



Office of the City Manager

CONSENT CALENDAR

November 15, 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 October 11 (closed) October 18, 2005 (special and regular) and October 25, 2005 (special and regular).

CONTACT PERSON

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

Attachments:

- 1: October 11, 2005 Closed City Council Minutes
- 2: October 18, 2005 Special City Council Minutes
- 3: October 18, 2005 Regular City Council Minutes
- 4: October 25, 2005 Special City Council Minutes
- 3: October 25, 2005 Regular City Council Minutes

## MINUTES

### BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

TUESDAY, OCTOBER 11, 2005

#### Preliminary Matters

**Roll Call:** 4:04 p.m.

**Present:** Councilmembers Anderson, Capitelli, Olds, Moore, Spring, Worthington, and Wozniak.

**Absent:** Mayor Bates and Councilmember Maio.

**Public Comment:** No speakers.

#### Closed Session

**1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):**

**PUBLIC LIABILITY LITIGATION**

Phelps, John D. v. City  
USDC No. C 98 01695 CAL

Davis, Shalina v. City of Berkeley, et al.  
ACSC No. 804558-2

Sweet, Linda v. City, et al.  
ACSC/BERK No. 2000069366

Session, Kenneth v. City of Berkeley  
ACSC/Berk. No. 2001 16476

Meggs, Jason/Salsbury, Ryan v. City, et al.  
USDC No. C 01 04033 CW

Meggs, Jason, Salsbury, Ryan v. City of Berkeley, et al.  
USDC No. C 02 0693 MHP  
Salsbury, Ryan, Meggs, Jason, et al. v. City of Berkeley, et al.  
USDC No. C 02 1528 CRB

Jones, Sharon R. v. City of Berkeley, PG&E  
ACSC No. 2002 040269

Kelman, Robert v. California Brazil Camp; Cazadero Performing Arts Camp, Inc., City  
SFSC No. CGC03 420313

University of California v. City of Berkeley, Charles Davism et al.  
ACSC No. RG03 096677

Ewrudje, Patricia, Mudiago and Obaro v. City of Berkeley, et al.  
ACSC No. RG03 121094

Reese, Shayanne v. City of Berkeley  
ACSC No. HG03-114568

Regina, Bonnie v. City of Berkeley  
ACSC No. RG03 124291

Waters, Christopher v. City of Berkeley, et al.  
ACSC No. RG03 130173

Prentice, Kristin, et al. v. City of Berkeley, et al.  
ACSC No. RG03 133031

Reid, Rhonda v. Berkeley Police Dept., et al.  
ACSC No. RG 03 134320

Justice, Carlvin v. People of the State of California (City of Berkeley)  
USDC No. C 04 0556 MJJ

Smith, Harriet v. City of Berkeley  
ACSC No. BG 03 123395

James, Shannon B. v. Berkeley Police Department, et al.  
USDC No. C 04 1195 MMC

Greenberg, Rachelle v. City of Berkeley  
ACSC No. BG 04 161238

Sykes, Gwen Rowe-Lee, et al. v. Berkeley Police Department, et al.  
ACSC No. RG 04 165468

Luckett, Bernice v. City of Berkeley, et al.  
ACSC No. RG 04 169238

Williams, Mary v. City of Berkeley  
ACSC No. RG 04 159030

Barton, Mary, et al. v. City of Berkeley  
ACSC No. RG 04 172953

DeCaprio, Steven H. v. City of Berkeley  
USDC No. C 04 3625 CW

Moise, Rheta v. City of Berkeley  
ACSC No. RG 04 168652

Nesby, Stancy v. City of Berkeley  
ACSC No. RG 04 177538

Allstate Insurance Company v. City of Berkeley  
ACSC No. BG 04 177377

Meyer Crest Ltd., et al. v. City of Berkeley, et al.  
ACSC No. RG 04 177080

21<sup>st</sup> Century Insurance Company/Christopher Waters v. City of Berkeley, et al.  
ACSC No. RG 04 180448

Becker, Margery v. City of Berkeley  
ACSC No. RG 04 178015

Levy, Linda and Pilkington, John v. City of Berkeley, et al.  
ACSC No. RG 04 181478

Barsamian, Francesca v. City of Berkeley, et al.  
ACSC No. RG 04 165815

Tweedie, Almateen, et al. v. City of Berkeley, et al.  
USDC No. C 04 4545 JC

Alvarez, Juan Carlos v. City of Berkeley  
ACSC No. RG 04 178764

Tate, Kawaine v. City of Berkeley  
USDC No. C 04 5221 EMC

Mary J. Goldstein v. City of Berkeley  
ACSC No. BG 05201135

Jules Weiss v. City of Berkeley, J. Howard Engineering  
ACSC No. RG 05201300

Roosevelt Oliver v. City of Berkeley, et al.  
USDC No. 05 01193 (SI)

Jacqueline Bradley v. City of Berkeley, et al.  
ACSC No. BG 05208327

Marie Williams v. City of Berkeley  
ACSC No. RG 05211813

Hugh Dinneen and Mrs. H. Dinneen v. City of Berkeley  
ACSC No. RG 05201852

Dorothy Hunt v. City of Berkeley  
ACSC No. RG 05220639

Pradeep Pal v. Steven DeCaprio; Steven DeCaprio v. City of Berkeley  
ACSC No. RG 05202910

Kevin Quillinan v. City of Berkeley  
ACSC No. RG 05230436

John Regan v. City of Berkeley  
ACSC No. RG 05207748

Ethel Giddens v. City of Berkeley  
ACSC No. RG 05199631

John Munro v. Gerald Blongren, City of Berkeley  
ACSC No. RG 05 213075

Farmers Insurance Exchange v. City of Berkeley  
ACSC No. RG 05 232697

City of Berkeley v. McCray  
Contra Costa Superior Court Case No. C 05 01429

Bowman v. City of Berkeley  
Court of Appeal Case No. A105000

**Action:** Discussion held.

**Adjournment**

Adjourned at 4:49 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of October 11, 2005 as approved by the Berkeley City Council.

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Sara T. Cox, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL SPECIAL MEETING**  
**BERKELEY CITY COUNCIL MEETING**  
**TUESDAY, OCTOBER 18, 2005**

**Preliminary Matters**

**Roll Call:** 5:05 p.m.

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

**Absent:** None.

**Work Session**

- 1. Abatement of Nonconforming/Substandard Sanitary Sewer Laterals on Private Property**
  - a. From: City Manager** *(To be delivered)*  
Contact: Claudette Ford, Public Works, 981-6303
  - b. From: Public Works Commission** *(To be delivered)*  
**Recommendation:** Authorize and implement a program for the testing, repair, replacement and maintenance of privately owned upper sewer laterals in Berkeley.  
**Financial Implications:** See report.  
Contact: Jeffrey Egeberg, Secretary, 981-6406  
**Action:** Presentation made. Discussion held.

