

## SUMMARY

### BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 19, 2005

7:00 P.M.

Council Chambers, 2134 Martin Luther King Jr. Way  
Teleconference Location – 1636 Channing Way, Berkeley, CA

#### Preliminary Matters

**Roll Call:** 7:06 p.m. All present.

#### **Ceremonial Matters:**

Yolanda Lopez, godmother of Meleia Willis-Starbuck, the young woman who was killed Sunday, spoke about Melieia's life and her memorial.

#### **City Manager Comments:**

1. The Police Department and city staff are organizing the annual National Night Out on August 2, 2005. Community groups are encouraged to contact the Police Department to help set up the event in their neighborhood.
2. There will be two meetings regarding the Mental Health Services Act at the South Berkeley Senior Center on July 27, 2005 from 3:00-5:00 p.m. and 6:00-8:00 p.m.
3. San Francisco Magazine has awarded the City's Adventure Playground, "Best Playground in the Area."

**Public Comment:** 18 speakers.

**Prior to discussion and voting on the Consent Calendar the City Council took the following action regarding the Willard Afterschool Program.**

Moved, seconded, carried (Worthington/Anderson) to direct the City Manager to prepare a report on program costs and place an item on the July 25, 2005 agenda regarding the Willard After-school Program.

#### Consent Calendar

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

## Consent Calendar

- 1. Gas Heating Certification Compliance Schedule** *(First Reading July 12, 2005 – Unanimous)*  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 19.40.040 to allow the City Manager to establish a schedule for when owners of residential dwelling units and lodging houses are required to comply with the gas heating certification program.  
**Financial Implications:** Increased revenue.  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Adopted Ordinance No. 6,872–N.S. Effective August 18, 2005.
- 2. Lease: Women’s Daytime Drop In Center** *(First Reading July 12, 2005 – Unanimous)*  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance amending Ordinance No. 6,782-N.S. to ratify the 20-year lease agreement with a 10-year option to extend with the Women’s Daytime Drop In Center (WDDC) for City-owned property located at 2213 Byron Street for the purpose of providing transitional housing for homeless women and children.  
**Financial Implications:** None.  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Adopted Ordinance No. 6,873–N.S. Effective August 18, 2005.
- 3. Contract: The Berkeley Alliance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Alliance to provide administrative support and project services for a partnership endeavor with the Berkeley Unified School District (BUSD) and UC Berkeley not to exceed \$60,000 for the period July 1, 2005 to June 30, 2006.  
**Financial Implications:** General Fund – \$65,000.  
Contact: Arrietta Chakos, City Manager, 981-7000  
**Action:** The City Manager corrected the previously published agenda recommendation and advised Council the actual contract amount is \$60,000 as shown in the accompanying staff report. Adopted Resolution No.62,997–N.S.
- 4. Contract: Legislative Representation Services - Lynn Suter & Associates**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Lynn Suter & Associates to provide the City with legislative representation services in Sacramento from July 1, 2005 to June 30, 2006, in an amount not to exceed \$49,970.  
**Financial Implications:** General Fund – \$49,970.  
Contact: Arrietta Chakos, City Manager, 981-7000  
**Action:** Adopted Resolution No. 62,998–N.S.

**5. 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:** Building Maintenance Fund – \$140,000.

Contact: Fran David, Finance, 981-7300

**Action:** Approved recommendation.

**6. Purchase Order: Copy Paper and Office Supplies**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Corporate Express to furnish 100 percent recycled processed chlorine-free (PCF) copy paper and all other office supplies for a period of one year from July 1, 2005 until June 30, 2006, in an amount not to exceed \$500,000.

**Financial Implications:** Alameda County Waste Management Grant Funds will cover any cost differentials.

Contact: Fran David, Finance, 981-7300

**Action:** Adopted Resolution No. 62,999–N.S.

**7. Regulation of Taxicabs and Automobiles for Hire**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 9.52, Taxicabs and Automobiles for Hire.

