

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, OCTOBER 19, 2004 – 7:00 P.M.

Adjourned to North Berkeley Senior Center – 1901 Hearst Avenue

Preliminary Matters

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

City Manager Comments: The City Clerk Department at 2180 Milvia Street will not be an early voting site or polling place for the November election. Registered voters unable to vote on election day should request an absentee ballot on or before the October 26 deadline. Absentee ballot request forms can be downloaded from the Registrar of Voters web site at <http://www.co.alameda.ca.us/rov/absentee.htm>.

Public Comment: 18 speakers.

Consent Calendar

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

- 1. Medical Marijuana Dispensaries** (*First Reading October 12, 2004: Noes – Worthington; Abstain – Spring*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 12.26 to impose a quota and deconcentration requirements on medical marijuana dispensaries, as requested by the City Council September 21, 2004.
Financial Implications: None.
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Ordinance No. 6,826–N.S. Effective November 18, 2004.
- 2. Ellis Implementation Ordinance** (*First Reading October 12, 2004: Noes – Olds; Abstain – Hawley*)
From: Rent Stabilization Board
Recommendation: Adopt second 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: Adopted Ordinance No. 6,827–N.S. Effective November 18, 2004.

Consent Calendar

- 3. University Avenue Strategic Plan Height and Setback Standards and Review Consistency**
(First Reading October 12, 2004: Noes – Maio, Spring, Worthington; Abstain – Breland)
From: City Manager
Recommendation: Adopt the second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 23E.36 to implement the University Avenue Zoning Overlay in order to establish specific Height and Setback standards as provided for in the University Avenue Strategic Plan (UASP).
Financial Implications: See report.
Contact: Dan Marks, Planning, 981-7400
Action: Removed from Consent by Councilmember Wozniak. A brief discussion was held regarding the impact of the residential plus density bonus footprint. Moved, seconded, carried (Wozniak/Maio) a motion to hold over to November 9, 2004.
- 4. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of October 5, 2004 (regular).
Contact: Sherry Kelly, City Clerk, 981-6900
Action: Approved minutes as submitted (Abstain – Breland).
- 5. 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. 62,686–N.S.
- 6. Contract: North Shattuck Association**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association for \$180,744 to implement the Management District Plan and approved work plan for the North Shattuck Business Improvement District (BID) for FY 2004.
Financial Implications: North Shattuck BID Funds – \$180,744.
Contact: Tom Myers, Economic Development, 981-7530
Action: Adopted Resolution No. 62,687–N.S.
- 7. Downtown Berkeley Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the 2005 Annual Report of the Downtown Berkeley Business Improvement District (BID); 2) declaring the intention to levy an annual assessment for the Downtown Berkeley BID for calendar year 2005; and 3) directing the City Clerk to schedule a public hearing on November 16, 2004 to consider levying a renewed assessment for the year 2006.
Financial Implications: See report.
Contact: Tom Myers, Economic Development, 981-7530
Action: Adopted Resolution No. 62,688–N.S.

- 8. Solano Avenue Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the 2004 Annual Report of the Solano Avenue Business Improvement District (BID); 2) declaring the intention to levy an annual assessment for the Solano Avenue BID for calendar year 2005; and 3) directing the City Clerk to schedule a public hearing for November 16, 2004, to consider levying a renewed assessment for the year 2005.
Financial Implications: See report.
Contact: Tom Myers, Economic Development, 981-7530
Action: Adopted Resolution No. 62,689–N.S.
- 9. Fiscal Year 2005 Tax and Revenue Anticipation Notes**
From: City Manager
Recommendation: Adopt a Resolution providing for the borrowing of \$25,000,000 and the sale and issuance of FY 2005 Tax and Revenue Anticipation Notes.
Financial Implications: General Fund Revenue – \$25,000,000.
Contact: Fran David, Finance, 981-7300
Action: Adopted Resolution No. 62,690–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 – \$1,039,999.
Contact: Fran David, Finance, 981-7300
Action: Approved recommendation.
- 11. Influenza Vaccine Shortage**
From: City Manager
Recommendation: Ratify the City Manager's October 13, 2004 proclamation of a local emergency concerning limited influenza vaccine supplies.
Financial Implications: See report.
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 62,697–N.S.
- 12. Agreement: Section 236 Administrator of Harriet Tubman Terrace at 2870 Adeline Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into agreements with the U.S. Department of Housing and Urban Development and Harriet Tubman Associates, LP to act as Section 236 Administrator for the property known as Harriet Tubman Terrace at 2870 Adeline Street.
Financial Implications: None.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,691–N.S.