**Public Comment**

**Public Comment:** Susan Schwartz.

**Supplemental Reports and Communications 1**

- Item 1: Abatement of Nonconforming/Substandard Sanitary Sewer Laterals on Private Property**
1. Presentation materials, submitted by Public Works Department

## Adjournment

Adjourned at 6:22 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of October 18, 2005 as approved by the Berkeley City Council.

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Sara T. Cox, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**TUESDAY, OCTOBER 18, 2005**

**Preliminary Matters**

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

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

**Absent:** None.

**Ceremonial Matters:**

1. Proclamation presented to Fred Medrano, Director of Health and Human Services, and Fire Chief Debra Pryor, in recognition of Exemplary Public Service to the Hurricane Katrina Relief Efforts.
2. Certificates of Appreciation presented to City staff who participated in Hurricane Katrina relief efforts.
3. Proclamation presented in recognition of the United Nations' 60<sup>th</sup> Anniversary Celebration Events.
4. Announcement of the City of Berkeley 2005 Workplace Giving Campaign

**City Manager Comments:** None.

**Public Comment:** Hal Carlstad, Leon G. Wilson, Nancy Taussig, Stephen Wollmer, Jane Welford, Henry Norr, Lee Tien, Lynda Winslow, Nick Mastick, Sheila Madden, Deborah Todd, Zoia Horn, David Soffa, Lisa Hesselgesser, and Peter Teichner.

**Youth Comments:** No speakers.

**Consent Calendar**

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

## Consent Calendar

1. **Use of Veterans Memorial Building: Men's Shelter and Multi-Agency Service Center**  
(*First Reading September 27, 2005 – Unanimous*)

**From:** City Manager

**Recommendation:** Adopt second 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:** Adopted Ordinance No. 6,879–N.S. Effective November 17, 2005.

2. **Minutes for Approval**

**From:** City Manager

**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).

**Financial Implications:** None

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

**Action:** Approved minutes with the exception of September 19, 2005 (closed), which were held over to October 25, 2005 by the City Clerk.

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. 63,070–N.S.

4. **2005 City Council Meeting Schedule**

**From:** City Manager

**Recommendation:** Adopt a Resolution revising the 2005 Council Meeting Schedule to cancel the November 8 (Special Election Day) and November 22, 2005 (Thanksgiving Week) meetings; add a regular meeting on November 29, 2005; cancel the December 6, 2005, 5:00 p.m. work session; and rescind Resolution 62,641-N.S.

**Financial Implications:** None.

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

**Action:** Adopted Resolution No. 63,071–N.S.

## Consent Calendar

### 5. 2006 City Council Meeting Schedule

**From: City Manager**

**Recommendation:** Adopt a Resolution establishing a calendar for regular City Council meetings for Calendar Year 2006 with starting times of 7:00 p.m. and special meetings for work sessions to be scheduled for 5:00 p.m. prior to regularly scheduled Council meetings.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 63,072–N.S.

### 6. Contract: Provide Animal Care Services for the City of Albany

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the City of Albany for Berkeley Animal Care Services to provide animal shelter and field services for the City of Albany in an amount not to exceed \$26,127, to be paid by the City of Albany in FY 2006.

**Financial Implications:** General Fund - \$26,127 revenue

Contact: Jim Hynes, City Manager, 981-7000

**Action:** Moved to Action by Councilmember Olds. Vote consolidated with Items 7 and 26. Moved, seconded, carried (Worthington/Spring) to adopt Resolution No. 63,073–N.S.

### 7. Contract: Provide Animal Care Services for the City of Piedmont

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the City of Piedmont for Berkeley Animal Care Services to provide animal shelter services for the City of Piedmont in an amount not to exceed \$17,505, to be paid by the City of Piedmont in FY 2006.

**Financial Implications:** General Fund - \$17,505 revenue

Contact: Jim Hynes, City Manager, 981-7000

**Action:** Moved to Action by Councilmember Olds. Vote consolidated with Items 6 and 26. Moved, seconded, carried (Worthington/Spring) to adopt Resolution No. 63,074–N.S.

### 8. Downtown Berkeley Business Improvement District

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the 2006 Annual Report of the Downtown Berkeley Business Improvement District (BID); declaring Council's intention to levy an annual assessment for the Downtown Berkeley Business Improvement District for calendar year 2006; and directing the City Clerk to schedule a public hearing for November 15, 2005, to consider levying a renewed assessment for the year 2006.

**Financial Implications:** Downtown BID Funds - \$250,000

Contact: Thomas Myers, Economic Development, 981-7530

**Action:** Adopted Resolution No. 63,075–N.S.

## Consent Calendar

- 9. Contract: Implement the Management District Plan for North Shattuck Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association to implement the Management District Plan and approved Work Plan for the North Shattuck Business Improvement District (BID) in an amount not to exceed \$167,572 for FY 2006.  
**Financial Implications:** North Shattuck BID Assessment Funds - \$167,572  
Contact: Thomas Myers, Economic Development, 981-7530  
**Action:** Adopted Resolution No. 63,076–N.S.
- 10. Solano Avenue Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the 2005 Annual Report of the Solano Avenue Business Improvement District (BID); declaring Council’s intention to levy an annual assessment for the Solano Avenue BID for calendar year 2006; and directing the City Clerk to schedule a public hearing for November 15, 2005, to consider levying a renewed assessment for the year 2006.  
**Financial Implications:** Solano Avenue BID Funds - \$35,000  
Contact: Thomas A. Myers, Economic Development, 981-7530  
**Action:** Moved to Action by Councilmember Capitelli. Held over to October 25, 2005 by the City Manager.
- 11. Formal Bid Solicitations and Requests for Proposals**  
**From: City Manager**  
**Recommendation:** Approve the attached list of new invitations for bids and requests for proposals (RFPs) that will be issued upon final approval by the requesting department or division.  
**Financial Implications:** Capital Improvement Fund - \$1,010,000  
Contact: Fran David, Finance, 981-7300  
**Action:** Approved recommendation.
- 12. Grant: Tobacco Cessation and Prevention Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept a \$138,000 grant from the Alameda County Public Health Department for tobacco cessation, enforcement, and prevention services for the period July 1, 2005 to June 30, 2007 and 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 grant.  
**Financial Implications:** Grant Revenue - \$138,000  
Contact: Fred Medrano, Health and Human Services, 981-5100  
**Action:** Adopted Resolution No. 63,077–N.S.

