



Office of the City Manager

CONSENT CALENDAR

October 18, 2005

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Sara T. Cox, City Clerk

Subject: Approval of Council Minutes

RECOMMENDATION

Approve the minutes for the Council meetings of September 13, 2005 (regular), September 19, 2005 (closed), September 20, 2005 (special joint and regular), and September 27, 2005 (special and regular).

CONTACT PERSON

Sara T. Cox, City Clerk, City Clerk Department, 981-6900

Attachments:

- 1: September 13, 2005 Regular City Council Minutes
- 2: September 19, 2005 Closed City Council Minutes
- 3: September 20, 2005 Special Joint City Council/Joint Powers Financing Authority/Redevelopment Agency
- 4: September 20, 2005 Regular City Council Minutes
- 5: September 27, 2005 Special City Council Minutes
- 6: September 27, 2005 Regular City Council Minutes

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 13, 2005

Preliminary Matters

Roll Call: 7:01 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates.

Absent: None.

Ceremonial Matters:

1. Oath of Office
2. Pledge of Allegiance to the Flag
3. Announcement that Claudette R. Ford has been appointed Acting Public Works Director
4. City of Berkeley Efforts in the Aftermath of Hurricane Katrina
5. Proclamation presented to Patty Donaldson declaring September 17, 2005 Shoreline Cleanup Day
6. Commendation from the Global Alliance for Incinerator Alternatives for City of Berkeley's work on zero waste

City Manager Comments: The Deputy City Manager provided an update on Hurricane Katrina relief efforts in Berkeley.

Public Comment: Rufus Browning, Dave Heller, David Partch, Dave Kadlecek, John Paolini, Chris Jerdoneh, Mark Sawicki, Jan Kearney, Corinne Goldstick, Allen Hibbard, William DiNapoli, Michael Cook, Don Crosatto, Jay Younghamp, Judy Shelton, Jennifer Kidder, Igor Tregub, and Chris Kavanagh.

Youth Comments: Rio Bance.

Consent Calendar – Recess Items

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

1. Landfill Surcharge Fee Payments On Solid Waste (To be delivered)

From: City Manager

Recommendation: Adopt a Resolution ratifying action taken by the City Manager during recess approving payment of \$88,198 in landfill surcharge fees for solid waste shipped out of the County from October 2004 through June 2005.

Financial Implications: Refuse Fund - \$88,198

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Resolution No. 63,033–N.S.

Consent Calendar

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of July 11, 2005 (closed), July 12, 2005 (regular), July 19, 2005 (regular), and July 25, 2005 (special).

Financial Implications: None

Contact: Sara T. Cox, City Clerk, 981-6900

Action: Approved minutes.

3. 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. 63,034–N.S.

4. Margery Becker v. City of Berkeley

From: City Manager

Recommendation: Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. RG 04 178015 entitled Margery Becker v. City of Berkeley in the amount of \$35,000.

Financial Implications: Public Liability Fund - \$35,000

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted Resolution No. 63,035–N.S.

5. Donation to Animal Shelter

From: City Manager

Recommendation: Adopt a Resolution approving a \$5,000 donation to the Animal Shelter from Reverend Walter Kilburn and Melba Kilburn in memory of their son Philip Kilburn.

Financial Implications: Animal Shelter Fund - \$5,000 Revenue

Contact: Jim Hynes, City Manager, 981-7000

Action: Adopted Resolution No. 63,036–N.S.

6. 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 upon final approval by the requesting department or division.

Financial Implications: Various Funds - \$1,906,626

Contact: Fran David, Finance, 981-7300

Action: Approved recommendation.

7. Agreement: Low-Income Energy Revenues

From: City Manager

Recommendation: Adopt a Resolution: 1) authorizing the City Manager to execute a contract and any amendments with the State Department of Community Services and Development for the Petroleum Violation Escrow Account Weatherization Program (PVEA/WX) to receive revenues and provide weatherization to eligible Berkeley, Albany, and Emeryville residents in the amount of \$16,256 for the period August 1, 2005 to December 31, 2006; 2) approving program priority plans; and 3) authorizing the City Manager to designate a representative to sign required fiscal and programmatic reports.

Financial Implications: LIHEAP - Grant Revenue - \$16,256

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 63,037–N.S.

8. Application For CalHome Funds

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or the Housing Director as his designee to submit an application to the State of California Department of Housing and Community Development (HCD) for up to \$500,000 in funding under the CalHome Owner-Occupied Rehabilitation Program.

Financial Implications: Grant Revenue - \$500,000

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 63,038–N.S.

9. Contract: Financial Consulting Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Seifel Consulting, Inc. for financial consulting services and increase the contract by \$25,000 for a total amount not to exceed \$65,000.

Financial Implications: CDBG Fund and HUD Fund - \$25,000

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 63,039–N.S.

10. Participation in the Chicago Climate Exchange (CF 05-17)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Chicago Climate Exchange (CCX) for participation in greenhouse gas emission credits trading in an amount not to exceed \$5,000 for the period September 14, 2005 to December 31, 2006.

Financial Implications: General Fund - \$5,000

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 63,040–N.S.

- 11. Winter Voucher and Winter Shelter Programs**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments increasing funding by \$11,000 to pay for community agency administrative costs of coordinating referrals for the Winter Voucher and Winter Shelter Programs and increasing Winter Voucher and Shelter Funding to a total of \$133,000, with 1) \$5,914 additional to the Berkeley Food and Housing Project, raising the total City contract with BFHP for all services for the period July 1, 2005 through June 30, 2006 to \$547,784, and 2) \$5,086 additional to the Women’s Daytime Drop-In Center raising the total City contract with WDDC for all services for the period July 1, 2005 through June 30, 2006 to \$130,615.
Financial Implications: Various Funds - \$11,000
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,041–N.S.
- 12. Contract: SRIP I Disability Insurance Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Cigna Group Insurance to provide third-party administrative services for Supplementary Retirement and Income Plan I (SRIP I) disability benefits from August 1, 2005 to June 30, 2007 in an amount not to exceed \$110,000 in the first year and not to exceed \$70,000 in the second year of the two-year contract.
Financial Implications: Payroll Deduction Trust Fund - \$180,000
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,042–N.S.
- 13. Reject Bids to Construct the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to reject all bids and direct staff to re-scope and re-bid the Martin Luther King Jr. Civic Center Park Repair and Rehabilitation Project.
Financial Implications: None.
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Removed from Consent by Councilmember Capitelli. Moved, seconded, carried (Spring/Capitelli; Absent – Worthington) to adopt Resolution No. 63,043–N.S.
- 14. Contract: Design Services for Martin Luther King Jr. Civic Center Park Rehabilitation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Amphion, Inc. to increase the scope of services and amount by \$47,980 for an amount not to exceed \$215,874.
Financial Implications: Measure S Funds - \$47,980
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Removed from Consent by Councilmember Capitelli. Moved, seconded, carried (Spring/Capitelli; Absent – Worthington) to adopt Resolution No. 63,044–N.S.

