

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 13, 2004

Preliminary Matters

Roll Call: 7:20 p.m. All present.

Ceremonial Matters: None.

City Manager Comments: None.

Public Comment: 14 speakers.

Youth Comments: None.

Consent Calendar

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

- 1. FY 2005 Appropriation Ordinance** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of the FY 2005 Appropriation Ordinance.
Contact: Tracy Vesely, Budget, 981-7000
Action: Adopted Ordinance No. 6,808 - N.S. correcting typographical error.
- 2. Tax Rate: Maintenance of Parks, City Trees and Landscaping** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance levying a FY 2005 special tax of \$.098869 per square foot of all improvements to fund maintenance of parks, City trees, and landscaping.
Contact: Fran David, Finance, 981-7300
Action: Adopted Ordinance No. 6,809 - N.S.
- 3. Tax Rate: Measure S General Obligation Bonds** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2005 tax rate for the Measure S General Obligation Bonds (Election of 1996) at 0.0425%.
Contact: Fran David, Finance, 981-7300
Action: Adopted Ordinance No. 6,810 - N.S.

Consent Calendar

- 4. Tax Rate: Library Services** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2005 tax rate for the Library Services Tax at \$0.132172 per square foot for dwelling units and \$0.2001 per square foot for industrial, commercial, and institutional buildings.
Contact: Fran David, Finance, 981-7300 and Jackie Griffin, Library, 981-6195
Action: Adopted Ordinance No. 6,811 - N.S.
- 5. Tax Rate: Fire Seismic General Obligation Bonds (Measure G, Series C) and the 2002 General Obligation Refunding Bonds** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2005 Tax Rate for the Fire Seismic General Obligation Bonds (Measure G, Series C) and the 2002 Obligation Refunding Bonds at 0.0300%.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500
Action: Adopted Ordinance No. 6,812 - N.S.
- 6. Tax Rate: Disaster Fire Protection (Measure Q)** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting FY 2005 tax rate for the procurement of disaster fire equipment at \$0.0125 per square foot of improvements.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500
Action: Adopted Ordinance No. 6,813 - N.S.
- 7. Tax Rate: Emergency Services for the Severely Disabled** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2005 tax rate for the provision of emergency services for the disabled at \$.009524 per square foot of improvements.
Contact: Fran David, Finance, 981-7300
Action: Adopted Ordinance No. 6,814 - N.S.
- 8. Tax Rate: Emergency Medical Services** (*First Reading June 22, 2004 – unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance levying a special tax of \$0.026280 per square foot of improvements to fund the provision of emergency medical services to residents.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500
Action: Adopted Ordinance No. 6,815 - N.S.

Consent Calendar

- 9. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of June 15, 2004 (special and regular) and June 22, 2004 (closed and regular).
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Approved minutes.
- 10. 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. 62,563 – N.S.
- 11. Ballot Measure: Gann Override**
From: City Manager
Recommendation: Adopt a Resolution placing a measure on the November 2, 2004 ballot to re-authorize expenditures of voter-approved taxes for parks maintenance, library relief, emergency medical services and emergency services for severely physically disabled persons under Article XIII B of the California Constitution.
Financial Implications: See report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 62,564 – N.S.
- 12. Ballot Measure: Change Date of Mayoral Elections**
From: City Manager
Recommendation: Adopt a Resolution placing a measure on the November 2, 2004 ballot to amend Article V section 14 of the Berkeley Charter to adjust the term of the office of Mayor from four years to two years on a one-time basis for the period of December 1, 2006 to December 1, 2008 in order that future mayoral elections will coincide with presidential elections.
Financial Implications: See report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 62,565 – N.S.
- 13. Ballot Measure: Rent Stabilization and Eviction for Good Cause Ordinance**
From: City Manager
Recommendation: Adopt a Resolution placing a measure on the November 2, 2004 ballot to amend the Rent Stabilization and Eviction for Good Cause Ordinance, Berkeley Municipal Code (BMC) Chapter 13.76 for purposes of making several changes recommended by the Rent Stabilization Board and the City Council/Rent Stabilization Board 4 by 4 Subcommittee.
Financial Implications: See report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 62,566 – N.S.