## Consent Calendar

- 13. Contract: Update of a Community Choice Aggregation Pro Forma**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Navigant Consulting, Inc. to perform an update of a Community Choice Aggregation (CCA) pro forma in the amount of \$4,000, for a total contract amount not to exceed \$28,500.  
**Financial Implications:** General Fund - \$4,000  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Adopted Resolution No. 63,078–N.S.
- 14. Abolition of Unused Classifications**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Section 1 of: 1) the Berkeley Police Association Classification and Salary Resolution No. 62,579-N.S.; 2) the Service Employees International Union Local 790 Classification and Salary Resolution No. 61,807-N.S.; 3) the Public Employees Union Local One Classification and Salary Resolution No. 61,840-N.S.; and 4) the Unrepresented Employees Classification and Salary Resolution No. 61,812 - N.S., to abolish 14 unused classifications.  
**Financial Implications:** None  
Contact: David W. Hodgkins, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 63,079–N.S.
- 15. Classification: Contract Administrator**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Section 1 of Resolution No. 61,840-N.S., Classification and Salary Resolution for Public Employees Union Local 1, to add the classification and salary range of Contract Administrator.  
**Financial Implications:** General Fund - \$120,853  
Contact: David W. Hodgkins, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 63,080–N.S.
- 16. Design Development Plans - Gilman Street Playing Fields**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution supporting Design Development Plans for the Gilman Street Playing Fields Project in order to proceed with construction drawings  
**Financial Implications:** State Parks Grants - \$325,881  
Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700  
**Action:** Adopted Resolution No. 63,081–N.S.
- 17. Contract: Assessment and Analysis of Berkeley Creeks and Watershed**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Balance Hydrologics, Inc. to provide assessment and analysis of Berkeley creeks and watershed for a term of one year in an amount not to exceed \$100,000.  
**Financial Implications:** Capital Improvement Fund - \$100,000  
Contact: Dan Marks, Planning and Development, 981-7400  
**Action:** Adopted Resolution No. 63,082–N.S.

- 18. Contract: Public Safety Building Janitorial Services**  
**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 \$103,720 for the period November 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 - \$103,720 (FY 2006); \$258,928 (FY 2007-2008)  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,083–N.S. (Noes – Anderson, Worthington) as amended correcting the contract amounts to \$124,464 for FY 2007 and FY 2008.
- 19. Grant: Citywide Bicycle Parking Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a grant application to the County Program Manager Fund of the Bay Area Air Quality Management District’s Transportation Fund for Clean Air (TFCA) grant program for funds in the amount of \$24,625 in FY 2006 for the City of Berkeley Citywide Bicycle Parking Program, accept the grant, and execute any resultant agreements and amendments.  
**Financial Implications:** Grant Revenue - \$24,625; no matching funds required  
Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,084–N.S.
- 20. Sale of Real Property: 2344 Sixth Street (To be delivered)**  
**From: City Manager**  
**Recommendation:** Adopt the first reading of an Ordinance authorizing the City Manager to execute all necessary documents required to sell the real property located at 2344 Sixth Street to LifeLong Medical Care, Inc., for a sale price of \$2.2 million.  
**Financial Implications:** See report  
Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Adopted first reading of Ordinance. Second reading scheduled for October 25, 2005.
- 21. Support for the Coastal Environmental Motor Vehicle Mitigation Program**  
**From: Councilmember Maio**  
**Recommendation:** Support and ask Governor Schwarzenegger to sign SB658 (Kuehl), the Coastal Environmental Motor Vehicle Mitigation Program.  
**Financial Implications:** None  
Contact: Linda Maio, Councilmember District 1, 981-7110  
**Action:** Approved recommendation.

**22. Disaster Preparedness**

**From: Councilmember Spring**

**Recommendation:** Request: 1) the City Manager to invite the Disaster Preparedness Task Force to the November 15, Council workshop on disaster preparedness; 2) request that particular attention be directed to the special needs of the disabled, elderly and hospitalized residents in case of severe disasters; 3) request a representative of Easy Does It, to present what this organization is doing to assist the severely disabled in the case of disaster; and 4) request that the City Manager widely advertise this presentation as well as other planned classes and workshops on this topic to the public.

**Financial Implications:** None

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

**Action:** Councilmember Spring announced that the Disaster Preparedness Task Force workshop date has been rescheduled for December 6, 2005. Approved recommendation as amended.

**23. Questions Regarding Radio Frequency Identification Devices**

**From: Councilmember Spring**

**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 to Action by Councilmember Wozniak. Held over to November 15, 2005 by Councilmember Spring.

**24. Finance Customer Service Center Number Waiting System**

**From: Councilmember Worthington**

**Recommendation:** Refer to the City Manager to evaluate the feasibility of installing a number waiting system so that the public, especially elderly and disabled persons, can wait in comfort at the Finance Customer Service Center.

**Financial Implications:** None

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

**Action:** Approved recommendation.

**25. Proclamation Observing United Nations Day**

**From: Councilmember Worthington**

**Recommendation:** Approve a proclamation in observance of United Nations Day 2005 on October 24, 2005.

**Financial Implications:** None

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

**Action:** Approved proclamation.

**26. Status of the Elmwood Quota System**

**From: Councilmember Worthington**

**Recommendation:** Refer the City Manager's report on the status of the Elmwood Quota System to the Planning Commission and include clarification of what is included in the Worthington referral to the Planning Commission.

**Financial Implications:** None

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

**Action:** Moved to Action by Councilmember Capitelli. Vote consolidated with Items 6 and 7. Moved, seconded carried (Worthington/Spring) to approve recommendation.

**27. Support Commission Diversity**

**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:** Moved to Action by Councilmember Wozniak. Held over to November 15, 2005 by Councilmember Worthington.

**28. Support Sutter Health Employees**

**From: Councilmember Worthington**

**Recommendation:** Adopt a Resolution in support of Sutter Health employees at the California Pacific Medical Center and the Federal Mediator's proposed Settlement Agreement.

**Financial Implications:** None

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

**Action:** Held over to November 15, 2005 by Councilmember Worthington.

**29. Demolition of B51 and the Bevatron at Lawrence Berkeley National Laboratory**

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

**Recommendation:** Recommend 1) that the City Council reaffirm its support for the full decommissioning, deconstruction and removal of the Bevatron; and 2) refer to the City Manager for review the Peace & Justice Commission resolution on the proposed demolition of B51 and the Bevatron and the Draft Environmental Impact Report (DEIR), when it is released later in the Fall of 2005. For this review, staff would have the benefit of the comprehensive analysis of the associated environmental and historical impacts in the DEIR.

