




Office of the City Manager

CONSENT CALENDAR

July 25, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Sherry Kelly, City Clerk

Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of May 30, 2006 (special), June 7, 2006 (closed), June 12, 2006 (closed), June 13, 2006 (special and regular), June 20, 2006 (regular), June 27, 2006 (regular), June 30, 2006 (special), and July 11, 2006 (special and regular).

CONTACT PERSON

Sherry Kelly, City Clerk, City Clerk Department, 981-6900

Attachments:

- 1: May 30, 2006 Special City Council Minutes
- 2: June 7, 2006 Closed City Council Minutes
- 3: June 12, 2006 Closed City Council Minutes
- 4: June 13, 2006 Special City Council Minutes
- 5: June 13, 2006 City Council Minutes
- 6: June 20, 2006 City Council Minutes
- 7: June 27, 2006 City Council Minutes
- 8: June 30, 2006 Special City Council Minutes
- 9: July 11, 2006 Special City Council Minutes
- 10: July 11, 2006 City Council Minutes

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, MAY 30, 2006

6:00 P.M.

Preliminary Matters

Roll Call: 6:02 p.m.

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

Absent: None.

City Manager Comments: None.

Public Comment: No speakers.

Action Calendar – Presentation and Public Hearing

1. Recommendations for Creeks Ordinance Revisions

a. From: Creeks Task Force and City Manager

Recommendation: Conduct a public hearing and upon conclusion:

- 1) Support the Creeks Task Force (CTF) recommendations, including the details for future implementation as refined by the City Manager in response to Planning Commission concerns;
- 2) Provide direction regarding whether a Use Permit or Variance should be required on issues where the CTF and Planning Commission recommendations diverge; and
- 3) Direct that staff draft ordinance language to revise the Creeks Ordinance (BMC Chapter 17.08 – Preservation and Restoration of the Natural Watercourses), and that the ordinance language be reviewed by the CTF and Planning Commission prior to Council adoption.

Financial Implications: See report

Contact: Wendy Cosin, Planning and Development, 981-7400

b. From: Planning Commission

Recommendation: If the City Council accepts the Creeks Task Force recommendations, the revised ordinance reflect the Planning Commission concerns listed in this report.

Contact: Wendy Cosin, Planning and Development, 981-7400

Public Testimony: The mayor opened the public hearing. Zoe Westbrook, Jamie Toy, Morgan Rain, Sarah Baughn, Evey Roe, Bob Burkson, Dominique Keith, Mim Hawley, William A. Derr, Miriam Wilson, Bubarz Allen, Katherine Bowman, Vonnie Gurgin, Martha Jones, Shirley Dean, Terry Mandell, Claire Risley, Steve Geller, Gary Fong, Rosemary Green, Bob Allen, Patrick Finley, Henrik Bull, Dan Dean, Phil Price, Elyce Judith, Ann

Action Calendar – Presentation and Public Hearing

Riley, Lisa Owens Viani, Kitty McLean, Juliet Lamont, Janus Bassarowicz, Christopher Knoll, Irene Winston, Mark Kron, Carol Thornton, Martha Baker, Jerry Landis, Diane Crowley, L. J. Waldron, Rebecca Abravanel, Susan Schwartz, Asa Dadsworth, Norie Clarke, Anthony Cody, Barbara Schick, Janet Byron, Michael Tripp, Diane Tokugawa, Peggy Scott, Carlene St. John, Mischa Lorraine, Zelda Bronstein, Dan Dole, Eric Wasserman, Richard Harris, Alan Gould, Dan Brenner, Claire Greensfelder, and Abigail Fateman. Moved, seconded, carried (Capitelli/Worthington) to close the public hearing.

Action: Moved, seconded, carried (Maio/Worthington; Noes–Olds, Wozniak) a motion to: direct staff to draft ordinance language based on the Creeks Task Force recommendations, including the requirements for a variance, and which clearly defines or classifies creeks, is sensitive to property owners and provides clear direction on how to comply with the creeks regulations, and amends the Zoning Ordinance to make it consistent with section 17.080.055 of the existing Creeks Ordinance, to allow rebuilding by right in the event of a disaster or similar occurrence; have this language reviewed by the Creeks Task Force and the Planning and Public Works Commissions; and schedule the draft ordinances for a public hearing before Council.

Moved, seconded, carried (Capitelli/Maio; Noes –Bates; Abstain–Worthington, Wozniak) a motion to direct staff to explore and develop and come back to Council with specific Use Permit findings that under the current Creeks Task Force proposals would require a variance.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations.

Creeks Ordinance

1. William A. Derr
2. Carol and Garret Thunen
3. Phillip Price

Supplemental Communications 1

Item 1: Recommendations for Creeks Ordinance Revisions

4. Walter and Jocelyn Kaufmann
5. Vincent Casalaina
6. Martha Baker
7. Susan Schwartz, Friends of Five Creeks
8. Anita Eble
9. Chrissy Hoffman
10. Susan Schwartz, Friends of Five Creeks
11. Alan Gould
12. Andrew Rose
13. Sara Rankin

Supplemental Communications 1

14. Roseanne and Ray Perman
15. Joan Sprinson
16. Neighbors on Urban Creeks – 12 Step Proposal for Fixing the Problems in The Creeks Ordinance
17. Neighbors on Urban Creeks – Survey/Community Input
18. Neighbors on Urban Creeks – Summary of Comments
19. Neighbors on Urban Creeks – History of the Berkeley Creeks Ordinance and Related Policies
20. Jim Nelson
21. Maeveen O’Connor
22. Audrey and Paul Richards
23. Dorothy Headley
24. Barbara Maricle
25. Joshua Bradt
26. Janet Byron
27. Jerry Landis
28. Elizabeth Jordan
29. Juliet Lamont
30. Michael Gardner
31. Wendy Markel
32. Diane Tokugawa
33. Alan Gould
34. Jean Peters
35. Andy Katz
36. Kristen Van Dam
37. Kris Muller
38. Abigail Fateman, Urban Creeks Council
39. Patrick Finley
40. Constantina Economou
41. Anushka Drescher
42. Diane Crowley
43. Anita Eble
44. Evelyn and Roben Gahtan
45. Sherrick Slattery
46. Caryn Gottcent
47. Norman Frank
48. Carole Rochlin
49. Aviva Imhof
50. Steve Myers
51. Cy Silver and Rosemarie Falanga
52. Elizabeth and Robert Burnell
53. Laurence Klein
54. Barbara Bull
55. Ells and Leo Ellis
56. Lee and Alan McRae
57. Christopher Kroll
58. Dale Hopkins