Consent Calendar

- 13. Contract Amendment: Financial Consultant Services – Seifel Consulting, Inc. (To be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Seifel Consulting, Inc. for additional financial consulting services in an amount not to exceed \$10,000 for a new total contract amount of \$34,950.
Financial Implications: Housing Program Fund – \$10,000.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,692–N.S.
- 14. Contract: Vocational Services to the Homeless – Jobs Consortium**
From: City Manager
Recommendation: Authorizing the City Manager to enter into a contract with Rubicon Programs Incorporated in an amount not to exceed \$19,000 for the period July 1, 2004 through June 30, 2005 to provide vocational services to homeless people in Berkeley.
Financial Implications: \$19,000.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,698–N.S.
- 15. Environmentally Preferable Purchasing Policy (CF 62-03)**
From: City Manager
Recommendation: Adopt a Resolution approving the Environmentally Preferable Purchasing Policy (EPP), to be implemented in a phased manner beginning with, but not limited to, janitorial products used by the City; and direct the City Manager to prioritize, by December 2005, additional product areas where the EPP will be further integrated into City purchasing.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400; Fran David, Finance, 981-7300
Action: Adopted Resolution No. 62,693–N.S.
- 16. Winter Voucher and Winter Shelter Programs**
From: City Manager
Recommendation: Adopt a Resolution authorizing: 1) the allocation of \$40,000 for the purpose of providing emergency vouchers to homeless households for shelter at local motels and the Berkeley YMCA; 2) payment of \$56,000 to the City of Oakland Department of Human Services, representing the City of Berkeley's pro-rata share of direct program operating costs related to the Joint Winter Shelter Program at the Oakland Army Base; and 3) payment not to exceed \$42,000 to Bay Area Rapid Transit (BART) for transportation for residents to and from the Winter Shelter.
Financial Implications: General Fund – \$138,000.
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 62,694–N.S.

Consent Calendar

17. **Contract: Corporation Yard Modular Offices**

From: City Manager

Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Purchase and Installation of Modular Offices; 2) accepting the bid of Resun Leasing, Inc.; 3) waiving plan check, building inspection and permit fees; 4) approving \$200,000 from the Parks Tax Fund, \$423,000 from the Sewer Fund, and \$423,000 from the Refuse Fund balances for inclusion in the Corporation yard modular offices project budget to allocate \$640,000 toward the purchase of modular buildings and \$406,000 toward associated construction, equipment and soft costs; and 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$640,000.

Financial Implications: See report.

Contact: Rene Cardinaux, Public Works, 981-6300

Action: Adopted Resolution No.62,695–N.S.

Action Calendar – Appeals

18. **Appeal: 1406-10 San Pablo Avenue**

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve demolition of a single-family dwelling and construction of a three-story building with four dwelling units and four live/work units; and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning, 981-7400

b. Appeal

1. Robin McCrane

c. Communications

1. None.

Action: City Manager's recommendation moved to Consent Calendar by Councilmember Worthington. Adopted Resolution No. 62,696–N.S. affirming ZAB decision to approve demolition of a single-family dwelling and construction of a three-story building with four dwelling units and four live/work units; 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 – Old Business

19. **Creeks Ordinance** (*Held over from 10/12 by Councilmembers Worthington and Maio*)
From: City Manager
Recommendation: Provide direction to staff on work program options presented in staff report.
Contact: Dan Marks, Planning, 981-7400
Action: Moved, seconded, carried (Worthington/Wozniak) a motion to table and hold over to November 9, 2004.
20. **Major Residential Addition Policy Interpretations** (*CF 32-03, 41-03, 46-03*) (*Held over from July 13, 2004*)
From: City Manager
Contact: Dan Marks, Planning, 981-7400
Action: Moved to Consent Calendar by Councilmember Wozniak. Received and filed.