Consent Calendar

14. **Ballot Measures: Increased Taxes**

From: City Manager

Recommendation: Adopt four Resolutions placing the following measures on the November 2, 2004 ballot: 1) increase the Emergency Medical Services Tax; 2) increase the Library Services Tax; 3) increase the Utility Users Tax; and 4) increase the Property Transfer Tax to fund Youth Services and Youth Safety Program.

Financial Implications: See report.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Removed from Consent Calendar by Councilmember Olds.

Moved, seconded, carried (Worthington/Breland; Noes – Olds) adopting Resolution No. 62,567 – N.S. placing a measure on the November 2, 2004 ballot to increase the Emergency Medical Services Tax.

Moved, seconded, carried (Worthington/Maio; Noes – Wozniak) adopting Resolution No. 62,568 – N.S., placing a measure on the November 2, 2004 ballot to increase the Library Services Tax.

Moved, seconded, carried (Maio/Wozniak; Noes – Olds) adopting Resolution No. 62,569 – N.S., placing a measure on the November 2, 2004 ballot to increase the Utility Users Tax.

Moved, seconded, carried (Maio/Hawley; Noes – Olds, Wozniak) adopting Resolution No. 62,570 – N.S., placing a measure on the November 2, 2004 ballot to increase the Property Transfer Tax to fund Youth Services and Youth Safety Program.

15. **Fair Procedures in Quasi-Judicial Land Use Matters (CF 29-04)**

From: City Manager

Recommendation: Adopt a Resolution establishing fair procedures in quasi-judicial land use matters and repealing section I F of Resolution No. 62,420–N.S., Council Rules of Procedure.

Financial Implications: None.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted Resolution No. 62,571 – N.S as revised by the City Attorney.

16. **Settlement Agreement: Waleed M. Ghnaim v. City of Berkeley, et al.**

From: City Manager

Recommendation: Adopt a Resolution approving the settlement of the United States District Court Action No. C 03 0847 MHP entitled Waleed M. Ghnaim v. City of Berkeley, et al. in the amount of \$20,500.

Financial Implications: Public Liability Fund – \$20,500.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted Resolution No. 62,572 – N.S.

Consent Calendar

- 17. Settlement Agreement: Gibson Group Trust**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a settlement agreement with the Gibson Group Trust in the amount of \$24,123.
Financial Implications: Refuse Fund - \$24,123.
Contacts: Manuela Albuquerque, City Attorney, 981-6950; Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,573 – N.S.
- 18. Contract: Legislative Representation Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Lynn Suter & Associates to provide legislative representation services in Sacramento from July 1, 2004 to June 30, 2005 in an amount not to exceed \$49,970.
Financial Implications: General Fund – \$49,790.
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Adopted Resolution No. 62,574 – N.S.
- 19. Contract: Banking Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a three-year agreement with Wells Fargo Bank to provide a comprehensive range of financial services for the period of July 1, 2004 through June 30, 2007, in the amount of \$330,000; with an option for two 1-year extensions through June 30, 2009 for a total contract amount not to exceed \$550,000.
Financial Implications: General Fund and Enterprise Fund Operating Revenues – \$550,000;
Contact: Fran David, Finance, 981-7300
Action: Adopted Resolution No. 62,575 – N.S.
- 20. Formal Bid Solicitations and Requests for Proposals**
From: City Manager
Recommendation: Approve new invitations for bids and requests for proposals (RFP) that will be, or are planned to be, issued; that have been issued and received due to extenuating circumstances; or that have been sent out (opened) but not yet received (closed).
Financial Implications: Various sources – \$2,593,916.
Contact: Fran David, Finance, 981-7300
Action: Approved recommendation.

