

SUMMARY
BERKELEY CITY COUNCIL MEETING
TUESDAY, JULY 20, 2004

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| Preliminary Matters |
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Roll Call: 7:14 p.m. All present.

Ceremonial Matters:

1. Proclamation honoring Stephen Jory for his anti-graffiti efforts and efforts to preserve Rose Walk Steps.
2. Proclamation honoring the 40th Anniversary of the United Nations Association (UNA) Information/UNICEF Center and proclaiming July 31, 2004 as United Nations Association/Unicef Center Day.
3. Councilmember Olds urged the public and staff to contact the Red Cross to donate blood.

City Manager Comments :

1. The Police Department and Neighborhood Services will be conducting a community meeting at the Young Adult Project, 1730 Oregon Street, Tuesday, July 27, 2004 to discuss the homicide, which occurred on Sunday July 18, 2004 in the 1300 block of Ashby.
2. Everyone is invited to join City staff in celebrating Adventure Playground's 25th birthday celebration on Saturday, July 24, from 11:00 – 4:00. The birthday ceremony will begin at 3:00. Adventure Playground is located at 160 University Avenue.
3. The Police Department is making arrangements for participation in the upcoming "Community Night Out."
4. Announcement of the retirement of Reginald Garcia, Fire Chief, and Nicki Spillane, Acting Director of Human Resources, in September.

Public Comment: 9 speakers.

Consent Calendar

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

- 1. Lease: Family, Youth and Children's Service Program at 3282 Adeline Avenue** (*First reading – July 13, 2004 - Unanimous*)
From: City Manager
Recommendation: Adopt second 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 Department of Health and Human Services, Mental Health Division, Family, Youth and Children's Services Program.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Ordinance No. 6,816–N.S. Effective August 19, 2004.
- 2. Lease: Police Substation – 3140 Martin Luther King, Jr. Way and 3192 Adeline Street** (*First reading – July 13, 2004 - Unanimous*)
Recommendation: Adopt second 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: Adopted Ordinance No. 6,817–N.S. Effective August 19, 2004.
- 3. Administrative Fees for Fingerprinting of Non-Residents** (*First reading – July 13, 2004 - Unanimous*)
From: City Manager
Recommendation: Adopt second 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.
Contact: Roy Meisner, Police, 981-5700
Action: Adopted Ordinance No. 6,818–N.S. Effective August 19, 2004.
- 4. Fees for Good Conduct Letters** (*First reading – July 13, 2004 - Unanimous*)
From: City Manager
Recommendation: Adopt second 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.
Contact: Roy Meisner, Police, 981-5700
Action: Adopted Ordinance No. 6,819–N.S. Effective August 19, 2004.

Consent Calendar

5. **Sublease: 2809 Telegraph Avenue (Sather Gate Shops)** (*First reading – July 13, 2004 - Unanimous*)
From: City Manager
Recommendation: Adopt second 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.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Ordinance No. 6,820–N.S. Effective August 19, 2004.
6. **Lease: 2446 Durant Avenue (Sather Gate Shops)** (*First reading – July 13, 2004 - Unanimous*)
From: City Manager
Recommendation: Adopt second 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 annually.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Ordinance No. 6,821–N.S. Effective August 19, 2004.
7. **Contract: Berkeley Alliance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Alliance to provide administrative support and project services for this partnership endeavor with the Berkeley Unified School District (BUSD) and UC Berkeley in an amount not to exceed \$72,000 for the period July 1, 2004 to June 30, 2005.
Financial Implications: See report.
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Adopted Resolution No. 62,602–N.S.
8. **Donation: Computers and Related Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept a donation of computers and related equipment valued at approximately \$15,000 from Gateway Computers and a donation of computer furniture valued at approximately \$5,000 from the Berkeley Rotary Club for the purpose of furnishing and equipping the newly rehabilitated Computer Learning Room at the Frances Albrier Recreation Center at San Pablo Park.
Financial Implications: None.
Contact: Michael Caplan, City Manager, 981-2490
Action: Adopted Resolution No. 62,603–N.S.

