

SUMMARY

BERKELEY CITY COUNCIL MEETING TUESDAY, DECEMBER 7, 2004 – 7:00 P.M. Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call: 7:09 p.m. All present

Ceremonial Matters.

1. Recognition and swearing in of newly elected Councilmembers in Districts 2, 3, 5 and 6.

City Manager Comments: The City has obtained 500 additional doses of the flu vaccine. A Flu Vaccine Clinic will be open on December 10, 2004, at the Francis Albrier Community Center from 9:00 a.m. to 1:00 p.m. for individuals who are over 65 years of age or considered high-risk.

Public Comment: 15 speakers.

Youth Comments: No speakers.

Consent Calendar

Moved, seconded, carried (Wozniak/Moore) to adopt the Consent Calendar in one motion except as indicated:

1. **University Avenue Strategic Plan Height and Setback Standards and Review Consistency**
(First Reading November 9, 2004, Abstain – Olds)
From: City Manager
Recommendation: 1) 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: Adopted Ordinance No. 6,830–N.S. Effective January 6, 2005.

Consent Calendar

- 2. Non-Exclusive Rubbish Hauling Franchise** (*First Reading – November 16, 2004, Absent – Bates*)
From: City Manager
Recommendation: Adopt the second reading of an Ordinance granting non-exclusive franchise for rubbish collection and transportation to Golden Gate Disposal and Recycling Company and directing the City Manager to negotiate a Franchise Agreement with this company.
Financial Implications: Refuse Fund – Increased revenue.
Contact: Rene Cardinaux, Public Works, 981-6300
Action: Adopted Ordinance No. 6,831–N.S. Effective January 6, 2005.
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of November 9, 2004 (regular) and November 16, 2004 (regular).
Contact: Sara T. Cox, City Clerk, 981-6900
Action: Approved minutes for November 16, 2004 (Abstain – Bates, Moore, Capitelli) as amended by a corrected recommendation to include only the regular meeting of that date. Minutes for November 9, 2004 held over to December 14, 2004 at the request of Councilmember Spring.
- 4. 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: Sara T. Cox, City Clerk, 981-6900
Action: Adopted Resolution No. 62,730–N.S.
- 5. Confirming Results of November 2, 2004 General Municipal Election** (*To be delivered*)
From: City Manager
Recommendation: Adopt a Resolution confirming the results of the November 2, 2004 General Municipal Election and declaring the passage of: 1) Measure I – Charter Amendment changing the date of the mayoral elections; 2) Measure N – Ordinance increasing the appropriation limit under Article XIII B of the California Constitution; 3) Measure O – Ordinance amending Berkeley Municipal Code (BMC) Section 13.76.110, relating to annual general adjustments of rent ceilings; and 4) Measure P – Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.76, Rent Stabilization and Eviction for Good Cause Ordinance.
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Adopted Resolution No. 62,731–N.S. and confirmed adoption by the electorate of Ordinance No. 6,832–N.S. (Measure O) amending Berkeley Municipal Code (BMC) Section 13.76.110 relating to annual general adjustments of rent ceilings, and Ordinance No. 6,833–N.S. (Measure P) amending Berkeley Municipal Code (BMC) Chapter 13.76, Rent Stabilization and Eviction for Good Cause Ordinance.

6. Amendment to the FY 2005 Annual Appropriations Ordinance

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending the FY 2005 Annual Appropriations Ordinance No. 6808 for fiscal year 2005 based upon recommended re-appropriation of committed FY 2004 funding and other adjustments authorized since July 1, 2004, in the amount of \$49,087,624.

Financial Implications: See report.

Contact: Tracy Vesely, City Manager, 981-7000

Action: Removed from Consent Calendar by Councilmember Wozniak. Moved, seconded, carried, (Wozniak/Maio; Absent – Spring) to adopt first reading of the ordinance. Second reading scheduled for December 14, 2004.

7. 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 funds – \$1,486,000.

