

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, OCTOBER 5, 2004 – 7:00 P.M.

Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 7:12 p.m. Absent – Breland.

Ceremonial Matters:

1. Proclamation honoring October 9, 2004 as Indigenous People's Day.
2. Proclamation recognizing national "Public Health Ready" Certification of the Berkeley Department of Health and Human Services Public Health Division.
3. Announcement of multiple events this week of in honor of the 40th Anniversary of the Free Speech Movement.
4. Announcement of the celebration of the ground-breaking for the construction of the Hills Fire Station on Shasta Road between 1-3 p.m. on Saturday, October 23, 2004.
5. Announcement of the reunion of the 1959 University of California Rose Bowl Team on October 8-9, 2004.

Action: Awards and proclamations presented.

City Manager Comments: None.

Public Comment: 11 speakers.

Youth Comments: No speakers.

Consent Calendar

Action: Moved, seconded and carried (Worthington/Wozniak; Absent - Breland) to adopt the Consent Calendar in one motion except as indicated:

1. 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. 62,669–N.S.

Consent Calendar

- 2. Appointment: Director of Parks Recreation and Waterfront**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of Marc S. Seleznow as the Director of Parks Recreation and Waterfront.
Financial Implications: See report.
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 62,670–N.S.
- 3. FY 2006 & FY 2007 Biennial Budget Development Process**
From: City Manager
Recommendation: Approve the FY 2006 & FY 2007 biennial budget process calendar, including specific dates for Special Council Worksessions on the budget to be scheduled in October 2004.
Financial Implications: None.
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Approved recommendation.
- 4. 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: Refuse Collection Disposal – \$249,999.
Contact: Fran David, Finance, 981-7300
Action: Approved recommendation.
- 5. Classification: Human Resources 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 classification title and salary range of Human Resources Manager in Representation Unit Z1 (Executive and Confidential Management Employees).
Financial Implications: See report.
Contact: David Hodgkins, Human Resources, 981-6800
Action: Removed from Consent Calendar by Councilmember Wozniak. Moved, seconded, carried (Wozniak/Worthington; Absent - Breland) to adopt Resolution No. 62,671–N.S.
- 6. Contract: Leadership Development Training**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the University of California, UC Davis Extension Program, Business and Technology Department to provide training for the new Leadership Development Program in the amount of \$24,500 and approving a waiver under Berkeley Municipal Code (BMC) 12.090.070 (Nuclear Free Berkeley Act).
Financial Implications: Training Fund – \$24,500.
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 62,672–N.S.

7. Temporary Appointments

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 60,776–N.S. to modify Personnel Rule and Regulation 9.06 – Temporary Appointments to allow for requests of extension of temporary employees to be approved by the Personnel Board.

Financial Implications: None.

Contact: David Hodgkins, Human Resources, 981-6800

Action: Adopted Resolution No. 62,673–N.S. as amended to allow Personnel Board-approved requests for extension of temporary employees be reported to Council as an information report.

8. Grant and Contract: Alcoholic Beverage Control

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a grant contract and any amendments with the State of California in order to accept \$50,000 in Department of Alcoholic Beverage Control (ABC) Grant funding and appropriate these funds for the enforcement of laws prohibiting furnishing alcohol to minors, persons under the age of 21 possessing alcohol, as well as other alcohol related crimes.

Financial Implications: Revenue – \$50,000.

Contact: Roy Meisner, Police, 981-5700

Action: Adopted Resolution No. 62,674–N.S.

9. Contract: ABC Security Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with ABC Security Services to add a shift at the Corporation Yard for the period October 1, 2004 to June 30, 2005 at an additional cost not to exceed \$31,000 increasing the annual contract to a total amount not to exceed \$206, 200.

Financial Implications: Equipment Maintenance Fund – \$31,000.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Adopted Resolution No. 62,675–N.S.

10. Contract: Tire Service for Fleet Vehicles and Equipment

From: City Manager

Recommendation: Adopt a Resolution accepting the bid for tire service for fleet vehicles and equipment and authorizing the City Manager to execute a contract and any amendments to Don's Tire Service for a total amount not to exceed \$40,000 annually 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 – \$40,000.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Adopted Resolution No. 62,676–N.S.

11. Ellis Implementation Ordinance

From: Rent Stabilization Board

Recommendation: Adopt first reading of an Ordinance amending Section 13.77.055 of the Berkeley Municipal Code (BMC), Ellis Implementation Ordinance, to increase the amount of the relocation benefit given to displaced tenants and to include elderly and disabled tenants in the class of tenants who qualify for relocation benefits.