9. Contract: Remittance Processing Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1) execute a one-year contract with Financial Data Solutions, Inc. to provide a comprehensive range of remittance processing services for the period of August 15, 2004 through August 14, 2005, in the amount of \$50,000; 2) approve an option for two one-year extensions through August 14, 2007, for a total of three one-year contracts in amount not to exceed \$150,000.

Financial Implications: General Fund – \$150,000.

Contact: Fran David, Finance, 981-7300

Action: Adopted Resolution No. 62,604–N.S.

10. 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 – \$1,500,000.

Contact: Fran David, Finance, 981-7300

Action: Approved recommendation.

11. Contract: Medi-Cal Administrative Activities and Targeted Case Management

Participation Fee

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the County of Butte for Host Entity Administrator fees for the Medi-Cal Administrative Activities (MAA) and Targeted Case Management (TCM) programs for the period July 1, 2003 through June 30, 2005 in an amount not to exceed \$25,626.

Financial Implications: See report.

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

Action: Adopted Resolution No. 62,605–N.S.

12. Contract: Transitional Housing

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1) execute an amendment to the contract with the Avondale Hotel for the provision of AB2034 grant-based rental subsidies for transitional housing for individuals who are homeless and mentally disabled; 2) increase the amount by \$195,850 for FY 2004 and for the first seven months of FY 2005 for a total amount not to exceed \$270,850; and 3) to extend the term to January 31, 2005.

Financial Implications: State Integrated Services and Housing for the Homeless Mentally Disabled Grant – \$195,850.

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

Action: Adopted Resolution No. 62,606–N.S.

Consent Calendar

13. Prescription Psychiatric Medications

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with United Pharmacy for purchases of prescription psychiatric medications for the period July 1, 2004 through December 31, 2004 in an amount not to exceed \$120,000, and waiving the competitive bid requirements of City Charter Section 67 pursuant to City Charter Section 67.4.

Financial Implications: State Realignment Fund – \$120,000.

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

Action: Adopted Resolution No. 62,607–N.S.

14. Chavez Memorial Solar Calendar

From: City Manager

Recommendation: Adopt a Resolution: 1) approving Phase I design for the permanent placement of a memorial solar calendar; 2) authorizing the use of site by the Chavez Memorial Solar Calendar & Education Project (CMSCEP); 3) allowing the interim solar calendar, currently at the site, to continue to function; 4) establishing a two-year monitoring system to raise funds for the construction of Phase I of the project; 5) directing CMSCEP to establish a formal relationship with *Kala Art Institute in Berkeley*; 6) directing CMSCEP to formalize their organizational structure; 7) directing CMSCEP to prepare a Memorandum of Understanding for Council approval regarding use and long term maintenance of the site; and 8) incorporating Phase II into the 2005 Public Arts Program Work Plan.

Financial Implications: None.

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

Action: Adopted Resolution No. 62,608–N.S.

15. Contract: Plan Checking Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Telesis Engineers for plan checking services to increase the contract amount of by \$120,000 for a new total amount not to exceed \$200,000.

Financial Implications: Permit Service Center Fund – \$120,000.

Contact: Dan Marks, Planning, 981-7400

Action: Adopted Resolution No. 62,609–N.S.

16. Contract: Draft Southside Plan Environmental Impact Report Consultant Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with LSA Associates, Inc. for an Environmental Impact Report (EIR) for the Draft Southside Plan, in an amount not to exceed \$329,328 from July 21, 2004 to June 30, 2006.

Financial Implications: See report.

Contact: Dan Marks, Planning, 981-7400

Action: Adopted Resolution No. 62,610–N.S.

