

SUMMARY

BERKELEY CITY COUNCIL MEETING TUESDAY, SEPTEMBER 21, 2004 – 7:00 P.M.

Preliminary Matters

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

Ceremonial Matters:

1. Oath of Office
2. Pledge of Allegiance to the Flag
3. Proclamation honoring October 1st as California Arts Day.
4. Proclamation honoring the week of September 26 through October 2 as Environmental Poetry Week.
5. Presentation of certificates of appreciation to the Bay Area Hispano Institute for Advancement; James Kenny Recreation Center; Cal Corps Public Service Center; Berkeley Public Library; R.I.S.E.; Berkeley youth Alternatives; Francis Albier Recreation Center; and the Young Adult Project for their work on a program funded by Wells Fargo, SBC and the University of California to bring literature to young people and help teach them to read.

City Manager Comments :

1. Two public workshops on recycling and solid waste programs will be held by the Solid Waste Management Commission to gather input for a new solid waste plan that is expected to meet the voter mandated goal of 75% waste diversion by the year 2010. The meetings are scheduled for on Wednesday, September 29 from 7:00 to 9:00 p.m. at the transfer station at 1201 Second Street and Wednesday, October 6 from 7:00 to 9:00 p.m. at the Couth Berkeley Senior Center at 2939 Ellis Street.

Public Comment: 15 speakers.

Youth Comments: No speakers

Consent Calendar – Recess

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

- 1. Contract: Alameda County Homeless Action Center**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess amending the contract with Alameda County Homeless Action Center, increasing the amount by \$10,530 for a total not to exceed \$63,278 for the period July 1, 2003 through June 30, 2005.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,633–N.S.
- 2. Grant: HOME and American Dream Down Payment Initiative (ADDI)**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess accepting an additional \$3,903 in HOME funds and \$123,785 in American Dream Down Payment Initiative (ADDI) funds.
Financial Implications: Revenues – \$127,688.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,634–N.S.
- 3. Side Letter of Agreement with SEIU Local 535 and 790**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to amend the Side Letter of Agreement with Service Employees International Union Locals 535 and 790 to include a reference to Section 10.7 of the SEIU Local 535 Memorandum Agreement and Section 11.5 of the Part-Time Recreation Leaders Association (PTRLA)/SEIU Local 535 in Paragraph 5 of the Side Letter of Agreement.
Financial Implications: None.
Contact: Dave Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 62,635–N.S.
- 4. Contract: Data Cabling**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to amend the agreement with Capitol Communications Inc. increasing the contract amount by \$40,000 and expanding the scope to cover cabling work for the Department of Health and Human Services and other projects, for a total amount not to exceed \$135,000.
Financial Implications: General Fund - \$40,000.
Contact: Chris Mead, Information Technology, 981-6500
Action: Adopted Resolution No. 62,636–N.S.

Consent Calendar

5. **Contract: Video Streaming Services**

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to amend the agreement with Granicus Inc. for video streaming and archiving services, increasing the amount by \$83,000 for a total amount not to exceed \$108,000 and extending the term to June 30, 2007.

Financial Implications: General Fund – \$26,000 a year.

Contact: Chris Mead, Information Technology, 981-6500

Action: Adopted Resolution No. 62,637–N.S.

6. **Contract: Janitorial Services**

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to increase the City Manager's authority to execute amendments to the contract with Township Building Services, Inc. increasing the contract amount by \$50,000 to a total not to exceed \$150,000 for the period of July 1, 2004 through June 30, 2005 to provide janitorial services at the Senior Centers and approving options to extend the contract three additional one-year periods in an amount not to exceed \$155,000 for FY 06, and \$162,000 per year for FY 07 and FY 08 up to a maximum of four years at the City's discretion.

Financial Implications: Building Maintenance Fund - \$50,000.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Removed from Consent Calendar by Councilmember Breland. Moved, seconded, carried (Worthington/Breland) to adopt Resolution No. 62,638–N.S.