Consent Calendar

- 21. Lease: Family, Youth and Children's Services Program**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a five-year lease and maintenance agreement with a five-year renewal option with Mansour Taeed for real property located at 3282 Adeline Avenue to provide operating space for the Family, Youth and Children's Services Program operated by the Health and Human Services Department.
Financial Implications : See report.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted first reading of Ordinance. Second reading scheduled for July 20, 2004.
- 22. Contract: Pre-Apprenticeship Construction Training**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with the Oakland Private Industry Council for pre-apprenticeship construction training to be provided by the Cypress Mandela/WIST (Women in Skilled Trades) Program to increase the amount by \$42,000 for a total not to exceed \$84,000 and to extend the term to September 30, 2005.
Financial Implications: See report.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,576 – N.S.
- 23. Contract: Supportive Housing for Mentally Disabled**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Bonita House, Inc. for pre-development costs associated with the purchase of 5406, 5408 and 5410 Telegraph Avenue, Oakland, also known as the "Temescal Apartments," for the purpose of providing supportive housing for low-income mentally disabled adults for the period July 1, 2004 through June 30, 2005 in an amount not to exceed \$200,000.
Financial Implications: State Mental Health Realignment Trust Funds - \$200,000.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Removed from the Consent Calendar by the City Manager. Held over to July 20, 2004.
- 24. Grant: Public Mental Health Workforce Development**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager: 1) to accept a grant from the Zellerbach Family Foundation for funds in the amount of \$20,000 to increase the diversity and skill base of the public mental health workforce of the City and the greater Bay Area public mental health systems for the period July 1, 2004 through June 30, 2005; 2) to accept additional funding from the Bay Area Public Mental Health Agencies for activities related to this grant; 3) to execute any resultant revenue agreements and amendments; and 4) to implement the project and appropriation of funding for related expenses.
Financial Implications: Grant - \$20,000.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,577– N.S.

Consent Calendar

- 25. Contract: ABAG POWER Electricity Program - PG&E Direct Access Credits**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ABAG Publicly Owned Energy Resources (POWER) for the refund of approximately \$282,721 from the ABAG POWER Electricity Program for the period beginning June 23, 2004 and without any end date.
Financial Implications: Revenues - \$282,721.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,578 – N.S.
- 26. Side Letter of Agreement: Berkeley Police Association (to be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Side Letter of Agreement with the Berkeley Police Association for purposes of reducing a portion of a scheduled cost of living adjustment and other cost savings for employees represented by the Berkeley Police Association.
Financial Implications: See report.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Adopted Resolution No. 62,579 – N.S.
- 27. Contract: Food Services for Tuolumne Camp**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Sysco Food Services Inc. through November 30, 2005 to increase the amount by \$750,000 for a total amount not to exceed \$2,215,000.
Financial Implications: Playground Camps Fund – \$400,000 in FY 2005; \$350,000 in FY 2006.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Adopted Resolution No. 62,580 – N.S.
- 28. Contract: Tree Removal Services**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for tree removal services; 2) accepting the proposal of West Coast Arborists, Inc.; and 3) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$290,000 for a period of three years, beginning August 1, 2004 and ending July 31, 2007.
Financial Implications: Parks Tax Fund – \$97,000 in FY 2005.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Adopted Resolution No. 62,581 – N.S.
- 29. Purchase Order: Parking Ticket Processing Services**
From: City Manager
Recommendation: Adopt a Resolution establishing a purchase order with Clancy Systems for the payment for parking ticket processing services from July 1, 2004 through December 31, 2004, in an amount not to exceed \$65,000.
Financial Implications: See report.
Contact: Roy Meisner, Police, 981-5700
Action: Adopted Resolution No. 62,582 – N.S.