- 17. Contract: Clean City Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment of the contract with Building Opportunities for Self-Sufficiency (BOSS) for litter removal, extending the term through June 30, 2005 for a total amount not to exceed \$356,104.
Financial Implications: Refuse Fund – \$356,104.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,611–N.S. revised to authorize the City Manager to execute a new contract and any amendments if necessary.
- 18. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Dwight Way, Ellsworth Street, Dana Street, Parker Street, Ninth Street and Woolsey Street; accepting the bid of Gold Wing Engineering; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$770,948 for the period of 220 calendar days.
Financial Implications: Sewer Capital Improvement Project Fund – \$770,948.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,612–N.S.
- 19. Grant: Traffic Calming Plan for Dwight Way**
From: City Manager
Recommendation: Adopt a Resolution approving the Traffic Calming Plan for Dwight Way between San Pablo Avenue and Sacramento Street, and authorizing the City Manager to: 1) submit a grant application to the Bay Area Air Quality Management District’s Transportation Fund for Clean Air Regional Fund grant program for funds in the amount of \$99,000 in FY 2004 for implementation of the Traffic Calming Plan; 2) accept the grant and execute any resultant agreements and amendments; and 3) implement the project, subject to Council approval of expenditures and bids.
Financial Implications: Grant - \$99,000.
Contact: Peter Hillier, Transportation, 981-7010
Action: Adopted Resolution No. 62,613–N.S.
- 20. Contract: CarShare for Fleet Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with City CarShare to provide a fleet of CarShare vehicles for use by employees for work-related trips for the period August 1, 2004 through June 30, 2007 in an amount not to exceed \$413,000.
Financial Implications: See report.
Contact: Peter Hillier, Transportation, 981-7010
Action: Adopted Resolution No. 62,614–N.S.

Consent Calendar

21. **Fee Waiver: Annual Berkeley Mount Zion Missionary Baptist Church Business Street Faire**
From: Mayor Bates
Recommendation: Adopt a Resolution waiving fees associated with the Annual Berkeley Mount Zion Missionary Baptist Church Business Street Faire. The general fee waivers include the permit, sound amplifier, noise variance and maintenance deposit and the non-personnel fee waivers include the street barricades and a portable unisex/disabled toilet.
Contact: Tom Bates, Mayor, 981-7100
Action: Removed from the Consent Calendar to be discussed with Item 47. No separate action taken.
22. **Review of David Brower Memorial Sculpture**
From: Mayor Bates
Recommendation: Direct the Civic Arts Commission, the Waterfront Commission and the City Manager to review the possibility of accepting, free of charge, a David Brower Memorial sculpture (“Spaceship Earth” by noted Finish sculptor Eino) from the Maxwell family and locating it in the Marina or another suitable place.
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
23. **Support SOLVE Act Of 2004**
From: Councilmember Worthington
Recommendation: Support the Safe Orderly Visas and Enforcement (SOLVE Act of 2004), which will establish pathways to legalization, lawful permanent resident status, and eventually citizenship for undocumented immigrants; will help re-unite families; and will respect labor rights; and send letters of support to our representatives in Congress.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation (Abstain – Wozniak).
24. **Support SB1160: Immigrant Responsibility and Security Act**
From: Councilmember Worthington
Recommendation: Adopt a Resolution in support of SB1160: Immigrant Responsibility and Security Act, which will enable immigrant families who are California residents the ability to continue to contribute to the economy and provide for a safer means of transportation.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 62,615 –N.S. (Abstain – Wozniak)