Contact: Fran David, Finance, 981-7300

Action: Approved recommendation.

8. Local Emergency from Influenza Vaccine Shortage

From: City Manager

Recommendation: Adopt a Resolution reviewing and confirming the continued existence of a local emergency concerning limited influenza vaccine supplies.

Financial Implications: None.

Contact: Fred Medrano, Health and Human Services, 981-5100

Action: Adopted Resolution No. 62,732–N.S. as amended by Councilmember Wozniak.

9. Contract: Energy Measurement and Verification Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Summit Blue Consulting, LLC for energy program evaluation, measurement and verification services in the amount of \$25,865 for the period of August 2, 2004 through July 31, 2006.

Financial Implications: CA Public Utilities Commission Grant – \$25,865.

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 62,733–N.S.

10. Classification: Landscape Architect Class Series

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 61,805–N.S. Classification and Salary Resolution for SEIU, Local 535, to change the title of Landscape Architect (non-registered) to Landscape Designer and to change the title of Landscape Architect (registered) to Landscape Architect, with new classification specifications.

Financial Implications: None.

Contact: David Hodgkins, Human Resources, 981-6800

Action: Adopted Resolution No. 62,734–N.S.

11. Donation to Extend Operations at West Campus Pool

From: City Manager

Recommendation: Adopt a Resolution accepting a donation from the United Pool Council (UPC); amending the Aquatics budget to add \$13,316, reflecting the new revenue; and extending pool operations at West Campus Pool through the winter months.

Financial Implications: Donation – \$13,316.

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700

Action: Adopted Resolution No. 62,735–N.S.

12. Joint Powers Implementing Agreement for Gilman Street Sports Fields

From: City Manager

Recommendation: Adopt two Resolutions: 1) authorizing the City Manager to execute an agreement among five JPA cities (Albany, Berkeley, El Cerrito, Emeryville and Richmond) to implement Section 3 of the initial Joint Exercise of Powers agreement, authorized on November 18, 2003, to develop the Gilman Street Sports Fields; and 2) authorizing the City Manager to execute a cooperative funding agreement with East Bay Regional Park District (EBRPD) to pass through grant funds from California State Parks (\$3 million from the Urban Parks Act grant program) to the City to develop the Gilman Street Sports Fields; and amending the FY 2004-2005 budget appropriation for the Parks Recreation & Waterfront Department to add \$3 million in grant revenue and create a budget code for this project.

Financial Implications: State Urban Parks Act Grant – \$3,000,000

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700

Action: Adopted Resolution No. 62,736–N.S. and Resolution No. 62,737–N.S.

13. Grant: Office of Traffic Safety - DUI Checkpoints

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept a mini-grant from the State of California, Office of Transportation (OTS) for \$19,253 to fund three additional DUI Checkpoints, from December 1, 2004 until January 10, 2006.

Financial Implications: Grant – \$19,253.

Contact: Roy Meisner, Police, 981-5700

Action: Adopted Resolution No. 62,738–N.S.

Consent Calendar

14. **Contract: Off-Street Parking Management - Parking Concepts, Inc.**
From: City Manager
Recommendation: Adopt a Resolution amending the agreement with Parking Concepts Inc. (PCI) to increase the total amount of the off-street parking management contract for the first five-year period by an amount not to exceed \$63,073, and for the two additional one-year extension periods by an amount not to exceed \$31,536 for a total contract amount not to exceed \$94,609 representing a 1.014% increase over the existing expenditure limits of the contract in order to allow for operational adjustments which improve service and revenue.
Financial Implications: Off-street Parking Fund – \$63,073.
Contact: Peter Hillier, Transportation, 981-7010
Action: Adopted Resolution No. 62,739–N.S.
15. **Legislative Aide’s Participation in Voluntary Time Off (VTO)**
From: Councilmember Maio
Recommendation: Transfer funds to the General Fund that result from Legislative Aide’s participation in the Voluntary Time Off Program (VTO).
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Approved recommendation and acknowledged Legislative Aide Brad Smith for recommending and initiating the transfer of funds.
16. **Fundraising for Animal Shelter**
- a. **From: Citizens Humane Commission**
Recommendation: Adopt a Resolution approving fundraising by the Citizens Humane Commission to benefit Spay/Neuter Your Pet (SNYP) and other direct animal care programs and that any and all money raised through fundraising be deposited into the Animal Services donation account.
Financial Implications: None.
Contact: Kate O’Connor, Secretary, 981-6601
- b. **From: City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the report.
Contact: Jim Hynes, City Manager, 981-2493
Action: Adopted Resolution No. 62,740–N.S.