Consent Calendar

- 30. Parking Mitigation Measures for Parking Enforcement Officers (CF 8-04)**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 56,508–N.S. by creating sixteen on-street preferential permit parking spaces for Parking Enforcement Officers.
Financial Implications: General Fund – \$1,000.
Contact: Roy Meisner, Police, 981-5700
Action: Adopted Resolution No. 62,583 – N.S. (Noes – Spring, Worthington)
- 31. Contract: Microfilming Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ImageMax, Inc. to provide microfilming services for the period September 1, 2004 through September 1, 2005 in an amount not to exceed \$25,000.
Financial Implications: Permit Service Center – \$25,000.
Contact: Dan Marks, Planning, 981-7400
Action: Adopted Resolution No. 62,584 – N.S.
- 32. Contract: Curb Ramp Installation Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Curb Ramp Installation Project at various locations; accepting the bid of AJW, Inc. and other change orders in an amount not to exceed \$217,443 for a period of 120 calendar days.
Financial Implications: ADA Capital Curb Ramp Fund – \$217,443.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,585 – N.S.
- 33. Contract: Geotechnical/Engineering Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Mactec Engineering and Consulting, Inc. to provide geotechnical and engineering testing support services for various projects for a period of 36 months in an amount not to exceed \$865,719.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,586 – N.S.
- 34. Contract: Seventh Street Improvements Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Ray’s Electric for the Seventh Street Improvements Project, increasing the existing contract by \$30,000 for a total amount not to exceed \$1,147,195.
Financial Implications: Mitigation Funding and Emergency Sewer Repairs – \$30,000.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,587 – N.S.

Consent Calendar

- 35. Five-Year Street Plan for FY 2005-2009**
From: City Manager
Recommendation: Adopt a Resolution adopting the updated Five-Year Street Plan for FY 2005-2009.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,588 – N.S.
- 36. Sublease Agreement: 2809 Telegraph Avenue Sather Gate Shops**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a sublease agreement with Internet-Journals, Inc. (dba as The Berkeley Electronic Press and bepress) for office space located at 2809 Telegraph Avenue, Suite 202 for term to end December 14, 2006 at a rent of \$3,000 per month.
Financial Implications: Revenue - \$85,489 for term of sublease.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for July 20, 2004.
- 37. Lease Agreement: 2446 Durant Avenue Sather Gate Shops**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Mohammad Mohayedj, (Moe's Flowers) for retail space, located at 2446 Durant Avenue for the purpose of operating a retail flower store for the period 2004-2014 at a starting rent of \$19,200 year.
Financial Implications: Revenue: \$25,000 annually.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for July 20, 2004.
- 38. Tires for Fleet Vehicles and Equipment**
From: City Manager
Recommendation: Adopt a Resolution accepting the bid for automotive tires for fleet vehicles and equipment and authorizing the City Manager to issue a purchase order to Inland Industrial Tire in Hayward for a total amount not to exceed \$125,094 for FY 2005, with the option to extend for additional twelve-month periods up to a maximum of five years.
Financial Implications: Equipment Maintenance Fund - \$125,094 in FY 2005.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,589 – N.S.
- 39. Transportation for Livable Community Planning Grant for Downtown BART Transit Plaza**
From: Mayor Bates
Recommendation: Adopt a Resolution supporting a Transportation for Livable Community Planning Grant for the Downtown BART Transit Plaza in partnership with BART and AC Transit and authorizing the City Manager to submit the grant application and apply for future capital grants.
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 62,590 –N.S. as revised by Mayor Bates.

- 40. Transportation for Livable Community Planning Capital Grant for San Pablo Avenue**
From: Mayor Bates
Recommendation: Adopt a Resolution supporting a Transportation for Livable Community Capital Grant for San Pablo Avenue public improvements and authorizing the City Manager to submit the grant application.
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 62,591 –N.S. as revised by Mayor Bates.
- 41. Ocean Protection Bills**
From: Councilmember Maio
Recommendation: Adopt a Resolution directing the City Manager to write a letter to Governor Schwarzenegger urging him to sign ocean protection bills into law this year: SB 1318 and 1319 (Burton and Alpert), AB 2672 (Simitian), AB 2093 (Nakano), AB 2529 (Kehoe), SB 512 (Figueroa) and SB 1459 (Alpert).
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Adopted Resolution No. 62,600–N.S.
- 42. Support the Seyed Hossein Modarressi School in the City of Bam in the Islamic Republic of Iran**
From: Councilmember Maio
Recommendation: Adopt a Resolution: 1) formally supporting the local effort to raise funds to build the “Seyed Hossein Modarressi School” in the City of Bam in the Islamic Republic of Iran; 2) encouraging all Berkeleyans and others to support this effort with financial contributions; and 3) declaring the City’s willingness to consider the establishment of a sister city relationship with the City of Bam.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Adopted Resolution No. 62,601–N.S. as revised by Councilmember Maio to eliminate recommendation (3).
- 43. Oppose Computer Assisted Passenger Pre-Screening System II (CAPS II)**
From: Councilmember Worthington
Recommendation: Oppose Computer Assisted Passenger Pre-Screening System II (CAPS II), which would perform secretive background checks on airline travelers; and send letters to Senators Boxer and Feinstein and Representative Lee stating opposition.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 44. Fee Waiver: Woman’s Will Shakespeare Company**
From: Councilmember Wozniak
Recommendation: Adopt a Resolution waiving the special event permit fees associated with performances of *As You Like It* by Woman’s Will Shakespeare Company to be held on July 17th and 18th at Live Oak Park.
Contact: Gordon Wozniak, Councilmember District 8, 981-7180
Action: Adopted Resolution No. 62,592 –N.S.