Action Calendar – New Business

21. **HUD Section 108 Loan Guarantee for the Jubilee Village** (*To be delivered*)
From: City Manager
Recommendation: Adopt a Resolution: 1) approving participation in the U.S. Housing and Urban Development (HUD) Section 108 Loan Guarantee Program; 2) authorizing the use of current and future Community Development Block Grant funds to secure a loan for the Jubilee Village development in an amount up to \$3,008,000 and not to exceed eighty percent (80%) of the appraised value of the property; 3) that the findings of HUD's recent monitoring be resolved to the City Manager's satisfaction prior to closing on the Section 108 loan and a report be brought to City Council on November 9, 2004 for final review; and 4) rescinding Resolution No. 62,215-N.S.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
Action: Held over to November 9, 2004 by Mayor Bates.
22. **Double Fines in School Zones**
a. From: Transportation Commission
Recommendation: Adopt an Ordinance amending the Berkeley Municipal Code (BMC) Chapter 14 by adding a section "Double Fines in School Zones" in Berkeley High School, Berkeley Alternative High School, Willard School, Malcolm X School and Longfellow School zones in the City of Berkeley, to double the fines for motor vehicle moving violations, and to establish a Pedestrian and Bicycle School Safety Fund. The pilot program would operate for one calendar year. The Transportation staff will evaluate the pilot program by means of speed studies and other methods as appropriate and report to the Commission after the conclusion of the program as is practicable.
Financial Implications: See report.
Contact: Peter Hillier, Secretary, 981-7010

Action Calendar – New Business

b. From: City Manager

Recommendation: Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 14 Vehicles and Traffic, by adding Chapter 14.66 “Double Fines ” Section 14.66.010 “Purpose of Program”, 14.66.020 “Fine Enhancement: Passing a School”, 14.66.030 “Double Fine School Zone”, and 14.66.040 “Sunset”.

Contact: Peter Hillier, Transportation, 981-7010

Action: Moved to Consent Calendar by Councilmember Wozniak. Adopted first reading of Ordinance. Second reading scheduled for November 9, 2004.

Information Reports

23. **Status of Negotiations with Fire Fighters** *(To be delivered)*
From: City Manager
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Received and filed.
24. **Accounts Payable Audit - Status Report** *(CF 77-04)*
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
25. **Business License Tax Audit for Year Ending June 30, 2001 - Status Report** *(CF 31-04)*
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
26. **Treasury Cash Receipts/Cash Handling Audit - Status Report** *(CF 26-04)*
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
27. **Pedestrian Right-of-Way Enforcement**
From: City Manager
Contact: Roy Meisner, Police, 981-5700
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.

Archaeological investigation at West Berkeley Building Project

1. Stephanie Manning

Communications

Fire and Police Services

2. Annette and Robin Pennell (*Olds*)

South Berkeley Drop-In Center

3. Michael Gabel (*Wozniak, Maio. Councilmember Worthington indicated he met with and informed him the organizations had merged allaying Mr. Gabel's immediate concerns*)

BART and Translink System

4. Charles Smith

Supplemental Reports and Communications #1

Item 2: Ellis Implementation Ordinance

5. Peter J. Mutnick

Item 15: Environmentally Preferable Purchasing Policy

6. Davis Baltz

Item 19: Creeks Ordinance

7. Beth Lamont
8. Zinna Riley
9. Christopher Kroll
10. Janet Tressel
11. Laurel K. Fullmer
12. Stanley Schmidt
13. Robert Schneider
14. Katherine L. Bowman
15. Charles E. Adams
16. Sarah Baughn
17. Ann and John Barnes
18. Irene and David Winston
19. Joy Petersen
20. Doris Lloyd
21. Linda K. Hill
22. Drom Sury
23. Frank Greenspan
24. Terrence A. Merla
25. Diane R. Crowley
26. Rachel Penn
27. Scott Rosenberg and Dayna Macy
28. Madeline Trilling
29. Steve and Lydia Mullerheim
30. Jean Echols
31. Maurey John
32. Jeff Caton
33. Sibyl A. Donn
34. Pamela Caton

Supplemental Reports and Communications #1

35. M. Steven Morishige
36. Jerry Cross
37. Anne Middletine and Gene Rollin
38. Maggie and Bruce Nemirow
39. Thomas A. Brunetti
40. John Fingado
41. David Jones
42. Jim French
43. Walter Stullman
44. Patrick L. Finley
45. Julieta Zuniga
46. Charles and Judy Tore
47. Virginia and Charles Jenner
48. Bob Burleson
49. Wendy and Brian Lukas
50. Amy Kronenberz
51. Martin Jay and Catherine Sellylor
52. David H. Raullet and Alesia H. Connelly (2)
53. Elizabeth and Lawrence J. Waldron
54. Juliet Lamont
55. Mark B. Baldrige
56. John Coveney
57. Marcy Greenhunt
58. David Room
59. Elyce Judith
60. Allen King
61. Peter Meyer
62. Elisabeth Bittner
63. Ann-Elise Emerson
64. Margie Gurdziel and Dick and Spencer Ingels
65. Ann Campbell
66. Albert Magid
67. Susan Schwartz
68. Wendy Markel
69. Abigail Fateman
70. Eva Alexis Bansner
71. Kirstin Miller
72. John Murcko
73. Christine Walter
74. Robyn Erler
75. Keith Casner
76. Meagan Travlos
77. Phillip Price
78. Hubert and Genevieve Dreyfus
79. John W. Ellwood
80. Judy and Alan Ziajka