Financial Implications: None.

Contact: Jay Kelekian, Rent Stabilization Program, 644-6128

Action: Moved to Action Calendar by Councilmember Olds.

Moved, seconded (Hawley/Wozniak) a main motion to refer the item back to the Rent Board for consideration of issues related to qualifying for relocation benefits such as tenant level of income, number of children, size of the unit being vacated, sliding scale and other possible factors.

Moved, seconded, failed (Worthington/Maio; Noes – Shirek, Hawley, Olds, Wozniak; Absent - Breland) a substitute motion to adopt the first reading the ordinance as revised to include a cost of living adjustment in the intervening years and to include and qualify elderly and disabled tenants for relocation expenses.

Moved, seconded, carried (Worthington/Spring; Noes –Hawley, Olds; Abstain – Wozniak; Absent - Breland) a motion to continue the matter to October 12, 2004.

12. Support Alameda County Measure BB: Increase and Extension of Parcel Tax for AC Transit

From: Councilmembers Hawley and Worthington

Recommendation: Support Alameda County Measure BB: Increase and Extension of Parcel Tax for AC Transit which, by increasing the existing parcel tax by \$2 per month over ten years, will provide a steady stream of funding for AC Transit.

Contact: Miriam Hawley, Councilmember District 5, 981-7150 and Kriss Worthington, Councilmember District 7, 981-7170

Action: Adopted Resolution No. 62,677-N.S.

13. Support Proposition 67: Emergency Medical Services

From: Councilmember Hawley

Recommendation: Support Proposition 67, the California Emergency Medical Services Funding, Telephone Surcharge Initiative that will provide over \$22 million annually for emergency rooms, trauma centers and health clinics as well as provide funds to upgrade the 9-1-1 system.

Contact: Miriam Hawley, Councilmember District 5, 981-7150

Action: Adopted Resolution No. 62,678-N.S.

Consent Calendar

14. **Support Measure AA: Bond to Retrofit BART**
From: Councilmembers Worthington, Maio and Olds
Recommendation: Support Alameda County Measure AA, Bond to Retrofit Bay Area Rapid Transit (BART), which will provide funding to make earthquake safety improvements to BART facilities in Contra Costa, San Francisco and Alameda Counties.
Contact: Kriss Worthington, Councilmember District 7, 981-7170; Linda Maio, Councilmember District 1, 981-7110; Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.
15. **Creeks Ordinance** (*First Reading September 28, 2004 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance adding section 17.08.055 to the Berkeley Municipal Code to incorporate standards governing rebuilding of structures that encroach in the required setback in the event of destruction due to disaster or similar occurrence.
Contact: Dan Marks, Planning, 981-7400
Action: Adopted Ordinance No. 6,825-N.S. Effective November 4, 2004.

Action Calendar – Appeals

16. **1825 Eighth Street**
- a. **From: City Manager**
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve adding 30 square feet of habitable space (out of a total addition of 125.5 square feet) to an existing structure and to enlarge and relocate windows in an existing structure within a required rear yard setback area and dismissing the appeal.
Financial Implications: None.
Contact: Dan Marks, Planning, 981-7400
- b. **Appeal:**
1. Brian Rawlinson
- c. **Communications**
1. Yoshiko I. Wada, Shusuke Tsuchiya, Sonoko Tsuchiya and Hercules D. Morphopoulos
 2. Rachel Robson
 3. Brian Rawlinson
- Action:** Moved to Consent Calendar by Councilmember Olds. Adopted Resolution No. 62,679–N.S.

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 – Old Business

17. **Grant Application: Repaving University Avenue** (*Held over from September 21, 2004 by City Manager*)
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 by City Manager to date uncertain.
18. **Support Grocery Employees from United Food and Commercial Workers Bay Area Coalition** (*Held over from September 21, 2004 by Councilmember Worthington*)
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: Moved to Consent Calendar by Councilmember Wozniak. Adopted Resolution No. 62,680–N.S.
19. **Support Proposition 60: Election Rights of Political Parties and Oppose Proposition 62: Elections, Primaries** (*Held over from September 21, 2004 by Councilmember Worthington*)
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: Moved, seconded, carried (Worthington/Spring; Noes – Wozniak; Absent - Breland) to approve recommendation.
20. **University Avenue Pedestrian Improvement Plan** (*Held over from September 21, 2004 by Councilmember Worthington*)
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: Moved, seconded, carried (Hawley/Wozniak; Absent – Breland) to approve the City Manager’s recommendation.

