



Office of the Mayor

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OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

Oct. 18, 2004

To: Members of Council

From: Mayor Tom Bates  
Council Member Mim Hawley  
Council Member Linda Maio

Subject: PROCESS FOR MOVING FORWARD WITH CREEK ORDINANCE REVIEW

We believe the City Council is united in its desire to move forward quickly to review the creeks ordinance and other issues regarding our creeks. However, there are three process issues that need to be resolved.

First, there are differences of opinion on the Council and in the community about what type of community process will best help the City wade through the issues raised. Second, the City Council will soon have new members and they should be given an opportunity to weigh in on this issue, direct policy, and determine budget priorities. Third, we will not know the status of the City's discretionary budget – and therefore its ability to fund the necessary research, analysis, and community process – until a mid-year budget review is conducted after the election in November.

With these issues in mind, we propose a compromise process that provides the Planning Commission with an oversight role in reviewing the creeks issues, but sets up a task force to work specifically, and for a set period of time, to review and make recommendations regarding the ordinance and city creek policy. In addition, it provides an opportunity for the new Council to weigh in with up to date budget information.

With that introduction, we respectfully request the City Council to establish a temporary Creeks Task Force with the specifications listed below.

1. Membership. The Task Force will include a representative appointed by each Member of the City Council and one member appointed by the Planning Commission, Public Works Commission, Community Environmental Advisory Commission, and the Parks and Recreation Commission. Total membership will include 13 people. Appointments will be made in December, following the seating of the new Council Members.
2. Structure. The Task Force will be staffed by the Planning Department, with assistance from other city departments as needed.

- a. All Task Force reports, recommendations, and ordinance changes will be submitted to the Planning Commission for their comments prior to coming to the City Council for its consideration, to enable public input into the task force recommendations, and to make a recommendation to Council.
3. Scope. The Task Force will be directed to recommend a scope, work plan, and budget to be submitted to the Planning Commission by April 1, 2005. The Planning Commission review and recommendations must reach the Council in time for the Council's fiscal year 2006 budget process. The Council will then provide the Task Force with instructions based on those recommendations, available budget, and their priorities.
4. Timeline. While the exact work plan still must be determined, the Council will set a deadline of May 2006 for revisions to the Creeks Ordinance. A specific deliverable date will ensure that the process does not extend indefinitely. The Task Force will be required to work efficiently and make progress on achieving its goals.
  - a. As part of setting this deadline, direct the City Manager to return to the Council with an ordinance that will implement this proposal with a provision that if the Task Force recommendations are still not forthcoming by the deliverable date, the current culvert protections in the Creeks Ordinance will be indefinitely suspended on May 1, 2006 until such a time that a new ordinance is adopted by the Council.

It is our hope that this proposal can be the basis of a good discussion that will help the Council move forward with this difficult issue.

CC: Sherry Kelly, City Clerk  
Phil Kamlarz, City Manager