Consent Calendar

- 45. Implementation of Instant Runoff Voting**
From: Councilmembers Spring and Hawley
Recommendation: Request the City Manager send a letter to the Alameda County Board of Supervisors requesting implementation of Instant Runoff Voting (IRV) in future Berkeley elections.
Contact: Dona Spring, Councilmember District 4, 981-7140; Miriam Hawley, Councilmember District 5, 981-7150
Action: Approved recommendation as amended to reflect wording adopted by the voters (Noes –Olds).
- 46. Peace Lantern Ceremony**
a. From: Peace and Justice Commission
Recommendation: Adopt a Resolution endorsing the Third Annual Berkeley Peace Lantern Ceremony to be held on Saturday, August 7, 2004.
Financial Implications: None.
Contact: Manuel Hector, Secretary, 981-5110
b. From: City Manager
Recommendation: The City Manager concurs with the content and recommendations of the report.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,593 – N.S.

Action Calendar – Appeals

- 47. Appeal: 1820 Solano Avenue, Unit A**
a. From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board approving “incidental” food service in a retail bakery located at 1820 Solano Avenue, Unit A, thereby exceeding the quota for food service establishments in the C-SO district; and dismissing the appeal.
Contact: Dan Marks, Planning, 981-7400
b. Appeals
1. Jerry Landis
c. Communications
1. Jerry Landis, Lu Charlotte and Mark Gorrell
Action: Moved to the Consent Calendar by Councilmember Olds to adopt Resolution No. 62,594 – N.S. (Noes – Worthington)

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 §5009(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 – Public Hearing – Fees

48. Administrative Fees for Towed Vehicles

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing the fee for towed vehicles from \$75 to \$120 for vehicles towed under California Vehicle Code Sections 22651 O, P, I, K, J; 53675.61 and 22669 D (authority to remove a vehicle from the roadway) and 14602 (driving with suspended license) and rescinding Resolution No. 60,092–N.S.

Contact: Roy Meisner, Police, 981-5700

Action: Withdrawn by the City Manager.

49. Administrative Fees for Fingerprinting of Non-Residents

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 2.64.150 to establish administrative fees for the fingerprinting of non-residents be set by Council resolution and 2) adopt a Resolution, to be effective upon the effective date of the ordinance, increasing the administrative fee for fingerprinting of non-residents from \$20 to \$32.

Contact: Roy Meisner, Police, 981-5700

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Maio/Worthington) to adopt first reading of Ordinance. Second reading scheduled for July 20, 2004. Adopted Resolution No. 62,595-N.S.

50. Fees for Good Conduct Letters

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 2.64.130, to establish fees for Good Conduct letters be set by Council resolution; and 2) adopt a Resolution, to be effective upon the effective date of the ordinance, increasing the fees for Good Conduct letters from \$10 to \$20.

Contact: Roy Meisner, Police, 981-5700

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Worthington/Breland) to adopt first reading of Ordinance. Second reading scheduled for July 20, 2004. Adopted Resolution No. 62,596 – N.S.