Consent Calendar

- 25. Fee Waiver: Willard Middle School's Youth Support Program Annual BBQ**
From: Councilmember Worthington
Recommendation: Adopt a Resolution waiving the park fee for Willard Middle School's Youth Support Program Annual BBQ at Willard Park on October 2nd.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from the Consent Calendar to be discussed with Item 47. No separate action taken.
- 26. Letter Of Clarification regarding UC Berkeley's 2020 LRDP and DEIR**
From: Councilmember Worthington
Recommendation: Send a letter of clarification following up on City Comments to UC Berkeley's 2020 Long Range Development Plan (LRDP) and the Draft Environmental Impact Report (DEIR): 1) Reaffirming City opposition to UC's Parking Replacement Policy's application to housing, as voted on by City Council on September 28, 1999; and 2) clarifying support for housing policies by replacing the comment language underlined below with General Plan and Southside Plan wording.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Actions: Removed from Consent Calendar by Councilmember Hawley. Moved, seconded, failed (Hawley/Olds; Noes – Breland, Spring, Worthington; Abstain – Maio, Shirek) a substitute motion to approve Councilmember Worthington's recommendations with specific changes to language referencing "Telegraph Avenue".
- Moved, seconded, carried (Worthington/Wozniak; Noes – Olds, Bates; Abstain – Maio, Hawley) to approve Councilmember Worthington's recommendations further revised in a document submitted at the meeting.
- 27. Benvenue Neighbors Association Proposal on American Baptist Seminary Of The West**
From: Councilmember Worthington
Recommendation: Refer to the City Manager the Benvenue Neighbors Association WIN-WIN-WIN proposal to address concerns about American Baptist Seminary of the West (ABSW).
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from Consent Calendar by Councilmember Breland. Moved, seconded, carried (Breland/Maio; Abstain - Bates) to hold over the matter to September 28, 2004 and in the interim to provide American Baptist Seminary of the West (ABSW) with this report and any other communication on this issue, giving them an opportunity to review and respond to this information and to negotiate with the neighbors.
- 28. Aggressive Debt Collection And Discriminatory Pricing Practices At Sutter Health Hospitals**
From: Councilmember Worthington
Recommendation: Adopt a Resolution opposing aggressive debt collection and discriminatory pricing practices at Sutter Health Hospitals.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from Consent Calendar by Councilmember Wozniak. Held over to September 21, 2004.

- 29. Honoring Marla Bennett**
From: Councilmember Worthington
Recommendation: Adopt a Resolution expressing sympathy to the family, friends and co-workers of Marla Bennett and adjourning the Council meeting in her honor.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 62,616 –N.S.
- 30. Support Ratification of U.N. Convention on the Elimination of All Forms of Discrimination Against Women**
- a. From: Councilmember Worthington**
Recommendation: Adopt a Resolution supporting ratification of U.N. Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and refer to the City Manager to consider drafting an Ordinance adopting the operative articles of the Convention based on the sample done by the City and County of San Francisco.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
- b. From: Peace and Justice Commission**
Recommendation: Adopt a Resolution supporting ratification of United Nations Convention on the Elimination of all Forms of Discrimination against Women, and refer to the City Manager to consider preparing for City Council action an Ordinance adopting operative articles of the Convention into the Berkeley Municipal Code.
- c. From: City Manager**
Recommendation: The City Manager takes no position concerning the recommendations of the Commission.
Action: Adopted Resolution No. 62,617–N.S. (Abstain – Wozniak)
- 31. Memorandum of Understanding: Lower Codornices Creek Restoration and Site Improvement Project**
- a. From: City Manager**
Recommendation: Adopt a Resolution directing the City Manager to enter into a Memorandum of Understanding (MOU) for the purpose of allocating the responsibilities of the project partners, the City of Berkeley, the City of Albany and the University of California, for implementation and maintenance of the Lower Codornices Creek Restoration and Site Improvement Project, and authorizing annual payments to cover the City’s share of maintenance, subject to annual appropriations.
Financial Implications: See report.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
- b. From: Peace and Justice Commission**
Recommendation: Approve waiving Berkeley Municipal Code section 12.90.070, the Nuclear-Free Berkeley Act, for the purposes of entering into an MOU with the City of Albany and the University of California for implementation and maintenance of the Lower Codornices Creek Restoration and Site Improvement project.
Contact: Manuel Hector, Secretary, 981-5110
Action: Adopted Resolution No. 62,618–N.S.

Consent Calendar

32. Fee Waiver: Berth Fees – Berkeley Racing Canoe Center

a. From: Waterfront Commission

Recommendation: Adopt a Resolution approving the application for nonprofit in-lieu-of-fee status and waiving berth fees at the Berkeley marina in exchange for community service for the Berkeley Racing Canoe Center.

Financial Implications: See report.

Contact: Cliff Marchetti, Waterfront Commission Secretary, 524-1938

b. From: City Manager

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

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

Action: Adopted Resolution No. 62,619–N.S.

