

Berkeley City Council
District 5

ACTION CALENDAR #19
November 9, 2004

To: Honorable Mayor and Members of the City Council

From: Councilmember Miriam Hawley
Councilmember Linda Maio

Subject: **ADDENDUM TO ITEM 19: PROCESS FOR MOVING FORWARD
WITH CREEK ORDINANCE REVIEW**

To insure that fair representation and clarity of scope is achieved, direct the following appointment process:

- 1) In addition to the 13 persons to be appointed by the Council and four Commissions, add an additional two persons to be appointed by the Mayor to ensure the temporary Task Force is balanced in its representation of stakeholders,
- 2) Specify that the Mayor will name the Chair of the Task Force from the appointed membership.
- 3) Describe a scope of work allowing flexibility to enable the Task Force to add additional items as recommended by staff and to refer questions to appropriate Commissions for their investigation,
- 4) Exclude from discussion by the Task Force the issue of responsibility for repairing culverts on private property, as that is currently under litigation, and
- 5) Specify that Task Force meetings be publicly noticed, provide time for public comment, and be held in a location accessible to the public.

The scope of work is to include the following:

- Review and modify the definition of "creeks" in the City's Ordinance
- Recommend methods to protect creeks and the rights of property owners
- In recognition of the lack of scientific underpinning for the 30-foot setback requirement, establish more objective standards or a method to establish setbacks for new construction or additions near creeks.
- Determine whether and how culverts should be regulated in a manner different from that of open creeks, and whether and how creeks of significant length should be regulated in a manner different from that of short and possibly intermittent flows of water.
- Determine the costs and possible sources of funding for identifying culverted creeks on private property
- Provide suggestions for a best practices manual for development near creeks

- Suggest criteria and possible funding sources for daylighting creeks on public property.

In recognition of the lengthy scope of work and the complexity of these issues, the Task Force will likely need to refer some topics to City Commissions. For example, the Public Works Commission may be the appropriate body to look into questions of the dual nature of many creeks as both storm drains and creeks and the Community Environmental Advisory Group may address issues of water quality, pollution, and habitat.

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