Action Calendar – Old Business

51. **Major Residential Addition Policy Interpretations** (*CF 32-03, 41-03, 46-03*)(*Moved to Action by Councilmember Spring on June 8, 2004*)
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Refer to Agenda Committee for placement on a future agenda.
52. **Library Purchasing and Accounts Payable Audit** (*Moved to Action by Councilmember Wozniak on June 8, 2004*)
From: City Auditor
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Discussion held. Received and Filed

Action Calendar – New Business

53. **Initiative Petition: Enforcement of State Prostitution Laws (Angel's Initiative)**
From: City Manager
Recommendation: Take one of the following actions as provided by Sections 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk's certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance, without alteration, to a vote of the people at the November 2, 2004 General Municipal Election and provide comments on the City Attorney's analysis of the initiative and the ballot title.
Financial Implications: See companion information report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Held over to July 20, 2004 at the request of Mayor Bates.
54. **Initiative Petition: Patient's Access to Medical Cannabis Act of 2004**
From: City Manager
Recommendation: Take one of the following actions as provided by Sections 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk's certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance, without alteration, to a vote of the people at the November 2, 2004 General Municipal Election and provide comments on the City Attorney's analysis of the initiative and the ballot title.
Financial Implications: See companion information report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Held over to July 20, 2004 at the request of Mayor Bates.

- 55. Initiative Petition: Public Tree Act of 2004**
From: City Manager
Recommendation: Take one of the following actions as provided by Sections 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk's certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance, without alteration, to a vote of the people at the November 2, 2004 General Municipal Election and provide comments on the City Attorney's analysis of the initiative and the ballot title.
Financial Implications: See companion information report.
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Held over to July 20, 2004 at the request of Mayor Bates.
- 56. Grant: Brownfields Economic Development Initiative for Ed Roberts Campus**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an application for \$2,000,000 for a Brownsfields Economic Development Initiative (BEDI) grant to the U.S. Department of Housing and Urban Development for construction of the Ed Roberts Campus.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
Action: Moved to Consent Calendar by Councilmember Worthington to adopt Resolution No. 62,597 – N.S.
- 57. Construction of Jubilee Senior Homes at 2577 San Pablo Avenue**
From: City Manager
Recommendation: Adopt a Resolution approving a fund reservation in the amount of \$450,000 for construction of Jubilee Senior Homes from the Housing Trust Fund, with conditions, and authorize the City Manager to execute an amendment to the loan agreement with the applicant and all other documents related to this fund reservation.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
Action: Moved, seconded, carried (Breland/Worthington; Abstain – Wozniak) to adopt Resolution No. 62,598 –N.S.
- 58. Hazardous Materials Codes**
From: City Manager
Recommendation: Adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapters 11.18 (Ordinance No. 6,056–N.S.) and 11.52 (Ordinance No. 6,271–N.S.) the hazardous materials codes, and reenacting these chapters in a new BMC Title 15, Hazardous Materials, as Chapters 15.04, 15.08 and 15.12.
Financial Implications : None.
Contact: Dan Marks, Planning, 981-7400
Action: Withdrawn by the City Manager.

59. Hiroshima-Nagasaki A-Bomb Exhibition

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution sponsoring the local presentation of the Hiroshima-Nagasaki A-Bomb Exhibition, contingent upon the successful identification of the necessary funds and other resources; and sending a letter to the City of Nagasaki Peace Promotion Office and the Mayors of Hiroshima and Nagasaki expressing gratitude for the honor of being invited to host the exhibit.

Financial Implications: See report.

Contact: Manuel Hector, Secretary, 981-5110

b. From: City Manager

Recommendation: Direct the commission to research to determine the costs involved with hosting the exhibition and to identify the individuals and organizations willing to provide funds to co-sponsor the exhibit prior to Council consideration.

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

Action: Moved the City Manager's recommendation to the Consent Calendar by Councilmember Olds.

60. Arts and Cultural Plan

a. From: Civic Arts Commission

Recommendation: Adopt a Resolution adopting the Arts & Cultural Plan.

Financial Implications: See report.