- 15. Contract: Four Parks Playground Renovations**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications from M.I.G., Inc. for playground renovations at Cedar Rose Park, King School Park, Live Oak Park and Shorebird Park; 2) accepting the bid from P & A Construction Company; 3) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with P & A Construction Company in an amount not to exceed \$919,500, for the period of 180 calendar days from the notice to proceed; and 4) authorizing an additional \$102,093 for contingency for an amount not to exceed \$1,021,593.
Financial Implications: Capital Improvement Funds - \$1,021,593
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700
Action: Adopted Resolution No. 63,045–N.S.
- 16. 2005 Edward J. Byrne Memorial Justice Assistance Grant (JAG)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept \$60,906 in Federal funds from the 2005 Edward J. Byrne Memorial Justice Assistance Grant (JAG) Program to be used for funding overtime costs associated with violence suppression patrols related to serious violent crimes for a period of approximately 24 months.
Financial Implications: Grant revenue - \$60,906
Contact: Douglas N. Hambleton, Police, 981-5700
Action: Adopted Resolution No. 63,046–N.S.
- 17. Grant: Department of Alcoholic Beverage Control**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a grant agreement and any amendments with the State of California to accept \$80,000 in Department of Alcoholic Beverage Control (ABC) grant funding and appropriate the funds to enforce laws to prohibit furnishing alcohol to minors and possession of alcohol by persons under the age of 21, as well as other alcohol-related crimes.
Financial Implications: Grant Revenue - \$80,000
Contact: Douglas N. Hambleton, Police, 981-5700
Action: Adopted Resolution No. 63,047–N.S. Councilmember Worthington requested that Council be notified in advance of programs that will be funded by the grant. Councilmember Maio asked the City Manager to report back to Council on any history of entrapment regarding existing alcohol outlets.

Consent Calendar

- 18. Contract: FY 2005 Traffic Circles - Phase 2**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the FY 2005 Traffic Circles - Phase 2; 2) rejecting all bids submitted on May 26, 2005 and re-advertising; 3) accepting the bid of Mosto Construction; and 4) authorizing the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$177,600 for the period of 75 calendar days from the Notice to Proceed.
Financial Implications: Capital Improvement Fund - \$177,600
Contact: Claudette Ford, Public Works, 981-6300
Action: Removed from Consent by Councilmember Moore. Moved, seconded, carried (Moore/Worthington) to adopt Resolution No. 63,048–N.S. Referred to City Manager to bring back a mid-year budget report on a Phase 3 plan, including engineering criteria and funding options for traffic circles.
- 19. Contract: Public Safety Building Janitorial Services (To be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Universal Building Services to provide janitorial services at the Public Safety Building in an amount not to exceed \$108,720, for the period September 1, 2005 to June 30, 2006; and approving options to extend the contract for two additional one-year periods in an amount not to exceed \$129,464 for FY 2007, and \$129,464 for FY 2008.
Financial Implications: Building Maintenance Fund - \$108,720
Contact: Claudette Ford, Public Works, 981-6300
Action: Held over to September 20 by Deputy City Manager Caronna.
- 20. Contract: Security Guard Services at 1947 Center Street and 2180 Milvia Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Securitas Security Services USA, Inc. for security guard services at 1947 Center Street and 2180 Milvia Street for the period November 1, 2005 through June 30, 2006 in an amount not to exceed \$77,033; and approving options to extend the contract for two one-year periods in an amount not to exceed \$230,239.
Financial Implications: Various Funds - \$307,272
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,049–N.S. (Noes – Anderson, Moore and Worthington).

Consent Calendar

- 21. Contract: Traffic Signal Installation at Hearst Avenue, Arch Street, LeConte Avenue**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for a traffic signal installation at Hearst Avenue, Arch Street, LeConte Avenue; 2) accepting the bid of Phoenix Electric Company; and 3) authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project according to approved plans and specifications, in an amount not to exceed \$204,252 for the period of 97 calendar days from the date of receipt of the Notice to Proceed.
Financial Implications: Capital Improvement Fund - \$204,252; partial refund (up to \$102,126) from UC Berkeley
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,050–N.S.
- 22. Final Map of Tract 7567: 1321-31 Eighth Street**
From: City Manager
Recommendation: Adopt a Resolution approving the final map of Tract Map 7567, a fifteen unit commercial condominium located at 1321-31 Eighth Street.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,051–N.S.
- 23. Final Map of Tract 7591: 2209-11 Sixth Street**
From: City Manager
Recommendation: Adopt a Resolution approving the final map of Tract Map 7591, a six-unit residential live/work condominium consisting of four residential units and two live/work units located at 2209-11 Sixth Street.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,052–N.S.
- 24. Proclamation Honoring Art Rosenfeld**
From: Mayor Bates
Recommendation: Approve a proclamation honoring Art Rosenfeld, a 50-year Berkeley resident and a pioneer in the field of energy efficiency.
Financial Implications: None.
Contact: Tom Bates, Mayor, 981-7100
Action: Approved proclamation.
- 25. Support UC Sustainable Transportation Initiative**
From: Mayor Bates and Councilmember Worthington
Recommendation: Adopt a Resolution in support of the proposed sustainable transportation guidelines for the University of California system.
Financial Implications: None.
Contact: Tom Bates, Mayor, 981-7100 and Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 63,053–N.S.

Consent Calendar

- 26. Support for Development of North Shattuck Plaza**
From: Councilmembers Capitelli and Spring
Recommendation: Direct the City Manager to work with community volunteers and the North Shattuck Association, in realizing a “North Shattuck Plaza” at Shattuck Avenue and Shattuck Place, as outlined in concept and approved by Council in January 2001.
Financial Implications: Staff time.
Contact: Laurie Capitelli, Councilmember District 5, 981-7150 and Dona Spring, Councilmember District 4, 981-7140
Action: Approved recommendation.
- 27. Sponsorship for BAHIA’s 30th Anniversary Celebration**
From: Councilmember Maio
Recommendation: Refer to the City Manager a request to determine a funding source to enable the City to become an Amigo Sponsor of BAHIA’s 30th Anniversary Celebration on Friday, September 30, 2005.
Financial Implications: \$1,000.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Held over to September 20 by Councilmember Maio.
- 28. National Disaster in Gulf Coast**
From: Councilmember Spring
Recommendation: Request the City Manager to have the City’s flag flown at half mast in mourning of the Gulf Coast hurricane Katrina victims for a period of at least ten days.
Financial Implications: None.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Approved recommendation.
- 29. Opposition to SB 1056: GMO Foods**
From: Councilmembers Spring and Worthington
Recommendation: Adopt a Resolution opposing SB 1056 and request the City Manager to send letters of opposition to our elected State officials.
Financial Implications: None.
Contact: Dona Spring, Councilmember District 4, 981-7140 and Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 63,054–N.S.
- 30. Proclamation: Indigenous Peoples Day 2005**
From: Councilmembers Spring, Anderson and Moore
Recommendation: Approve a proclamation in honor of Indigenous Peoples Day on Saturday, October 8, 2005 and present the proclamation to the Indigenous Peoples Day committee at the September 27, 2005 Council meeting.
Financial Implications: None.
Contact: Dona Spring, Councilmember District 4, 981-7140; Max Anderson, Councilmember District 3, 981-7130; Darryl Moore, Councilmember District 2, 981-7120
Action: Approved proclamation.