Action Calendar - Presentation

17. **FY 2005 First Quarter Report and Budget Update**
From: City Manager
Contact: Tracy Vesely, City Manager, 981-7000
Action: Presentation made. Encroachment Permit: UC Pedestrian Bridge over Hearst Avenue (Foothill Bridge) (*held over from November 9, 2004*)

Action Calendar – Old Business

18. Encroachment Permit: UC Pedestrian Bridge over Hearst Avenue (Foothill Bridge)
(held over from November 9, 2004)

a. From: City Manager *(July 13, 2004 Report)*

Recommendation: Adopt a Resolution authorizing the City Manager to issue a major encroachment permit to the University of California for a pedestrian bridge crossing (Foothill) over Hearst Avenue east of La Loma Avenue on the following conditions: 1) an improved bridge design is submitted and approved by the Public Works Director, in consultation with the Design Review Committee; 2) any detrimental effects on the immediate community are offset by contributing to specified pedestrian safety and public infrastructure improvements in the “Hearst Corridor,” in the amount of \$200,000; and 3) all plan check comments and other technical issues are resolved to the satisfaction of the Public Works Director.

Financial Implications: See report.

Contact: Rene Cardinaux, Public Works, 981-6300

b. From: Public Works Commission *(July 13, 2004 Report)*

Recommendation: Deny the application from the University of California for an encroachment permit, either a Conditional or a Full Permit, for a Pedestrian Bridge over Hearst Avenue near La Loma Avenue.

Contact: Jeffrey Egeberg, Secretary, 981-6406

c. From: Public Works Commission *(November 9, 2004 Report)*

Recommendation: Should Council pursue the option of issuing a permit with mitigations, the following language should be adopted: “Whereas this project and its application for an encroachment permit have a unique history, therefore this permit does not create a precedent for future requests for such permits; and in the future, any such encroachment permits should be secured before any part of intended construction is begun.”

Financial Implications: None.

Contact: Jeffrey Egeberg, Secretary, 981-6406

d. Communications *(November 9, 2004)*

1. David Mandel, Facilities Services, Physical and Environmental Planning at U.C. Berkeley, care of Jeff Egeberg, Public Works Department

Action: Held over to January 18, 2005. Referred to City Manager to arrange with University representatives for a site tour and briefing for councilmembers and bridge proponents and opponents as requested by Councilmember Anderson.

19. Strawberry Creek *(Held over from July 20, 2004)*

From: Councilmember Spring and Mayor Bates

Recommendation: Adopt a Resolution supporting the daylighting of Strawberry Creek in downtown.

Contact: Dona Spring, Councilmember District 4, 981-7140

Action: Withdrawn by Councilmember Spring.

Action Calendar – New Business

20. San Pablo Avenue Public Improvements Plan

From: City Manager

Recommendation: Adopt a Resolution approving the San Pablo Avenue Public Improvements Plan to guide future development of public improvements along San Pablo Avenue.

Financial Implications: See report.

Contact: Tom Myers, Economic Development, 981-7530

Action: Moved to Consent Calendar by Councilmember Maio. Adopted Resolution No. 62,741–N.S.