**Financial Implications:** None.

Contact: Fran David, Finance, 981-7300

**Action:** Adopted first reading of Ordinance. Second reading scheduled for July 25, 2005.

**8. Contract: Transitional Housing**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with the Avondale Hotel for the provision of AB2034 grant-based rental subsidies for transitional housing for individuals who are homeless and mentally disabled in a total amount not to exceed \$105,000 for the period May 1, 2005 through November 30, 2005.

**Financial Implications:** AB2034 Fund – \$105,000.

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

**Action:** Adopted Resolution No. 63,000–N.S.

**9. Contract: Prescription Medication**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with United Pharmacy for prescription psychiatric medications in an amount not to exceed \$276,000 for the period July 1, 2005 through June 30, 2006.

**Financial Implications:** Health Fund – \$276,000.

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

**Action:** Adopted Resolution No. 63,001–N.S.

**10. Grant and Contract: Tobacco Prevention Services**

**From: City Manager**

**Recommendation:** Adopt two Resolutions:

1. Authorizing the City Manager to: a) accept a grant in the amount of \$400,000 from the California Department of Health Services for the purpose of decreasing the prevalence of tobacco use among Berkeley's young adults, aged 18-29 years, the low socioeconomic population, the African-American population, and the Asian and Pacific Islander population at the University of California, Berkeley for the period July 1, 2005 to June 30, 2008; b) execute any resultant revenue agreements and amendments; and c) authorize the implementation of projects and appropriation of funding for related expenses, subject to securing the grant; and
2. Authorizing the City Manager to execute a contract and any amendments with the University of California, Berkeley, University Health Services to complete the scope of work on a project to decrease the prevalence of tobacco use among Berkeley's young adults for the period July 1, 2005 to June 30, 2008 in an amount not to exceed \$123,000.

**Financial Implications:** Grant Revenue - \$400,000; no matching funds. Health Fund – \$123,000.

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

**Action:** Adopted Resolution Nos. 63,002–N.S. and 63,003–N.S.

**11. SRIP II Long Term Disability Insurance Contract with Cigna Group Insurance**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Cigna Group Insurance to provide Long-Term Disability (LTD) insurance at the premium rate of 0.405% for every \$100 of active Supplementary Retirement and Income Plan II (SRIP II) participants' covered salaries for most non-sworn employees effective July 1, 2005 through June 30, 2007.

**Financial Implications:** See report.

Contact: David Hodgkins, Human Resources, 981-6805

**Action:** Adopted Resolution No. 63,004–N.S.

**12. Contract: Employee Assistance Plan Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Claremont Behavioral Services to provide continued services for the Employee Assistance Program (EAP) through June 30, 2005 in the amount of \$16,239 and extend the contract for the period July 1, 2005 through June 30, 2007 in a total amount of \$345,960.