7. **Minutes for Approval**

From: City Manager

Recommendation: Approve the minutes for Council meetings of July 13, 2004 (special and regular) and July 20, 2004 (closed and regular).

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Approved minutes. (Abstain – Breland on July 20, 2004 Closed)

8. **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. 62,639–N.S.

Consent Calendar

9. Council Meeting Calendar – Year 2004

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 62,201–N.S., Council Regular Meeting Schedule for Calendar Year 2004, to: 1) cancel the regular meeting on September 28, 2004 and call a special meeting on the same date at 6:00 p.m.; 2) add a regular meeting on October 26, 2004 and 3) cancel the regular meeting of November 23, 2004.

Financial Implications: None.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Adopted Resolution No. 62,640–N.S. canceling September 28 and November 23, regular meetings and adding a special meeting on September 28.

10. Council Meeting Calendar – Year 2005

From: City Manager

Recommendation: Adopt a Resolution establishing a calendar for the City Council regular meetings for the Calendar Year 2005 with starting times of 7:00 p.m. and special meetings for work sessions to be scheduled for 5:00 p.m. prior to regularly scheduled Council meetings.

Financial Implications: None.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Adopted Resolution No. 62,641–N.S.

11. Conflict of Interest Code

From: City Manager

Recommendation: Adopt a Resolution approving a revised Conflict of Interest Code and rescinding Resolution No. 62,218–N.S.

Financial Implications: None.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Adopted Resolution No. 62,642–N.S.

12. 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 and to reallocate \$70,000 for volunteer coordination efforts for the Berkeley Champions for Kids Program for the period July 1, 2004 to June 30, 2005.

Financial Implications: General Fund – \$70,000.

Contact: Arrietta Chakos, City Manager, 981-7000

Action: Adopted Resolution No. 62,643–N.S.

13. 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 but not yet received.

Financial Implications: Various sources – \$3,442,255

Contact: Fran David, Finance, 981-7300

Action: Approved recommendation.

Consent Calendar

- 14. Contract: Needle Exchange Emergency Distribution**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with the Needle Exchange Emergency Distribution for HIV prevention syringe exchange services to increase the amount by \$52,000 for a total not to exceed \$156,000 and to extend the period to June 30, 2005.
Financial Implications: General Fund – \$52,000.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,644–N.S.
- 15. Lease Agreement: 1947 Center Street –Basement**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with the City of Richmond, California (Richmond Works) for program space, located at 1947 Center Street, Basement, for the purpose of operating a One Stop Career Center for a period of eight months.
Financial Implications: See report.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted first reading of Ordinance. Second reading scheduled for September 28, 2004.
- 16. Contract: Legal Services – Federal and State Taxes**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to make payments to Hanson Bridgett Marcus Vlahos Rudy LLP (Hanson Bridgett) in an amount not to exceed \$40,000 for legal services pertaining to federal and state tax issues for the period of July 1, 2004 through June 30, 2005.
Financial Implications: General Fund – \$40,000.
Contact: Dave Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 62,645–N.S.
- 17. Fire Prevention Manager**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 61,812–N.S., Classification and Salary Resolution for Unrepresented Employees, to add the title and salary range of the non-sworn Fire Prevention Manager in Representation Unit Z1 (Executive and Confidential Management Employees).
Financial Implications: Savings – \$40,000 year.
Contact: Dave Hodgkins, Human Resources, 981-6800
Actions: Moved, seconded (Olds/Worthington) a main motion to refer to the Disaster Council.

Moved, seconded, carried (Hawley/Wozniak; Noes – Olds; Worthington) a substitute motion adopting Resolution No. 62,646–N.S. approving the City Manager’s recommendation and referring to the Disaster Council for a report in six months.

