

MINUTES

BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

MONDAY, DECEMBER 6, 2004 – 5:00 P.M.

6th Floor Conference Room, 2180 Milvia Street
Teleconference Location – 1636 Channing Way, Berkeley, CA

Preliminary Matters

Roll Call: 5:05 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Absent: None.

Public Comment: None.

Closed Session

The City Council recessed to closed session to discuss each of the following matters, not necessarily in the order listed below:

**1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (c)**

Initiation of litigation—three cases

The Council will meet with its attorneys to determine whether to file suit against Boykin Berkeley LLC and other entities who are owners and principals of the Doubletree Hotel regarding the City of Berkeley's rights to renegotiate an increase in rent under a lease for premises owned by the City of Berkeley located at 200 Marina Boulevard.

The Berkeley City Council will consider whether to initiate litigation challenging the legal adequacy of the environmental impact report prepared by the Regents of the University of California on the Long Range Development Plan for the Berkeley Campus and related actions.

The Berkeley City Council will also consider whether to initiate litigation to compel the Regents of the University of California and/or the University of California, Berkeley Campus, to comply with the California Public Records Act with respect to the Public Records Act request dated November 24, 2004 if the University does not provide the documents to the City.

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):

City of Berkeley v. Reza Valiyee, et al.
ACSC No. 737686-3

City of Berkeley v. Reza Valiyee, et al.
ACSC No. 748526-4

People v. Arcadia Machine & Tool, Inc., et al.
Superior Court (SF) No. 303753

Eugene Evans, et al. v. City of Berkeley, et al.
California Supreme Court No. S11261

Hillside Drilling, Inc. v. City of Berkeley, et al.
United States Court of Appeal for the Ninth Circuit No.02 15767

RUI One Corp., a Washington Corporation v. City of Berkeley
United States Court of Appeal for the Ninth Circuit No 02 15762

Qwest Communications Corp. v. City of Berkeley
USDC No. C 01 0663 SI

Elizabeth O'Malley, et al. v. City LPC, et al.
ACSC No. 837247-5

City of Berkeley v. Reza Valiyee
ACSC No. 837667-1

Rash B. Ghosh v. ZAB
DEH No. 09-01-0540-08

Metromedia Fiber Network v. City of Berkeley
USDC No. C 01 00722 CRB

Harry K. Vernon v. City of Berkeley, State of California
ACSC No. 842999-1

Robert H. James and Beverly James v. BRSB; City; M. Estrada, et al.
ACSC No. 2002 043234

Rash B. Ghosh v. Shirley Dean, Mayor, City Council, ZAB, Zoning Dept.
ACSC No. 2002 043750

Stephen P. White v. City, Fran David, Costello, Marine Lien Sale Service
ACSC No. 2002 041813

Closed Session

Marie Bowman (Neighbors For Sensible Development For 2517 Sacramento Street v. City of Berkeley

ACSC No. 2002 057279

Alice Landis and Lynda Hart v. City Council of the City of Berkeley

ACSC No. 2002 057801

Berkeley Police Association v. City of Berkeley, PRC

ACSC No. 2002 057569

Helix Electric Inc., v. Arntz Builders; The American Insurance Company; City of Berkeley

ACSC No. 2002 061480

Richard Schwarzmann v. City of Berkeley, et al.

ACSC No. 2001 26119

Anthony W. Hawthorne and Patricia D. Hawthorne v. City of Berkeley, et al.

ACSC No. RG 03 089481

Bay Systems Integrators, Inc. v. Helix Electric, Inc., City of Berkeley, American Ins. Co.

ACSC No. RG 03 089440

City of Berkeley v. Donald Sebanc

ACSC No. BG 03 088362

Alice Landis and Lynda Hart v. City Council of the City of Berkeley

ACSC No. RG 03 103094

Elizabeth Campos & Marissa Shaw v. City of Berkeley Housing Authority Section 8 Program, Tom Bates, Steve Barton, Rich Mattissich, Weldon Rucker

USDC No. C 03 03166 MHP

Earnest Darden v. Berkeley Community Media and Berkeley City Council

USDC No. C 03 3264 MMC

Arntz Buildings v. City of Berkeley, Library Project Manager

ACSC No. BG 03 095394

MTDS, Inc., dba Meridian Trust Deed Services v. City of Berkeley, et al.

ACSC No. RG 04 150632

Francie Moeller v. City of Berkeley, et al.

USDC No. C 94 1738 EDL

Closed Session

Tashonna M. Brown & Amber Brown0Woods v. City; Rent Board
ACSC No. RG 04 150247

Advantica, Inc. v. City of Berkeley
USDC No. C 94 2759 EMC

Rash B. Ghosh v. City of Berkeley
USDC No. C 04 1693 EMC

Stephen P. White v. City of Berkeley
ACSC No. RG 04 145198

AMICUS CASES

United States of America v. Lakireddy Bali Reddy
USDC No. 4-00-0004 WDE

Cashman v. City of Cotati
USDC No. C 99 3641 WHO

Chevron, USA, Inc. v. Cayetano
USCA 9th Cir.

Richmond v. Shasta Community Services District
Cal. Ct. of App. 3rd Dist. No. C 934239

City and County of San Francisco and City Attorney on Behalf of People v. GCS, Inc.
SFSC No. 417-218

City of Marina and Fort Ord Reuse Authority v. Board of Trustees of Cal State University
Supreme Ct. No. S 117816

Francisca Amaral, Nelva Hernandez v. Cintas Corporation No. 2 and 3
ACSC No. HG 03 103046

Jason Meggs/Ryan Salsbury v. City of Berkeley, et al.
USDC No. C 01-4033 CW

Jason Meggs/Ryan Salsbury v. City of Berkeley, et al.
USDC No. C 02 0693 MHP (consolidated with USDC No. C 02-1528 MHP)

3. REPORT FROM CLOSED SESSION:

Moved, seconded, carried (Capitelli/Maio) to adopt Resolution 62,728–N.S. authorizing the City Attorney to file a declaratory relief action against the owners of the Doubletree Hotel to obtain unpaid rents on the existing lease.

Closed Session

Moved, seconded, carried (Maio/Anderson) to adopt Resolution 62,729–N.S. authorizing the City Attorney to file a lawsuit to compel the Regents of the University of California to comply with the Public Records Act with respect to the Public Records Act Request dated November 24, 2004

Adjournment

Adjourned at 6:27 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of December 6, 2004 as approved by the Berkeley City Council.

Sara T. Cox, Acting City Clerk