**Financial Implications:** Fringe Benefits – \$16,239 through June 2005; \$345,960 July 2005 through June 2007.

Contact: David Hodgkins, Human Resources, 981-6800

**Action:** Adopted Resolution No. 63,005–N.S.

- 13. Classification: Infrastructure Maintenance 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 and salary range of Infrastructure Maintenance Manager.  
**Financial Implications:** Sanitary Sewer Operation Fund – \$136,959.  
Contact: David Hodgkins, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 63,006–N.S.
- 14. Purchase Order: Notebook, Desktop, and Server Computers**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to sign a letter of participation with the Western States Contracting Alliance for the purchase of Dell Inc. computers for the period July 13, 2005 to June 30, 2007.  
**Financial Implications:** Computer Replacement Fund – \$550,000.  
Contact: Chris Mead, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 63,007–N.S.
- 15. Contract: Turtle Island Monument Artwork at Civic Center Park Fountain**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Scott K. Parsons for design, development and installation of the Turtle Island Monument at the Civic Center Park Fountain in an amount not to exceed \$34,000 and allow the artwork to be publicly displayed until the fountain is restored.  
**Financial Implications:** Measure S Funds – \$34,000.  
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700  
**Action:** Adopted Resolution No. 63,008–N.S.
- 16. Appointment of Joint Zoning Adjustments Board/Planning Commission Subcommittee for Density Bonus/Inclusionary Ordinance Procedures**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution appointing a joint subcommittee pursuant to the City of Berkeley Commissioner’s Manual comprised of members already appointed to separate subcommittees by the Planning Commission and the Zoning Adjustments Board for the purpose of reviewing and recommending procedures for the implementation of State Density Bonus Law and any requisite changes or recommendations for the Inclusionary Housing Ordinance.  
**Financial Implications:** See report.  
Contact: Dan Marks, Planning, 981-7400  
**Action:** Removed from Consent by Councilmember Maio. Moved, seconded, carried (Maio/Capitelli) to adopt Resolution No. 63,009–N.S. as amended to include the Housing Advisory Commission in the Joint Subcommittee, appoint Jesse Arreguin as the Housing Advisory Commission representative and maintain flexibility in reviewing and implementing new measures.

- 17. Purchase Order: DNA Testing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase the purchase order with Forensic Analytical Laboratory for DNA testing and analysis by \$15,000 for a total amount not to exceed \$60,000 for FY 2005.  
**Financial Implications:** General Fund – \$15,000.  
Contact: Douglas N. Hambleton, Police, 981-5900  
**Action:** Adopted Resolution No. 63,010–N.S.
- 18. Contract: Consultant Services for Work Management Needs Analysis-Public Works**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Weston Solutions, Inc. for consultant services to complete a formal needs analysis for the Department of Public Works regarding work order, maintenance and asset management in an amount not to exceed \$40,000.  
**Financial Implications:** Sanitary Sewer Fund – \$40,000.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,011–N.S.
- 19. Contract: Strawberry Creek Culvert Repair**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Condon Johnson and Associates, Inc. for emergency repair work performed on the failed section of Strawberry Creek Culvert on Allston Way, increasing the existing contract amount by \$40,264 for a total amount not to exceed \$290,264.  
**Financial Implications:** Capital Improvement Fund – \$40,264.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,012–N.S.
- 20. Purchase Order: Long Haul Tractors and Refuse Trailers**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Western Truck Center of Sacramento, California in an amount not to exceed \$656,600 to purchase four long-haul tractors and five refuse trailers for the Solid Waste Management Division of the Public Works Department in FY 2006.  
**Financial Implications:** Equipment Replacement Fund – \$656,600.  
Contact: Rene Cardinaux, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,013–N.S.

## Consent Calendar

**21. Purchase Order: Aerial Bucket Truck**

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting the City and County of San Francisco's bid procedures to satisfy the requirement of Berkeley Charter Section 67, and authorizing the City Manager to execute a purchase order with Terex Utilities West in an amount not to exceed \$87,600 to purchase an Aerial Bucket Truck for the Parks, Recreation and Waterfront Department.

**Financial Implications:** Equipment Replacement Fund – \$87,600.

Contact: Rene Cardinaux, Public Works, 981-6300

**Action:** Adopted Resolution No. 63,014–N.S.

**22. Reuse of Plastic Packaging Materials (CF 08-05)**

**From: City Manager**

**Recommendation:** Request that the Alameda County Waste Management Authority encourage the use of packaging alternatives regionally and evaluate them as an environmental purchasing practice.

**Financial Implications:** See report.

Contact: Rene Cardinaux, Public Works, 981-6300

**Action:** Approved recommendation.

**23. Contract: Downtown Berkeley BART Plaza and Transit Area Planning and Design**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Community Design + Architecture, Inc. to lead a public planning and design process for the Downtown Berkeley Plaza and Transit Area in an amount not to exceed \$90,000 for the period August 1, 2005 to October 31, 2006.