**Financial Implications:** None.

Contact: Gordon Wozniak, Councilmember District 8, 981-7180; Darryl Moore, Councilmember District 2, 981-7120; Linda Maio, Councilmember District 1, 981-7110

**Action:** Held over October 25, 2005 by Councilmember Wozniak.

## Consent Calendar

### 30. Revisions to the Proposed Land Use Posting Requirements

**From: Councilmember Wozniak**

**Recommendation:** Recommend that the City Manager direct the Planning Department and the Planning Commission to consider modifying the public noticing requirements for proposed land-use actions in a manner such that effective notice to the public is maintained, but does not contribute to urban blight via unnecessary clutter on street light poles and other public places.

**Financial Implications:** See report.

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

**Action:** Held over to October 25, 2005 by Councilmember Worthington.

### 31. Concert for Peace

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

**Recommendation:** Adopt a Resolution endorsing the Concert for Peace to celebrate the United Nations 60th Anniversary and the 100th Anniversary of Dag Hammarskjold's birth to be held October 23, 2005 at the Paramount Theatre at 7:00 p.m.

**Financial Implications:** None

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:** Adopted Resolution No. 63,085–N.S.

## Action Calendar – Appeals

### 32. 1323 Kains Avenue

**a. From: City Manager**

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit #04-20000171, to allow an 816 square-foot, second story addition to an existing single family residence, and dismissing the appeal.

**Financial Implications:** None

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

**b. Appeal**

1. Laura Riggs

**c. Communications**

1. Laura Riggs

**Action:** Moved, seconded (Maio/ Spring) to schedule a public hearing.

Moved, seconded, carried (Anderson/Olds; Noes – Maio, Spring, Wozniak; Abstain – Worthington) a substitute motion to adopt Resolution No. 63,086–N.S. affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #04-20000171, to allow an 816 square-foot, second story addition to an existing single family residence, and dismissing the appeal.

## Action Calendar – Appeals

### 33. 2901 Otis Street

#### a. From: City Manager

**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

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

**Action:** The Mayor announced the votes for Items 33 and 34 would be consolidated. Moved, seconded, carried (Capitelli/Maio) a motion to set the appeal of the Zoning Adjustments Board and Landmarks Preservation Commission decisions for a public hearing on November 15, 2005.

### 34. 2901 Otis Street - Landmarks Preservation Commission Designation as Structure of Merit

#### a. From: City Manager

**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

**Action:** The Mayor announced the votes for items 33 and 34 would be consolidated. Moved, seconded, carried (Capitelli/Maio) a motion to set the appeal of the Zoning Adjustments Board and Landmarks Preservation Commission decisions for a public hearing on November 15, 2005.

### 35. 2170 Shattuck Avenue *(To be delivered)*

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Administrative Use Permit #04-20000173 to establish a new quick-service restaurant at 2170 Shattuck Avenue with Modification #05-70000023 to eliminate required parking, and dismissing the appeal.

**Financial Implications:** None

Contact: Dan Marks, Planning and Development 981-7400

#### b. Appeal

1. Chris Tan

#### c. Communications

1. Chris Tan, GMSX LLC

**Action:** The City Manager's recommendation was moved to Consent by Councilmember Maio. Adopted Resolution No. 63,087–N.S. affirming the Zoning Adjustments Board (ZAB)

## Action Calendar – Appeals

decision to approve Administrative Use Permit #04-20000173 to establish a new quick-service restaurant at 2170 Shattuck Avenue with Modification #05-70000023 to eliminate required parking, 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 – Public Hearing

### 36. 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-10000069

#### a. From: City Manager (September 13, 2005)

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

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

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

**Financial Implications:** None.

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

#### c. Appeal

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

#### d. Communications (October 18, 2005)

1. Matthew White
2. Bill Richmond
3. Daphne and George Kalmar

#### e. Supplemental Reports and Communications #1 (September 13, 2005)

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

## Action Calendar – Public Hearing

63. Paul and Cynthia Lane
64. Kimberley Kline (2)
65. Daphne Kalmar (3)

**f. Communications** (*July 19, 2005– numbering follows original sequence*)

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

**g. Supplemental Reports and Communications #1** (*July 19, 2005– numbering follows original sequence*)

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

**Public Testimony:** The Mayor opened the public hearing. Daphne Kalmar, Matthew White, David Richmond, Bill Richmond, Thomas Shin, Hap Klopp, Christopher Jarrett, Julie Gutzwiller, and John Lennie. Moved, seconded, carried (Anderson/Worthington) to close the public hearing.

**Action:** Councilmember Capitelli announced that he would recuse himself. The City Attorney noted that Councilmember Capitelli had voted on this matter when he was on the Zoning Adjustments Board. Moved, seconded, carried (Spring/Maio; Abstain – Moore, Anderson; Absent – Capitelli) to adopt Resolution No. 63,088–N.S. as amended by Councilmember Spring to reduce the maximum elevation one foot; and, retain all conditions specified by the Zoning Adjustments Board (ZAB) when it approved Use Permit #03-10000069, to construct a single-family dwelling, 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*

**37. Amendments to the General Plan Housing Element Appendix Per Council Resolution No. 61,955-N.S.**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution amending the General Plan Housing Element Appendix as recommended by the Planning Commission.

**Financial Implications:** Minor administrative costs.

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

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

**Action:** Moved, seconded, carried (Wozniak/Worthington; Noes – Spring) to adopt Resolution No. 63,089–N.S. amending the General Plan Housing Element Appendix as recommended by the Planning Commission.

**38. Gilman Street Playing Fields: Waterfront Specific Plan/General Plan/Zoning Ordinance Amendments, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion: 1) adopt a Resolution: a) adopting the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) for the proposed General Plan/Waterfront Specific Plan Amendment, Zoning Ordinance Amendment and proposed Gilman Street Playfields Project; and b) amending the Berkeley Waterfront Specific Plan and by reference the Berkeley Waterfront Plan Amendment to the City’s Master Plan, and thereby amending the General Plan (which incorporates these documents by reference), establishing an “as of right” use for public or commercial recreation sports facilities and establishing that this use would be exempt from the requirements for a Master Development Plan (MDP); and 2) adopt the first reading of an Ordinance amending the Zoning Ordinance, Berkeley Municipal Code (BMC) Section 23E.88.030, to clarify that where the Specific Plan exempts a permitted use from the requirements of a Master Development Plan and Use Permit, the use is subject to Zoning Conformance procedures as set forth in BMC Chapter 23B.20.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. L A Wood. Moved, seconded, carried (Wozniak/Worthington) to close the public hearing.

**Action:** Moved, seconded, carried (Wozniak/Maio) to adopt Resolution No. 63,090–N.S. and to adopt the first reading of Ordinance. Second reading scheduled for October 25, 2005.