Consent Calendar

31. **Oppose Proposition 76 in the Special Election**
From: Councilmember Worthington and Mayor Bates
Recommendation: Oppose Proposition 76 in the special election, which may cut funding for schools, health care, police, and firefighters and undermines our democratic system of checks and balances by giving the governor tremendous new powers without sufficient oversight.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170 and Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
32. **Support for Withdrawal of California National Guard Troops from Iraq**
From: Councilmembers Worthington, Anderson and Mayor Bates
Recommendation: Adopt a Resolution calling upon the Governor of California to insure that the President and Congress take immediate steps to withdraw California National Guard troops from Iraq.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170; Max Anderson, Councilmember District 3, 981-7130; and Tom Bates, Mayor, 981-7100
Action: Removed from Consent by Councilmember Capitelli. Moved, seconded, carried (Worthington/Moore) to adopt Resolution No. 63,055–N.S.
33. **Support Instant Run-Off Voting (IRV) by communicating the City of Berkeley's official request to the California Secretary of State, and to Alameda County to respect the will of the voters and strive to implement IRV for Berkeley in 2006**
From: Councilmember Worthington
Recommendation: That the City will: 1) continue conversations with Alameda County for Alameda County to support Berkeley's IRV election in November 2006 using a vendor capable of running such an election; 2) send a letter to Alameda County thanking the acting Registrar of Voters for participating in an active dialogue on how to implement IRV, and encouraging the Board of Supervisors to attempt to facilitate IRV with the current vendor or with any new vendor that may be selected; 3) that Council will take action, including public review prior to adopting an IRV implementation Ordinance that seeks to standardize uniform rules and regulations among the Alameda County cities; 4) if necessary, the City will prepare a ballot measure for June 2006 to address any Berkeley specific issues that emerge from the legal and regulatory process.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from Consent by Councilmember Wozniak. Moved, seconded, carried (Wozniak/Moore) to approve recommendation.

Consent Calendar

34. Revisions of the Elmwood Business District Quotas

From: Councilmember Wozniak

Recommendation: Request that the City Manager refer recommended revisions of the Elmwood Business Quota Committee to the Planning Department and the Planning Commission so that they can be incorporated into the zoning ordinance, including: 1) to simplify the current seven category quota system by replacing it with a two quota system (Barber/Beauty and Food Service establishments); and 2) to maintain business diversity by prohibiting businesses from expanding into adjacent business spaces.

Financial Implications: Administrative costs

Contact: Gordon Wozniak, Councilmember District 8, 981-7180

Action: Held over to September 20 by Councilmember Wozniak.

Action Calendar – Appeals

35. 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069

a. Council Consideration of Appeal of ZAB Approval of 2615 Marin Avenue – Project Information Clarification (*September 13, 2005*)

From: City Manager

Contact: Dan Marks, Planning and Development, 981-7400

b. **From:** City Manager (*July 19, 2005*)

Recommendation: Adopt a Resolution affirming the Zoning Adjustments Board (ZAB) approval of Use Permit #03-1000069, to construct a single-family dwelling, and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning and Development, 981-7400

c. **Appeal** (*July 19, 2005*)

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

d. **Communications** (*July 19, 2005*)

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

e. **Supplemental Communications 1** (*July 19, 2005*)

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

Action Calendar – Appeals

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

Moved, seconded, carried (Olds/Maio; Absent – Capitelli; Abstain – Anderson, Moore) to refer the item to the Agenda Committee to set a public hearing date.

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. §94.6(b)) or approve (Gov. Code §5009(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

36. **Administrative Fees: Inclusionary Housing Program** (Held over from July 12, 2005)

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of Ordinance adding Berkeley Municipal Code (BMC) Section 23C.12.100 authorizing the City Council to set fees by Resolution; and 2) adopt a Resolution to be effective upon the effective date of the Ordinance, approving the Inclusionary Housing Program administrative fees specified in the Resolution.

Financial Implications: See report.

Contact: Stephen Barton, Housing, 981-5400

Action: Held over to September 20 by Deputy City Manager Caronna.

Action Calendar – New Business

37. **Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions**

From: Councilmember Worthington

Recommendation: Adopt the first reading of an Ordinance adding Berkeley Municipal Code (BMC) Chapter 3.80, Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions.

Financial Implications: Administrative costs

Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action: Moved, seconded, failed (Wozniak/Olds; Abstain – Worthington; Noes – Anderson, Bates, Maio, Moore and Spring) a substitute motion to hold over to another meeting for further analysis and discussion.

Moved, seconded, carried (Worthington/Maio; Abstain – Capitelli; Noes – Olds and Wozniak) to adopt first reading of Ordinance. Second reading scheduled for September 20, 2005.

Information Reports

- 38. Environmentally Responsible Paper Purchases**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.
- 39. Quarterly Report on Employee Safety and Workers' Compensation**
From: City Manager
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Removed from Consent by Councilmember Wozniak. Councilmember Wozniak asked the City Manager to report back to Council at the first quarter budget meeting on potential FY '06-'07 goals and bonus system to maintain and improve progress in this area.
- 40. Unrepresented Temporary Employees**
From: City Manager
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Received and filed.
- 41. Fee Deferral - 1001 Ashby Avenue**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 42. Landmarks Preservation Commission Notice of Decision: Approval of Structural Alteration Permit - 2036 Shattuck Avenue, 2599 Telegraph Avenue (7/11/05), 1045 Ashby Avenue, 2599 Telegraph Avenue (8/8/05)**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 43. Landmarks Preservation Commission Notice of Decision: Structure of Merit Designation - 2901 Otis; Landmark Designation - 2375-77 Shattuck**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 44. Civic Arts Grant Allocations - FY 2006**
From: Civic Arts Commission
Contact: Mary Ann Merker, Secretary, 981-7533
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.