Action Calendar - New Business

21. Voting Delegates - Congress of Cities

From: City Manager

Recommendation: Designate a voting delegate and alternate to act on behalf of the City at the Annual Business Meeting at the National League of Cities' Congress of Cities to be held in Indianapolis, Indiana on December 4, 2004, and direct the City Clerk to transmit the names of the delegates to the League no later than October 8, 2004.

Financial Implications: Conference fees and travel expenses.

Contact: Sherry Kelly, City Clerk, 981-6900

Action: Moved to Consent Calendar by Councilmember Olds. Approved recommendation as revised to authorize the Mayor to designate the delegate.

22. Implementation of FY 2005 Adopted Budget/Fire Department

From: City Manager

Recommendation: Direct the City Manager to: 1) continue discussions with Berkeley Fire Fighters Association regarding a salary savings at substantially the same percentage impact on total compensation as contributed by other labor unions, equivalent to approximately \$300,000 from the Fire Department FY 2005 Budget; 2) provide final recommendations for equivalent reductions (approximately \$300,000) to the FY 2005 Budget through the reduction of service in the Fire Department; and 3) reinstate the Fire Department service reduction in FY 2006 should the EMS Tax (Measure M) pass.

Financial Implications: See report.

Contact: David Orth, Fire, 981-5512

Action: Moved, seconded, carried (Spring/Maio; Noes – Olds, Worthington; Absent - Breland) to approve recommendation.

23. Task Force and Changing Hours for Ohlone Dog Park

a. From: City Manager

Recommendation: Continue the process underway by the Parks and Recreation Commission, the lead commission, and take no action regarding the hours of operation for Ohlone Dog Park.

Financial Implications: Staffing for Task Force.

Contact: Jim Hynes, City Manager, 981-7000

b. From: Citizens Humane Commission

Recommendation: 1) Adopt a Resolution establishing a Task Force composed of members of the Citizens Humane Commission, Commission on Disabilities and the Parks and Recreation Commission to make recommendations on City policies governing park use, including park access and utilization by members of the disabled community, and by members of the pet owner/guardians community, and concerning the humane treatment of urban wildlife in parks and public open spaces and 2) support the Commission's recommendation that the Ohlone Dog Park Hours remain unchanged.

Financial Implications: See report.

Contact: Kate O'Connor, Secretary, 981-6601

c. Information Report from Commission on Disability

Contact: Paul Church, Secretary, 981-6342

Action Calendar – New Business

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

Information Reports

24. FY 2004 Year End Report and Update FY 2005-2006 Budget

From: City Manager

Contact: Tracy Vesely, City Manager, 981-7000

Action: Referred to the Agenda Committee by Councilmember Wozniak and Mayor Bates to bring back on date uncertain.

25. Impact of Medi-Cal Provider Rate Reduction on Medi-Cal Reimbursements

From: City Auditor

Contact: Ann-Marie Hogan, City 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.

Bicycle U-locks and Theft *(Spring)*

1. Hank Resnik

San Francisco Bay Area Water Trail

2. Penny Wells, Bay Access, Inc.

Thousand Oaks Utility Undergrounding

3. Stephen Bedrick

General Fund Fiscal Recovery Plan *(Bates)*

4. Mayor Tom Bates

Open House: Panoramic Buildings in Berkeley

5. Patrick Kennedy

Waterfront Monument to David Brower *(Spring; Olds)*

6. Alan Goldfarb

Vote with the League of Women Voters

7. Jean Safir

Electromagnetic Fields Study *(Spring)*

8. Mike Vandeman

Measure Q

9. Ronald Weitzer

University Avenue Pedestrian Improvements Plan *(Spring)*

10. Ray Wheeler and Emily Fox

Communications

No on Proposition 68
11. Justin Colsky

Supplemental Reports and Communications #1

Item 16: 1825 Eighth Street

12. Yoshiko I Wada, Hercules D. Morphopoulos, Shusuke Tsuchiya, Sonoko Tsuchiya

Item 22: Implementation of FY 2005 Adopted Budget/Fire Department

13. Arthur R. Day, Friends of the Berkeley Fire Department

14. \$BudgetWatch\$

Supplemental Reports and Communications #2

Item 11: Ellis Implementation Ordinance

15. Elizabeth Hall and Jesse Arreguin, Associated Students of the University of California

Adjournment

Adjourned at 9:11 p.m.