## Action Calendar – Old Business

**39. Disappearing Newsracks and the Constitutionality and Practicality of the Interpretation and Implementation of Newsrack Regulations** (*Held over from September 27, 2005*)

**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 November 15, 2005 by Councilmember Worthington.

## Action Calendar – New Business

**40. Amendment to the Condominium Conversion Ordinance**

**From:** City Manager

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 21.28, Condominiums, Community Apartments, Stock Cooperatives and Tenancy in Common Projects.

**Financial Implications:** See report.

Contact: Stephen Barton, Housing, 981-5400

**Action:** Moved, seconded, failed (Capitelli/Wozniak; Noes – Maio, Anderson, Spring, Worthington, Bates; Abstain – Moore) a substitute motion to adopt first reading of the Ordinance and incorporate “Tenant Protection Alternative No. 1” and include the disabled in this language.

Moved, seconded, carried (Worthington/Maio; Noes – Capitelli, Olds, Wozniak) to adopt first reading of the Ordinance incorporating “Duplex Alternative No. 2” and “Tenant Protection Alternative No. 2” provided they comply with tenant protection section 21.28.050A. Second reading scheduled for October 25, 2005.

**41. Potentially Hazardous Soft, Weak, or Open Front Story Buildings**

**From:** City Manager

**Recommendation:** Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) to add Chapter 19.39, establishing an Inventory of Potentially Hazardous Soft, Weak, or Open Front Story Buildings and adopting Chapter A4 of the 2003 International Existing Building Code and Amendments.

**Financial Implications:** See report

Contact: Dan Marks, Planning and Development 981-7400

**Action:** Moved, seconded, carried (Olds/Maio) to adopt first reading of Ordinance. Second reading scheduled for October 25, 2005.

## Action Calendar – New Business

### 42. Commission Websites

#### a. From: Parks and Recreation Commission

**Recommendation:** Direct the City Manager to direct staff to encourage all willing commission chairpersons to allow electronic posting of their email addresses to the City website.

**Financial Implications:** Staff time

Contact: Virginia Aiello, Secretary, 981-5158

#### b. From: City Manager

**Recommendation:** Refer this issue to the City Manager for consideration and response at a later date.

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

**Action:** The City Manager's recommendation was moved to Consent by Councilmember Wozniak.

## Information Reports

### 43. Support for Mayor's FY2006 Budget Amendments

#### From: Homeless Commission

Contact: Oscar Sung, HAC Secretary, 981-5410 and Kristen Lee, HWCAC Secretary, 981-5427

**Action:** Received and filed.

### 44. Unrepresented Temporary Employees Information Report

#### From: City Manager

Contact: David W. Hodgkins, Human Resources, 981-6800

**Action:** Received and filed.

## Communications

### **Gilman Street Playing Fields: Waterfront Specific Plan/General Plan/Zoning Ordinance Amendments, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan**

1. Supplemental report, submitted by Planning and Development

### **AB 1690 and the City/UC Settlement**

2. Julie Sinai, Office of the Mayor

### **Radiofrequency in Berkeley Public Libraries Program**

3. SuperBerkeleyans Organizing for Library Defense

### **Thank You Letter to President Hugo Chavez**

4. Leuren Moret

### **Train Noise**

5. Seth Fleisher

### **Brown Act Violations**

6. Jane Welford, SuperBOLD

## Communications

### **California Records Act Request**

7. Jane Welford, SuperBOLD

### **Dovers Sales/Precision Technical Coatings Site Cleanup**

8. Gilman Alliance (3)

### **Unfunded Pension Liability**

9. Barbara Gilbert

### **Hurricane Katrina and the Role of Government**

10. Barbara Gilbert

### **Realtor Business License Tax**

11. Barbara Gilbert (*Spring*)

### **UC Berkeley Salaries**

12. Barbara Gilbert

### **Former Councilmember Maudelle Shirek**

13. Barbara Gilbert

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

14. Congressman Henry A. Waxman

### **New York City Preservation of Single-Family Homes and Neighborhoods**

15. Barbara Gilbert

### **Amendments to the General Plan Housing Element Appendix Per Council Resolution No. 61,955-N.S.**

16. Martha Nicoloff

### **ACA 5: PERS Defined Contribution – Response to April 25, 2005 Council Item**

17. Senator Don Perata

### **Potentially Hazardous Soft, Weak, or Open Front Story Buildings**

18. Andrew T. Merovich, Structural Engineers Association of Northern California, submitted by Ken Miles

## Supplemental Reports and Communications #1

### **Item 2: Minutes for Approval**

19. Revised September 19, 2005 minutes (closed), submitted by the City Clerk's Office

### **Item 16: Design Development Plans - Gilman Street Playing Fields**

20. Rio Bauce

### **Item 23: Questions Regarding Radio Frequency Identification Devices**

21. Nancy Schimmel
22. Cynthia Johnson, Social Justice Committee of the Berkeley Unitarian Universalists Fellowship Social Justice Committee
23. Charlene Woodcock

## Supplemental Reports and Communications 1

**Item 25: Proclamation Observing United Nations Day**

24. Letter of support, submitted by the Peace and Justice Commission

**Item 27: Support Commission Diversity**

25. Sharon Hudson

**Item 30: Revisions to the Proposed Land Use Posting Requirements**

26. Sharon Hudson (see communication number 23)

**Item 32: 1323 Kains Avenue**

27. Borja Family

**Item 33: 2901 Otis Street**

28. Robert Lauriston

**Item 36: 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069**

29. John Lennie and Else C. Vellinga

**Item 39: Disappearing Newsracks and the Constitutionality and Practicality of the Interpretation and Implementation of Newsrack Regulations**

30. Sharon Hudson (see communication number 23)

**Item 41: Potentially Hazardous Soft, Weak, or Open Front Story Buildings**

31. Keith Knudsen, Earthquake Engineering Research Institute, Northern California Chapter

## Supplemental Reports and Communications #2

**Item 23: Questions Regarding Radio Frequency Identification Devices**

32. Rebecca Penn

**Item 36: 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069**

33. Kimberly Kline

**Item 40: Amendment to the Condominium Conversion Ordinance**

34. Recommendation, submitted by the Rent Stabilization Board

## Supplemental Reports and Communications #3

**Item 27: Support Commission Diversity**

35. Resolution, submitted by Councilmember Worthington

**Item 32: 1323 Kains Avenue**

36. Laura Riggs

**Item 36: 2615 Marin Avenue - Appeal ZAB Decision Use Permit #03-1000069**

37. Daphne Kalmar

**Item 38: Gilman Street Playing Fields: Waterfront Specific Plan/General Plan/Zoning Ordinance Amendments, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan**

38. L A Wood

## Adjournment

Adjourned at 12:22 p.m. in honor of Anna Kael Wallace.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 18, 2005 as approved by the Berkeley City Council.