Supplemental Communications 1

59. David Loeb
60. Thomas Laqueur and Carla Hesse
61. Joseph Klems
62. Sally Williams, Berkeley Friends Church
63. Carrie Dovzak
64. Mary Pearsall
65. Katherine Bowman and Bob Schneider
66. J. Nicholas Ziegler
67. Irene Winston
68. Stephen Jory
69. Gus Yates
70. Eric Wasserman
71. Lisa Lackey
72. Patricia Francis-Lyon
73. Norie Clarke
74. Bill Springer
75. Stephanie Thomas

Adjournment

Adjourned at 10:55 p.m. in honor of Willa Baum.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of May 30, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

MONDAY, JUNE 7, 2006

Preliminary Matters

Roll Call: 5:03 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates and Board of Library Trustees Lee, Anderson, Powell and Kupfer.

Absent: None.

Public Comment: No speakers.

Closed Session

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b)(3)(E) of Government Code Section 54956.9:

The City Council and Board of Library Trustees will meet in closed session to consider threatened litigation by attorney Jonathan Siegel on behalf of Jackie Griffin.

Report from Closed Session: The Council recessed from Closed Session to make the following report:

Moved, seconded, carried (Maio/Moore) a motion to ratify a settlement agreement with Library Director Jackie Griffin.

Adjournment

Adjourned at 5:34 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of June 7, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

MONDAY, JUNE 12, 2006

Preliminary Matters

Roll Call: 5:02 p.m.

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

Absent: None.

Public Comment: No speakers.

Closed Session

1. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

Unions: Berkeley Fire Fighters Association Local 1227 I.A.F.F.

City Negotiators: Philip Kamlarz, City Manager
Lisa Caronna, Deputy City Manager
Tracy Vesely, Budget Manager
Debra Pryor, Fire Chief
David Orth, Deputy Fire Chief
David Hodgkins, Director of Human Resources
Margarita Zamora, Senior Human Resources Analyst
Robert Kraus, Senior Human Resources Analyst

Action: Discussion held.

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9.

The City Council will be conferring with the City Attorney concerning the threat of litigation against the City contained in letters dated April 19 and May 3, 2006 on file with the City Clerk claiming that the City's public comment procedures are invalid. The City Attorney's response to these letters issued on May 11, 2006 is also on file in the City Clerk's Office.

Action: Discussion held.

Adjournment

Adjourned at 6:13 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of June 12, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
TUESDAY, JUNE 13, 2006
5:00 P.M.

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. Crime Reduction Strategies
From: City Manager
Contact: Doug Hambleton, Police, 981-5900
Action: Presentation made and discussion held.

Public Comment

Public Comment: Zachary RunningWolf, Barbara Allen, Trudy Washburn, Christian Pecaut, Cary Kent, Jake Gelender, Andrea Prichett, Vincent Casalaina, Robert Vogel, Jim Smith, and Deborah Budlua.

Communications

None.

To Be Delivered and Supplemental Reports 1

Item 1: Crime Reduction Strategies

- Presentation materials, submitted by Police Department

To Be Delivered and Supplemental Reports 2

None.

Supplemental Communications 1

None.

Supplemental Communications 2

Copwatch

1. Andrea Prichett

Kitchen Democracy Presentation

2. Robert Vogel

Adjournment

Adjourned at 6:37 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of June 13, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, JUNE 13, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:04 p.m.

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

Absent: None.

Ceremonial Matters:

1. Proclamation presented in honor of the Juneteenth Festival commemorating the ending of slavery in the United States.
2. Proclamation presented to the wife of Captain Wayne S. Dismuke in honor of his incredible life spirit.
3. Homelessness presentation by students from the Community Partnerships Academy, Berkeley High School.

City Manager Comments: None.

Public Comment: Greg Murphy, Jane Kelly, Tom Kelly, Judy Shattuck, Nina Rizzo, Chie Abad, Lisa Ang, Donna Levitt, Diana Bohn, Russell Kilday-Hicks, Andrew Belinsky, Nicholas Smith, Valerie Orth, Van Nguyen, Tom Miller, Igor Tregub, Donal Mahon, Harry Brill, Deborah Badhia, Jan Zvaifler, Lisa Bullwinkel, Maggie Guerra, Dean Royer, Steve Freedkin, Michael Diehl, Fred Dodsworth, Roland Peterson, and Zach Hobesh.

Consent Calendar

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

1. **Municipal Code Amendment and Fine Reduction Regarding Bicycles on Sidewalks** (*First reading May 23, 2006 – Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Section 14.68.370 of the Berkeley Municipal Code (BMC), to reclassify the unlawful riding of a bicycle on a sidewalk from a misdemeanor to an infraction, and direct the City Manager to request the Alameda County Superior Court to lower the base fine for a violation of BMC 14.68.370 from \$75 to \$10.

Consent Calendar

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Ordinance No. 6,921–N.S. Effective July 14, 2006.

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the City Council meetings of April 18, 2006 (special and regular) and April 25, 2006 (closed and regular).

Financial Implications: None

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

Action: Approved minutes as submitted.

3. Rabies Quarantine Regulations

From: City Manager

Recommendation: Adopt first reading of an Ordinance repealing Berkeley Municipal Code Section 10.04.160(D), which states that quarantine regulations do not apply to animals that bite their owner/guardians.

