

SUMMARY

BERKELEY CITY COUNCIL MEETING TUESDAY, DECEMBER 9, 2003 – 7:00 P.M. Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 7:00 p.m. All present.

Ceremonial Matters:

1. Announcing Father Bill O'Donnell's passing- services tentatively planned for Sunday, December 14th at the Berkeley Community Theater. More information regarding time and location to follow in community media.
2. United Pool Council Fundraising presentation and donation accepted.
3. Proclamation honoring Robert Hass, former Poet Laureate of the United States for donating his time and effort to the creation of the Poetry Panels on Addison Street in the Arts District.
4. Proclamation honoring Dr. Poki Namkung for her leadership representing Public Health along with the presentation of the California Conference of Local Health Officers (CCLHO) and the California Public Health Association (CPHA) honors.
5. Proclamation naming December 13, 2003 SEVA Foundation's 25th Silver Anniversary Day.
6. Proclamations naming December 9, 2003 Homeless Food Program Volunteer Appreciation Day.

City Manager Comments: None

Public Comment: 5 speakers.

Youth Comments: No speakers.

Consent Calendar

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

Consent Calendar

- 1. Taxi Permits for Wheelchair Accessible Taxis** (*First reading – 11/25/03*)
From: City Manager
Recommendation: 1) Adopt second reading of an Ordinance adding Berkeley Municipal Code (BMC) Chapter 9.52 “Regulating Taxis and Vehicles for Hire”, defining “Accessible Taxicab” and amending Section 9.52.020 regarding categories of vehicles and the maximum number operated in each category.
Contact: Stephen Barton, Housing, 981-5400, Fran David, Finance, 981-7200, Rene Cardinaux, Public Works, 981-6330 and Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Ordinance No. 6784 –N.S. Effective January 8, 2003.
- 2. Lease: Berkeley Women's Crew for Property in Aquatic Park** (*First Reading – 11/25/03*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the Berkeley Women’s Crew, Inc. for City property located at 80 Bolivar Drive in Aquatic Park for an estimated amount of \$500 for five years.
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Ordinance No. 6785 –N.S. Effective January 8, 2003.
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of November 17, 2003 (special), November 18, 2003 (special and regular), November 25, 2003 (regular).
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Approved minutes.
- 4. Appointment of Standby Officers for the Mayor and Councilmembers and City Manager Order of Succession during an Emergency**
From: City Manager
Recommendation: Adopt two Resolutions: 1) confirming the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency and 2) approving the designated line of succession to the position of Director of Emergency Services in the event of an officially declared disaster and rescinding Resolution No. 61,351-N.S.
Contact: Reginald Garcia, Fire, 981-5500
Action: Adopted Resolution No. 62,317 – N.S. and Resolution No. 62,318 – N.S.
- 5. Temporary Appointments: Interns in Information Technology Department**
From: City Manager
Recommendation: Adopt a Resolution authorizing the extension of two temporary appointments of Interns in the Information Department for the period not to exceed March 30, 2004. (General Fund - \$16,614)
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,319 – N.S.

Consent Calendar

- 6. Pool Operations and Donation by United Pool Council**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation of \$27,255 from the United Pool Council (UPC); amending the Aquatics budget to reflect the new revenue; and extending pool operations through the winter months. (Revenue to General Fund - \$52,000)
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 62,320 – N.S.
- 7. Grants: 2002 Resources Bond Act (Proposition 40) – California Clean Water, Clear Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a competitive grant application to the State of California Department of Parks and Recreation for available grant funding through the 2002 Resources Bond Act (Proposition 40), Murray-Hayden Urban Parks and Youth Service Grant Program for the Martin Luther King Jr. Youth Services Center, authorizing the City Manager or designee to execute related grant agreements and any amendments, and accept these grant funds. (Grant award up to \$750,000 with no required matching funds.)
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 62,321 – N.S.
- 8. License Agreement: Bait Shop at the Berkeley Marina**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a license agreement and any amendments with the Berkeley Marina Charter Boat Association, Inc. to operate the bait shop at the Berkeley Marina for a five-year period from January 1, 2004 until December 31, 2008 with options for annual renewals for up to five additional years. (Annual revenue of approximately \$45,000 for Marine Enterprise Fund.)
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 62,322 – N.S.
- 9. Contract: Traffic Mitigation Monitoring for Alta Bates Use Permit**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole-source contract and any amendments not to exceed \$212,390 with Fehr & Peers to provide traffic mitigation monitoring for the Alta Bates Use Permit for calendar years 2004 through 2006. (Alta Bates to fund this contract.)
Contact: Dan Marks, Planning, 981-7400
Action: Adopted Resolution No. 62,323 – N.S.
- 10. Contract: Bridget Transitional House Renovation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Solid Builders for the Bridget Transitional House project for structural improvements, increasing the existing contract by \$25,000 for a total amount not to exceed \$310,000. (Housing Mitigation Fund)
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,324 – N.S.