Supplemental Reports and Communications #1

81. Wesley Stahler
82. Vonnie Gurgin
83. Bob Jacobsen
84. Elizabeth C. and Robert J. Burrell
85. Robert and Marianne Fisher
86. Rebecca Sutton
87. Susanne H. Lowenthal
88. Ned and Janis Dairiki
89. David Rinaldo
90. Martha Baker
91. Bernard P. Rothermel
92. William A. Falik
93. Anthony Bernhardt and Lynn Feintech
94. Mary Louise Zernicke
95. Eric Wasserman
96. Anne Marselis, Saint John's Neighbors
97. Elizabeth Shaughnessy
98. Alan Gould
99. Diane A. Tokugawa
100. Norman P. and Eleanor J. Moscow and Anita C. Eblé
101. Judy Ziajka
102. Jill Korte
103. Mary Harrow
104. Carolyn Holm
105. John and Kay Lyman
106. Bill Weiss
107. Peter Berck
108. Gibor Basri
109. Patricia Bulitt
110. Barbara Gilbert
111. Jody Hinshaw
112. L.T. Wallace
113. Jim Sweeney
114. Dan and Shirley Dean
115. Marcia Tanner and Winsor Soule
116. Neighbors on Urban Creeks
117. Nick Pilch
118. Tom Edwards
119. Peter Klatt
120. Joan Sprinson
121. Carolyn Winters
122. Rosemary Green
123. Norman K. Glendenning
124. Juliet Lamont, Phil Price, Alan Gould, Diane Tokugawa, Valerie Bach and Jim Cassell, LOCCNA; Steve Donnelly, Urban Creeks Council; Elyce Judith, Strawberry Creek Restoration Group; Tom and Jane Kelly, Strawberry Creek

Supplemental Reports and Communications #1

Restoration Project; John Steere, Halcyon Neighborhood Association and Berkeley Partners for Parks; Richard Register and Kirstin Miller, Ecocity Builders and Friends of Strawberry Creek; Susan Schwartz; Carol Thornton; Norman La Force, East Bay Public Lands Committee; Robert Hass; Karen Hester, How Berkeley Can you Be? and Berkeley Earth Day; Paul Rauber; Christopher Kroll; Vikrant Sood; Wendy Peters Moschetti; Mukul Malhotra; Daniel Caraco; Janice Thomas; Zinna Riley; Chad Markell; Dr. Ashok Gadgil; Mark Sippola; Beth Lamont; Jim Sharp; Daniella Thompson; Mark O'Leary; Gina Blus; John Murcko; Christine Walters; Jill Thomas; Bob Marsh; Patti Marsh; Scott Eitapence; Mi-Yung Rhee; Paul Downs; Brenda Montano; Fran Segal; Patricia Bulitt; David Ceaser; Steve Bloom; Lisa Lackey; Gary D. Smith; Jane Eiseley; Fran Berges; Fran Rachel

125. George and Jacqueline Ivelich
126. Gus Yates
127. Denise Glover
128. Lydia Tanji and Roger Garcia
129. Whitney Hischer and Simon Morris
130. Margaret Bogle

Item 21: HUD Section 108 Loan Guarantee for the Jubilee Village

131. Revised report, submitted by Housing Department

Item 27: Pedestrian Right-of-Way Enforcement

132. Attachments to report, submitted by the Police Department
133. Brett Brooks

Free Information on Local Policy Issues

134. Samantha Johnson, Art and Education Media, Inc.

Budget and Service Comparison Charts

135. Charts, submitted by the Office of the Mayor

Supplemental Reports and Communications #2

Item 3: University Avenue Strategic Plan Height and Setback Standards and Review Consistency

136. Gene Poschman

Item 19: Creeks Ordinance

137. Process for Moving Forward with Creek Ordinance Review report, submitted by Mayor Bates, Councilmember Hawley and Councilmember Maio
138. Juliet Lamont
139. Katherine L. Bowman and Robert K. Schneider

Adjournment

Adjourned: 8:26 p.m.