**Financial Implications:** Metropolitan Transportation Commission Fund – \$75,000; Local Match – \$15,000.

Contact: Peter Hillier, Transportation, 981-7010

**Action:** Adopted Resolution No. 63,015–N.S.

**24. Grant: Transportation Demand Management Outreach and Marketing Program**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the Bay Area Air Quality Management District's Transportation Fund for Clean Air Regional Fund grant program for funds in the amount of \$44,216 in FY 2006-2007 and FY 2007-2008 for the City's Transportation Demand Management Outreach and Marketing Program; and 2) accept the grant, and execute any resultant agreements and amendments.

**Financial Implications:** Grant Revenue – \$44,216.

Contact: Peter Hillier, Transportation, 981-7010

**Action:** Adopted Resolution No. 63,016–N.S.

**25. Grant: West Berkeley Shuttle**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the Bay Area Quality Management District's Transportation Fund for Clean Air Regional Fund grant program for funds in the amount of \$20,600 in FY 2006 for the West Berkeley Shuttle; and 2) accept the grant and execute any resultant agreements or amendments.

**Financial Implications:** Grant Revenue – \$20,600.

Contact: Peter Hillier, Transportation, 981-7010

**Action:** Adopted Resolution No. 63,017–N.S.

**26. Support Tobacco-Free Pharmacies**

**From: Mayor Bates**

**Recommendation:** Adopt a Resolution: 1) recommending that all pharmacies and drugstores in Berkeley end their sales and advertisement of tobacco products; 2) commending all pharmacies and drugstores in Berkeley which do not sell and advertise tobacco products; 3) advocating for a statewide law that prohibits the sale and advertisement of tobacco products in all pharmacies and drugstores in California; and 4) directing the City Clerk to send copies of the council item and resolution to all pharmacies and drugstores in Berkeley and to their corporate headquarters.

**Financial Implications:** None.

Contact: Tom Bates, Mayor, 981-7100

**Action:** Adopted Resolution No. 63,018–N.S.

**27. Right to Audit Clause in City Contracts**

**From: City Auditor**

**Recommendation:** Adopt a Resolution: 1) expanding current Council directives regarding audit of contracts to include language in City contracts specifying the City Auditor's right to audit; 2) instituting a requirement that the City Auditor be notified if a decision is made that any specific contracts or types of contracts should not include a right to audit clause; and 3) directing the City Manager to amend the City's contract instructions, administrative regulations, purchasing manual and other guidelines to reflect this requirement.

**Financial Implications:** None.

Contact: Ann-Marie Hogan, Auditor, 981-6750

**Action:** Adopted Resolution No. 63,019–N.S.

**28. Evaluate City's Customer Service Levels**

**From: Councilmember Moore**

**Recommendation:** Conduct a comprehensive assessment of customer service levels, response time and courtesy throughout City departments that would be presented in a report to Council on December 13, 2005.