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Sara T. Cox, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL SPECIAL MEETING**  
**BERKELEY CITY COUNCIL MEETING**  
**TUESDAY, OCTOBER 25, 2005**

**Preliminary Matters**

**Roll Call:** 5:01 p.m.

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

**Absent:** None.

**Work Session**

**1. Status of Crime in Berkeley and Community Crime View**

**From: City Manager**

Contact: Douglas N. Hambleton, Police, 981-5900

**Action:** Presentation made. Discussion held.

**2. Update on Fire Flexible Staffing**

**From: City Manager**

Contact: Debra Pryor, Fire, 981-5500

**Action:** Presentation made. Discussion held.

**Public Comment**

**Public Comment:** No speakers.

**Communications**

None.

**Supplemental Reports and Communications #1**

**Item 1: Status of Crime in Berkeley and Community Crime View**

1. Report and presentation materials, submitted by the Police Department

**Item 2: Update on Fire Flexible Staffing**

2. Presentation materials, submitted by the Fire Department

**Supplemental Reports and Communications #2**

**Item 2: Update on Fire Flexible Staffing**

3. Tempered by Fire: History of the Berkeley Fire Department, submitted by the Fire Department

**Adjournment**

Adjourned at 6:52 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of October 25, 2005 as approved by the Berkeley City Council.

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Sara T. Cox, City Clerk

## MINUTES

### BERKELEY CITY COUNCIL MEETING

**TUESDAY, OCTOBER 25, 2005**

<b>Preliminary Matters</b>
----------------------------

**Roll Call:** 7:32 p.m.

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

**Absent:** None.

**Ceremonial Matters:**

1. Proclamation declaring October 23 through October 29, 2005 National Childhood Lead Poisoning Prevention Week in the City of Berkeley.
2. Mayor Bates announced that the City of Berkeley will celebrate Veterans Day on November 11, 2005.

**City Manager Comments:**

1. A town hall meeting will be convened on November 10, 2005 at the St. Paul AME Church, 2024 Ashby, to discuss health and programs focused on high blood pressure.
2. On October 22, 2005 the City conducted a successful disaster preparation workshop. Additional workshops will be held on November 5, 2005 from 10-12 at the West Berkeley Senior Center and on December 10, 2005 from 10-12 at the North Berkeley Senior Center.

**Public Comment:** Stephen Wollmer, Serena Chen, Tricia Brazil, Pugh Chamberlain, Anthea Carmichael, PhoeBe (sorgen), James Cunningham, Elizabeth Russell, Linda McCormick, Mark McDonald, and Nijalo.

<b>Consent Calendar</b>
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**Action:** Moved, seconded, carried (Capitelli/Worthington; Absent – Maio) to adopt Consent Calendar in one motion except as indicated:

1. **Sale of Real Property: 2344 Sixth Street (First Reading October 18, 2005 – Unanimous)**  
**From: City Manager**  
**Recommendation:** Adopt the second reading of an Ordinance authorizing the City Manager to execute all necessary documents required to sell the real property located at 2344 Sixth Street to LifeLong Medical Care, Inc., for a sale price of \$2.2 million.  
**Financial Implications:** See report  
 Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Adopted Ordinance No. 6,880–N.S. Effective November 24, 2005.

## Consent Calendar

- 2. Gilman Street Playing Fields** *(First Reading October 18, 2005 – Unanimous)*  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance amending the Zoning Ordinance, Berkeley Municipal Code (BMC) Section 23E.88.030, to clarify that where the Specific Plan exempts a permitted use from the requirements of a Master Development Plan and Use Permit, the use is subject to Zoning Conformance procedures as set forth in BMC Chapter 23B.20.  
**Financial Implications:**  
Contact: Dan Marks, Planning and Development, 981-7400  
**Action:** Adopted Ordinance No. 6,881–N.S. Effective November 24, 2005.
- 3. Amendment to the Condominium Conversion Ordinance**  
*(First Reading as amended October 18, 2005. Noes – Capitelli, Olds and Wozniak)*  
**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 as amended to incorporate “Duplex Alternative No. 2” and “Tenant Protection Alternative No. 2” provided they comply with tenant protection section 21.28.050A.  
**Financial Implications:** See report.  
Contact: Stephen Barton, Housing, 981-5400  
**Action:** Adopted Ordinance No. 6,882–N.S. Effective November 24, 2005.
- 4. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meeting of September 19, 2005 (closed).  
**Financial Implications:** None.  
Contact: Sara T. Cox, City Clerk, 981-6900  
**Action:** Approved minutes.
- 5. Borrowing of Funds and the Sale and Issuance of FY 2006 Tax and Revenue Anticipation Notes**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution providing for the borrowing of \$25,000,000 and the sale and issuance of FY 2006 Tax and Revenue Anticipation Notes.  
**Financial Implications:** General Fund - \$25,000,000  
Contact: Fran David, Finance, 981-7300  
**Action:** Adopted Resolution No. 63,091–N.S. as amended to change “general law” to “charter”.
- 6. Formal Bid Solicitations & Request for Proposals**  
**From: City Manager**  
**Recommendation:** Approve the attached request for proposal that will be, or is planned to be, issued upon final approval by the requesting department or division.  
**Financial Implications:** Measure Q Funds - \$500,000  
Contact: Fran David, Finance, 981-7300  
**Action:** Approved recommendation.

**7. Contract: Shelter Plus Care Grant for the Homeless**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revenue contract and any subsequent amendments with the Alameda County Housing and Community Development Department for the purposes of receiving Federal Department of Housing and Urban Development (HUD) funds to implement a new Shelter Plus Care grant for chronically homeless individuals in Berkeley in an amount not to exceed \$747,120 for a five-year period beginning with the date of execution of a contract with Alameda County Housing and Community Development Department.

**Financial Implications:** Grant Revenue - \$747,120

Contact: Stephen Barton, Housing, 981-5400

**Action:** Adopted Resolution No. 63,092–N.S.

**8. Winter Homeless Shelter Programs**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing: 1) the City Manager to enter into a Memorandum of Understanding with the City of Oakland Department of Human Services and execute subsequent amendments as necessary for the Winter Shelter Program at the Oakland Army Base; 2) payment not to exceed \$42,000 for transportation for residents to and from the Winter Shelter; and 3) payment of up to \$14,642 to provide vouchers to homeless households for emergency housing at local motels and the Berkeley YMCA.

**Financial Implications:** See report

Contact: Stephen Barton, Housing, 981-5400

**Action:** Adopted Resolution No. 63,093–N.S.

**9. License: Use of Building at 91 Bolivar Drive, Aquatic Park, by Fix Our Ferals**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a license with Fix Our Ferals for short-term use of the Rod and Gun Club, a vacant Aquatic Park building at 91 Bolivar Drive, as a pre and post sterilization recovery room for free-roaming cats for the period November 1, 2005 to March 31, 2006.