Financial Implications: None

Contact: Phil Kamlarz, City Manager 981 7000

Action: Adopted first reading of Ordinance. Second reading scheduled for June 20, 2006.

4. Contract: Artwork for West Berkeley Rail Stop and Transit Plaza

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with John Wehrle to paint murals, columns, and poems beneath the University Avenue overpass structure at the West Berkeley Train Stop in an amount not to exceed \$43,750 for the period June 1, 2006 through June 30, 2007.

Financial Implications: Redevelopment Agency Budget - \$43,750

Contact: Thomas Myers, Economic Development, 981-7530

Action: Adopted Resolution No. 63,324–N.S.

5. Telegraph Property and Business Improvement District Assessment

From: City Manager

Recommendation: Adopt a Resolution approving the Annual Assessment Report for the Telegraph Property and Business Improvement District (TBID) for FY 2006, declaring an intention to levy special assessments in the District for FY 2007, and setting a public hearing on the levy of assessments for July 11, 2006.

Financial Implications: See report

Contact: Thomas Myers, Economic Development, 981-7000

Action: Held over to June 20, 2006 by Mayor Bates.

6. Appropriations Limit for FY 2007

From: City Manager

Recommendation: Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for FY 2007 at its meeting of June 27, 2006; and 2) the amount of the limit and the background material used in its calculation will be available for public review by June 12, 2006.

Financial Implications: See report
Contact: Fran David, Finance 510-981-7300
Action: Adopted Resolution No. 63,325–N.S.

7. Formal Bid Solicitations and Request for Proposals

From: City Manager

Recommendation: Approve the attached list of new invitations for bids and requests for proposal (RFP) that will be, or are planned to be, issued upon final approval by the requesting department or division.

Financial Implications: See report
Contact: Fran David, Finance, 981-7310
Action: Approved recommendation.

8. Classification: Harbormaster

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 61,840-N.S., Classification and Salary Resolution for Public Employees Union Local One, to change the title of Marina Supervisor to Harbormaster to retitle and revise the classification specification of Marina Supervisor effective June 1, 2006.

Financial Implications: None
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,326–N.S.

9. Waiving Reimbursement for Police Testimony in Civil Action

From: City Manager

Recommendation: Adopt a Resolution : 1) authorizing the City Attorney, upon a showing of good cause, to execute stipulations waiving the City’s entitlement to salary reimbursement under Government Code Section 68097.2 for the appearance and testimony of Berkeley police officers in civil actions involving the elimination of public nuisance or illegal drug activity; 2) and rescinding Resolution 57,530–N.S.

Financial Implications: See report
Contact: Douglas N. Hambleton, Police, 981-5700
Action: Adopted Resolution No. 63,327–N.S. as amended to authorize the City Manager, upon a showing of good cause, to execute stipulations waiving the City’s entitlement to salary reimbursement under Government Code Section 68097.2 for the appearance and testimony of Berkeley police officers in civil actions involving the elimination of public nuisance or illegal drug activity; and rescinding Resolution No. 57,530–N.S.

10. Construction and Demolition Debris Salvage and Recycling

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Title 19, Buildings and Construction, to add Chapter 19.24, Construction and Demolition (“C&D”) Debris Salvage and Recycling, decreasing the amount of landfilled material from select construction and demolition projects.

Financial Implications: Refuse Fund - Neutral impact
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for June 20, 2006.

Consent Calendar

- 11. Tieback Mitigation & Right-of-Way Improvement Fund Revenues**
From: City Manager
Recommendation: Adopt a Resolution: 1) authorizing the City Manager to establish a Tieback Mitigation and Right-of-Way Improvement Fund; 2) accepting payment from C. Overaa & Co., in the amount of \$211,500; and 3) establishing a corresponding expense appropriation for the same amount.
Financial Implications: Tieback Mitigation Fund - \$211,500 Revenue
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,328–N.S.
- 12. FY 2007 Street Lighting Assessments**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the Street Lighting Assessment District 1982-1 Engineer's Report, dated April 2006; 2) set a public hearing to be held before Council at its June 20, 2006 Council Meeting; and 3) authorize the City Clerk to publish the notice of the public hearing for FY 2007 levy of assessments of Street Lighting Assessment District No. 1982-1.
Financial Implications: See report
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,329–N.S.
- 13. Designating May 19, 2006 as "Wayne Dismuke Day"**
From: Mayor Bates and Councilmembers Moore, Anderson and Worthington
Recommendation: Adopt a Resolution commemorating May 19th as "WAYNE DISMUKE DAY" in remembrance of the incredible life spirit of Captain Wayne S. Dismuke
Financial Implications: None
Contacts: Tom Bates, Mayor, 981-7100; Darryl Moore, Councilmember District 2, 981-7120; Max Anderson, Councilmember District 3, 981-7130; and Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 63,330–N.S.
- 14. Definition of Arts and Crafts**
From: Councilmembers Maio and Moore
Recommendation: Request that the Civic Arts Commission review and update the definition of "arts and crafts" as referred to in the West Berkeley zoning, which will enable an inventory of such space to go forward and ensure that the space is protected, as stipulated in the West Berkeley Plan and the zoning.
Financial Implications: None
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120
Action: Approved recommendation.