**Financial Implications:** Staff time.

Contact: Darryl Moore, Councilmember District 2, 981-7120

**Action:** Approved recommendation.

29. **Sponsor Vista Community College Lecture Series on Global Peace and Social Justice**  
**From: Councilmember Moore**  
**Recommendation:** Adopt a Resolution making the City an official sponsor of the Vista Community College "Difficult Dialogs" Lecture Series on Global Peace and Social Justice beginning in Fall 2006 or Spring 2007.  
**Financial Implications:** None.  
Contact: Darryl Moore, Councilmember District 2, 981-7120  
**Action:** Adopted Resolution No. 63,020–N.S.
30. **Re-evaluate Visitor Permit Policy in the Residential Preferential Parking Program**  
**From: Councilmember Olds**  
**Recommendation:** That the City Manager investigate the current policies regarding Residential Preferential Parking Visitor Permits with the goal of creating a more user-friendly systems.  
**Financial Implications:** Unknown.  
Contact: Betty Olds, Councilmember District 6, 981-7160  
**Action:** Withdrawn by Councilmember Olds, who announced that permits would be available for online purchase in September 2005.
31. **Amend Moratorium on Removal of Coast Live Oaks**  
**From: Councilmembers Olds, Spring and Wozniak**  
**Recommendation:** Amend the current Ordinance that prohibits removal of Coast Live Oak trees to include a clause that states that excessive pruning beyond what is included in the accepted standards for pruning a tree be subject to fines related to the value of the tree, to be determined by the city forester.  
**Financial Implications:** Unknown.  
Contact: Betty Olds, Councilmember District 6, 981-7160; Dona Spring, Councilmember District 4, 981-7140; Gordon Wozniak, Councilmember District 8, 981-7180  
**Action:** Referred to the City Manager by Councilmember Olds for a report to be brought back to Council in September.
32. **Fire Company Closures**  
**From: Councilmembers Olds, Capitelli and Wozniak and Mayor Bates**  
**Recommendation:** Direct the City Manager to limit the closure of fire companies to no more than one company at any given time and require that Fire Station 7 remain open during the fire season months of mid-July through October.  
**Financial Implications:** Not to exceed \$300,000; see report.  
Contact: Betty Olds, Councilmember District 6, 981-7160; Laurie Capitelli, Councilmember District 5, 981-7150; Gordon Wozniak, Councilmember District 8, 981-7180; Tom Bates, Mayor, 981-7100  
**Action:** Removed from Consent by Councilmember Olds. (Moved, seconded, carried (Worthington/Olds) to approve the recommendation. Mayor Bates directed the City Manager to report back to Council in December with a list of street maintenance projects being deferred as the result of monies being diverted from the street maintenance budget to fund fire stations.

- 33. Follow-up on Referral to December Mid-year Budget Process**  
**From: Councilmembers Spring and Worthington**  
**Recommendation:** Request that the recommended funding allocations, attached, be referred to the appropriate Commissions for overview pending the final decision on allocations at midyear in December 2005.  
**Financial Implications:** None.  
Contact: Dona Spring, Councilmember District 4, 981-7140 and Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Removed from Consent by Councilmember Capitelli. Moved, seconded, carried (Worthington/Maio) to approve the recommendation as revised by a July 19, 2005 report from Mayor Bates and further amended to request input from the Human Welfare, Homeless, Parks and Recreation and Housing Commissions only.
- 34. Honoring Marla Bennett**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution expressing sympathy to the family, friends and co-workers of Marla Bennett and adjourning the City Council meeting of July 19, 2005 in her honor.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Adopted Resolution No. 63,021–N.S.
- 35. Support Equitable Class Pass Program**  
**From: Councilmember Worthington**  
**Recommendation:** Express concern over the proposed Class Pass referendum, support an equitable solution that addresses the needs of students and the University, and send a letter to the UC Berkeley Chancellor urging the administration to delay approval of final referendum language until the concerns of students are incorporated into the proposal.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Removed from Consent by Councilmember Wozniak. Held over to July 25, 2005.
- 36. Support HR 1652 – Access to Legal Pharmaceuticals**  
**From: Councilmember Worthington**  
**Recommendation:** Support the Access to Legal Pharmaceuticals Act (H.R. 1652) to ensure pharmacies fill all prescriptions.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Approved recommendation.