**Financial Implications:** Minimal

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

**Action:** Moved to Action by Councilmember Moore. Moved, seconded, carried (Moore/Worthington; Absent – Maio). Adopted Resolution No. 63,094–N.S. with a stipulation by Councilmember Moore to limit the lease to a six-month period.

**10. Contract: On-Call Traffic Engineering Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Korve Engineering for on-call traffic engineering services in an amount not to exceed \$40,000 for the period November 1, 2005 to October 31, 2007.

**Financial Implications:** Capital Improvement Fund - \$40,000

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

**Action:** Adopted Resolution No. 63,095–N.S.

## Consent Calendar

- 11. Contract Amendment and Purchase/Operations Agreement: Phase 2 of the Parking Pay Station Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment of \$242,172 plus \$50,000 per year over five years to the agreement with Cale Parking Systems USA, Inc., for Phase 2 implementation of parking pay stations, to install pay and display stations in the North Shattuck and Southside areas, and cover associated costs for the 5-year term of the agreement.  
**Financial Implications:** Parking Meter Fund - \$292,172 plus \$50,000 over five years  
Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,096–N.S.
- 12. Purchase Order: Vehicle Replacement**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with San Francisco Toyota in an amount not to exceed \$137,854 to purchase six Toyota Prius Hybrid vehicles for the City of Berkeley fleet.  
**Financial Implications:** Equipment Replacement Fund - \$137,854  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,097–N.S.
- 13. Transportation Commission: Comments on the Gilman at Curtis Intersection (CF 14-05)**  
**From: City Manager**  
**Recommendation:** Concur with Transportation Commission recommendation supporting improvements made by staff in 2005 to enhance pedestrian and bicycle safety by highlighting the crosswalks at the Gilman Street and Curtis Street intersection.  
**Financial Implications:** None  
Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Approved recommendation.
- 14. Proposed Amendment No. 1 to Alameda County Measure B Expenditure Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution endorsing the Alameda County Transportation Authority's (ACTA) proposed Amendment No. 1 to the 1986 Alameda County Measure B Transportation Expenditure Plan, which is required by law to be approved by 14 ACTA member cities representing a majority of the County population.  
**Financial Implications:** None  
Contact: Claudette R. Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,098–N.S.

## Consent Calendar

### 15. Improve Healthy Food and Physical Activity Options

**From: Mayor Bates**

**Recommendation:** Adopt a Resolution endorsing the Strategic Alliance "Taking Action for a Healthier California: Recommendations to Improve Healthy Food and Activity Options" and beginning implementation of the following two recommendations: 1) ensure that a significant percentage of prepared and vending machine foods sold at worksites are healthy and affordable; and 2) encourage physical activity through such practices as encouraging stairway use, providing bike racks, providing lockers and showers, and offering flextime or breaks for physical activity.

**Financial Implications:** See report

Contact: Tom Bates, Mayor, 981-7100

**Action:** Adopted Resolution No. 63,099–N.S.

### 16. Tobacco Prevention Policies

**From: Mayor Bates**

**Recommendation:** Refer the following three issues to the Community Health Commission for further investigation, with a request to return to Council by June 2006 with specific policy recommendations that would reduce the life threatening impacts of smoking and second-hand smoke and tobacco industry promotions to young adults: 1) eliminate tobacco industry bar nights in Berkeley; 2) include second-hand smoke in Berkeley's General Nuisance ordinance; and 3) require new, publicly funded, multi-unit housing developments to be smoke-free, and request that the City Attorney research and inform the Council on whether it has the legal authority to prohibit smoking in cars that are transporting children in the city limits.

**Financial Implications:** Staff time

Contact: Tom Bates, Mayor, 981-7100

**Action:** Moved to Action by Mayor Bates. Moved, seconded, carried (Worthington/Moore; Absent – Maio) to approve the recommendation as amended to include Police Department review.

## Action Calendar – Appeals

### 17. 1732-34 La Vereda Road - Appeal ZAB Decision Use Permit # 03-20000117

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit 03-20000117 to construct a single-story, 977 square-foot accessory structure (3 car garage with two spaces in tandem to serve 1732 La Vereda Road) on a vacant lot at 1734 La Vereda Road and dismissing the appeal.

**Financial Implications:** None

Contact: Dan Marks, Planning and Development, 981-7411

#### b. Appeal

1. Leo Simon, Michael Weiss and Lynn Knight, Bob and Sharon Zentner, and Jan and Jeanne de Vries

#### c. Communications

1. None.

**Action:** Councilmember Capitelli announced that he voted on this item as a member of the Zoning Adjustments Board, and he would recuse himself. Moved to Consent by

## Action Calendar – Appeals

Councilmember Worthington (Absent – Maio, Capitelli) to adopt Resolution No. 63,100–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit 03-20000117 to construct a single-story, 977 square-foot accessory structure (3 car garage with two spaces in tandem to serve 1732 La Vereda Road) on a vacant lot at 1734 La Vereda Road 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 – Public Hearing

**18. Potentially Hazardous Soft, Weak, or Open Front Story Buildings** (*First Reading October 18, 2005 – Unanimous*)

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt second reading of an Ordinance amending the Berkeley Municipal Code (BMC) to add Chapter 19.39, establishing an Inventory of Potentially Hazardous Soft, Weak, or Open Front Story Buildings and adopting Chapter A4 of the 2003 International Existing Building Code and Amendments.

**Financial Implications:** See report

Contact: Dan Marks, Planning and Development 981-7400

**Public Testimony:** The Mayor opened the public hearing. Dana Tsubota. Moved, seconded, carried (Anderson/Worthington) to close the public hearing.

**Action:** Moved, seconded, carried (Spring/Worthington; Abstain – Capitelli; Absent – Maio) to adopt Ordinance No. 6,883–N.S.

## Action Calendar – Old Business

**19. Solano Avenue Business Improvement District** (*Held over as amended from 10/18/05*)

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the 2005 Annual Report of the Solano Avenue Business Improvement District (BID); declaring Council's intention to levy an annual assessment for the Solano Avenue BID for calendar year 2006; and directing the City Clerk to schedule a public hearing for November 15, 2005, to consider levying a renewed assessment for the year 2006.