- 15. Require that New and Replacement Paving for Outside Parking Spaces and Driveways Be Made of Permeable Materials**
From: Councilmembers Maio and Capitelli
Recommendation: Refer to the City Manger the request that the City institute the requirement that new and replacement paving for outside parking spaces and driveways be made of permeable materials unless there are extenuating circumstances warranting a different treatment.
Financial Implications: None
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Laurie Capitelli, Councilmember District 5, 981-7150
Action: Approved recommendation as amended to refer to the City Manager to have staff evaluate the requirement that new and replacement paving for outside parking spaces and driveways be made of permeable materials, absent extenuating circumstances, and bring a report back to Council regarding what is available, how it works and suggestions for implementation.
- 16. Schedule a Brief Presentation to Council on the Off-Label Use of the Drug Cytotec**
From: Councilmembers Maio and Anderson
Recommendation: Schedule a brief (10-minute) presentation by Maddy Oden on the off-label use of the drug Cytotec.
Financial Implications: None
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Max Anderson, Councilmember District 3, 981-7130
Action: Approved recommendation and referred to the Agenda Committee to designate a date for the presentation.
- 17. Recognizing the Dramatic Philanthropic Divide Between Minority-led Nonprofits and Non-minority-led Nonprofits**
From: Councilmembers Moore and Anderson
Recommendation: Adopt a Resolution recognizing the dramatic philanthropic divide between minority-led nonprofits and non-minority-led nonprofits.
Financial Implications: None
Contacts: Darryl Moore, Councilmember District 2, 981-7120 and Max Anderson, Councilmember District 3, 981-7130
Action: Adopted Resolution No. 63,331–N.S.
- 18. "Quiet" or "Lower Noise" Fireworks for the 4th of July Celebration**
From: Councilmember Olds
Recommendation: Refer to the City Manager to investigate the possibility of using what is known as "quieter" or "low noise" fireworks for Berkeley's July 4th celebration so that the distress caused to domestic animals and wildlife is diminished.
Financial Implications: Unknown
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Approved recommendation.

Consent Calendar

19. **Proclamation: Designating June as Lesbian, Gay, Bisexual and Transgender Month**
From: Councilmembers Worthington and Moore
Recommendation: Support a proclamation to honor June as Lesbian Gay Bisexual Transgender and Questioning Pride Month in the City of Berkeley and authorize the City Manager to fly the Rainbow Flag for the rest of June.
Financial Implications: None
Contacts: Kriss Worthington, Councilmember District 7, 981-7170 and Darryl Moore, Councilmember District 2, 981-7120
Action: Approved proclamation and authorized City Manager to fly the Rainbow flag for the rest of June.
20. **Resolution for a Positive Revitalization Model in the Wachovia Acquisition of World Savings Bank**
From: Councilmember Worthington
Recommendation: Adopt a Resolution for a positive revitalization model in the Wachovia acquisition of World Savings Bank and join the California Reinvestment Coalition (CRC) and the Greenlining Institute in resolving to ensure that the Wachovia acquisition of World Savings Bank in Oakland is beneficial to Californians and East Bay low-income and underserved residents.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Adopted Resolution No. 63,332–N.S.

Action Calendar – Public Hearing

21. **West Berkeley Bowl - 920 Heinz Avenue**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion: 1) adopt a Resolution certifying the EIR and making required CEQA findings; 2) adopt a Resolution amending the *General Plan* and *West Berkeley Plan* land use designations for a 1.9-acre portion of the project site; 3) adopt first reading of an Ordinance reclassifying a 1.9-acre portion of the project site from MU-LI District to C-W District, and amending the MU-LI provisions to allow storage spaces to serve contiguous and directly accessible food products stores located outside the MU-LI District; and 4) adopt a Resolution approving a Use Permit for the proposed project.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Public Testimony: The Mayor opened the public hearing. Rick Kelley, Gene Agress, Marian Castelluccio, David Levinson, Steven Donaldson, Zachary Donaldson, Deborah Oropallo, Dunrell deTiennie, Becca Todd, Beatrice Koehn, Barry Wagner, Jon Rodney, Adam Block, Mark McLeod, Efren Avarcon, Dan Rush, Darin Woodard, Zelda Bronstein, John Ulrich, John Curl, Donal Mahon, Terry Cruz, Roxanne Schwartz, Natalie Studer, Lisa Howard, M. Sarah Klise, Laurel Coaies, Christine Staples, Nancy Delaney, Cameron Woo, Claudia Kawczynska, Raudel Wilson, Jane Welford, Fred Pecker, Willie Phillips, Russel A Lopes, Kathleen Lopes, Catherine Myser, Tim Rempez, Liz Miranda, Maurice Levitch, Fredia

Action Calendar – Public Hearing

Smith, David Snippet, Susanne Hering, Steve Smith, Mary Lou Van Deventer, David Bowman, Barbara Bowman, Ayman Fawaz, Sennet Williams, Irshad Alam, Michael Goldin, Norma Harrison, Claire Risley, Edith Monk Hallberg, RickMcDaniel, Peter Teichner, Jaipon Landeza, Joe Decredico, Antoine Portales, Ali Kashani, Renee Deljon, Nancy Skinner, Betsy Morris, Rick Auerbach, and Bruce Ulrich. Moved, seconded, carried (Moore/Capitelli) to close the public hearing.

Action: Moved, seconded, carried (Moore/Olds; Abstain–Anderson, Spring, Worthington) to: 1) adopt Resolution No.63,333–N.S. certifying the EIR and making required CEQA findings; 2) adopt Resolution No 63,334–N.S. amending the *General Plan and West Berkeley Plan* land use designations for a 1.9-acre portion of the project site; 3) adopt the first reading of an Ordinance reclassifying a 1.9-acre portion of the project site from MU-LI District to C-W District, and amending the MU-LI provisions to allow storage spaces to serve contiguous and directly accessible food products stores located outside the MU-LI District with a second reading scheduled for June 20, 2006; and 4) adopt Resolution No. 63,335–N.S. as amended to include two conditions and approving a Use Permit for the proposed project. The Council approved the Use Permit and Statement of Overriding Consideration solely because the floor plan approved by this Use Permit, and to which the project must conform, is unique for a typical full-service grocery store, because, among other things, the areas devoted to fresh produce, meat and fish are significantly larger than typical full-service grocery stores. Material changes to these aspects of the Use Permit will require a modification of the Use Permit. The Use Permit will take effect only upon the effective date of rezoning the site.