- 37. Support MoveOn PAC'S "Protect Our Rights" Campaign**  
**From: Councilmember Worthington**  
**Recommendation:** Support MoveOn PAC's "Protect Our Rights" campaign to demand a Supreme Court nominee who will protect the rights and freedoms of the American people, and that a letter be sent to Senators Feinstein and Boxer urging them to stand up to President Bush and demand a Supreme Court nominee who will protect the rights and freedoms of the American people.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Approved recommendation.
- 38. Support Proposition 79 and Oppose Proposition 78**  
**From: Councilmember Worthington**  
**Recommendation:** Support Proposition 79, prescription drug program ballot measure, and oppose Proposition 78 in the November Special Election.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Approved recommendation (Abstain – Capitelli, Olds).
- 39. Support U.N. International Day of Peace**  
**From: Councilmember Worthington**  
**Recommendation:** Supports and urges the City of Berkeley to join hundreds of other communities around the world to commemorate, in an appropriate manner, the United Nations' International Day of Peace, including through education and public awareness.  
**Financial Implications:** None.  
Contact: Kriss Worthington, Councilmember District 7, 981-7170  
**Action:** Approved recommendation.
- 40. Quarterly Crime Reports**  
**From: Councilmember Wozniak**  
**Recommendation:** Request that the City Manager prepare quarterly crime reports for the City Council that would summarize both the violent and property crimes committed in Berkeley during the previous quarter as well as historical crime trends. In addition, a brief analysis of different crime indices as well as a comparison with other neighboring cities would be provided using the latest corrected data.  
**Financial Implications:** Staff time.  
Contact: Gordon Wozniak, Councilmember District 8, 981-7180  
**Action:** Approved recommendation.

## Consent Calendar

### 41. Waiver Pursuant to the Nuclear-Free Berkeley Act

#### a. From: Peace and Justice Commission

**Recommendation:** Adopt a Resolution approving a waiver pursuant to Berkeley Municipal Code (BMC) Section 12.90.070, the Nuclear-Free Berkeley Act, for the purpose of executing a contract and any amendments with the University of California at Berkeley, University Health Services to complete work on a project to decrease the prevalence of tobacco use among Berkeley's young adults.

**Financial Implications:** See report.

Contact: Manuel Hector Jr., Secretary, 981-5110

#### b. From: City Manager

**Recommendation:** The City Manager concurs with the content and recommendations of the Commission's Report.

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

**Action:** Adopted Resolution No. 63,022–N.S.

### 42. Gift Donation: Community Peace Labyrinth at Marina

#### a. From: Waterfront Commission

**Recommendation:** Adopt a Resolution accepting the gift of the East Bay Labyrinth Project and approving the installation of a Berkeley Community Peace Labyrinth at the East Lawn at the Berkeley Marina.

**Financial Implications:**

Contact: Cliff Marchetti, Secretary, 981-6737

#### b. From: City Manager

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

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

**Action:** Adopted Resolution No. 63,023–N.S.

## Action Calendar – Appeals

### 43. 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-10000069 (*To be delivered*)

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board (ZAB) approval of Use Permit #03-10000069, to construct a single-family dwelling, and dismissing the appeal.

**Financial Implications:** None.

Contact: Dan Marks, Planning, 981-7400

#### b. Appeal

1. Matthew White
2. Kimberly Kline and Stephen Branam
3. Daphne and Georg Kalmar
4. Arvalea Nelson

**c. Communications**

1. Tom Cosgrove
2. David Richmond and Kelly Klopp Richmond
3. Matthew White
4. Arvalea Nelson
5. Kimberly Kline

**Action:** Councilmember Capitelli announced that he would recuse himself.

Moved, seconded, failed (Spring/Worthington: Noes – Moore, Anderson, Wozniak, Bates; Absent - Capitelli) a substitute motion to schedule a public hearing.

Moved, seconded, failed (Wozniak/Moore; Noes – Maio, Spring, Olds, Worthington; Absent - Capitelli) a main motion to adopt a Resolution affirming the ZAB approval of Use Permit #03-10000069, to construct a single-family dwelling, and dismissing the appeal. Held over to September 13, 2005.

**44. 1698 University Avenue – Appeal ZAB Decision Use Permit # 03-10000025 (To be delivered)**

**a. From: City Manager**

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve UP#03-10000025, a mixed-use project with 25 condominium units, with revised Findings and Conditions, and dismissing the appeal.

**Financial Implications:** None.

Contact: Dan Marks, Planning, 981-7400

**b. Appeal**

1. Robin Kibby

**Action:** Councilmember Capitelli announced he had voted on this matter as a member of the Zoning Adjustments Board and would recuse himself.