Alta Bates

1. Julie Gordon Shearer (2) (Worthington and Spring)
2. John O'Shaughnessy (Worthington and Spring)
3. Deborah LeVeen (Worthington and Spring)

Beth El Temple Parking and Traffic

4. Linda Trujillo Bargmeyer

GIS and Technology Fees Survey

5. Barbara Gilbert

Community Peace Labyrinth

6. Nina Ham, Margie Adam, and Nancy Carleton, EBLP Steering Committee

Odors and Possible Health Risks from Pacific Steel Casting

7. The West Berkeley Alliance for Clean Air and Safe Jobs, submitted by Janice Schroeder (3)
8. Nabil Al-Hadithy, Planning and Development Department

Debris on Sidewalks and Streets

9. Saint John's Neighbors, submitted by Anne Whyte

Iceland

10. Melissa Fitzgerald (4)
11. Toni Carreiro
12. Barry Boersma
13. Ronnie M. Wagner
14. Glaser Family
15. Liesl Songer-Nelson
16. Thomas Sibbet
17. Elise Boersma
18. Jeff Wizig
19. Hillary Johnston
20. Cynthia Kroll
21. Laurie Haun
22. Casey Brodsky
23. Maggie Ford

ADA Sensitivity Training for Taxi Drivers

24. Toni Gugliemi, Bay Area Checker Cab (Spring)

Baldwin v. Placer County

25. Anne Whyte

Privatizing Social Security – Response to April 19, 2005 Council Item

26. Senator Barbara Boxer

Communications

Off-Site Inclusionary Housing

27. Barbara Gilbert

Dog Regulation

28. Barbara Gilbert (3)

Cowboy Mentality Among Berkeley Paramedics

29. Jamai Ellis and Glen Kitzenberger

Housing Desperation for All Californians

30. Barbara Gilbert

Disbanding the Peace and Justice Commission

31. Barbara Gilbert

Shopping and Parking Concerns

32. C. Tom Fincher (Spring)

Community Development Block Grant (CDBG) Program Consolidation and Funding Reduction – Response to April 12, 2005 Council Item

33. Senator Barbara Boxer

West Campus Pool Closure

34. Strawberry Creek Lodge, submitted by Nancy Wogan (Moore)

Downtown University Plan Committee/Task Force Representative

35. MAAGNA, submitted by Wendy Alfsen, Corresponding Secretary

UC Berkeley Donations

36. Barbara Gilbert

1532 Martin Luther King Jr. Way Request for Public Hearing

37. Brad and Dan Gerstein, Viki Von Lacken, Ann and Patrick Buechner, Phil Hamlett, Laura and Tara Singh, and Roxanne and Virginia Shack

1610 Oregon

38. Sam Herbert

Supplemental Reports and Communications #1

To Be Delivered Item 1: Landfill Surcharge Fee Payments On Solid Waste

39. Report, submitted by Claudette Ford, Public Works

Item 18: Contract: FY 2005 Traffic Circles - Phase 2

40. Daniel Marcus

41. Jack and Laurel Coates, Mathews Street Block Club Members

42. Renee Deljon and Lynne Reynolds, Mathews Street Block Club Members

43. Matt Rosen and Jessica Wolin, Mathews Street Block Club Members

44. Kellie Knox and Jacqueline Miranda, Mathews Street Block Club Members

45. Rachel Raney and Esteban Bortiri, Mathews Street Block Club Members

46. Jill Marsh

47. Winifred P. Williams

Supplemental Reports and Communications #1

Item 33: Support Instant Run-Off Voting (IRV) by communicating the City of Berkeley's official request to the California Secretary of State, and to Alameda County to respect the will of the voters and strive to implement IRV for Berkeley in 2006

48. Nancy Bickel

Item 34: Revisions of the Elmwood Business District Quotas

49. Michael Bettendorf

50. Lisa Lackey

51. David Salk

Item 35: 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069

52. Daphne and Georg Kalmar

53. Nora E. Wagner

54. Albert and Marian Magid

55. Daphne Kalmar and Kim Kline

56. Margot Klopp

57. Hap Klopp

58. John Lennie and Else C. Vellinga

59. Ann K. Bowman

60. Julie Gutzwiller

61. Gunnar Bjorklund

62. Robert and Jordan Stark

63. Paul and Cynthia Lane

64. Kimberley Kline (2)

65. Daphne Kalmar (3)

Item 37: Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions

66. Miriam Wilson

67. Carleen Pertschuk

68. David M. Wilson

69. Warwick May

70. Roslyn Fuerman

71. Vivian C. Fendel

72. David and Alison Sale (2)

73. Benn Karne

74. Scott Hambly (2)

75. Mary Karne (2)

76. Stephanie J. Hayes

77. Barbara Gilbert

78. Wendy Sullivan

79. Gary Osterman

80. Thomas Towey

81. Leon Mayeri

82. Jasdeep Singh Bal

83. Mike Mitschang

84. Carl Wilcox

Supplemental Reports and Communications #1

85. Marjorie Falten
86. Reza Yeganeh
87. Berkeley Property Owners Association (BPOA), submitted by Michael Wilson,
President
88. Arman Rezaee
89. Kee Nethery
90. Jason Overman, Rent Stabilization Board Commissioner
91. Tiffany Pitman
92. Elaine Lou
93. Rob Wrenn, Chair, Transportation Commission
94. Susan Chacin, Housing Advisory Commissioner for the 2nd District
95. Beverly Potter
96. Milton von Damm
97. Sarah Syed
98. Sarah Schoeneman, BPOA Board Member
99. Mary Drinan
100. Charles F. Jarrett
101. Paul Hogarth
102. Andy Katz, Chair, Zoning Adjustments Board
103. Nicholas Smith, Acting Deputy Director, ASUC City Affairs/Cal Housing and
Vice Chairman, Berkeley Commission on Labor
104. Jeffery De Puy
105. Tim Murphy
106. Sig Cohn
107. Amalia Lorentz, Chair, Housing Advisory Commission
108. Nick A. Pappas
109. Howard Chong

Supplemental Reports and Communications #2

Ceremonial Item 6: Commendation Congratulating the City for its Zero Waste Work

110. Global Alliance for Incinerator Alternatives, submitted by Monica Wilson

Item 34: Revisions of the Elmwood Business District Quotas

111. Kimberly Tinawi
112. Tad Laird

Item 37: Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions

113. Lawrence Kiviat

Adjournment

Adjourned at 9:43 p.m. in memory of the victims of Hurricane Katrina.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 13, 2005 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

MONDAY, SEPTEMBER 19, 2005

Preliminary Matters

- Roll Call:** 4:01 p.m.
- Present:** Councilmembers Anderson, Capitelli, Maio, Moore, Spring, Worthington, Wozniak and Mayor Bates.
- Absent:** Councilmember Olds.
- Public Comment:** No speakers.

Closed Session

1. **PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:**
Title of position to be filled: Director of Human Resources.
Action: Moved, seconded, carried (Maio/Worthington; Absent – Olds) to adopt Resolution No. 63,056–N.S. appointing David W. Hodgkins as Director of Human Resources.

2. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):**
Bowman, et al. v. City of Berkeley
 (Alameda County Case No. 2002 057279A)
 (Court of Appeal Case No. A105000)
Action: Moved, seconded, carried (Spring/Capitelli; Absent – Olds) to adopt Resolution No. 63,057–N.S. authorizing settlement of attorneys' fees claim.

Adjournment

Adjourned at 4:45 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of September 19, 2005 as approved by the Berkeley City Council.

 Sara T. Cox, City Clerk

MINUTES

SPECIAL JOINT MEETING OF BERKELEY REDEVELOPMENT AGENCY, CITY COUNCIL AND JOINT POWERS FINANCING AUTHORITY

TUESDAY, SEPTEMBER 20, 2005

Preliminary Matters

- Roll Call:** 6:02 p.m.
- Present:** Councilmembers Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates.
- Absent:** Councilmember Anderson.
- Public Comment:** No speakers.