Consent Calendar

11. **Contract: Parking Sign and Information System**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with IBI Group for the evaluation, analysis, planning and design of parking wayfinding signage and other parking information for off-street parking in the City (primarily the Downtown and Southside) for an amount not to exceed \$93,321. (Off Street Parking Fund - \$93,321)

Contact: Peter Hillier, Transportation, 981-7010

Action: Removed from Consent Calendar by Councilmember Spring. Moved, seconded, carried (Wozniak/Worthington; Noes – Spring; Absent – Maio, Olds) to adopt Resolution No. 62,325 – N.S. Councilmember Spring asked the record to reflect that she supports the signs but feels too much money is being spent on the study.

12. **Process for Review of the Agenda Committee**

From: Mayor Bates

Recommendation: 1) Authorize a review of the Agenda Committee; 2) direct the Agenda Committee to report to Council in March with possible changes to the Council Rules of Procedure based on that review; and 3) request the public to provide comments to the Agenda Committee to assist with this review.

Contact: Tom Bates, Mayor, 981-7100

Action: Approved recommendation.

13. **Priority Point System for Inclusionary Units**

From: Councilmember Maio

Recommendation: Refer to the City Manager a request that staff study and make a recommendation regarding the establishment of a priority point system that would give preference in renting or purchasing inclusionary units to Berkeley residents, those who work in Berkeley, public service employees, seniors and the permanently disabled.

Contact: Linda Maio, Councilmember District 1, 981-7110

Action: Approved recommendation.

14. **Support of SB 754 - Heritage Tree Preservation Act**

From: Councilmember Olds

Recommendation: Support SB 754, (Senator Perata) legislation to protect California's old-growth trees from commercial cutting.

Contact: Betty Olds, Councilmember District 6, 981-7160

Action: Approved recommendation.

Appeals

15. **Appeal: 3075 Telegraph Avenue**

a. From: City Manager

Recommendation: Adopt a Resolution affirming the Landmarks Preservation Commission (LPC) decision designating 3075 Telegraph Avenue, the Concrete Grid Forms Company building, a City Landmark and dismissing the appeal.

Contact: Dan Marks, Planning, 981-7400

Appeals

b. Appeal

1. Sam Sorokin

Action: Appeal withdrawn by the applicant/appellant. No action required by Council.

16. Appeal: 1326 Allston Way (*Public Hearing held and closed on 11/18/03. Held over from 11/25/03*)

a. From: City Manager (*October 21, 2003*)

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board, based on findings and conditions, to approve Use Permit 02-100000008 for 1326 Allston Way, City of Berkeley Corporation Yard, to allow demolition of non-residential buildings, construction of storage buildings, installation of 7,368 square feet of modular offices and relocation of certain non-essential services and staff offsite and dismissing the appeal.