Contact: Mary Ann Merker, Secretary, 981-7533

b. From: City Manager

Recommendation: 1) Adopt the 2004 Arts & Cultural Plan; and 2) refer all programs in the 2004 Arts & Culture Plan with any new fiscal implications to the budget process.

Contact: Tom Myers, Economic Development, 981-7530

Actions: Moved, seconded, failed (Worthington/Breland; Noes – Hawley, Olds, Bates; Abstain – Maio, Wozniak) a substitute motion to adopt the Plan with a report back from the Civic Arts Commission by end of year to include amendments to the Plan to address the following issues: 1) fair share of revenues of future grants to both South and West Berkeley areas; 2) the process and legal issues regarding murals on public and private properties; 3) issues related to street performers; 4) funding of building acquisitions; 5) funding for small groups; and 6) an implementation plan.

Moved, seconded, carried (Hawley/Maio; Noes – Breland, Worthington) to adopt Resolution No. 62,599 – N.S. adopting the Arts & Cultural Plan and referring issues raised by Councilmember Worthington to the Civic Arts Commission to be considered as part of the implementation and to refer all programs in the Plan with any new fiscal implications to the City Manager.

61. Santa Fe Right of Way

a. From: Parks and Recreation Commission

Recommendation: Encourage citizens to pursue the development of a continuous bike and pedestrian path on the remaining undeveloped portions of the Santa Fe Right-of-Way and to pursue foundation grants, and other private funding, to support path development.

Financial Implications: Undetermined.

Contact: Virginia Aiello, Secretary, 981-5148

b. From: City Manager

Recommendation: Refer the commission's request regarding development and funding to the budget process.

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700

Action: Moved the City Manager's recommendation to the Consent Calendar by Councilmember Olds.

62. Encroachment Permit for Foothill Pedestrian Bridge over Hearst Avenue (to be delivered)

a. From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to issue a major encroachment permit to the University of California for a pedestrian bridge crossing (Foothill) over Hearst Avenue east of La Loma Avenue on the following conditions: 1) an improved bridge design is submitted and approved by the Public Works Director, in consultation with the Design Review Committee; 2) any detrimental effects on the immediate community are offset by contributing to specified pedestrian safety and public infrastructure improvements in the "Hearst Corridor," in the amount of \$200,000; and 3) all plan check comments and other technical issues are resolved to the satisfaction of the Public Works Director.

Financial Implications: See report.

Contact: Rene Cardinaux, Public Works, 981-6300

b. From: Public Works Commission

Recommendation: Deny the application from the University of California for an encroachment permit, either a Conditional or a Full Permit, for a Pedestrian Bridge over Hearst Avenue near La Loma Avenue.

Contact: Jeffrey Egeberg, Secretary, 981-6406

Action: Referred to the Agenda Committee to set a date for discussion as recommended by Mayor Bates.

Time Critical

- 63. Lease Agreement: Police Substation – 3140 Martin Luther King, Jr. Way and 3192 Adeline Street** *(to be delivered)*
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to enter into a five-year lease with a five-year renewal option with Huck Rorick and Associates for the property located at 3140 Martin Luther King, Jr. Way and 3192 Adeline Street for a police substation.
Financial Implications: See report.
Contact: Roy Meisner, Police, 981-5700
Action: Moved to Consent Calendar by Councilmember Olds to adopt first reading of Ordinance. Second reading scheduled for July 20, 2004.

Information Reports

- 64. Argument and Rebuttal Process**
From: City Manager
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Received and filed.
- 65. Impact Report: Enforcement of State Prostitution Laws (Angel's Initiative)**
From: City Manager
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Moved to Action Calendar by Councilmember Worthington and held over to July 20, 2004.
- 66. Impact Report: Patient's Access to Medical Cannabis Act of 2004**
From: City Manager
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Received and filed.
- 67. Impact Report: Public Tree Act of 2004** *(to be delivered)*
From: City Manager
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Moved to Action Calendar by Councilmember Worthington and held over to July 20, 2004.
- 68. Public Health Emergency Preparedness Recognition**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Received and filed.
- 69. Euclid Avenue Use Quotas** *(CF 24-04)*
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.