- 18. Contract: Employee Basic and Supplemental Life Insurance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments for employee life insurance with Fortis Benefits Insurance Company (Fortis) to provide basic and supplemental life insurance for the period of October 1, 2004 through December 31, 2007.
Financial Implications: Savings – \$34,000 in FY 2005.
Contact: Dave Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 62,647–N.S.
- 19. Supplemental Military Leave Compensation Policy**
From: City Manager
Recommendation: Adopt a Resolution extending the supplemental military leave benefit to an aggregate of 24-months of active military service that must be taken within 36-months retroactive to February 13, 2003 to May 31, 2005 and rescinding Resolution No. 61,690–N.S. and all amending resolutions.
Financial Implications: See report.
Contact: Dave Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 62,648–N.S.
- 20. Grant and Contract: Bay Trail Extension to the Berkeley Marina**
From: City Manager
Recommendation: Adopt a Resolution: 1) accepting a grant up to \$80,000 from the California State Coastal Conservancy to prepare bid documents for construction the first phase of the Bay Trail Extension to the Berkeley Marina project; 2) allocating up to \$50,000 from Parks Tax funds as a local match; 3) authorizing the City Manager to execute contracts and any amendments with the Conservancy; and 3) further authorizing the City Manager to issue a Request for Proposals to retain consultants to prepare bid documents for the proposed improvements.
Financial Implications: Grant Revenue – \$80,000; Matching Funds: Parks Tax Fund – \$50,000.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Adopted Resolution No. 62,649–N.S.
- 21. 3000 Shasta Road Fire Station – Exchange of Properties**
From: City Manager
Recommendation: Adopt first reading of an Ordinance conveying the Potter Street right-of-way west of the Eastshore Freeway to the East Bay Regional Park District (EBRPD) and accepting Shasta Road from Grizzly Peak Boulevard to the City boundary.
Financial Implications: None.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for September 28, 2004.

Consent Calendar

- 22. Contract: Hills Fire Station**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for construction of Hills Fire Station; 2) accepting the bid of Alten Construction, Inc.; 3) waiving building inspection fees; 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$3,716,280 for a period of 280 calendar days.
Financial Implications: Measure G Funds – \$3,716,280.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,650–N.S.
- 23. Contract: Street Rehabilitation FY 2005 Phase I Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Street Rehabilitation FY 2005 Phase I Project; 2) accepting the bid of Gallagher & Burk, Inc.; and 3) authorizing the City Manger to execute a contract and any amendments in an amount not to exceed \$1,065,840 for the period of 120 calendar days.
Financial Implications: State Gas Tax Fund – \$10,000; Measure B Sales Tax Fund – \$90,000; Capital Improvement Fund – \$1,157,813.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,651–N.S.
- 24. Grant Application: Repaving University Avenue**
From: City Manager
Recommendation: Adopt a Resolution authorizing: 1) the filing of an application for Federal Surface Transportation Program Funding for repaving University Avenue; 2) committing the necessary non-federal match for the project; 3) stating assurance to complete the project; and 4) authorizing the City Manager to accept the grant and to execute and resultant agreements and amendments.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Held over to October 5, 2004 by City Manager.
- 25. Purchase Order: Two Aerial Bucket Trucks**
From: City Manager
Recommendation: Adopt a Resolution accepting the City and County of San Francisco's bid procedures to satisfy the requirement of Berkeley Charter Section 67, and authorizing the City Manager to execute a purchase order with Terex Utility West in an amount not to exceed \$175,500 to purchase two Aerial Bucket Trucks for the Public Works Department.
Financial Implications: Equipment Replacement Fund – \$175,500.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,652–N.S.