Consent Calendar

Action: Moved, seconded, carried (Maio/Capitelli; Absent – Anderson) to adopt the Consent Calendar in one motion except as indicated:

1. **Minutes for Approval**
From: Executive Officer
Recommendation: Approve the minutes for Joint Agency and Council meeting of July 12, 2005 (special joint).
 Contact: Sara T. Cox, Agency Clerk, 981-6900
Action: Approved minutes.

Action Calendar

2. **Issuance of Redevelopment Agency Debt**
From: City Manager, City Council
Executive Officer, Redevelopment Agency
Executive Officer, Joint Powers Financing Authority
Recommendation: Adopt Resolutions authorizing the issuance of West Berkeley Redevelopment Project 2005 Refunding Tax Allocation Bonds by the City of Berkeley Redevelopment Agency in an amount not to exceed \$8,300,000, to refund outstanding prior Agency bonds and generate additional project funding.
Financial Implications: See report.
 Contact: Dan Marks, Planning and Development, 981-7500
Action: Moved, seconded, carried (Wozniak/Maio; Absent – Anderson) to adopt Council Resolution No. 63,058–N.S.

Communications

Agency rules limit action on Communications to referral to the Executive Officer and/or Boards and Commissions for investigation and/or recommendations.

None.

Adjournment

Adjourned at 6:09 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special joint meeting of September 20, 2005 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 20, 2005

Preliminary Matters

Roll Call: 7:07 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates.

Absent: None.

City Manager Comments:

The City Manager introduced the new Acting Public Works Director, Claudette Ford.

The City is celebrating the U.N International Day of Peace from 4:00 to 6:00 p.m. on September 21 at Civic Center Park. There will be a flag-making ceremony for kids and a rally for adults from 6:00 to 7:00 p.m.

The City created a resource center for Hurricane Katrina victims and is coordinating with FEMA. Nineteen people have been served.

Ceremonial Matters:

1. Proclamation presented to the Hurricane Katrina Resource and Information Center encouraging community members to join in the special hurricane relief fundraising dinner and auction to be held at Hs. Lordships restaurant in the Marina on Sunday, September 25 from 5:00 p.m. to 9:00 p.m.
2. Proclamation presented to City Attorney Manuela Albuquerque applauding and congratulating her for being named California Public Lawyer of the Year 2005 in recognition of a lifetime devoted to social justice, ethics, fairness, knowledge, equality, and public service.

Public Comment: Stephen Wollmer, Glen Zahler, Marty Mashlakian, Wm DiNapoli, Tad Laird, Carl Farrington, John Blankenship, and Deborah Todd.

Consent Calendar

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

- 1. Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions** (*First Reading September 13, 2005; Abstain–Capitelli; Noes – Olds, Wozniak*)
From: Councilmember Worthington
Recommendation: Adopt second reading of an Ordinance adding Berkeley Municipal Code (BMC) Chapter 3.80, Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions.
Financial Implications: Administrative costs
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Ordinance No. 6,876–N.S. (Abstain – Capitelli; Noes – Olds and Wozniak). Effective October 20, 2005.
- 2. Contract: Annual Maintenance Support of CommITS**
From: City Manager
Recommendation: Adopt a Resolution amending the contract with ClearFrame Solutions (formerly JPH International (JPHI)) to provide annual maintenance support for the Community Issues Tracking System (CommITS), increasing the contract by \$11,995 for an amount not to exceed \$133,495, and extending the term to June 30, 2006.
Financial Implications: General Fund - \$11,995
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Adopted Resolution No. 63,059–N.S.
- 3. Lease Agreement: 1769 Alcatraz Avenue**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Thomas Goetzl for real property located at 1769 Alcatraz Avenue, in an amount not to exceed \$24,000, for the purpose of leasing office space for the Black Infant Health Program for the period November 1, 2005 to October 31, 2007, with an option to extend for an additional two year period.
Financial Implications: Health Fund - \$24,000
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted first reading of Ordinance. Second reading scheduled for September 27, 2005.
- 4. Contract: Project Management Services**
From: City Manager
Recommendation: Adopt a Resolution: 1) authorizing the City Manager to execute an amendment to the contract with William Gargan to provide project management services for the Hills Fire Station; and 2) increasing the contract amount by \$120,050 for a total not to exceed \$145,000 for the period June 13, 2005 to April 30, 2006.
Financial Implications: Measure G Funds - \$120,050
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,060–N.S.

Consent Calendar

5. **Contract: Public Safety Building Janitorial Services** (*Held over from September 13, 2005; To be delivered*)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Universal Building Services to provide janitorial services at the Public Safety Building in an amount not to exceed \$108,720, for the period September 1, 2005 to June 30, 2006; and approving options to extend the contract for two additional one-year periods in an amount not to exceed \$129,464 for FY 2007, and \$129,464 for FY 2008.
Financial Implications: Building Maintenance Fund - \$108,720
Contact: Claudette Ford, Public Works, 981-6300
Action: Withdrawn by City Manager.
6. **Support Proposition 80 Ballot Measure in the Special Election**
From: Councilmember Worthington
Recommendation: Support Proposition 80 in the special election, which would place electric service providers in the State of California under control and regulation by the California Public Utilities Commission and will also require all electric sellers to increase their renewable energy resource procurement by 1% per year to a level of 20% by 2010.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Held over to September 27 by Councilmember Spring.
7. **Environmental Review of Proposed Location for Ferry Service**
- a. **From: Transportation Commission**
Recommendation: Request that the Water Transit Authority (WTA) proceed with an environmental review of ferry service for Berkeley in conjunction with a long range plan to expand ferry service in the San Francisco Bay Area, including: a review of all potential terminal sites in Berkeley (University Avenue and Gilman Street) and Albany (Buchanan Street); the scope of environmental review should include analysis of the transit market, including reverse ridership; and the ferry service plan should be consistent with the Transportation Element of Berkeley's General Plan.
Financial Implications: None
Contact: Peter Hillier, Secretary, 981-7010
- b. **From: City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the report.
Contact: Claudette Ford, Public Works, 981-6300
Action: Removed from Consent by Councilmember Olds. Moved, seconded carried (Worthington/Maio; Noes –Capitelli) to approve recommendation as amended by Councilmember Worthington to remove Gilman Street as a feasible site.