Information Reports

70. **Decriminalization of Prostitution (CF 38-04)**
From: Commission on Status of Women
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Received and filed.
71. **Ex Parte Communication Rule**
From: Zoning Adjustments Board
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.
72. **Landmarks Preservation Commission Notice of Decision: Landmark Designation – 2145 University Avenue, 2154-60 University Avenue and 2120 Oxford Street**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.
73. **Landmarks Preservation Commission Notice of Decision: Approval of Structural Alteration Permit – 2426 Fulton Street**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
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.

Corporate Constitutional Rights

1. Almudena Ortiz, John O'Connor
2. Robin Goodfellow
3. Charles Hixson

Chateau Student Co-ops

4. Dean Metzger, Claremont Elmwood Neighborhood Association
5. Marie Bowman, Berkeley Alliance of Neighborhood Association

Ohlone Dog Park

6. Carol Whitehurst
7. Howard Pollick
8. Rosemary Hyde, Gordan Silven

Foothill Pedestrian Bridge

9. Edward J. Denton, Facilities Services - University of California, Berkeley

Smoking in Casinos

10. Anonymous

Dona Spring's – M.I.T.

11. George Goldman

Communications

Vista Mitigation \$ Negotiating Strategy: Vehicle Trip Reduction & Alternate Modes *(Spring)*

12. Wendy Alfsen, Walk&Roll Berkeley

End of Suburbia

13. Richard Register

University Avenue Strategic Plan *(Spring)*

14. J. Michael Edwards and Lynne Davis, McGee-Spaulding Historic Interest Group

2703 Stuart Street – Trash in the Public Right-of-Way

15. Anne Whyte

Public Financing Measure

16. Nancy Bickel, League of Women Voters of Berkeley

2300 Shattuck Avenue, Long's Drugs

17. Christian Finn, Longs Drugs of California, Inc. (2)

18. Nancy Threatt

19. Susan Nevelow Mart

Parking Mitigations for Southside Construction *(Spring)*

20. John Caner, Willard Neighborhood Association

Letter to County Supervisors for Instant Run Off Voting (IRV)

21. Merrilie Mitchell

Ban on Motor Scooters *(Spring)*

22. Jeffrey M. Savino

23. Adam Fuchs

24. Maren Springer

25. Andrea Robinson

26. Kit Robinson

Supplemental Reports and Communications #1

Item 14: Ballot Measures: Increased Taxes

27. Wendy Alfsen, Walk&Roll Berkeley

28. Charles Moore (2)

Item 15: Fair Procedures in Quasi-Judicial Land Use Matters

29. Revised Resolution to report, submitted by City Attorney Department

30. Supplement to report, submitted by Councilmember Spring

31. Ann Reid Slaby

32. Sharon Hudson

Item 23: Contract: Supportive Housing for Mentally Disabled

33. Rick Crispino, Quality Social Rehabilitation Services

Item 30: Parking Mitigation Measures for Parking Enforcement Officers

34. Jim Hultman

Item 32: Contract: Curb Ramp Installation Project

35. Revised Report, submitted by Public Works Department

Supplemental Reports and Communications #1

Item 37: Lease Agreement: 2446 Durant Avenue Sather Gate Shops

36. Revised Report, submitted by Public Works Department

Item 40: Transportation for Livable Community Planning Capital Grant for San Pablo Avenue

37. Wendy Alfsen, Walk&Roll Berkeley

Item 53: Initiative Petition: Enforcement of State Prostitution Laws (Angel's Initiative)

38. Fran Haselsteiner

Item 61: Santa Fe Right of Way

39. Wendy Alfsen, Walk&Roll Berkeley

Supplemental Reports and Communications #2

Item 60: Arts and Cultural Plan

40. Exhibit A, submitted by Office of Economic Development

Traffic from the Proposed West Bowl

41. West Berkeley Association of Industrial Companies (WeBAIC) Steering Committee
Petition with 100 signatures

Adjournment

Adjourned at 9:10 p.m. in memory of Viola Young.