Action Calendar - Appeals

33. Oceanview Sisterna Historical District-2104 Sixth Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Landmarks Preservation Commission (LPC) to include the structure and site at 2104 Sixth Street as part of the Oceanview Sisterna Historic District, and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning, 981-7400

b. Appeal

1. Gary Feiner

c. Communication

1. Gary Feiner
2. Sarah Satterlee, Ocean View Historic District

Action: Moved, seconded, carried (Worthington /Maio; Noes – Hawley, Olds) to adopt Resolution No. 62,620 – N.S. affirming the decision of the Landmarks Preservation Commission and dismissing the appeal.

34. 1800 San Pablo Avenue

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve a mixed-use building; and dismissing the appeals.

Contact: Dan Marks, Planning, 981-7400

b. Appeal

1. Michael Fretz
2. Vince de'Armond

c. Communication

1. Michael Fretz

Action Calendar - Appeals

2. Said Adeli-Nadjafi

Actions: Moved, seconded, (Maio/Spring) a main motion to set the matter for a public hearing.

Moved, seconded, carried (Wozniak/Hawley; Noes – Maio, Breland) a substitute motion to adopt Resolution No. 62,621– 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 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.*

Action Calendar - Public Hearings

35. Thousand Oaks Undergrounding Utility Assessment *(to be delivered)*

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) direct the City Clerk to provide for the opening and tallying of assessment ballots received; 2) upon confirmation from the Clerk that the ballots satisfy both state law (ballots returned in support must exceed ballots in opposition, when weighted by amount of assessment) and Council policy (60% of the ballots returned, when weighted by amount of assessment, must be in support), adopt a Resolution: a) approving the final Engineer's Report, b) levying assessments without modification, c) approving and ordering the Thousand Oaks Undergrounding Utility Project; d) directing the preparation and filing of a Notice of Exemption (CEQA); and e) awarding the construction contract for the Undergrounding Project on the condition that the notice to proceed not be issued to the contractor until a bond purchase contract has been executed providing for sale of the assessment district bonds.

Contact: Rene Cardinaux, Public Works, 981-6300

Public Testimony: The Mayor opened the public hearing. 25 speakers.

Actions: Moved, seconded, carried (Worthington/Maio) to continue the public hearing to September 21, 2004; to invalidate the ballots; and to direct staff to renote and resend ballots to be opened and tabulated at the meeting of September 21, 2004.

Action Calendar – Public Hearings

Moved, seconded, (Olds/Maio) a main motion to restore the Council policy to not form the district unless 70% of the weighted value of ballots returned on September 21, 2004 favor the formation of the district and assessment.

Moved, seconded, carried (Hawley/Spring; Noes – Breland; Abstain – Worthington) a substitute motion to amend Council's policy to agree not to form the district unless two-thirds of the weighted value of ballots returned on September 21, 2004 favor the formation of the district and assessment.

36. **Assessment: Telegraph Property and Business Improvement District**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution confirming the Annual Report on the Telegraph Property and Business Improvement District for Fiscal Year 2004 and levying assessments in the District for FY 2005.

Financial Implications: Telegraph Property and Business Improvement District Revenue Account – \$231,000.

Contact: Tom Myers, Economic Development, 981-7530

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

Action: Moved, seconded, carried (Maio/Spring) to adopt Resolution 62,622 – N.S.

37. **Assessment: North Shattuck Business Improvement District**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution: 1) confirming the Annual Report on the North Shattuck Business Improvement District for FY 2004; and 2) levying assessments in the District for FY 2005.

Financial Implications: North Shattuck Business Improvement District Revenue Account – \$382,983

Contact Tom Myers, Economic Development, 981-7530

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

Action: Moved, seconded, carried (Spring/Maio) to adopt Resolution No. 62,623 – N.S.

38. **Assessment: Elmwood Business Improvement Area**

a. From: Elmwood Advisory Board

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution confirming the Annual Assessment Report for the Elmwood Theater Business Improvement Area for FY 2004 and levying assessments in the Area for FY 2005.

Financial Implications: Elmwood Theater Business Improvement Area Revenue Account – \$18,744.68

Contact: Tom Myers, Secretary, 981-7530

b. From: City Manager

Recommendation: The City Manager concurs with the commission recommendation.