Action Calendar – Old Business

8. **Administrative Fees: Inclusionary Housing Program** *(Held over from September 13, 2005)*
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of Ordinance adding Berkeley Municipal Code (BMC) Section 23C.12.100 authorizing the City Council to set fees by Resolution; and 2) adopt a Resolution to be effective upon the effective date of the Ordinance, approving the Inclusionary Housing Program administrative fees specified in the Resolution.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
Action: Withdrawn by City Manager.
9. **Sponsorship for BAHIA's 30th Anniversary Celebration** *(Held over from September 13, 2005)*
From: Councilmember Maio
Recommendation: Refer to the City Manager a request to determine a funding source to enable the City to become an Amigo Sponsor of BAHIA's 30th Anniversary Celebration on Friday, September 30, 2005.
Financial Implications: \$1,000.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Withdrawn by Councilmember Maio.
10. **Revisions of the Elmwood Business District Quotas** *(Held over from September 13, 2005)*
From: Councilmember Wozniak
Recommendation: Request that the City Manager refer recommended revisions of the Elmwood Business Quota Committee to the Planning Department and the Planning Commission so that they can be incorporated into the zoning ordinance, including: 1) to simplify the current seven category quota system by replacing it with a two quota system (Barber/Beauty and Food Service establishments); and 2) to maintain business diversity by prohibiting businesses from expanding into adjacent business spaces.
Financial Implications: Administrative costs
Contact: Gordon Wozniak, Councilmember District 8, 981-7180
Action: Held over to September 27 by Councilmember Wozniak.

Action Calendar – New Business

11. **Amendment to the Condominium Conversion Ordinance**
From: City Manager
Recommendation: Adopt first reading of Ordinance amending Berkeley Municipal Code (BMC) Chapter 21.28, Condominiums, Community Apartments, Stock Cooperatives and Tenancy in Common Projects.
Financial Implications: Unknown
Contact: Stephen Barton, Housing, 981-5400
Action: Moved, seconded, carried (Moore/Capitelli; Noes - Worthington) to: 1) adopt first reading of Ordinance as amended to remove all strikeout, changes and additions and change BMC Section 21.28.060A to extend the October 26, 2005 expiration date on the cap on

Action Calendar – New Business

affordable housing mitigation fees to January 31, 2006; 2) direct staff to return with a report on October 18, 2005 regarding immediately required changes; and, 3) set a workshop to address remaining issues.

12. Housing Advisory Commission Representation on the Joint Density Bonus Subcommittee

a. From: Housing Advisory Commission

Recommendation: Adopt a Resolution appointing all members of the Housing Advisory Commission ad hoc subcommittee on Density Bonus and Inclusionary Housing to the Joint Density Bonus Subcommittee.

Contact: Oscar Sung, Secretary, 981-5410

b. From: City Manager

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

Contact: Stephen Barton, Housing, 981-5400

Action: Moved, seconded, carried (Worthington/Olds) to adopt Resolution No. 63,061–N.S. as amended by Councilmember Worthington to appoint Jesse Arreguin, Marie Bowman, and Andrew Murray of the Housing Advisory Commission ad hoc subcommittee on Density Bonus and Inclusionary Housing to the Joint Density Bonus Subcommittee,

13. Downtown Area Plan Process

a. From: Transportation Commission

Recommendation: Request that Council: 1) direct the Transportation Commission to appoint a transportation representative to serve on any Downtown Area Plan (DAP) Committee or Task Force that may be established; 2) appoint the Office of Transportation (OOT) and Transportation Commission (TC) to be the lead City agencies for the development of transportation policies related to any new Downtown Area Plan and that the OOT and the TC review any proposed transportation policies before consideration by the Planning Commission or by Council and before inclusion in any Plan; and 3) create the Downtown Area Plan Committee/Task Force based upon the Hotel/Convention Center Task Force/Downtown Berkeley Plan model and include representatives of appropriate stakeholder groups.

Financial Implications: None

Contact: Peter Hillier, Secretary, 981-6300

b. From: City Manager

Recommendation: Refer the recommendations of the Transportation Commission to the larger process to come back to Council at the September 27, 2005 meeting; take into consideration suggestions regarding the Commission's membership on a potential Downtown Area Plan Task Force; and conduct a review of transportation policies as a work plan is developed.

Financial Implications: None

Contact: Claudette Ford, Public Works, 981-6300

Action: Moved, seconded, carried (Spring/Worthington) to hold over to September 27, 2005.

Information Reports

14. Investment Report: Quarter Ended June 30, 2005

From: City Manager

Contact: Fran David, Finance, 981-7300

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.

Downtown Area Plan Process

1. Juliet Lamont (Anderson/Spring)
2. Sierra Club, submitted by Andy Katz, Chair (Anderson/Spring)

Multifamily Housing (MHP) Student Housing Program Funding

3. University Students' Cooperative Association, submitted by Johnny George, USCA President, and George O. Proper, General Manager (Worthington)

Toxic Spill in Strawberry Creek

4. Juliet Lamont (Moore/Worthington/Spring)
5. Tom Kelly

Newsletter

6. Frank Thompson

E-mail Update from Mayor Bates

7. JuneinBerkeley@****.com
8. Cisco DeVries, Chief of Staff, Office of Mayor Tom Bates

Supplemental Reports and Communications #1

Item 10: Revisions of the Elmwood Business District Quotas

9. Kimberly Tinawi, The Elmwood Market
10. Tad Laird, Bolfings Elmwood Hardwood

Item 11: Amendment to the Condominium Conversion Ordinance

11. Revised report, submitted by Housing Department
12. Howard Chong, Berkeley Rent Stabilization Board
13. Quinton Daniels

Supplemental Reports and Communications #2

Item 1: Abrogating Common Law Doctrine of Incompatible Public Offices with Respect to Membership on Two or More City Boards or Commissions

14. Margaret Pillow
15. Bill Haskell
16. Elizabeth Stevick
17. Jerome Taylor

Item 11: Amendment to the Condominium Conversion Ordinance

18. Proposed amendment to Ordinance, submitted by Councilmembers Capitelli, Olds, and Wozniak
19. TIC/Conodminium Conversion Comparison, submitted by Councilmember Capitelli

Adjournment

Adjourned at 9:50 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 20, 2005 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
BERKELEY CITY COUNCIL MEETING
SEPTEMBER 27, 2005

Preliminary Matters

Roll Call: 5:35 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates.

Absent: None.

Work Session

1. Presentation: Berkeley's History of Cultural Innovation
From: Mayor Bates
Recommendation: Presentation to be made by Fred Collignon.
Contact: Tom Bates, Mayor, 981-7100
Action: Presentation made.

Public Comment

Public Comment: No speakers.

Communications

None.

Supplemental Reports and Communications #1

Item 1: Presentation: Berkeley's History of Cultural Innovation
1. The Mysteries of Berkeley, an essay by Michael Chabon, submitted by Fred Collignon

Adjournment

Adjourned at 6:21 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of September 27, 2005 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 27, 2005

Preliminary Matters

Roll Call: 7:01 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates.

Absent: None.

Ceremonial Matters:

1. Proclamation presented to the Tejada Family honoring their continued community service to the City.
2. Proclamation presented to Indigenous Peoples Day Committee honoring Indigenous People's Day on October 8, 2005.

City Manager Comments: No Comments.

Public Comment: David Salk, Jesse Arreguin, Michael Diehl, Robert Mills, Fran Haselsteiner, Stephen Wollmer, Elyce Judith, Corrine Goldstick, Zelda Bronstein, Jim Sharp, and Sasha Shamszad.