Moved, seconded, failed (Worthington/Anderson; Noes – Maio, Moore, Olds, Wozniak, Bates; Absent - Capitelli) a substitute motion to schedule a public hearing.

Moved, seconded, carried (Maio/Moore; Noes – Anderson, Spring, Worthington; Absent - Capitelli) to adopt Resolution No. 63,024–N.S. affirming the decision of the ZAB to approve UP #03-10000025, a mixed-use project with 25 condominium units, with revised Findings and Conditions, and dismissing the appeal. Councilmember Maio stated for the record that by taking this action City Council is clear it is not setting a precedent for any future project that comes before it.

**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

### 45. **Revised Landmarks Preservation Ordinance** *(Held over from July 12, 2005)*

**From:** City Manager

**Recommendation:** Adopt first reading of one of two ordinances, or a variant thereof, as recommended by either the Planning Commission or Landmarks Preservation Commission to repeal and reenact BMC Chapter 3.24 (Landmarks Preservation), amend BMC sections 23.B24.030, 23B.32.050 and 23C.08.050 and repeal Chapter 19.20; or, alternatively, provide direction to staff to prepare an alternative ordinance to bring back to Council.

**Financial Implications:** Staff time.

Contact: Dan Marks, Planning, 981-7400

**Action:** Referred to the Agenda Committee to determine a date to bring back to Council.

## Action Calendar – New Business

### 46. **Loan to the Elmwood Theater Foundation**

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing an increase in the City loan to the Elmwood Theater Foundation by \$80,000 to a total not to exceed \$170,000 to complete the seismic retrofit of the Elmwood Theatre, 2966 College Avenue, due to increases in the cost of the retrofit.

**Financial Implications:** Citywide Loan Fund – \$80,000.

Contact: Tom Myers, Economic Development, 981-7530

**Action:** Moved to Consent by Councilmember Wozniak. Councilmember Capitelli announced he is a member of the Elmwood Theater Board and would recuse himself.

Adopted Resolution No. 63,025–N.S. (Absent – Capitelli)

### 47. **Side Letter of Agreement with Public Employees Union Local 1**

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Public Employees Union Local 1 to provide that the City will not be required to cash out accrued vacation leave in excess of 320 hours, that employees will be required to reduce their accrued vacation leave balances to no more than 320 hours by the last pay period in February in calendar years 2006, 2007 and 2008 and that the City will not buy back up to four weeks of vacation in calendar years 2006, 2007 and 2008; authorize a one-year “Save Pay” practice whereby employees subject to demotion or flexibly placed in a lower-paid position due to employee layoffs and resultant bumping, will maintain their current salary for one-year and not have a loss of salary upon ratification of union side-letter agreements regarding cost savings measures. Public Employees Union Local 1 has ratified the Side Letters of Agreement.

**Financial Implications:** See report.

Contact: David Hodgkins, Human Resources, 981-6800

**Action:** Moved to Consent by Councilmember Wozniak. Adopted Resolution No. 63,026–N.S.

## Action Calendar – Old Business

### 48. Expand City Manager Contract Authority

**From: Councilmembers Moore, Capitelli and Wozniak**

**Recommendation:** Adopt first reading of an Ordinance 1) amending Berkeley Municipal Code (BMC) Section 7.18.010B to increase the City Manager's expenditure authority for capital improvements, including playground improvements and equipment, to \$200,000; 2) amending BMC Section 7.18.010C to increase the City Manager's general expenditure authority for materials, supplies, and equipment to \$100,000; and 3) amending BMC Section 7.18.020A to increase the City Manager's emergency expenditure authority for materials, supplies and equipment to \$100,000, and for public construction projects and playground improvements and equipment to \$200,000.