21. Funding for Construction of Sacramento Senior Homes' Apartments at 2517

Sacramento Street

From: City Manager

Recommendation: Adopt a Resolution approving a fund reservation in the amount of \$727,072 from the Housing Trust Fund (HTF) in order to complete construction of Sacramento Senior Homes' Apartments and authorizing the City Manager to execute a development loan agreement and any amendments and all other documents related to this fund reservation.

Financial Implications: Housing Trust Fund – \$727,072.

Contact: Stephen Barton, Housing, 981-5400

Action: Moved, seconded, carried (Worthington/Moore; No – Wozniak; Abstain – Olds) to adopt Resolution No. 62,742–N.S.

22. David Brower Memorial Sculpture

a. From: Civic Arts Commission

Recommendation: Approve the proposed David Brower memorial offered at no cost to the City for possible installation at a site to be determined, in accordance to the conditions set forth in the report.

Financial Implications: None.

Contact: Mary Ann Merker, Secretary, 981-7533

b. From: City Manager

Recommendation: The City Manager takes no position concerning the recommendations of the Commission.

Contact: Tom Myers, Economic Development, 981-7530

Action: Moved, seconded, carried (Spring/Maio) to adopt the Commission's recommendation as amended by Councilmember Spring to prevent placement that interferes with public views, particularly of the waterfront, and by Councilmember Worthington to include site selection advisories of the commissions in the final Council recommendation.

23. Selection of Vice Mayor and Agenda Committee Members

a. From: Mayor Bates

Recommendation: Adopt a Resolution appointing Councilmember Linda Maio as Vice Mayor and appointing Councilmembers Gordon Wozniak and Linda Maio to the Agenda Committee.

Contact: Tom Bates, Mayor, 981-7100

b. From: Councilmembers Spring, Olds, Worthington and Anderson

Recommendation: Vote to return to the practice and pass a policy of rotating the position of Vice Mayor starting with Councilmember Linda Maio as Vice Mayor for the first term.

Contact: Dona Spring, Councilmember District 4, 981-7140, Betty Olds, Councilmember District 6, 981-7160, Kriss Worthington, Councilmember District 7, 981-7170, Max Anderson, Councilmember District 3, 981-7130

Action: Item 23b moved to Consent Calendar by Councilmembers Maio and Worthington. Adopted Resolution No. 62,743–N.S approving recommendation 23b as revised to include a rotation schedule suggested by Councilmember Maio. Item 23a moved to Consent Calendar by Councilmember Worthington. Adopted Resolution 62,743A–N.S. as amended appointing Councilmembers Wozniak and Maio to the Agenda Committee.

24. Neighborhood Traffic Calming Policy

a. From: Transportation Commission

Recommendation: Direct the City Manager to apply the following policies when developing and assessing new neighborhood traffic management plans: 1) when funds next become available for the installation of traffic calming circles, the five traffic circles identified on the waiting list in the staff Council report of July 20, 2004, should be the next priority for installation in the order presented in that report; and 2) beyond the five noted above, no additional neighborhood traffic calming plans should be recommended to Council until neighborhood traffic calming plan criteria and approval procedures have been adopted by the City, and the new plans are evaluated and processed in accordance with the new procedures.

Financial Implications: Various Funds – \$100,000-\$125,000

Contact: Peter Hillier, Secretary, 981-7010

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendations of the report.

Contact: Peter Hillier, Transportation, 981-7010

Action: Moved to Consent Calendar by Councilmember Maio. Adopted Transportation Commission recommendation.

Information Reports

25. **Regulation of Motor Scooters, Mini-Bikes, Go-Carts, Car Stereo Noise and Noise from Motorcycles (CF 44-04)**
From: City Manager
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Received and filed. Referred to the City Manager to bring an information report back to Council.
26. **FY 2006 & FY 2007 Priority Setting: Initial Phase of Council Tally**
From: City Manager
Contact: Lisa Caronna, City Manager, 981-7000
Action: Moved to Action Calendar and held over to January 11, 2004 by Councilmember Worthington.
27. **Consolidation of Fire Services with Alameda County Fire Department**
From: City Manager
Contact: Tracy Vesely, City Manager, 981-7000
Action: Received and filed.
28. **Unrepresented Temporary Employees**
From: City Manager
Contact: David Hodgkins, Human Resources, 981-6800
Action: Received and filed.
29. **Landmarks Preservation Commission Notice of Decision: Approval of Structural Alteration Permit – 2104-8 Sixth Street; 2750 Adeline Street; 2300 Shattuck Avenue; 2223 Martin Luther King Jr. Way**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
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.

