to the Consent Calendar by Councilmember Spring, and approved the recommendation to hold this matter over to November 25, 2003.

17. Eco-Pass Program (*held over from 10/21/03*)

From: Councilmember Worthington

Recommendation: Support inclusion of the Eco-Pass program into the Regional Transportation Program (RTP). and expansion of the Eco-Pass to additional employers, including consideration by the City, the Berkeley Unified School District (BUSD), and regional agencies of whether to include this in future ballot measures. Refer to the BUSD the possibility of adding the Eco-Pass into a future ballot measure.

Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action: Moved, seconded, carried (Hawley/Worthington; Absent – Breland) to approve recommendation as amended by Councilmember Hawley as follows: “that Metropolitan Transportation Commission (MTC) support inclusion of Eco-Pass programs into the RTP (Regional Transportation Plan) and that Councilmembers Hawley and Worthington work together to craft a letter to the Metropolitan Transportation Commission (MTC) on behalf of the Council.”

Action Calendar – Old Business

18. **Living Wage Ordinance Wage Rate Increases** (*Held over from 10/14/03*)
- a. From: Commission on Early Childhood Education**
Recommendation: Adopt a Resolution placing a moratorium on the implementation of the Living Wage Ordinance wage rate increases for Fiscal Year 2004 for the non-profit organizations affected, and create a task force of non-profit organizations and City Councilmembers to review the consequences of these increases and devise a realistic implementation schedule.
Contact: Errol Johnson, Secretary, 981-5417
- b. From: City Manager** (*to be delivered*)
Recommendation: Options to address concerns raised by the impact of the Living Wage Ordinance on non-profits.
Contact: Stephen Barton, Housing, 981-5400
Action: Referred to the City Manager for a report in December related to the impacts of the Living Wage Ordinance on non-profits.
19. **Duties and Functions of the Waterfront Commission** (*Held over from 10/21/2003*)
- a. From: Waterfront Commission**
Recommendation: Adopt first reading on an Ordinance amending Berkeley Municipal Code (BMC) Section 3.36.060 (B) to delete “Aquatic Park” from the duties and functions of the Waterfront Commission.
Contact: Cliff Marchetti, Secretary, 981-6376
- b. From: City Manager**
Recommendation: The City Manager concurs with the content and recommendation of the report.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
Action: Moved to the Consent Calendar by Councilmember Maio and adopted first reading of the Ordinance. Second reading scheduled for November 18, 2003.

Action Calendar – New Business

20. **Green Business Certification of the Office of Economic Development**
From: City Manager
Recommendation: Accept Bay Area Green Business Program (BAGBP) Green Business Certification for the Office of Economic Development (OED) which green certified its operations in October 2003.
Contact: Tom Myers, Economic Development, 981-7537
Action: Approved recommendation.

Action Calendar – New Business

21. Investment of City Funds in Youth Services

From: Mayor Bates

Recommendation: 1) Adopt priorities for the investment of City funds in youth services: Prenatal to 5, Coordinated and Integrated Family Support Services, Before and After School programming, Mentoring and Tutoring, and Youth Safety; and 2) direct the City Manager to incorporate these youth services funding priorities into the process for community funding applications and departmental budget development.

Contact: Tom Bates, Mayor, 981-7100

Action: Moved, seconded, carried (Wozniak/Maio; Absent – Breland) to approve recommendation.

22. Berkeley Champions for Kids - Volunteer Employee Release Time Policy

From: Mayor Bates

Recommendation: 1) Approve, in principle, the *Berkeley Champions for Kids* City of Berkeley Volunteer Employee Release Time Policy; and 2) direct the City Manager to return to Council for final approval, an assessment of fiscal impacts, a work plan, and a timeline for implementation.

Contact: Tom Bates, Mayor, 981-7100

Action: Moved, seconded, carried (Olds/Maio; Absent – Breland) to approve recommendation.

Information Reports

23. Status Report on Escaped Tax Assessments (*to be delivered*)

From: City Manager

Contact: Fran David, Finance Director, 981-7200

Action: Held over by Councilmember Spring to November 25, 2003.

24. Commendation for Police Department and Mental Health for Outstanding Work

From: Police Review Commission

Contact: Barbara Attard, Secretary, 981-4950

Action: Held over by Councilmember Worthington to November 25, 2003.

Communications

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

Raw Sewage Above Ground at 2210 Ashby (*Worthington, Spring*)

1. T. “Dea” Robertson-Gutierrez (2)

Support Telegraph Fair

2. Esther Galicia

Israeli-Palestinian Mediation Efforts Event

3. Daniel Silverberg

Communications

Equal Rights for Transsexuals (*Worthington*)

4. Barbara Ann Berwick

1600 Shattuck – Sprint Cell Phone Tower

5. Matt Plumb

Request for Retraction and Correction from Daily Planet

6. Patrick Kennedy

Ballot Measure – Property Tax Increase

7. Nick and Barbara Rosenlicht

Supplemental Reports and Communications #1

Item 8: Painful Non-Curative Cosmetic Mutilation of Animals

8. Karen Geiger submitted by D. Sequoia, DVM

Item 9: City Budget and Tax Measures

9. Barbara Gilbert and Viki Tamaradze, Berkeley Budget Oversight Committee (2)
10. Dean Metzger, Claremont Elmwood Neighborhood Association (CENA)
11. Elmer R. Grossman
12. Guy Benveniste and Karen Nelson
13. Martha Baker
14. Michael Alvarez Cohen
15. StClair Cameron
16. Howard Rosenberg
17. Responses of Residents to Councilmember Wozniak's Letter (2)
18. Cypanjun@***.com
19. Malcom D. Zaretsky and Alice L. Meyers
20. Pam Frantz
21. Mary Kay Stuvland
22. Shirley Mar
23. Diane and David WeberShapiro

Item 10: Charter Amendment - Runoff Elections

24. Bob Sheppard

Item 11: Charter Amendment - Instant Runoff Voting

25. Supplemental Report submitted by City Clerk

Item 23: Status Report on Escaped Tax Assessments

26. Revision to Attachment A of Report – Addition of Page 2

Supplemental Reports and Communications #2

Item 11: Charter Amendment - Instant Runoff Voting

27. Barbara F. Banbaur

Item 14: Contract: James Kenney Recreation Center Renovation

28. Supplemental City Manager report

Supplemental Reports and Communications #2

Item 16: Public Safety Building Tower Study

29. Dorothea Grelon

Item 17: Eco-Pass Program

30. Jesse Arreguin and Alan Lightfeldt, Associated Students of the University of California

Item 18: Living Wage Ordinance Wage Rate Increases

31. Eric Landes-Brenman, Public Employees Union, Local One

Adjournment

Adjourned at 11:04 p.m.