Contact: Dan Marks, Planning, 981-7400

b. Appeal by:

1. Tamara and Daniel Horodysky
2. Nancy Hunt
3. Gerardo Moreno
4. Judith and Steven Sager
5. Patricia Jones
6. Judith Olson
7. Muni and Tania Schweg
8. Bruce Simon
9. Michele Manning
10. Letti Glavde
11. Jessica Phrogus

c. Supplemental Communication (*October 21, 2003*)

1. Appeal, submitted by Tamara Horodysky, Daniel Horodysky, Nancy Hunt, Gerardo Moreno, Judith Sager, Patricia Jones, Judith Olson, Muni and Tania Schweg, Bruce Simon, Michelle Hanning, Hughes Hudnall, Lettie Glaude, and Jessica Phrogus
2. Daniel and Toni Horodysky
3. Elise Peeples

d. Communications (*November 18, 2003*)

1. Martin Gugino
2. George Collins
3. Mary Magocsy

e. Supplemental Communication (*November 18, 2003*)

58. Toni Horodysky, Corporation Yard Neighbors for a Better Berkeley
59. Shawn George Weikerta, Corporation Yard Neighbors for a Better Berkeley
60. Regina E. Gurst, Corporation Yard Neighbors for a Better Berkeley

Appeals

Action: Moved, seconded, carried (Breland/Spring) to adopt Resolution No. 62,326 – N.S. amended to include as part of the conditions of approval: 1) no construction work between the hours of 9:00 am to 12 pm on Saturdays; 2) installation of stop signs at West and Bancroft Streets; 3) requiring street sweeping three times per week during construction; and 4) signage to discourage contractors and employees from leaving vehicles running unnecessarily. The Council also requested vehicles use Sacramento Street and staff consider designating Acton Street, Bancroft Street and Allston Way as one way streets; and come back with recommendations for planting of trees and vegetation to buffer noise for the neighborhood.

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 65009(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.*

Public Hearing

17. Solano Avenue Business Improvement District (*Public Hearing opened on 11/18/03*)

From: City Manager

Recommendation: Conduct a public hearing on the proposed establishment of the Berkeley Solano Avenue Business Improvement District and upon conclusion: 1) delay action as necessary to allow the City Clerk to tabulate any oral or written protests against formation of the proposed District received before or during the public hearing; and 2) if no majority protest exists, consider whether to make changes in the proposed assessments, boundaries or programs of the BID; and 3) adopt the first reading of an Ordinance adding Berkeley Municipal Code (BMC) Section 7.97 establishing the District and levying assessments on businesses within the District for calendar year 2004.

Contact: Tom Myers, Economic Development, 981-7530

Public Testimony: The Mayor opened the public hearing. 4 speakers. Moved, seconded, carried (Hawley/Maio; Absent – Breland, Worthington) to close the public hearing.

Action: Moved, seconded, carried (Hawley/Maio; Noes - Olds) to adopt first reading of the revised Ordinance modifying the assessment amounts and establishing the District. Second reading scheduled for December 16, 2003.

Old Business

18. **City Manager's Contract Authority** (*Held over from 11/4/03 by Councilmember Worthington*)
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: Moved, seconded, carried (Olds/Shirek, Noes – Spring, Worthington) to adopt first reading of Ordinance. Second reading scheduled for December 16, 2003.
19. **Support SB 916: Increasing Bay Area Bridge Tolls to Fund Transportation Improvements** (*Held over from 11/25/03 by Councilmember Hawley*)
- a. **From: Councilmember Worthington**
Recommendation: Support SB 916 (Perata) on the March 2004 Ballot, which will increase Bay Area Bridge Tolls to fund transportation improvements.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
- b. **From: Councilmember Hawley**
Recommendation: Take no position on SB 916 and ask Senator Perata and the Senate Rules Committee to correct the statement in the Committee's digest of SB 916 that erroneously lists the City of Berkeley as a supporter of the bill.
Contact: Mim Hawley, Councilmember District 5, 981-7150
Action: Moved, seconded, carried (Worthington/Maio; Abstain –Shirek, Spring, Hawley, Olds) to support SB 916 (Perata) entitled "Regional Measure 2 – Regional Transportation Measure".