**Financial Implications:** Reduced staff time.

Contact: Darryl Moore, Councilmember District 2, 981-7120; Laurie Capitelli, Councilmember District 5, 981-7150; Gordon Wozniak, Councilmember District 8, 981-7180

**Action:** Moved, seconded, carried (Olds/Moore; Noes – Spring, Worthington) to adopt first reading of Ordinance. Second reading scheduled for July 25, 2005. Council directed the City Manager to provide no less frequently than quarterly a report listing bids and contracts under consideration or being processed that would have been submitted for Council approval under the lower City Manager authority limits.

## Information Reports

### 49. Status and Update on the Community Choice Aggregation Project *(To be delivered)*

**From: City Manager**

Contact: Fran David, Finance, 981-7300

**Action:** Received and filed.

### 50. Implementation Status of Parking Enforcement Operations Audit Recommendations *(CF 10-05)*

**From: City Manager**

Contact: Douglas N. Hambleton, Police, 981-5900, and Peter Hillier, Transportation, 981-7010

**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.*

### **David Brower Center/Oxford Plaza**

1. John L. Lineweaver
2. 14 letters of support, submitted by Martha Belcher, David Brower Center Project Manager
3. Susan Korbel
4. Downtown Berkeley Association *(Moore)*

### **Gift Donation: Community Peace Labyrinth at Marina**

5. East Bay Labyrinth Project
6. John Steere
7. Gerald Baron

## Communications

### **Hills Fire Station Closure**

8. Barbara Gilbert
9. Vonnie Gurgin
10. Sue von Baeyer
11. Marc A. Rieffel
12. Tom and Jo Ann Moseley
13. Susan and John Prausnitz
14. Carole Rochlin
15. Julieta Zungia
16. Georjana Barnes
17. Richard A. and Maire-Paule Laden

### **Lawrence Berkeley National Laboratory**

18. Jennifer Mary Pearson and Carole Schemmerling, co-facilitators for Strawberry Creek Watershed
19. Letter and petition with 88 signatures, submitted by Pamela Sihvola and L A Wood
20. Committee to minimize Toxic Waste, submitted by Pamela Sihvola

### **Beth El**

21. Wendy Cosin, Deputy Planning Director
22. Amy Kautzman

### **Business License for Realtors Doing Business in Berkeley**

23. Barbara Gilbert

## Supplemental Reports and Communications #1

### **Item 32: Fire Company Closures**

24. Marie Bowman, President, BANA
25. Professor and Mrs. Erwin Hahn

### **Item 42: Gift Donation: Community Peace Labyrinth at Marina**

26. Ellen Levin
27. Joni Norris
28. Telos Whitfield

### **Item 43: 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069**

29. Georg and Daphne Kalmar, Kimberly Kline and Stephen "Hopper" Branam (3)
30. Kimberly Kline and Georg Kalmar
31. Kimberly Kline (3)
32. Herbert and Emilie Steiner
33. Dave Richmond
34. Rena Rickles
35. Petition with 64 signatures, submitted by Kimberly Kline

### **Item 44: 1698 University Avenue – Appeal ZAB Decision Use Permit # 03-1000025**

36. Stephen Wollmer
37. Gene Poschman (2)

## Supplemental Reports and Communications #1

### **Item 45: Revised Landmarks Preservation Ordinance**

- 38. Marie Bowman, President, BANA
- 39. Barbara Bent
- 40. John S. English

## Supplemental Reports and Communications #2

### **Item 33: Follow-up on Referral to December Mid-year Budget Process**

- 41. Revised report, submitted by Mayor Bates

### **Item 36: Revised Landmarks Preservation Ordinance**

- 42. John McBride, Secretary, State Office of Preservation

### **David Brower Center/Oxford Plaza**

- 43. Petition with 239 signatures, 59 e-mails, and 8 phone messages, submitted by Derick Miller

## Adjournment

Adjourned at 10:26 p.m. in honor of Marla Bennett, Jack Tessman and Meleia Willis-Starbuck.