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 – Budget

22. **Fiscal Year 2007 Proposed Mid-Biennial Budget and Work Plan Update** (*To be delivered*)
From: City Manager
Recommendation: Discuss the FY 2007 proposed mid-biennial budget update and work plan update. Council will conduct a public hearing on June 20, 2006 and adopt the FY 2007 budget on June 27, 2006.
Financial Implications: See budget book and report
Contact: Tracy Vesely, City Manager, 981-7000
Action: Discussion held.
23. **Budget Referral: \$10,000 for the Operating Budget for the West Berkeley Neighborhood Development Corporation and Costs Associated with the 2nd Annual International Food Festival**
From: Councilmembers Moore and Maio

Action Calendar - Budget

Recommendation: Refer a request for \$10,000, \$4000 of which is to be used for the operating budget for the West Berkeley Neighborhood Development Corporation and \$6000 for costs associated with the 2nd Annual Berkeley International Food Festival.

Financial Implications: \$10,000

Contacts: Darryl Moore, Councilmember District 2, 981-7120; and Linda Maio, Councilmember District 1, 981-7110

Action: Moved to Consent by Councilmember Worthington. Approved recommendation.

24. Budget Referral: Fire Department Services

From: Councilmembers Olds and Wozniak

Recommendation: Refer to the budget process the restoration of essential funding of \$1,000,000 for the restoration of fire services.

Financial Implications: General Fund - \$1,000,000

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

Action: Moved to Consent by Councilmember Worthington. Approved recommendation.

25. Budget Referral: Restore Funding for Staffing of the Office of Emergency Services

From: Councilmember Spring

Recommendation: Refer to the budget process up to \$120,000 to restore funding for staffing of the Office of Emergency Services.

Financial Implications: See report

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

Action: Moved to Consent by Councilmember Worthington. Approved recommendation.

26. Budget Referral: \$10,000 for the Center for Accessible Technology

From: Councilmember Spring

Recommendation: Refer the request for an additional \$10,000 annually starting this fiscal year for the Center for Accessible Technology to the budget process.

Financial Implications: See report

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

Action: Moved to Consent by Councilmember Worthington. Approved recommendation.

27. Budget Referral: Create a Public Safety Commission

From: Councilmember Wozniak

Recommendation: Refer to the budget process a recommendation that the City Manager establish a new City Commission focused on reducing crime and improving public safety.

Financial Implications: See report

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

Action: Moved, seconded, carried (Wozniak/Moore; Abstain–Anderson, Spring, Capitelli) to approve recommendation.

28. Budget Referral: Sweatfree Berkeley Ordinance Monitoring and Enforcement

From: Councilmembers Worthington and Moore

Recommendation: Refer fifty thousand dollars (\$50,000) to the Budget process to be considered for allocation for the monitoring and enforcement component of the Sweatfree Berkeley ordinance.

Action Calendar - Budget

Financial Implications: \$50,000

Contact: Kriss Worthington, Councilmember District 7, 981-7170; and Darryl Moore, Councilmember District 2, 981-7120

Action: Moved to Consent by Councilmember Worthington. Approved recommendation.

29. Budget Referral: Sweat-free Berkeley Ordinance

a. From: Commission on Labor

Recommendation: Refer to the budget process an amount up to \$60,000 for FY07 to ensure that any Sweat-free procurement measures undertaken by the City include funding for compliance and enforcement of those measures.

Financial Implications: \$60,000 in FY07

Contact: Delfina Geiken, Secretary, Commission on Labor, 981-7551

b. From: City Manager

Recommendation: Refer to the budget process.

Contact: Thomas Myers, Economic Development, 981-7530

Action: Moved to Consent by Councilmember Worthington. Approved recommendations.

30. Civic Arts Work Plan for FY 2007 and West Berkeley Arts Inventory

a. From: Civic Arts Commission

Recommendation: Adopt a Resolution accepting the Civic Arts Commission Work Plan for FY 2007 and adopt a Resolution to fund an intern to assist in the inventory of artists, art organizations and creative businesses in West Berkeley.

Financial Implications: General Fund - \$12,000

Contact: Mary Ann Merker, Secretary to the Civic Arts Commission, Economic Development, 981-7530

b. From: City Manager

Recommendation: Refer to the budget process.

Contact: Thomas Myers, Economic Development, 981-7530

Action: Councilmember Worthington moved the City Manager's recommendation to Consent. Approved the City Manager's recommendation to refer to the budget process.

31. Restore Public Art Funds and Restore the Civic Arts Grant Program Funding

a. From: Civic Arts Commission

Recommendation: Direct the City Manager to restore to the annual budget for the Civic Arts Program one FTE position including salary and benefits from General Fund revenues, and to restore the Public Art Fund 657 for revenues expended during the current Fiscal Year in excess of 0.5% allowed under Resolution No. 60,048-N.S. for the management costs for projects; and adopt a Resolution to restore the Civic Art Grant Program to \$300,000 for FY07.

Action Calendar - Budget

Financial Implications: See report

Contact: Mary Ann Merker, Secretary to the Civic Arts Commission, Economic Development, 981-7530

b. From: City Manager

Recommendation: Refer to the budget process.

Contact: Thomas Myers, Economic Development, 981-7530

Action: Councilmember Worthington moved the City Manager's recommendation to Consent. Approved the City Manager's recommendation to refer to the budget process.

Action Calendar – Ballot Measures

32. **Ballot Measure: Greenhouse Gas Ballot Measure** (*Held over from May 23, 2006*)
From: Mayor Bates
Recommendation: Discuss placing an advisory measure on the November ballot to support aggressive efforts to reduce greenhouse gas emissions and actively engage in climate-disaster preparations to address the likely local climate change impacts such as flooding, shortages of potable water, and dramatically increased costs of energy.
Financial Implications: \$9,000 to place the item on the ballot
Contact: Tom Bates, Mayor, 981-7100
Action: Held over to June 20, 2006 by Mayor Bates.
33. **Ballot Measure: A Clean Water Measure to Address Severe Flooding, Sewage Contamination, Creek and Culvert Improvements**
From: Councilmembers Maio and Moore
Recommendation: Request placement of a measure on the November ballot to address severe flooding, sewage contamination, creek and culvert improvement-A Clean Water measure.
Financial Implications: To be determined
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120
Action: Held over to June 20, 2006 by Councilmember Maio.
34. **Ballot Measure - Survey on Lowering Voting Age**
a. From: Youth Commission
Recommendation: Adopt a Resolution to direct the City Manager to place a survey item on the November ballot asking Berkeley residents whether they support lowering the voting age to seventeen for School Board elections in Berkeley.
Financial Implications: \$10,000
Contact: Marc Seleznow, Parks Recreation & Waterfront
b. From: City Manager
Recommendation: Take no action at this time.
Financial Implications: See report
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Moved, seconded, carried (Worthington/Maio) to hold over to June 20, 2006.

Action Calendar – Old Business

35. **Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots** (*Held over from April 25, 2006*)
- a. **Additional Information - Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots** (*June 13, 2006*)
From: City Manager
Fiscal Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
- b. **Supplemental Report – Inadvertent Omission of Attachment 6** (*April 25, 2006*)
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
- c. **From: City Manager** (*April 25, 2006*)
Recommendation: Adopt a first reading of one of two alternative Ordinances amending Berkeley Municipal Code (BMC) Title 23 to: 1a) require an Administrative Use Permit (AUP) for new uncovered parking spaces in all yards on residential lots, except when the space is for a by-right Accessory Dwelling Unit and not in the front yard, as recommended by the Planning Commission; or 1b) allow new uncovered parking spaces in rear and side yards by-right and require an AUP for parking in front yards on residential lots, as recommended by Staff; 2) revise the definition of “yard” to no longer prohibit parking in required yards; and 3) expand screening requirements for uncovered parking in rear yards, eliminate landscaping requirements along shared driveways, and clarify the intent and organization of the parking regulations.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400
Action: Held over to June 20, 2006 by Mayor Bates.

Action Calendar – New Business

36. **Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft Environmental Impact Report** (*To be delivered*)
From: City Manager
Recommendation: That the City Council give staff input on the University of California’s May 8, 2006 Draft Environmental Impact Report for the Southeast Campus Integrated Projects (SCIP) including the California Memorial Stadium Seismic Corrections, other modifications to the stadium and a new Student Athlete High Performance Center, the 911 space parking garage below a modified Maxwell Family Field, and the School of Law/Haas Business school joint building.
Fiscal Implications: See report
Contact: Dan Marks, Planning and Development, 981-7500
Action: Held over to June 20, 2006 by Mayor Bates.

Action Calendar – New Business

37. **Protection of Local Telecommunication Revenue and Maintenance of Control over the Public Right of Way**
From: Mayor Bates and Councilmember Wozniak
Recommendation: Adopt a Resolution in support of the Telecommunication Principles of the League of California Cities; and authorize the City Manager to appropriately and timely respond to any State or Federal legislative or regulatory action, or to other legal action, which may threaten the City's revenue derived from telecommunications, the City's control over the Public Right-of-Way, or the City's ability to negotiate or govern cable/video service agreements within its boundaries.
Financial Implications: See report
Contacts: Tom Bates, Mayor, 981-7100 and Gordon Wozniak, Councilmember, District 8, 981-7180
Action: Moved to Consent by Councilmember Worthington. Adopted Resolution No. 63,336–N.S.
38. **Changes to West Berkeley Zoning**
From: Councilmembers Maio, Capitelli, Moore and Mayor Bates
Recommendation: Refer to the Planning Commission the request that the City make changes to the West Berkeley zoning to achieve more rational use of space and facilitate arts and crafts uses to locate in the M district.
Financial Implications: See report
Contacts: Linda Maio, Councilmember District 1, 981-7110; Laurie Capitelli, Councilmember District 5, 981-7150; Darryl Moore, Councilmember District 2, 981-7120; and Tom Bates, Mayor, 981-7100
Action: Moved to Consent by Councilmember Moore. Approved recommendation as revised in a report from Councilmembers Maio and Capitelli, dated June 13, 2006, to refer to the Planning Commission the request that the City make changes to the West Berkeley zoning to achieve more rational use of space and facilitate arts and crafts uses to locate in the M district.

Information Reports

39. **Update from City Attorney Regarding Placement of a Public Financing of Elections Measure on the November 2006 ballot. (To be delivered)**
From: City Manager
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Received and discussed. Referred to the Fair Campaign Practices Commission to bring a report back to Council.
40. **Investment Report: Quarter Ended March 31, 2006**
From: City Manager
Contact: Fran David, Finance, 981-7300
Action: Received and filed.

Information Reports

41. **Oxford Plaza and David Brower Center Project City Manager Reporting Timeline**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
Action: Received and filed.
42. **Salary Realignment: Legislative Assistants**
From: City Manager
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Received and filed.
43. **Unrepresented Temporary Employees**
From: City Manager
Contact: David W. Hodgkins, Human Resources, 981-6805
Action: Received and filed.
44. **Civilianization of Police Department Functions**
From: City Manager
Contact: Douglas N. Hambleton, Police, 981-5900
Action: Received and filed.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Public Bond Refinancing

1. Barbara Gilbert

Channing Way Street Sweeping

2. Alexandra L. Woodruff

Le Roy Ave Bell Tower

3. Joan M. Torykian

Telegraph Property and Business Improvement District Assessment

4. Michelle Pellegrin
5. Wim-Kees van Hout
6. William M. Levin
7. Sharon Hudson

Creeks Ordinance

8. Rob Shapera
9. Paul Andrade
10. Lynn MacDonald
11. Michael Fried
12. Laurie Bright, Council of Neighborhood Associations

Communications

13. Mary Ann Brewin
14. Jennifer Pearson
15. Alan Lyon
16. David Rinaldo
17. Ann B. Erickson

Municipal Code Amendment and Fine Reduction Regarding Bicycles on Sidewalks

18. Helen Rippier Wheeler

Ashby BART Development

19. Laura Menard

Telecommunications Wireless Use Permit for 2721 Shattuck Avenue

20. Brett Brooks

Brower Center

21. Sharon Hudson

West Berkeley Bowl - 920 Heinz Avenue

22. Mary Lou Van Deventer, West Berkeley Artisans and Industrial Companies
23. Susanne Hering, Aerosol Dynamics Inc.
24. John Curl, Ashby Corridor Businesses
25. John Curl and Mary Lou Van Deventer, West Berkeley Artisans and Industrial Companies
26. Ayman Fawaz, Ecole Bilingue de Berkeley

Request for Stop Sign at Edith Street and Rose Street Junction

27. Paci Hammond, Martin Luther King Middle School PTA

700 University Avenue

28. Gale Garcia

Bus Rapid Transit Project

29. Linda Schacht

To Be Delivered and Supplemental Reports 1

Item 22: Fiscal Year 2007 Proposed Mid-Biennial Budget and Work Plan Update

- To Be Delivered report, submitted by City Manager

Item 36: Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft Environmental Impact Report

- To Be Delivered report, submitted by Planning and Development

Item 38: Changes to West Berkeley Zoning

- Revised report, submitted by Councilmembers Maio and Capitelli

To Be Delivered and Supplemental Reports 1

Item 39: Update from City Attorney Regarding Placement of a Public Financing of Elections Measure on the November 2006 ballot

- To Be Delivered report, submitted by City Attorney

To Be Delivered and Supplemental Reports 2

Item 21: West Berkeley Bowl - 920 Heinz Avenue

- Supplemental Report, submitted by City Manager

Item 32: Ballot Measure: Greenhouse Gas Ballot Measure

- Supplemental Report, submitted by Mayor Bates

Supplemental Communications 1

Item 15: Require that New and Replacement Paving for Outside Parking Spaces and Driveways Be Made of Permeable Materials

30. Susan Schwartz, Friends of Five Creeks

Item 21: West Berkeley Bowl - 920 Heinz Avenue

31. Kathleen Lopes
32. Edward J. Levitch
33. Deborah Oropallo
34. Timothy Rempel
35. Phil Wood
36. Steve Smith
37. Joe DeCredico
38. Carolyn Scarr
39. Donna Mickleson
40. Dave Wedding Dress
41. Mary Prophet
42. Anonymous
43. Bill Joyce, Fr. Bill O'Donnell Social Justice Committee

Item 23: Budget Referral: \$10,000 for the Operating Budget for the West Berkeley Neighborhood Development Corporation and Costs Associated with the 2nd Annual International Food Festival

44. Maulin Chokshi, University Avenue Association

Item 28: Budget Referral: Sweatfree Berkeley Ordinance Monitoring and Enforcement

45. Kevin O'Brien

Item 33: Ballot Measure: A Clean Water Measure to Address Severe Flooding, Sewage Contamination, Creek and Culvert Improvements

46. Susan Schwartz, Friends of Five Creeks

Item 35: Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots

47. Robert Lauriston

Supplemental Communications 2

Preliminary Matters: Homelessness Presentation

48. Susannah Bell, Community Partnerships Academy, Berkeley High School

Item 18: "Quiet" or "Lower Noise" Fireworks for the 4th of July Celebration

49. Debra Pryor, Fire Department

Item 21: West Berkeley Bowl - 920 Heinz Avenue

50. Mike Friedrich

51. Steve Smith

52. Irshad Alam

53. Glen Yasuda

Item 28: Budget Referral: Sweatfree Berkeley Ordinance Monitoring and Enforcement

54. Russell Kilday-Hicks

Adjournment

Adjourned at 12:28 a.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of June 13, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, JUNE 20, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:01 p.m.

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

Absent: None.

Ceremonial Matters:

1. Proclamation declaring June 19-25, 2006, as Amateur Radio Week 2006.

City Manager Comments: None.

Public Comment: Christian Pecaut, Nancy Delaney, Dan McMullan, Helen Jones, Barbara Cappa, Rick Auerbach, Wes Ikeuchi, Charles A. Pappas, Carrie Guilfoyle, Arthur Fonseca, Chris Kroll, Dan Rush, Abraham Kneisley, Joe Emmerichi, Joanna Spencer, Daniel Rudman, Jessica Bohn, Lisa Bullwinkel, and Tom Kelly.

Consent Calendar

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

1. **Rabies Quarantine Regulations** (*First reading June 13, 2006 - Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance repealing Berkeley Municipal Code Section 10.04.160(D) which states that quarantine regulations do not apply to animals that bite their owner/guardians.
Financial Implications: None
Contact: Phil Kamlarz, City Manager 981-7000
Action: Adopted Ordinance No. 6,922–N.S. Effective July 20, 2006.

2. **Construction and Demolition Debris Salvage and Recycling** (*First reading June 13, 2006 - Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code Title 19, Buildings and Construction, to add Chapter 19.24, Construction and Demolition (“C&D”) Debris Salvage and Recycling, decreasing the amount of landfilled material from select construction and demolition projects.

Consent Calendar

Financial Implications: Refuse Fund - Neutral impact

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

Action: Held over to a future date to be determined by the City Manager.