Contact: Tom Myers, Economic Development, 981-7530

Action Calendar – Public Hearings

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

Action: Moved, seconded, carried (Wozniak/Maio) to adopt Resolution 62,624– N.S.

39. Fees: Public Health Clinic

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving an increase in fees at the Public Health Clinic including services for family planning and sexually transmitted infection, immunization for children and adults and tuberculosis skin testing, effective September 1, 2004; and rescinding Resolution No. 60,692–N.S.

Financial Implications: See report.

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

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

Action: Moved, seconded, carried (Olds/Hawley) to adopt Resolution 62,625 – N.S.

Action Calendar – Old Business

40. Contract: Supportive Housing for Mentally Disabled *(held over from July 13, 2004 by City Manager)*

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: Moved to Consent Calendar by Councilmember Olds to adopt Resolution No. 62,626 – N.S.

41. Initiative Petition: Enforcement of State Prostitution Laws (Angel's Initiative) *(held over from July 13, 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

Actions: Moved, seconded, carried (Spring/Hawley; Noes – Breland, Olds, Worthington) to approve the revised ballot title.

Moved, seconded, carried (Breland/Maio) to adopt Resolution No. 62,627-N.S. placing the initiative measure on the ballot as required by state law.

Moved, seconded, carried (Breland/Maio; Abstain – Spring, Worthington) to state the Council's opposition to the proposed initiative.

42. Initiative Petition: Patient's Access to Medical Cannabis Act of 2004 (*held over from July 13, 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

Actions: Moved, seconded, carried (Wozniak/Hawley; Abstain – Worthington) to approve the revised ballot title.

Moved, seconded, carried (Hawley/Worthington) to adopt Resolution No. 62,628-N.S. placing the initiative measure on the ballot as required by state law.

Moved, seconded, carried (Hawley/Breland; Abstain – Worthington) to state the Council's opposition to the proposed initiative.

43. Initiative Petition: Public Tree Act of 2004 (*held over from July 13, 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

Actions: Moved, seconded, carried (Spring/Maio; Abstain – Breland, Worthington) to approve the revised ballot title and comments on the City Attorney's analysis.

Action Calendar – Old Business

Moved, seconded, carried (Maio/Wozniak; Abstain – Spring, Worthington) to adopt Resolution No. 62,629-N.S. placing the initiative measure on the ballot as required by state law.

Moved, seconded, carried (Wozniak/Hawley; Noes – Spring; Abstain – Worthington) to state the Council's opposition to the proposed initiative.

44. **Impact Report: Enforcement of State Prostitution Laws (Angel's Initiative)** (*Moved to Action by Councilmember Worthington and held over to July 13, 2004*)

From: City Manager

Contact: Arrietta Chakos, City Manager, 981-7000

Action: Received and filed.

45. **Impact Report: Public Tree Act of 2004** (*Moved to Action by Councilmember Worthington and held over to July 13, 2004*)

From: City Manager

Contact: Arrietta Chakos, City Manager, 981-7000

Action: Received and filed.

Action Calendar – New Business

46. **Jobs Consortium** (*to be delivered*)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to take emergency action, if necessary, to provide funding up to \$50,000 to the Jobs Consortium to preserve the job training programs for the homeless.

Financial Implications: See report.

Contact: Stephen Barton, Housing, 981-5400

Action: Moved, seconded, carried (Worthington/Wozniak) to adopt Resolution No. 62,630 – N.S.

47. **Special Events: Approval of Funding and Fee Waiver Policy**

From: City Manager

Recommendation: Adopt a Resolution approving funding for special events and a fee waiver policy for FY 2005.

Financial Implications: See report.

Contact: Grace Maguire, City Manager, 981-7000

Action: Moved, seconded, carried (Maio/Worthington) to adopt Resolution No. 62,631 – N.S. as revised by Councilmember Worthington.