Consent Calendar

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

1. **Lease Agreement: 1769 Alcatraz Avenue** (*First Reading September 20, 2005 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement with Thomas Goetzl for real property located at 1769 Alcatraz Avenue, in an amount not to exceed \$24,000, for the purpose of leasing office space for the Black Infant Health Program for the period November 1, 2005 to October 31, 2007, with an option to extend for an additional two year period.
Financial Implications: Health Fund - \$24,000
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Ordinance No. 6,877–N.S. Effective October 27, 2005.

Consent Calendar

- 2. Amendment to the Condominium Conversion Ordinance** (*First Reading as amended September 20, 2005; Noes – Worthington*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 21.28, Condominiums, Community Apartments, Stock Cooperatives and Tenancy in Common Projects.
Financial Implications: Unknown
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Ordinance No. 6,878–N.S. (Noes – Worthington). Effective October 27, 2005.
- 3. 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. 63,062–N.S.
- 4. Veterans Memorial Building - Operating Costs**
From: City Manager
Recommendation: Submit to the mid-year budget review process proposed funding options for FY 2006 and FY 2007 for unbudgeted operating costs associated with keeping the Veterans Memorial Building (VMB) open year round.
Financial Implications: General Fund and Building Maintenance Fund - \$98,923
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Moved to Action by Councilmember Worthington. Moved, seconded, carried (Maio/Capitelli) as amended by Councilmembers Worthington and Maio to refer to the City Manager to bring a recommendation back to Council that incorporates historical obligations and allows ongoing free use of the single room office and shared use of the first floor conference room.
- 5. Grant: Youth Focused Bicycle and Pedestrian Injury Prevention Program** (*To be delivered*)
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the California Office of Traffic Safety for funds in the amount of \$406,621 in FY 2006 to develop a youth focused bicycle and pedestrian injury prevention program and outreach to youth and families; and 2) accept the grant and execute any resultant revenue agreements and amendments; and 3) authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: Grant Revenue - \$406,621
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 63,063–N.S.

- 6. Additional Funding for the McKinley House Rehabilitation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the development loan agreement with Building Opportunities for Self-Sufficiency (BOSS) for renovation of McKinley House at 2111 McKinley Avenue increasing it by \$40,000 for an amount not to exceed \$230,000.
Financial Implications: Housing Trust Fund - \$40,000
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,064–N.S.
- 7. Use of Veterans Memorial Building: Men’s Shelter and Multi-Agency Service Center**
From: City Manager
Recommendation: Adopt first reading of an Ordinance: 1) making findings and declarations of a continuing homeless shelter crisis; 2) authorizing continuation of use of the Veterans Memorial Building basement by the Men’s Overnight Assistance Center (the Men’s Shelter) and Multi-Agency Service Center (MASC); and 3) suspending applicable local laws which might otherwise regulate, apply to or govern the continued operation of the Men’s Shelter and the MASC.
Financial Implications: None
Contact: Stephen Barton, Housing, 981-5402
Action: Moved to Action by Councilmember Worthington. Adopted first reading of Ordinance. Second reading scheduled for October 18, 2005.
- 8. Contract: Plan Checking Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to contracts with Linhart Peterson Powers Associates and Telesis Engineers for plan checking services to increase each contract amount by \$120,000 for a total amount not to exceed \$240,000 for each contract.
Financial Implications: Permit Service Center Fund - \$240,000
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,065–N.S.
- 9. Appointment of Adolf Moody to Berkeley Housing Authority**
From: Mayor Bates
Recommendation: Confirm the Mayor’s appointment of Adolf Moody to the vacant Tenant Commissioner position on the Berkeley Housing Authority (BHA) and appoint Mr. Moody to a two-year term commencing on September 27, 2005 and ending on September 27, 2007.
Financial Implications: None.
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 63,066–N.S.

Consent Calendar

- 10. Analysis of the Security of the Kinder Morgan Energy Partners Pipeline in West Berkeley**
From: Councilmember Maio and Moore
Recommendation: Request that the City Manager inquire of Kinder Morgan Energy Partners (KMEP) specifically what they have done and what they intend to do to ensure their pipelines' integrity in West Berkeley.
Financial Implications: Staff time.
Contact: Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120
Action: Approved recommendation.
- 11. Presentation: Technologies and Arts for Disabled Children and Adults**
From: Councilmember Spring
Recommendation: Schedule up to 20 minutes at a Council meeting in late October or November 2005 for a presentation by Dmitri Belsher, Executive Director of the Center for Accessible Technology, on technology and art for disabled children and adults.
Financial Implications: None.
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Approved recommendation.
- 12. Proclamation: Mario and Rosalinda Tejada Day**
From: Councilmember Worthington
Recommendation: Approve a proclamation for Mario and Rosalinda Tejada Day on October 10th in Berkeley in honor of their continued community service to the City.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved proclamation.
- 13. Support ASUC Safety Week**
From: Councilmember Worthington
Recommendation: Support ASUC Safety Week, to be held from October 10-14, 2005.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170.
Action: Approved recommendation.
- 14. Support Marriage Equality (AB 897) and Oppose Two Anti-Gay Groups' Initiatives to Ban Marriage Equality and Domestic Partnerships**
From: Councilmember Worthington
Recommendation: Send a letter to the Governor to not veto Marriage Equality (AB 849) and to strongly oppose two anti-gay groups' proposed initiatives to ban marriage equality and domestic partnerships, and ask him to work to defeat these immoderate measures just like Ronald Reagan did in coming out publicly and strongly against the anti-gay Briggs initiative in the 1970's.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation as amended to include Councilmembers Worthington and Moore as co-sponsors.

Consent Calendar

15. Homeless People With Vehicle Impoundments (CF 22-05)

a. From: Homeless Commission

Recommendation: Adopt a Resolution committing Council to establishing permanent housing for the homeless as its first priority; allocating funding for solutions to homelessness; and addressing the loss of a vehicle through no-cost strategies including: 1) establishing a legal place for homeless people to park; 2) waiving time limits for working off fines through the performance of community service; and 3) establishing a mechanism to prevent compounding of unpaid fines.

Financial Implications: None

Contact: Jane Micallef, Secretary, 981-5426

b. From: City Manager

Recommendation: Refer Commission recommendations to the work session on anti-poverty and homeless programs currently scheduled for November 29, 2005.

Contact: Stephen Barton, Housing, 981-5400

Action: Moved to Action by Councilmember Wozniak. Moved, seconded, carried (Wozniak/Worthington) to approve City Manager's recommendation to refer the Commission recommendations to the November 29, 2005 work session on anti-poverty and homeless programs.

Action Calendar - Appeals

16. 2750 Adeline Street - Appeal ZAB Decision Use Permit #03-7000006

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit #03-70000064, to eliminate a live/work unit, add a fourth-floor and construct up to two-dwelling units, and dismissing the appeal.