**Financial Implications:** Solano Avenue BID Funds - \$35,000

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

**Action:** Moved to Consent by Councilmember Worthington. Adopted Resolution No. 63,101–N.S. (Absent – Maio).

## Action Calendar – Old Business

### 20. Revisions to the Proposed Land Use Posting Requirements *(Held over from 10/18/05)*

**From: Councilmember Wozniak**

**Recommendation:** Recommend that the City Manager direct the Planning Department and the Planning Commission to consider modifying the public noticing requirements for proposed land-use actions in a manner such that effective notice to the public is maintained, but does not contribute to urban blight via unnecessary clutter on street light poles and other public places.

**Financial Implications:** See report.

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

**Action:** Moved, seconded, carried (Wozniak/Capitelli; Absent – Maio) a motion to refer the item to the City Manager and Planning Commission to consider modifying public noticing requirements by creating an official requirement for yellow signs and suggestions included in a letter from Steve Wollmer dated October 25, 2005.

## Action Calendar – New Business

### 21. Amending “By Right” Residential Additions and Definition of a Story in the Zoning Ordinance

**From: Councilmembers Olds and Wozniak**

**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

**Action:** Referred to the City Manager to research issues involving the preparation and implementation of an interim moratorium until the Planning Commission comes back to the City Council with a recommendation, and held over to the meeting of November 15, 2005.

### 22. Bevatron at Lawrence Berkeley National Laboratory

**a. From: Councilmembers Wozniak, Moore and Maio** *(Held over from October 18, 2005)*

**Recommendation:** Recommend 1) that the City Council reaffirm its support for the full decommissioning, deconstruction and removal of the Bevatron; and 2) refer to the City Manager for review the Peace & Justice Commission resolution on the proposed demolition of B51 and the Bevatron and the Draft Environmental Impact Report (DEIR), when it is released later in the Fall of 2005. For this review, staff would have the benefit of the comprehensive analysis of the associated environmental and historical impacts in the DEIR.

**Financial Implications:** None.

Contact: Gordon Wozniak, Councilmember District 8, 981-7180; Darryl Moore, Councilmember District 2, 981-7120; Linda Maio, Councilmember District 1, 981-7110

## Action Calendar – New Business

**b. From: Peace and Justice Commission** (*October 25, 2005*)

**Recommendation:** Adopt a Resolution recommending that the City Council request: 1) the Department of Energy, the Lawrence Berkeley National Laboratory and their managing agency, the University of California, to continue with their original plan to preserve the Bevatron Facility as a place of merit on the National Register of Historic Places for the benefit of future interested individuals and students of science, history and architecture; and 2) that the \$85 million budgeted for the demolition of the Bevatron be primarily redirected to the decontamination of toxic underground plumes at Lawrence Berkeley National Laboratory as promised with enough spared to complete the conversion of the accelerator facility for safe public access.

**Financial Implications:** None

Contact: Manuel Hector, Secretary, 981-5110

**c. From: City Manager** (*October 25, 2005*)

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

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

**Action:** Moved, seconded, carried (Worthington/Wozniak; Absent – Maio) to refer the City Manager and Peace and Justice recommendations back to the City Manager to provide an opportunity to review the Draft Environmental Impact Report and report back to council with a recommendation.

## Information Reports

**23. Transfer Station Cash Receipts/Cash Handling Audit Status Report**

**From: City Manager**

Contact: Fran David, Finance, 981-7300

**Action:** Received and filed.

**24. Landmarks Preservation Commission Notice of Decision: 91 Shattuck Square - Approval of Structural Alteration Permit**

**From: City Manager**

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

**Action:** Received and filed.

**25. 2113-2119 Delaware Street, Certification of Tentative Tract Map 7575**

**From: City Manager**

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

**Action:** Received and filed.

**26. 1728 - 1730 Hearst Avenue, Certification of Tentative Tract Map 7587**

**From: City Manager**

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

**Action:** Received and filed.

## Communications

### **The Ephemeral City**

1. Barbara Gilbert

### **Train Noise**

2. Mark Gilbert

### **Antennae on the Oaks Theater**

3. Connie and Kevin Sutton

### **Downtown Area Plan Committee** *(Spring)*

4. Sylvia McLaughlin, Citizens for East Shore Parks; Jane and Tom Kelly, Kyoto USA, Robert Hass, UC Berkeley; John Steere, Berkeley Partners for Parks; Martin Bourque, Ecology Center, Susan Schwartz, Friends of Five Creeks; Kitty McLean, Sierra Club, SF Bay Chapter; Hank Resnik, Bicycle-Friendly Berkeley Coalition; Mark Baldrige, Watershed Environmental Poetry Festival; Kirstin Miller, Eco City Builders; Zelda Bronstein; Ernest Callenbach; John Coveney; Arjun and Diana Divecha; Sue Olive; Fran Segal, Friends of Westbrae Commons; Juliet Lamont, Sierra Club Bay Chapter; and Elyce Judith, Committee to Restore Strawberry Creek, submitted by Elyce Judith

## Supplemental Reports and Communications #1

### **Item 3: Amendment to the Condominium Conversion Ordinance**

5. Revised Ordinance, submitted by the Housing Department
6. Stephen Wollmer

### **Item 9: License: Use of Building at 91 Bolivar Drive, Aquatic Park, by Fix Our Ferals**

7. Revised Exhibit A, submitted by Parks Recreation and Waterfront

### **Item 17: 1732-34 La Vereda Road - Appeal ZAB Decision Use Permit # 03-20000117**

8. Jeannie de Vries
9. Rena Rickles

### **Item 18: Potentially Hazardous Soft, Weak, or Open Front Story Buildings**

10. Jeanne Perkins, on behalf of the Association of Bay Area Governments Earthquake and Hazards Program

### **Item 21: Amending "By Right" Residential Additions and Definition of a Story in the Zoning Ordinance**

11. Andy Katz

### **Item 22: Bevatron at Lawrence Berkeley National Laboratory**

12. Senta Pugh Chamberlain on behalf of Owen Chamberlain

## Supplemental Reports and Communications #2

### **Item 5: Borrowing of Funds and the Sale and Issuance of FY 2006 Tax and Revenue Anticipation Notes**

13. Revised Resolution, submitted by the Finance Department

### **Item 15: Improve Healthy Food and Physical Activity Options**

14. Strategic Alliance Promoting Food and Activity Environments

### **Item 17: 1732-34 La Vereda Road - Appeal ZAB Decision Use Permit # 03-20000117**

15. Rena Rickles
16. Dan Miller

### **Item 18: Potentially Hazardous Soft, Weak, or Open Front Story Buildings**

17. Dana C. Tsubota, Miller Starr & Regalia

### **Item 20: Revisions to the Proposed Land Use Posting Requirements (Held over from 10/18/05)**

18. Stephen Wollmer

## Adjournment

Adjourned at 9:03 p.m. in honor of Rosa Parks.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 25, 2005 as approved by the Berkeley City Council.

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Sara T. Cox, City Clerk