University Avenue Strategic Plan Height and Setback Standards and Review Consistency

1. Stephen Wollmer (*Spring*)

Contract: Air Rights at Ashby Bart - Ed Roberts Campus

2. Ellen Goldblatt
3. Caleb Dardick

Encroachment Permit: UC Pedestrian Bridge over Hearst Avenue (Foothill Bridge)

4. Sara Shumer
5. Leonard Cottrell
6. Elfi Z. Tarazona

Communications

7. Daniella Thompson
8. Martin Freedman
9. Hank Mooney
10. Wendy Markel, Berkeley Architectural Heritage Association

Creeks Task Force

11. Juliet Lamont

Fire Truck Elimination (*Spring*)

12. Martha Nicoloff
13. Susan Lea
14. Linda Diamond
15. Michael Luby
16. Charlan Jeanne Nemeth
17. Jean DeWitt
18. Roger and Zoe Hill (2)
19. Lawrence Riley
20. Ned and Janis Dairiki
21. Sam Herbert

Sleepers at Saint John's Presbyterian

22. Anne Marselis

Taxi Scrip

23. Maris Arnold (*Worthington*)

Stop Sign at Gilman Street

24. Miguel Mendoza

Solano Avenue Business Improvement District

25. Hennie Farrow

Supplemental Reports and Communications #1

Item 17: FY 2005 First Quarter Report and Budget Update

26. Barbara Gilbert, BASTA!
27. Marie Bowman, BANA

Item 18: Encroachment Permit: UC Pedestrian Bridge over Hearst Avenue (Foothill Bridge)

28. Bayard and Nancy Allmond
29. Wendy Alfsen, Walk&Roll Berkeley

Item 23: Selection of Vice Mayor and Agenda Committee Members

30. Revised report, submitted by Councilmember Spring
31. Councilmember Maio

Brower Center/Oxford Plaza Development

32. Livable Berkeley

Marin Avenue Reconfiguration

33. Livable Berkeley

Supplemental Reports and Communications #2

Item 17: FY 2005 First Quarter Report and Budget Update

34. Presentation, submitted by City Manager's Office

Item 18: Encroachment Permit: UC Pedestrian Bridge over Hearst Avenue (Foothill Bridge)

35. Proposed amendment, submitted by Councilmember Anderson
36. Petition with 11 signatures, U.C. Berkeley Beverly Clearly Hall Executive Committee
37. Petition with 7 signatures, U.C. Berkeley Cunningham Hall Association Committee
38. Petition with 8 signatures, U.C. Berkeley Stern Residence Hall Executive Committee
39. Petition with 10 signatures, U.C. Berkeley Norton Hall Association Executive Committee
40. Valerie Escalante, Griffiths Hall Association Executive Committee
41. Petition with 12 signatures, U.C. Berkeley La Loma Hall Association Executive Committee
42. Petition with 12 signatures, U.C. Berkeley Cheney-Deutsch Hall Association Executive Committee
43. Petition with 14 signatures, U.C. Berkeley Foothill Hillside Hall Association Executive Committee
44. Petition with 8 signatures, U.C. Berkeley Ehrman Hall Association Executive Committee

Item 21: Funding for Construction of Sacramento Senior Homes' Apartments at 2517 Sacramento Street

45. Susanne Yenne, Shattuck Senior Homes

Adjournment

Adjourned at 10:20 p.m. in memory of James Moore.