New Business

20. **Amendment to FY 2004 Annual Appropriations Ordinance** (*to be delivered*)
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the FY 2004 Annual Appropriations Ordinance No. 6,752–N.S. based upon recommended re-appropriation of unexpended FY 2003 funding and other adjustments authorized since July 1, 2003 in the amount of \$69,205,375.
Contact: Paul Navazio, Budget, 981-7000
Action: Discussion and action continued to special work session and regular meetings of December 16, 2003.

New Business

21. **Lease: City-Owned Property at 711 Harrison Street** *(to be delivered)*
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with Building Opportunities for Self-Sufficiency (BOSS) to lease City property on a parcel of property to be created at 711 Harrison Street as a site for transitional housing.
Contact: Stephen Barton, Housing, 981-5400
Action: Moved to the Consent Calendar by Councilmember Maio and adopted first reading of Ordinance. Second reading scheduled for December 16, 2003.
22. **West Berkeley Branch Library Improvements**
From: City Manager
Recommendation: Adopt a Resolution authorizing the appropriation of \$3.1 million of bond funds (Measure P, November 2000), contingent upon the grant of \$6 million in Proposition 14 State funds with a 35% match by the City to renovate and expand the West Berkeley Branch Library. (State funding - \$6 million; Local match of bond funds - \$3.1 million)
Contact: Jackie Griffin, Library, 981-6195
Action: Removed from Consent Calendar by Councilmember Wozniak. Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 62,327 – N.S.
23. **Planning Commission Review of Potential Hotel/Conference Center**
From: Mayor Bates
Recommendation: Direct the Planning Commission to examine the potential hotel and Conference Center in Downtown Berkeley and to report no later than May, 2004 with preliminary recommendations.
Contact: Tom Bates, Mayor, 981-7100
Action: Moved to the Consent Calendar by Councilmember Maio and approved recommendation.

Information Reports

24. **Formal Bid Solicitations and Request for Proposals**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
25. **Fee Deferrals: 2517 Sacramento Street (Affordable Housing Associates)**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.
26. **Grant: Door-to-Door Household Hazardous Waste (HHW) Collection Program**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.

Information Reports

27. **Internal Control Risks Associated with Budget Cuts and Freezes**
From: City Auditor
Contact: Ann-Marie Hogan, City Auditor, 981-6750
Action: Received and filed.
28. **Peer Review of City of Berkeley Auditor's Office**
From: City Manager
Contact: Ann-Marie Hogan, City Auditor, 981-6750
Action: Received and filed.
29. **Human Rights Abuses in Cuba (CF 23-03)**
From: Peace and Justice Commission
Contact: Manuel Hector, Secretary, 981-5110
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.

High Cost of Berkeley's Traffic Circles

1. David N. Keightley
2. Mani Simmons
3. Beth Sheppard
4. Judith Reich
5. Jason Meggs

Long's Drugstore at Bancroft and Shattuck

6. Terry Cochrell

International Tribunal for Afghanistan

7. Leuren Moret

Escaped Property Tax (Spring)

8. Gale Garcia

Recall Election of Governor Gray Davis

9. Raymond H. Hawkins

Berkeley Budget

10. Jonathan Polland

Relocation of the Animal Shelter (Spring)

11. Karen Ball

Absence of "No Trespass" Sign at St. John's Presbyterian Church

12. Anne Marselis Whyte

Long Range Development Plan at LBNL

13. Leuren Moret

Supplemental Communications and Reports #1

Item 15: Appeal: 3075 Telegraph Avenue

14. Sam Sorokin

Item 20: Amendment to FY 2004 Annual Appropriations Ordinance

15. Walnut Square Musical Events, submitted by Councilmember Dona Spring

16. Sidewalk Curb Cuts, submitted by Councilmember Dona Spring

17. Barbara Gilbert

Item 27: Internal Control Risks Associated with Budget Cuts and Freezes

18. Barbara Gilbert and Viki Tamaradze, Berkeley Budget Oversight Committee

Item 29: Human Rights Abuses in Cuba

19. Thom Seaton, PJC Commissioner

Adjournment

Adjourned in memory of Father Bill O'Donnell and in honor of Helen Lema, who is very sick and is relocating to be cared for by her daughter. Adjourned at 10:15 p.m.