Action Calendar – New Business

- 48. Fee Waiver: Downtown Berkeley Association's Front Row Festival 2004**
From: Councilmember Spring
Recommendation: Adopt a Resolution allocating \$2000 from the fee waiver fund to the Downtown Berkeley Association's Front Row Festival 2004 and refer their requests for additional fee waivers to the City Manager.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Removed from the Consent Calendar to be discussed with Item 47. No separate action taken.
- 49. Daylighting of Strawberry Creek**
From: Councilmember Spring and Mayor Bates
Recommendation: Adopt a Resolution supporting the daylighting of Strawberry Creek in the downtown, if feasibility is demonstrated.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Held over to September 21, 2004.
- 50. Ballot Measure: New Local Transit System**
From: Councilmember Worthington
Recommendation: Place a referendum on the November ballot as to whether Berkeley should plan for a new local rail transit system.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Moved, seconded, carried (Maio/Wozniak; Noes – Worthington; Abstain - Breland) to table this item due to timing issues.
- 51. Clarification of Additional Funding for Arts Grants (to be delivered)**
From: Councilmember Maio and Mayor Bates
Recommendation: Clarify policy on providing additional funding for Arts Grants.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Moved to Consent Calendar by Councilmember Olds as revised by Councilmember Maio and Mayor Bates to request that the Civic Arts Commission consider providing bridge funding to viable arts groups previously funded via the Council budget where the project's continuance is in jeopardy, and communicate the Council's interest in working with the Commission as they review and consider improving their process for arts group funding.
- 52. Neighborhood Traffic Calming Projects**
a. From: City Manager
Recommendation: Approve the Office of Transportation's neighborhood traffic calming and bike boulevard enhancement plans, prioritizing the specific neighborhood projects identified in this report, involving the potential installation of up to 27 new traffic calming circles.
Financial Implications: See report.
Contact: Peter Hillier, Transportation, 981-7010
b. From: Transportation Commission
Recommendation: Accept Recommendations 1 through 8 as delineated in this report for the standard design of landscaped traffic circles.
Contact: Peter Hillier, Secretary, 981-7010

Action Calendar – New Business

c. From: Councilmember Spring

Recommendation: Adopt a Resolution allocating \$25,000 from the funds committed in the Public Safety Building mitigation agreement for semi-circles in the McKinley and Addison area in addition to the proposed six traffic calming circles.

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

Actions: Councilmembers Breland and Wozniak were recused from discussion and action on this item and left the Council Chambers due to the proximity of their residences from proposed traffic circles.

Moved, seconded, carried (Spring/Worthington; Noes – Maio; Absent – Breland and Wozniak) to approve the recommendation proposed by the City Manager and the Transportation Commission and to include Councilmember Spring's request that a small bulb out in the McKinley and Addison area be included in the list of proposed traffic circles.

Action Calendar – Time Critical

53. **Amendment to Side Letter of Agreement with S.E.I.U. Locals 790 and 535** (*to be delivered*)
From: City Manager
Recommendation: Adopt a Resolution amending the Side Letters of Agreement with S.E.I.U. Locals 790 and 535 regarding preserved pay.
Contact: Nicki Spillane, Human Resources, 981-6800
Action: Moved to Consent Calendar by Councilmember Worthington to adopt Resolution No. 62,632 – N.S.
54. **Lease: Warehouse Space at 1013 Pardee for Fire Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing an increase of \$75,000 to an existing lease agreement with Asia Young Fountain Group Inc. for warehouse space at 1013 Pardee #105, being used for the storage of fire trucks, emergency supplies and equipment.
Contact: Reginald Garcia, Fire, 981-5501
Action: Withdrawn by the City Manager.
55. **Landmarks Preservation Commission Notice of Decision: 2211 Rose Street – Approval of Demolition and Design Review**
From: City Manager
Contact: Dan Marks, Planning, 981-7410
Action: Received and Filed.
56. **Fee Waiver: United Nations Association's Sixth Annual Run for Peace**
From: Councilmember Breland
Recommendation: Adopt a Resolution waiving fees for the East Bay Chapter of the United Nations Association's Sixth Annual Run for Peace to be held on Sunday, September 26, 2004.
Contact: Margaret Breland, Councilmember District 2, 981-7120

Action Calendar – Time Critical

Action: Removed from the Consent Calendar to be discussed with Item 47. No separate action taken.