Financial Implications: None

Contact: Dan Marks, Planning and Development, 981-7400

b. Appeal

1. Natasha Shawver

c. Communications:

1. Stephen Rood
2. Sasha and Merideth Shamszad

Action: Moved, seconded, carried (Anderson/Maio; Noes – Worthington) to adopt Resolution No. 63,067–N.S. affirming the decision of the ZAB to approve Use Permit #03-70000064, to eliminate a live/work unit, add a fourth-floor and construct up to two-dwelling 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

17. **Support Proposition 80 Ballot Measure in the Special Election** (*Held over from September 20, 2005*)
From: Councilmember Worthington
Recommendation: Support Proposition 80 in the special election, which would place electric service providers in the State of California under control and regulation by the California Public Utilities Commission and will also require all electric sellers to increase their renewable energy resource procurement by 1% per year to a level of 20% by 2010.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Moved to Consent by Councilmember Worthington. Adopted Resolution No. 63,068–N.S. (Abstain – Spring, Capitelli, Wozniak).
18. **Revisions of the Elmwood Business District Quotas** (*Held over from September 20, 2005*)
From: Councilmember Wozniak
Recommendation: Request that the City Manager refer recommended revisions of the Elmwood Business Quota Committee to the Planning Department and the Planning Commission so that they can be incorporated into the zoning ordinance, including: 1) to simplify the current seven category quota system by replacing it with a two quota system (Barber/Beauty and Food Service establishments); and 2) to maintain business diversity by prohibiting businesses from expanding into adjacent business spaces.
Financial Implications: Administrative costs
Contact: Gordon Wozniak, Councilmember District 8, 981-7180
Action: Before adoption Councilmember Wozniak amended his recommendation to state, “There are many merchants and neighbors who feel that the quotas should be updated to reflect present business reality...”

Moved, seconded, carried (Wozniak/Worthington) to approve the recommendation from Mayor Bates in a memorandum dated September 27, 2005, to: 1) refer recommendations presented by Councilmembers Wozniak and Worthington at the September 27, 2005 meeting to the Planning Commission, without preference and that the two items be added to the Council’s existing referral on quota reviews with the request that the Elmwood review be prioritized; and, 2) request the City Manager return to the Council with ideas on how to add a review of the Elmwood quotas to the Planning Commission workplan this year or next.

Action Calendar – New Business

19. **Downtown Area Plan Work Program and Public Participation Process**
a. From: City Manager
Recommendation: Adopt a Resolution appointing a Downtown Area Plan Advisory Committee.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400

Action Calendar – New Business

b. From: Transportation Commission (*Held over from September 20, 2005*)

Recommendation: Request that Council: 1) direct the Transportation Commission to appoint a transportation representative to serve on any Downtown Area Plan (DAP) Committee or Task Force that may be established; 2) appoint the Office of Transportation (OOT) and Transportation Commission (TC) to be the lead City agencies for the development of transportation policies related to any new Downtown Area Plan and that the OOT and the TC review any proposed transportation policies before consideration by the Planning Commission or by Council and before inclusion in any Plan; and 3) create the Downtown Area Plan Committee/Task Force based upon the Hotel/Convention Center Task Force/Downtown Berkeley Plan model and include representatives of appropriate stakeholder groups.

Financial Implications: None

Contact: Peter Hillier, Secretary, 981-6300

c. From: City Manager (*Held over from September 20, 2005*)

Recommendation: Refer the recommendations of the Transportation Commission to the larger process to come back to Council at the September 27, 2005 meeting; take into consideration suggestions regarding the Commission's membership on a potential Downtown Area Plan Task Force; and conduct a review of transportation policies as a work plan is developed.

Financial Implications: None

Contact: Claudette Ford, Public Works, 981-6300

Action: Moved, seconded, carried (Wozniak/Maio; Noes – Anderson, Spring, Worthington) a substitute motion to adopt Resolution No. 63,069–N.S. as amended in the Mayor's recommendation, presented at the September 27, 2005 meeting, appointing a Downtown Plan Advisory Committee comprised of two appointments per Councilmember and a three-member subcommittee of the Planning Commission as amended by Councilmember Capitelli to "hold joint workshops with commissions."

Moved, seconded (Spring/Anderson) a main motion to refer back to the Planning Commission for analysis and public input using the hotel task force model and report back to Council with recommendations.

20. Disappearing Newsracks and the Constitutionality and Practicality of the Interpretation and Implementation of Newsrack Regulations

From: Councilmember Worthington

Recommendation: Refer to the City Manager to review city ordinances, interpretations, and operations in regards to Newsrack regulation. As one part of this review, to invite persons responsible for distribution of newspapers to identify problem areas, including but not limited to the disappearance of newsracks without notification to the newspapers, possibly eliminating the part of the City ordinance that allows City removal of newsracks with zero notice, and making sure that the City is not creating impediments to fair placement for all publications.

Financial Implications: Staff time.

Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action: Held over to October 18, 2005 by Councilmember Worthington.

Communications

Conflict of Interest

1. Jim Molmen

Local Governments' Liability in Cell Tower Disputes

2. Peter Teichner

Public Records Act Request

3. Jane Welford, SuperBOLD (Berkeleyans Organizing for Library Defense), submitted by Gene Bernardi

Humane Commission Minutes

4. Barbara Gilbert (*Worthington*)

AB 1690 and the City/UC Settlement

5. Barbara Gilbert

Supplemental Reports and Communications #1

To Be Delivered Item 5: Grant: Youth Focused Bicycle and Pedestrian Injury Prevention Program

6. Report, submitted by Health and Human Services

Item 16: 2750 Adeline Street - Appeal ZAB Decision Use Permit #03-7000006

7. Natasha Shawner

Item 19: Downtown Area Plan Work Program and Public Participation Process

8. Getting to Work on Our Downtown Plan, submitted by Mayor Bates
9. Robert Johnson, Landmarks Preservation Commission
10. Wendy Alfsen
11. Paul Rabinow
12. Karl Reeh, LeConte Neighborhood Association
13. Jerry and Kaye Miller

Supplemental Reports and Communications #2

Ceremonial Item 2: Proclamation presented to Indigenous Peoples Day Committee

14. 14th Annual Celebration of Indigenous Peoples Day flyer, submitted by Venetia Moore

Items 4: Veterans Memorial Building - Operating Costs

15. Amendment to report, submitted by Councilmember Worthington
16. 1988 Letter from Darlene A. Smith, General Services Agency, submitted by Councilmember Worthington

Item 7: Use of Veterans Memorial Building: Men's Shelter and Multi-Agency Service Center

17. Amendment to report, submitted by Councilmember Worthington
18. 1988 Letter from Darlene A. Smith, General Services Agency, submitted by Councilmember Worthington

Supplemental Reports and Communications #2

Item 18: Revisions of the Elmwood Business District Quotas

19. Amendment to report, submitted by Councilmember Worthington
20. Amendment to report, submitted by Councilmember Wozniak
21. Amendment to report, submitted by Mayor Bates
22. David Salk, Focal Point Opticians, Elmwood Merchants Association and Elmwood Theater Foundation

Item 19: Downtown Area Plan Work Program and Public Participation Process

23. Amendments to resolution, submitted by Mayor Bates

Adjournment

Adjourned at 9:44 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 27, 2005 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk