

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, NOVEMBER 15, 2005

7:00 P.M.

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

Preliminary Matters

Roll Call: 7:05 p.m. All present.

Ceremonial Matters:

1. Proclamation presented recognizing The Mechanics Bank as the first Green Certified bank in Berkeley and the Bay Area

City Manager Comments: There will be an open house at the Family, Youth and Children's Clinic at 3282 Adeline Street on Thursday, November 17 from 4:00 to 7:00 p.m.

Public Comment: 14 speakers.

Youth Comments: 10 speakers.

Consent Calendar

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

1. **Minutes for Approval**

From: City Manager

Recommendation: Approve the minutes for the Council meetings of October 11 (closed) October 18, 2005 (special and regular) and October 25, 2005 (special and regular).

Financial Implications: None

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

Action: Approved minutes.

2. **Needle Exchange Emergency Distribution**

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.

Financial Implications: None

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

Action: Adopted Resolution No. 63,102–N.S.

3. Contract: Pre-Apprenticeship Training

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Oakland Private Industry Council for pre-apprenticeship construction training to be provided by the Cypress Mandela/Women in Skilled Trades Program for the period December 1, 2005 through December 31, 2006 in amount not to exceed \$44,800.

Financial Implications: General Fund \$44,800

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

Action: Adopted Resolution No. 63,103–N.S.

4. Measure A Funds: School Nurse Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept Measure A funds from Alameda County in the amount of \$225,000 to develop a system for families, teachers, and school staff to refer elementary school-aged children and their families to Public Health Nursing; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the funding.

Financial Implications: Alameda County School Nurse Fund - \$225,000

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

Action: Adopted Resolution No. 63,104–N.S.

5. Purchase of Property for the Codornices Creek Project

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing purchase from Alameda County of tax-defaulted real property, Assessor's Parcel Number (APN) 060-2385-10, required for the Lower Codornices Creek Restoration and Site Improvement Project in an amount not to exceed \$2,200.

Financial Implications: Parks Tax Fund - \$2,200

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

Action: Adopted first reading of Ordinance. Second reading scheduled for November 29, 2005.

6. Grant: Hazardous Materials Emergency Planning

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1) accept grant funds in the amount of \$42,000 from the Governor's Office of Emergency Services (OES) for a Comprehensive Emergency Planning Project; 2) execute any resultant revenue agreements and amendments; and, 3) authorize the implementation of projects and appropriation of funding for grant-related expenses.

Financial Implications: Grant Revenue - \$42,000; \$8,400 matching funds (staff time)

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

Action: Adopted Resolution No. 63,105–N.S.

- 7. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Shattuck Avenue between University Avenue and Rose Street; accepting the bid of Insituform Technologies, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$300,091 from the Sewer Capital Improvement Fund for the period of 120 calendar days.
Financial Implications: Sewer Capital Improvement Project - \$300,091
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,106–N.S.
- 8. Ed Roberts Campus Transportation for Livable Communities Grant Application**
From: Mayor Bates and Councilmembers Anderson and Worthington
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the Alameda County Congestion Management Agency (CMA) Transportation for Livable Communities (TLC) Capital Program, FY 2006-09 for funds in an amount up to \$3,000,000 in FY2006-07 for transportation enhancements related to the Ed Roberts Campus at the Ashby BART Station; and accept the grant, and execute any resultant agreements and amendments.
Financial Implications: Grant Revenue - \$3,000,000; no matching funds required
Contact: Tom Bates, Mayor, 981-7100; Max Anderson, Councilmember District 3, 981-7130; Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 63,107–N.S.
- 9. Heat Illness Regulation**
From: Councilmember Worthington
Recommendation: Urge the California State Occupational Safety and Health Administration (Cal/OSHA) to create a permanent and vigorously enforced heat illness regulation.
Financial Implications: None.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 10. Support UC Students Association**
From: Councilmember Worthington
Recommendation: Support the University of California Students Association in urging the UC Regents to vote against a proposed student fee increase and vote for a restoration of the original 33% return to institutional aid policy.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation as amended to add Councilmember Spring as a co-sponsor.

11. Ellis Bill Relocation Fees

a. From: Rent Stabilization Board

Recommendation: Adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 13.77.055 to require relocation allowance payments to all tenants evicted pursuant to California's Ellis Act.

Financial Implications: None

Contact: Jay Kelekian, Rent Stabilization Board, 644-6128

b. From: City Manager

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

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Removed from Consent by Councilmember Wozniak. Moved, seconded, carried (Worthington/Spring; Noes – Olds; Abstain – Wozniak) to adopt first reading of Ordinance. Second reading scheduled for November 29, 2005.

12. Downing Street Memo

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution directing the City Manager to send a letter urging prompt answers to the questions raised by the Downing Street memo and related information per House Resolution No. 375, along with a copy of the Council Resolution on this matter, to President Bush; and that copies be sent to Representatives John Conyers, Jr., Barbara Lee and Tom Lantos, and Senators Barbara Boxer and Dianne Feinstein.

Financial Implications: None

Contact: Manuel Hector, Commission Secretary, 981-5110

b. From: City Manager

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

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

Action: Adopted Resolution No. 63,108–N.S. (Abstain – Capitelli and Olds)

13. Humanitarian Aid for Victims of Disasters

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution urging the United States to accept international offers of medical and humanitarian aid for victims of disasters without regard to partisan political calculations, and send a copy of this Resolution along with a cover letter to President George Bush, Senators Barbara Boxer and Dianne Feinstein, and Representative Barbara Lee.

Financial Implications:

Contact: Manuel Hector, Secretary, 981-5110

b. From: City Manager

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

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

Action: Removed from Consent by Councilmember Wozniak. Moved, seconded, carried (Wozniak/Worthington) to adopt Resolution No. 63,109–N.S. as amended so the enabling

Consent Calendar

clause reads: “City of Berkeley requests the United States accept international offers of medical and humanitarian aid for victims of disasters, like the offers from Cuba, Israel, Venezuela and Nicaragua, without regard to...”.

Action Calendar – Appeals

14. 1532 Martin Luther King, Jr. Way - Use Permit No. 04-10000079

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 04-10000079 to demolish an existing dwelling unit in order to construct three dwelling units, and dismissing the appeal.

Financial Implications: None

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

b. Appeals

1. Kiran and Laura Singh, Emma Davenport, Gabriel and Jennifer Griego, Kim Kruckel and Danny Baptista, Gus Baldauf and Ashley Hamlett

c. Communications

1. Wallace Whittier

Action: Moved, seconded, carried (Maio/Spring) to set for a public hearing.

15. 2235 Derby Street - Use Permit No. 05-10000043

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit No. 05-10000043 to add 55 square feet to a single-family dwelling that is non-conforming due to density and setbacks and allow an increase in height from 10 feet six inches to 13 feet, 11 inches.

Financial Implications: None

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

b. Appeal

1. Peter J. Mutnick

c. Communications

1. Peter J. Mutnick

Action: Mayor Bates announced that he would recuse himself due to the proximity of his home to this project. Moved, seconded, carried (Wozniak/Capitelli; Absent – Bates) to adopt Resolution No. 63,110–N.S. affirming the decision of the Zoning Adjustments Board and dismissing the appeal.

Action Calendar – Appeals

16. 1617 Seventh Street - Administrative Use Permit No. 04-20000158

a. From: City Manager

Recommendation: Adopt a Resolution remanding to Zoning Adjustments Board to consider the mediated agreement as part of their reconsideration.

Financial Implications: None

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

b. Appeal

1. Guillermo Pulido

c. Communications

1. Guillermo Pulido

Action: Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 63,111–N.S. remanding the decision of the Zoning Adjustments Board to eliminate a condition of approval in Administrative Use Permit No. 04-20000158 to construct a 525 square-foot habitable accessory building with one parking space, with an average height of ten feet, located four feet, six inches from the property line.

***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 – Public Hearing

17. 2901 Otis Street - Landmarks Preservation Commission Designation as Structure of Merit

a. From: City Manager (October 18, 2005)

Recommendation: Review the appeal of Landmarks Preservation Commission decision to designate the building at 2901 Otis Street as a Structure of Merit, and set the matter for public hearing on November 15, 2005.

Financial Implications: None

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

b. Appeal

1. Eric Geleynse, Xin Jin and Danny Tran

c. Communications (November 15, 2005)

1. D. Mayeron
2. David Ramin, Shari Ser, D. Mayeron

Public Testimony: The Mayor opened the public hearing. Seven speakers. Moved, seconded, carried (Anderson/Moore) to close the public hearing.

Action: Moved, seconded, carried (Anderson/Moore; Noes – Worthington; Abstain – Spring) a motion directing staff to bring back to Council a Resolution that overturns the Landmarks Preservation Commission’s Structure of Merit designation.

18. 2901 Otis Street

a. From: City Manager (October 18, 2005)

Recommendation: Review the appeal of the Zoning Adjustments Board decision regarding 2901 Otis Street, to approve: 1) a permit to remove roof and more than 50 percent of exterior walls of existing dwelling; 2) a permit to construct two additional dwelling units; and 3) an Administrative Use Permit to locate two parking spaces within 10 feet of rear windows of proposed building, and set for a public hearing.

Financial Implications: None

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

b. Appeal

1. David Ramin, Shari Ser and D. Mayeron

c. Communications (November 15, 2005)

1. D. Mayeron
2. David Ramin, Shari Ser, D. Mayeron

d. Communications (October 18, 2005)

1. David Ramin, Shari Ser, D. Mayeron and Ross Blum

e. Supplemental Reports and Communications #1 (October 18, 2005 - Numbering follows original sequence)

28. Robert Lauriston

Public Testimony: The Mayor opened the public hearing. 7 speakers. Moved, seconded, carried (Moore/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Wozniak/Capitelli; Noes – Spring, Olds; Abstain – Worthington) a motion directing staff to bring a report and Resolution back to Council upholding the decision of the Zoning Adjustments Board and conditioned on the installation of a six-foot fence and two feet of landscaping along the contiguous rear-yard property lines.

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.*

19. Objections to Property Lien Against 2020 Third Street and 651 Addison Street

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution rejecting the property owner's objection to the cost of the administrative fines issued to him for his failure to comply with the summary abatement provisions of a Notice and Order declaring his property at 651 Addison Street and 2020 – 2060 Third Street (the Drayage building) a Fire Hazard, Unsafe Building and Public Nuisance, and allowing the property lien to be recorded as written and approved by the Fire Marshal and City Manager.

Contact: Debra Pryor, Fire, 981-3473

Action: Withdrawn by City Manager Kamlarz, who advised Council a settlement has been reached.

20. Downtown Berkeley Business Improvement District Assessment

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt two Resolutions: 1) confirming the 2006 Annual Report of the Downtown Business Improvement District (BID) and levying an annual assessment for the Downtown BID for calendar year 2006; and 2) authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association Main Street Program for \$250,000 of Downtown BID funds to support Downtown revitalization.

Financial Implications: BID Revenue - \$250,000

Contact: Thomas A. Myers, Economic Development, 981-7530

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Maio/Worthington) to adopt Resolution No. 63,112–N.S. confirming the 2006 Annual Report of the Downtown Business Improvement District (BID) and levying an annual assessment for the Downtown BID for calendar year 2006 and Resolution No. 63,113–N.S. authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association Main Street Program for \$250,000 of Downtown BID funds to support Downtown revitalization.

21. Solano Avenue Business Improvement District Assessment

From: Economic Development

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution confirming the 2005 Annual Report of the Solano Avenue Business Improvement District (BID), thereby levying an annual assessment for the Solano Avenue BID for calendar year 2006; and adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Solano Avenue Association for \$35,000 of BID funds.

Financial Implications: BID Revenue - \$35,000

Contact: Thomas A. Myers, Economic Development, 981-7530

Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Maio/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Maio/Worthington) to adopt Resolution No. 63,114–N.S. confirming the 2005 Annual Report of the Solano Avenue Business Improvement District (BID), thereby levying an annual assessment for the Solano Avenue BID for calendar year 2006 and Resolution No. 63,115–N.S. authorizing the City Manager to execute a sole source contract and any amendments with the Solano Avenue Association for \$35,000 of BID funds.

Action Calendar – Old Business

22. Amending “By Right” Residential Additions and Definition of a Story in the Zoning Ordinance (Held over from October 18, 2005)

a. From: City Manager (November 15, 2005)

Recommendation: Provide direction to staff by selecting one of the following options:

1. Refer the Councilmembers’ request to the Planning Commission for its consideration and have staff return in January to discuss when a revised ordinance can be recommended by the Planning Commission and whether undertaking this project would delay other work already programmed for this year; or
2. a. Direct staff to prepare an Urgency Ordinance modifying the Zoning Ordinance to make any addition above the first floor subject to discretionary review in the same manner as major residential additions, and modify the definition of a story, and bring it to the City Council for adoption by a 4/5 vote by December 13, 2005; and
b. Refer the matter to the Planning Commission for consideration by the end of the term of the urgency ordinance, as it may be extended by the Council, but in any event no more than two years (the maximum permitted duration of an interim ordinance).

In either case, the Council needs to provide direction to staff regarding the geographic area to be covered by the interim ordinance (e.g., limited to the Hill Overlay district, or applied to all residential districts where major residential additions are allowed) and whether a first story as-of-right addition should be limited to the current 500 square feet or be expanded to 700 square feet; or

3. Request that this issue return as part of Council’s consideration of the 2006-07 Planning Department Work Program.

Financial Implications: See report

Contact: Dan Marks, Planning, 981-7400

b. From: Councilmembers Olds and Wozniak (October 18, 2005)

Recommendation: Refer to the Planning Commission the following issue for discussion and return to the City Council within 120 days with recommendations for proposed modifications to the language of the Zoning Ordinance: 1) an addition of up to 700 sq. ft within the required setbacks be permitted on the first floor of a residence, by right with a zoning certificate; 2) an addition of up to 500 sq ft. to a second story and higher stories require an Administrative Use Permit; 3) clarify the language in the Zoning Ordinance on how many feet constitute a story in residential construction.

Financial Implications: None

Contact: Betty Olds, Councilmember District 6, 981-7160 and Gordon Wozniak, Councilmember District 8, 981-7180

c. From: Councilmember Capitelli (November 15, 2005)

Recommendation: Refer this issue to the Planning Commission, and request that the commission review and refine requirements allowing a residential addition to be approved “by right” and include the following requirements for these projects: 1) any such project must conform to all existing zoning regulations and not extend or “improve” upon existing, non-conforming setbacks; 2) there are no auxiliary roof appendages (trellis, deck, pergola) which

would then require an AUP; 3) any necessary roof penetration with a component that protrudes above the roof, such as a chimney, can be approved by right if it is the minimum size as required by the UBC, whereas anything larger would require an AUP; and 4) second-story additions cannot be taller than 24' total measured from the lowest grade point on the original structure.

Contact: Laurie Capitelli, Councilmember District 5, 981-7150

Action: Moved, seconded, carried (Capitelli/Olds) to approve the City Manager's recommendation. By acclamation the Council agreed to withdraw the motion and directed staff to return to Council with a report and further analysis on December 13, 2005.

23. Support Commission Diversity (*Held over as amended from October 18, 2005*)

From: Councilmember Worthington

Recommendation: Adopt a Resolution to: 1) encourage City Councilmembers to actively seek to fill vacant positions with consideration of the needs and benefits of a more representative and diverse commission roster; and 2) implement semi-annual reviews of its progress to determine if additional steps should be taken to ensure that these goals are met.

Financial Implications: None

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

Action: Held over to November 29, 2005 by Mayor Bates.

24. Questions Regarding Radio Frequency Identification Devices (*Held over from October 18, 2005*)

a. From: Councilmembers Spring and Worthington (*November 15, 2005*)

Recommendation: Request the City Manager to send a letter to the City of Berkeley Library Director and the Library Board of Trustees requesting: 1) a response to the September 21, 2005 and recent letters from SEIU library employees union asking for a list of the actual and estimated costs of the Radio Frequency Identification Devices including impacts on library staff (including staff positions cut or unfilled since 2002) as well as service impacts on the public; 2) questioning why the existing barcode system can not be used in lieu of RFID technology; 3) requesting that the Library Board of Trustees in light of the library employees concerns reevaluate whether it is in the our best interest to continue with RFID technology in the Berkeley library; and 4) refer to the City Attorney questions regarding the RFID contract and related issues by a member of the public.

Financial Implications: None

Contact: Dona Spring, Councilmember District 4, 981-7140 and Kriss Worthington, Councilmember District 7, 981-7170

b. From: Councilmember Spring (*October 18, 2005*)

Recommendation: Request the City Manager to send a letter to the City of Berkeley Library Director and the Library Board of Trustees requesting: 1) a response to the September 21, 2005 letter asking for a list of the actual and estimated costs of the Radio Frequency Identification Devices (RFID), including staff positions cut or unfilled since 2002; 2) questioning why the existing barcode system is not being used in lieu of RFID technology; and 3) requesting that the Library Board of Trustees seriously evaluate whether it is in the public's interest to continue with RFID technology in the Berkeley library.

Financial Implications: None

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

Action: Moved, seconded, carried (Maio/Moore; Abstain – Worthington) a motion to request: 1) that Library staff establish a committee composed of a representative group of

Action Calendar – Old Business

librarians at various levels and management to analyze and resolve Library issues; 2) that the committee report back to Council quarterly on their work and progress; and 3) that the City's Health Officer report back to Council in six months regarding possible health effects of the City's uses of RFID technology and systems.

Action Calendar – New Business

25. Survey to Identify Sources for Increasing Fees for Lead Abatement Services

From: Councilmember Olds

Recommendation: Discuss the request from the Alameda County Lead Abatement Program to contribute \$10,000 to the cost of a survey to be conducted by Tramutola and Godbe research to identify voter sentiment on raising fees for lead abatement programs in Alameda County.

Financial Implications: \$10,000

Contact: Betty Olds, Councilmember District 6, 981-7160

Action: Held over to December 6, 2005 by Councilmember Olds.

26. Wireless Internet

From: Councilmembers Capitelli, Maio, Moore and Anderson

Recommendation: Request the City Manager have staff research the possibilities and requirements for a Berkeley citywide wireless internet system, prepare a report and present it to the City Council by March 2006.

Financial Implications: See report

Contact: Laurie Capitelli, District 5, 981-7150; Linda Maio, Councilmember District 1, 981-7110; Darryl Moore, District 2, 981-7130; Max Anderson, District 3, 981-7130

Action: Held over to November 29, 2005 by Mayor Bates.

27. Cities Against the Death Penalty

a. From: Peace and Justice Commission

Recommendation: Vote to join "Cities Against the Death Penalty;" to decorate a monument, building, or other site to be determined by the City Manager's Office and the Mayor's Office to symbolize its support, from November 28 to November 30, 2005; to designate the Peace and Justice Commission as the "reference" for the initiatives of the World Campaign as indicated in the bullet points from "Cities Against the Death Penalty;" and to pursue any other points on that bullet list it considers appropriate.

Financial Implications:

Contact: Manuel Hector, Secretary, 981-5110

b. From: City Manager

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

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

Action: Moved to Consent by Councilmember Worthington. Moved, seconded, carried (Worthington/Maio) to approve the Peace and Justice recommendation and adopt Resolution No. 63,116–N.S. submitted by Mayor Bates in a supplemental report dated November 14, 2005.

Action Calendar – New Business

28. Recommendations on Caldecott Tunnel EIR

a. From: Transportation Commission

Recommendation: Request that the City Manager: 1) ensure that Berkeley's Office of Transportation has adequate staffing and funds for the review of and response to Caltrans' draft EIR when it is released. If there is not enough in-house staffing, then funds should be provided to hire a consultant; 2) request that Caltrans conduct, as part of the current environmental studies, a detailed study of what impacts the project will have on traffic along the primary local routes in southeast Berkeley (defined as the area encompassing from Dwight Way to the Oakland border in the north-south direction and from SR-24/Tunnel Rd. to Adeline St./Martin Luther King Jr. Way in the east-west direction) and potential mitigation measures for these impacts. Traffic models used must represent existing conditions in Berkeley; 3) request that Caltrans expand the scope of the EIR to include a full consideration of the traffic safety impacts to bicyclists and pedestrians along the primary local routes in southeast Berkeley and potential mitigation measures for these impacts; 4) request that Caltrans use models that are appropriate for the study. The SR-24 corridor is a unique area and standard Caltrans models may not be adequate for the study. For example, the curvature and topography of SR-24 present different conditions for noise propagation and attenuation than straight highways through flat land; and 5) request that Caltrans' transit study include service and impacts in Alameda County and be complete at the time of the Caldecott Improvement Project public hearings, so those hearings may include transit information and provide a complete picture of potential improvements.

Financial Implications: See report

Contact: Peter Hillier, Secretary, 981-7010

b. From: City Manager

Recommendation: Support the technical recommendations of the Transportation Commission regarding the scope of study of the Caldecott Tunnel Fourth Bore EIR (September 15, 2005 Transportation Commission recommendations 2 to 5, inclusive) and refer the issue of staff review of the draft EIR to the City Manager.

Financial Implications: See report

Contact: Claudette R. Ford, Public Works, 981-6300

Action: Councilmember Worthington moved the City Manager's recommendation to Consent.

Information Reports

29. Amendment to Fiscal Year 2006 Audit Plan

From: Auditor

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

Action: Received and filed.

30. Customer Service Cash Receipts/Cash Handling Audit - Status Report (CF 63-04)

From: City Manager

Contact: Fran David, Finance, 981-7399

Action: Received and filed.

Information Reports

31. **1116–1132 University Avenue, Berkeley – Certification and review of Planning Commission approval of Tentative Tract Map 7661**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.

Communications

Antennae on the Oaks Theater: 1861 Solano Avenue (Spring)

1. Connie and Kevin Sutton
2. Delia Barnes Taylor
3. Kevin Sutton

Transportation Impact Fees

4. Andy Katz, Northern Alameda County Sierra Club (Spring)

Sewer Laterals (Spring)

5. Ann Reid Slaby
6. Susan Schwartz, Friends of Five Creeks (Moore)

Condominium Conversion Ordinance

7. Michael Wilson, The Berkeley Property Owners Association (Moore)

Lower Covert Path

8. Eric Esarey

Advise Nurse Service

9. Michael Katz

Withdrawal of California National Guard Troops from Iraq – Response to September 13, 2005 Council Item

10. Congressman Xavier Becerra

Rauber vs. Moore Public Nuisance Lawsuit

11. Laura Menard

Government Revenues, Spending and Proposition 13

12. Barbara Gilbert

Supplemental Reports and Communications 1

Item 11: Ellis Bill Relocation Fees

13. Michael J. Wilson, The Berkeley Property Owners Association

Item 14: 1532 Martin Luther King, Jr. Way - Use Permit No. 04-10000079

14. Laura and Kiran Singh
15. Wallace Whittier

Supplemental Reports and Communications 1

Item 17: 2901 Otis Street - Landmarks Preservation Commission Designation as Structure of Merit and Item 18: 2901 Otis Street

- 16. David S. Ramin
- 17. Eric Geleynse

Item 22: Amending “By Right” Residential Additions and Definition of a Story in the Zoning Ordinance

- 18. Sharon O’Grady
- 19. Bruce Clymer

Item 24: Questions Regarding Radio Frequency Identification Devices

- 20. Hulda Nystrom
- 21. Lee Tien, Electronic Frontier Foundation
- 22. Peter Teichner
- 23. Corrine Goldstick (4)
- 24. Julia Craig

Item 27: Cities Against the Death Penalty

- 25. Amendment, submitted by Mayor Bates

Supplemental Reports and Communications 2

Item 17: 2901 Otis Street - Landmarks Preservation Commission Designation as Structure of Merit

- 26. Lesley Emmington

Item 18: 2901 Otis Street

- 27. Robert Lauriston

Item 24: Questions Regarding Radio Frequency Identification Devices

- 28. Meaveen O’Connor

Unpermitted Construction

- 29. Donn Gurule, submitted by Councilmember Worthington (*Worthington*)

Adjournment

Adjourned at 11:58 p.m.