Information Reports

57. **Harriet Tubman Terrace**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
Action: Received and filed.
58. **Recreation Assessment for Youth (CF 04-02)**
From: City Manager
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Received and filed.
59. **One-Way Signage and Vegetation Plan (CF 73-03)**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Received and filed.
60. **Public Workshops for Solid Waste Management Plan**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
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.

Oxford Plaza and David Brower Center

1. Peter Beckley and Dan Sawislak

Care Not Cash

2. Lisa Craib

LBNL Long Range Development Plan and Environmental Impact Report (Spring)

3. Pamela Shivola

Traffic Circles in McGee Farm Tract

4. Catherine Bronnert

1698 University Avenue

5. Andrea Banduhn

Thriving Downtowns without Cars

Communications

6. Bob Piper

Benvenue Neighbors “WIN-WIN-WIN” Plan *(Spring)*

7. Sharon Hudson

Birthday Wishes

8. Senator Dianne Feinstein

Train Horns through Residential Areas at Night

9. Eugene K. Skoropowski

Ohlone Dog Park

10. Randy Heyman

AC Transit Budget Cuts

11. Senator Don Perata

Supplemental Reports and Communications #1

Item 30: Support Ratification of U.N. Convention on the Elimination of All Forms of Discrimination Against Women

12a. Supplemental report and recommendation, submitted by Peace and Justice Commission

12b. City Manager report

Item 45: Impact Report: Public Tree Act of 2004

13. Revised report, submitted by City Manager department

Supplemental Reports and Communications #2

Item 20: Contract: CarShare for Fleet Services

14. Scott W. Griffith

Item 26: Letter Of Clarification regarding UC Berkeley’s 2020 LRDP and DEIR *(Spring)*

15. Revised report, submitted by Councilmember Worthington

16. Janice Thomas

Item 27: Benvenue Neighbors Association Proposal on American Baptist Seminary Of The West *(Spring)*

17. Sharon Hudson

18. Keith Russell (2)

Item 28: Aggressive Debt Collection And Discriminatory Pricing Practices At Sutter Health Hospitals

19. Warren J. Kirk, Alta Bates Summit Medical Center

Item 29: Honoring Marla Bennett

20. Resolution to the report, submitted by Councilmember Worthington

Item 33: Oceanview Sistrina Historical District-2104 Sixth Street

21. Sandy Kasten

Supplemental Reports and Communications #2

Item 35: Thousand Oaks Undergrounding Utility Assessment

22. Keith K. Fong, Kerr & Wagstaffe, on behalf of Ruth King

Item 40: Contract: Supportive Housing for Mentally Disabled

23. Revised Contract and Memorandum of Understanding, submitted by Mental Health Department

Items 41-45: Initiative Petitions and Impact Reports

24. Council Subcommittee on Ballot Titles and Analysis

25. Barbara Gilbert

Item 50: Ballot Measure: New Local Transit System

26. Revised report, submitted by Councilmember Worthington

Item 52: Neighborhood Traffic Calming Projects

27. Revised report, submitted by Councilmember Spring

28. Motion, submitted by Transportation Commission

29. Jill Korte

30. Andrea DuFlon

31. Chris Knudsen

32. Michael John Weber

33. Ray Wheeler and Emily Fox

34. Wendy Alfsen, McKinley Addison Allston Grant Neighborhood Association (MAAGNA), submitted by Cleveland Law

35. Sally de Becker

Supplemental Reports and Communications #3

Item 26: Letter Of Clarification regarding UC Berkeley's 2020 LRDP and DEIR

36. Additional Changes to Revised report, submitted by Councilmember Worthington

37. Sharon Hudson

Item 51: Clarification of Additional Funding for Arts Grants

38. Revised report, submitted by Councilmember Maio

Item 52: Neighborhood Traffic Calming Projects

39. Robin Kibby and Brian Todd Donaldson

Adjournment

The meeting was adjourned at 11:40 p.m. in memory of Marla Bennett, Louise Lydia Cotton, Ray Dobard and M. Jackson.