Consent Calendar

- 26. Tract Map 7533: Six-Unit Condominium Project**
From: City Manager
Recommendation: Adopt a Resolution approving the final map of Tract Map 7533, a six-unit condominium project located at 915-25 Pardee Street.
Financial Implications: None.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Resolution No. 62,653–N.S.
- 27. Support Proposition 63: California Mental Health Services Act Initiative**
From: Mayor Bates, Councilmembers Worthington and Breland
Recommendation: Adopt a Resolution in support of Proposition 63, the California Mental Health Services Act Initiative which would create a 1% tax on taxable income over \$1 million to provide dedicated funding for expansion of mental health services and programs.
Contact: Tom Bates, Mayor, 981-7100, Kriss Worthington, Councilmember District 7, 981-7170 and Margaret Breland, Councilmember District 2, 981-7120
Action: Adopted Resolution No. 62,654–N.S.
- 28. Request for Presentation: The Bread Project**
From: Councilmember Breland
Recommendation: Schedule a presentation by The Bread Project. Representatives from The Bread Project request the opportunity to make a brief presentation regarding their work and to address their need of the following support: 1) One-time assistance with their move to the new Berkeley Adult School location; and 2) On-going support of their job training and placement program.
Contact: Margaret Breland, Councilmember District 2, 981-7120
Action: Referred to Agenda Committee to schedule presentation and City Manager to address funding request.
- 29. Support Measure CC: Environmental Maintenance**
From: Councilmember Olds
Recommendation: Endorse Measure CC placed on the November ballot by the East Bay Regional Parks District to support and fund specific environmental maintenance projects within the western portion of Alameda and Contra Costa Counties.
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.
- 30. Support AB 1876: Healthy Bay Beaches**
From: Councilmember Olds
Recommendation: Write a letter to Governor Schwarzenegger urging approval of AB1876 which would require consistent monitoring of toxin levels at Bay beaches located near streams or storm drains, with 50,000 or more annual visitors.
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.

Consent Calendar

- 31. Proclamation: 9th Annual Watershed Environmental Poetry Festival**
From: Councilmember Worthington
Recommendation: Approve a proclamation for the 9th Annual Watershed Environmental Poetry Festival and extend the sound permit (12-4 p.m.) by one hour (12 to 5 p.m.)
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved proclamation.
- 32. Support Grocery Employees from United Food and Commercial Workers Bay Area Coalition**
From: Councilmember Worthington
Recommendation: Adopt a Resolution in support of United Food and Commercial Workers (UCFW) Bay Area Coalition as they enter negotiations with grocery employers, encouraging fair bargaining and protection of employee and family healthcare.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Held over to October 5, 2004 by Councilmember Worthington.
- 33. Support Prescription Drug Bills**
From: Councilmember Worthington
Recommendation: Support the California Public Interest Research Group (CALPIRG) and write a letter to Governor Schwarzenegger urging approval and signature of seven prescription drug bills with the goal of reducing high-cost prescriptions and making Canadian prescription drugs available to American consumers: SB 1765 (Sher), AB 1958 (Frommer), AB 1957 (Frommer), SB 1149 (Ortiz), SB 1144 (Burton), SB 1333 (Perata), and AB 1960 (Pavley).
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 34. Support Proposition 59: Public Records, Open Meetings**
From: Councilmember Worthington
Recommendation: Support Proposition 59, a “sunshine” measure encouraging public access to government meetings and documents while preserving constitutional rights including: rights of privacy, due process, equal protection, existing constitutional and statutory limitations restricting access to certain meetings and records of government bodies and officials, including law enforcement and prosecution records.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 35. Support Proposition 60: Election Rights of Political Parties and Oppose Proposition 62: Elections, Primaries**
From: Councilmember Worthington
Recommendation: Support Proposition 60 which provides the right for a political party participating in a primary election for partisan office to also participate in the general election for that office and oppose Proposition 62 which allows only the top two vote-getters in the primary to advance to the general election ballot.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Held over to October 5, 2004 by Councilmember Worthington.

Consent Calendar

- 36. Support Proposition 66: Limitations on “Three Strikes” Law**
From: Councilmember Worthington
Recommendation: Support Proposition 66 which would amend and redefine sentencing under the Three Strikes law to better reflect the nature of the crime(s) committed.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 37. Support Proposition 72: Health Care Coverage Requirements**
From: Councilmember Worthington
Recommendation: Support Proposition 72 which would ensure that medium and large employers provide a minimum standard of financial commitment to provide individual and dependent health care coverage for employees.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 38. FY 2005 Civic Arts Commission Grant Funding Recommendations**
- a. From: Civic Arts Commission**
Recommendation: Adopt a Resolution approving the Civic Arts Commission funding recommendations authorizing 63 grants to various organizations to support arts and cultural activities during FY 2005 in the amount of \$246,848.
Financial Implications: See report.
Contact: MaryAnn Merker, Secretary, 981-7533
- b. From: City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the report.
Contact: Tom Myers, Economic Development, 981-7530
Action: Adopted Resolution No. 62,655–N.S.

Action Calendar – Appeals

- 39. 1305 Talbot Street**
- a. From: City Manager**
Recommendation: Adopt a Resolution affirming the Zoning Adjustments Board (ZAB) approval of Use Permit #03-10000121, to approve an addition to a single-family dwelling on a non-confirming lot at 1305 Talbot Street and dismissing the appeal.
Financial Implications: None.
Contact: Dan Marks, Planning, 981-7400
- b. Appeal:**
1. John Murcko
- c. Communications**
1. Allen Nudel
 2. John Murcko
 3. Tom and Mary Herrmann
 4. Charles “Shai” Wolff
- Action:** Moved, seconded, carried (Wozniak/Olds) to adopt Resolution No. 62,656–N.S. affirming the Zoning Adjustments Board approval and dismissing the appeal.

Action Calendar – Appeals

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 Hearing

40. Assessment and Contract: Thousand Oaks Utility Undergrounding District No. 1

a. From: City Manager

Recommendation: Continue the public hearing opened on July 20, 2004 and upon conclusion, direct the City Clerk to open and tally assessment ballots received and upon confirmation from the City Clerk that the ballots satisfy both state law and Council policy: 1) adopt a Resolution: a) overruling any protests; b) approving the final Engineer's Report; c) levying assessments without modification; d) approving and ordering the work and improvements for the Thousand Oaks Undergrounding Utility project; e) directing the preparation and filing of a Notice of Exemption (CEQA); and f) authorizing and directing related actions for the Thousand Oaks Heights Applicant Financed Utility District No. 1 and 2) adopt a Resolution: a) approving the plans and specifications for the Joint Utility Undergrounding – AFUUD NO. 1; b) accepting the bid of Manuel Bros., Inc., in the amount of \$1,216,494; and c) authorizing the City Manager to execute a contract and any amendments with Manuel Bros., Inc. in an amount not to exceed \$1,459,793; and d) placing a condition on the contract award that the notice to proceed is not to be issued until a bond purchase contract has been executed providing for sale of the District bonds.

Financial Implications: See report.

Contact: Rene Cardinaux, Public Works, 981-6300

b. Communications

1. Rosemary Green

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

Action: Moved, seconded, carried (Maio/Worthington; Absent – Spring) to adopt Resolution No. 62,657–N.S. and Resolution No. 62,658–N.S.

Action Calendar – Public Hearing

41. **Establishment of Thousand Oaks Utility Undergrounding District No. 1** *(to be delivered)*
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution establishing the Thousand Oaks Utility Undergrounding District No. 1.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300
Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Hawley; Absent – Spring) to close the public hearing.
Action: Moved, seconded, carried (Maio/Hawley; Absent – Spring) to adopt Resolution No. 62,659–N.S.
42. **Appeal: 1331 Seventh Street (1332 Eighth Street)- Parcel Map 8276 Subdivision of a Lot (1 Lot Into 2 Lots)**
- a. **From: City Manager** *(September 21, 2004)*
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving Parcel Map 8276.
Contact: Dan Marks, Planning, 981-7400
- b. **From: City Manager** *(May 18, 2004)*
Recommendation: Open the public hearing on the appeal of the denial of Parcel Map 8276 for subdivision of a lot (1 lot into 2 lots) and adopt a Resolution continuing the hearing to September 21, 2004 and referring Use Permit A920 to the Zoning Adjustments Board for review and revocation or modification.
Contact: Dan Marks, Planning, 981-7400
- c. **Appeal:**
1. Stephen E. Block
- d. **Communications** *(May 18, 2004 – numbering follows original sequence)*
37. William S. Berland
- Public Testimony:** The Mayor opened the public hearing. One speaker. Moved, seconded, carried (Maio/Wozniak) to close the public hearing.
Action: Moved, seconded, carried (Maio/Wozniak) to adopt Resolution No. 62,660–N.S.
43. **Fees: Marina Nature Center**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution establishing the fee schedule for Nature Center fees, representing an increase up to 20% from the previous fee schedule.
Financial Implications: See report.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Worthington) to close the public hearing.
Action: Moved, seconded, carried (Hawley/Olds) to adopt Resolution No. 62,661–N.S.

Action Calendar – New Business

- 44. Loan Agreement: Construction of University Neighborhood Apartments at 1719 University Avenue**
From: City Manager
Recommendation: Adopt a Resolution approving a fund reservation in the amount of \$529,133 from the Housing Trust Fund (HTF) in order to complete construction of University Neighborhood Apartments and authorizing 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: Housing Trust Fund – \$529,133
Contact: Stephen Barton, Housing, 981-5400
Action: Moved, seconded, carried (Worthington/Maio; Abstain – Wozniak; Absent - Spring) to adopt Resolution No. 62,662–N.S.
- 45. Hazardous Materials Codes**
From: City Manager
Recommendation: Adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapters 11.18 and 11.52 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: Adopted first reading of Ordinance. Second reading scheduled for September 28, 2004.
- 46. Medical Marijuana Dispensaries**
From: Councilmembers Maio and Breland
Recommendation: Refer to the City Manager the request to develop an Ordinance that established a quota on the number of Medical Marijuana Dispensaries at no greater than three, and to ensure that they are reasonably located away from schools and not concentrated in one particular area.
Contact: Linda Maio, Councilmember District 1, 981-7110 and Margaret Breland, Councilmember District 2, 981-7120
Action: Moved, seconded, carried (Maio/Breland; Noes – Worthington; Absent – Spring) to approve recommendation.
- 47. University Avenue Pedestrian Improvement Plan**
a. From: Transportation Commission
Recommendation: Adopt the recommendations listed in the “Summary: Pedestrian Friendly University Avenue Corridor Plan” to augment the 1996 University Avenue Strategic Plan.
Financial Implications: Unknown.
Contact: Peter Hillier, Secretary, 981-7010
b. From: City Manager
Recommendation: Refer to staff for a report in the first half of 2005.
Contact: Peter Hillier, Transportation, 981-7010
Action: Held over to October 5, 2004 by Councilmember Worthington.

Action Calendar – New Business

48. Enforcement of Residential Preferential Permit and Meter Parking

a. From: Transportation Commission

Recommendation: Request that the City Manager intensify and increase Residential Preferential Parking (RPP) and meter enforcement in the RPP “B”, “D”, “F”, and “T” zones, beginning when students return to the University of California (UC) at the end of August.

Financial Implications: Unknown.

Contact: Peter Hillier, Secretary, 981-7010

b. From: City Manager

Recommendation: Refer to staff for inclusion within a pending report dealing with parking enforcement and staffing levels later this year.

Contact: Peter Hillier, Transportation, 981-7010

Action: Moved to the Consent Calendar by Councilmember Olds and approved the City Manager recommendation.

Action Calendar – Time Critical

49. Contract: Emergency Repair of Strawberry Creek Culvert on Allston Way (*to be delivered*)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to award a contract and any amendments to perform emergency repair work on the failed sections of the Strawberry Creek Culvert generally under Allston Way near Harold Way with Condon-Johnson in an amount not to exceed \$250,000.

Financial Implications: See report.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Moved to Consent Calendar by Councilmember Maio and adopted Resolution No. 62,663–N.S.

50. Agenda for September 28th Public Hearing on Creeks Ordinance

From: Council Agenda Committee

Recommendation: Approve the order of the agenda and order and time allotted for staff presentation, Council comment and public testimony for the agenda of September 28th and the public hearing on the Creeks Ordinance.

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

Action: Moved to Consent Calendar by Councilmember Olds and approved recommendation.

Information Reports

51. Marina Landfill Gas Project

From: City Manager

Contact: Stephen Barton, Housing, 981-5400

Action: Received and filed.

Information Reports

52. **Landmarks Preservation Commission Notice of Decision: Landmark Designation – 2750 Adeline Street and 2136-40 University Avenue**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.
53. **Landmarks Preservation Commission Notice of Decision: Approval of Structural Alteration Permit – 2966 College Avenue; 834 Delaware Street; 2113 Vine Street; 3290 Adeline Street**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Received and filed.
54. **Proposal: Fountain on Arlington (CF 29-03)**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Received and filed.
55. **Public Workshops for Solid Waste Management Plan**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Received and filed.
56. **Library Operations Audit**
From: City Auditor
Contact: Ann-Marie Hogan, Auditor, 981-6750
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.

In God We Trust - America

1. Jacquie Sullivan

Compensation Issues for City Managers

2. Barbara Gilbert

Address and Logo Curbs

3. Barbara Gilbert

Vandalized Rose Bushes

4. Mr. And Mrs. Nicholas Whyte

Resource Conservation and Recovery Act Corrective Action at LBNL

5. L A Wood, Community Environmental Advisory Commission

Ohlone Dog Park

6. Tim McGraw
7. Michael Isaacs
8. Marc Pfenniger
9. Carol Whitehurst, Ohlone Dog Park Association
10. Amy Riker
11. Sasha Futran
12. Linda Tran, Aaron & Topher Goldman, M. Imfeld, Michael Schroeder

Smoke-Free Zones

13. Anne Whyte

Parking Citation Malice (*Spring*)

14. Kevin

Safeguarding Electronic Voting Machine

15. Leuren Moret

City Charter

16. Jim Hultman

Major Problems with Eucalyptus Trees

17. Charles L. Smith (2)

Removal of Elm Trees; Notice of Hazard

18. Charles L. Smith, San Mateo Road Neighborhood Association

Acton Street – Dangerous Traffic Situation

19. J. Gibbs

Drop-in Center Creates Neighborhood Problems

20. Robin Wright, LDNA & South Berkeley Crime Prevention Council

Parking as Perk for Parking Enforcers

21. Steve Geller

Panoramic Hill Zoning (*Spring*)

22. Ann Reid Slaby

Suit Against Hamilton County Settle for \$200,000

23. Anne Whyte

Additional Funds for the West Berkeley Senior Center (*Spring; Maio; Breland*)

24. Ruth Witherspoon

EMF Study (*Spring*)

25. Mike Vandeman, care of Kate Bernier

State Supreme Court Rules in Favor of Landowner

26. Anne Whyte

Zero Waste Campaign

27. Anne Whyte

Michigan Supreme Court Restricts Government Rights to Land

28. Anne Whyte

Communications

9th Circuit Says Public Defender Can Be Sued

29. Anne Whyte

George W. Bush's Missing Year

30. Anne Whyte

Commission on Disabilities Action Item – Ohlone Dog Park

31. Karen M. Rose

Tax Increases and Financial Mismanagement – Seagate (*Spring*)

32. Timothy L. Hansen

Supplemental Reports and Communications #1

Item 17: Fire Prevention Manager

33. Communication submitted by Personnel Board

Item 40: Assessment and Contract: Thousand Oaks Utility Undergrounding District No. 1

34. Revised report, submitted by Public Works Department and Finance Department

Item 41: Establishment of Thousand Oaks Utility Undergrounding District No. 1

35. Revised report, submitted by Public Works Department and Finance Department

Item 47: University Avenue Pedestrian Improvement Plan

36. Wendy Alfsen, Walk&Roll Berkeley

Adjournment

Adjourned at 10:11 p.m.