3. **West Berkeley Bowl - 920 Heinz Avenue** (*First reading June 13, 2006; Abstain – Anderson, Spring and Worthington*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance reclassifying a 1.9-acre portion of the project site from MU-LI District to C-W District, and amending the MU-LI provisions to allow storage spaces to serve contiguous and directly accessible food products stores located outside the MU-LI District.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed from Consent by Councilmember Worthington. Moved, seconded, carried (Moore/Wozniak) to adopt Ordinance No. 6,923–N.S. Effective July 20, 2006.
4. **Ballot Measure: Gilman Street Playing Fields**
From: City Manager
Recommendation: Adopt a Resolution placing a measure on the November 7, 2006 ballot adopting an amendment to the General Plan, Waterfront Plan and Waterfront Specific Plan to establish an “as of right” use for public or commercial recreation sports facilities and exempting such use from the requirement for a Master Development Plan (MDP) and Use Permit, to accommodate the proposed Gilman Street Playing Fields.
Financial Implications: See report
Contact: Sara T. Cox, City Clerk, 981-6900
Action: Adopted Resolution No. 63,337–N.S.
5. **Donation: Raymond Family Foundation to the Animal Care Shelter**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation from the Raymond Family Foundation to the Animal Shelter in the sum of \$4,000.
Financial Implications: See report
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 63,338–N.S.
6. **Adoption of Findings To Abate Public Nuisance at Black and White Liquors -3027 Adeline Street**
From: City Manager
Recommendation: Adopt a resolution adopting findings and remedial measures as previously determined by the City Council on May 16, 2006, after considering Black & White Liquor’s objections, if any, to the amount of the proposed monetary fine to recover staff costs of \$8,700.
Financial Implications: See report
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Resolution No. 63,339–N.S. as amended to adopt the findings and remedial measures previously determined by the Council on May 16, 2006 and a proposed fine of \$8,700 and agreeing with the letter from Richard Warren dated June 20, 2006.

Consent Calendar

- 7. Increase Purchase Order with Pinnacle Printing Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase blanket purchase order (BPO) 57567 with Pinnacle Printing Systems to pay for printing and mailing services already provided, for a total amount not to exceed \$44,755 for the period July 1, 2005 through June 30, 2006.
Financial Implications: Revenue Collection: General Fund \$15,000; Refuse Fund \$9,000; Rental Housing Fund \$2,755
Contact: Frances David, Finance, 981-7300
Action: Removed from Consent by Councilmember Spring. Adopted Resolution No. 63,340–N.S. (Abstain – Spring)
- 8. Contract: Berkeley Food and Housing Project Supportive Housing Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Food and Housing Project for operating the Russell Street Residence for the period from June 1, 2006 to June 30, 2007 in an amount not to exceed \$77,500.
Financial Implications: AB2034 Funds - \$77,500
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 63,341–N.S.
- 9. Contract: Emergency Services for Berkeley Residents with Severe Disabilities**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Easy Does It to provide emergency services to Berkeley residents with severe disabilities for the period July 1, 2006 to June 30, 2007 in an amount not to exceed \$771,244; and approving an option to extend the term of the contract three additional years contingent upon a satisfactory performance evaluation conducted annually.
Financial Implications: SPL Tax SP Disabled Measure E - \$771,244
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,342–N.S.
- 10. Contract: Workers' Compensation Third-Party Administrator**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Innovative Claim Solutions, Inc. (ICS) to provide workers' compensation third party administrative services in an amount not to exceed \$2,360,160 effective July 1, 2006 through June 30, 2010.
Financial Implications: Workers' Compensation Self-Insurance Fund, \$2,360,160
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,343–N.S.

Consent Calendar

- 11. Increase Purchase Order for Sutter Occupational Health**
From: City Manager
Recommendation: Adopt a Resolution authorizing an increase to the purchase order with Sutter Occupational Health for an additional \$30,000 for a total amount not to exceed \$55,000 for FY 2006. The additional funds will be used to pay for pre-employment and annual physical examinations for sworn police officers and community service officers.
Financial Implications: General Fund \$30,000
Contact: Douglas N. Hambleton, Police, 981-5700
Action: Adopted Resolution No. 63,344–N.S.
- 12. Payment to Sacramento Police Department for Academy Training**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to establish a purchase order with the Sacramento Law Enforcement Training Center, Sacramento Police Department Academy, in an amount not to exceed \$84,000 to pay tuition for 42 recruit police officers.
Financial Implications: General Fund - \$84,000
Contact: Douglas N. Hambleton, Chief of Police, 981-5700
Action: Adopted Resolution No. 63,345–N.S.
- 13. Abatement of Nonconforming/Substandard Sewer Laterals on Private Property**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Section 2 of Ordinance No. 6914–N.S., Abatement of Nonconforming/Substandard Sewer Laterals on Private Property, to change the effective date from July 1, 2006 to October 1, 2006.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for June 27, 2006.
- 14. Contract: Community Conservation Center**
From: City Manager
Recommendation: Adopt a Resolution amending Contract No. 6856 with Community Conservation Center (CCC) to increase the not to exceed amount from \$238,000 to \$380,000 in FY 2006, and to \$450,000 in FY 2007.
Financial Implications: \$380,000 - Various Funds
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,346–N.S.
- 15. Contract: Project Management Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with William Gargan to provide project management services for the Hills Fire Station, increasing the contract amount by \$75,000 for a new contract amount not to exceed \$220,000, and extending the term of the contract from July 1, 2006 to September 30, 2006.
Financial Implications: FY 2006 Hills Fire Station Budget, Measure G Account - \$75,000
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,347–N.S.

16. Oppose Senate Bill 1404: Parking Citations Related to Street Sweeping

From: City Manager

Recommendation: Oppose SB 1404, which would require that citations issued for violating parking restrictions related to street sweeping be cancelled once contested if the city cannot prove that the street was cleaned on the date of the violation; and send a letter of opposition to the Senate Appropriations Committee; Senator Mike Machado; the League of California Cities Department of Public Safety, Transportation and Public Works; and the City's State Lobbyist.

Financial Implications: None

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

Action: Approved recommendation.

17. 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 Metropolitan Transportation Commission (MTC) Transportation for Livable Communities (TLC) 2006 Capital Program for funds in the amount up to \$3,000,000 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: See report.

Contacts: Tom Bates, Mayor, 981-7100; Max Anderson, Councilmember District 3, 981-7130; and Kriss Worthington, Councilmember District 7, 981-7170

Action: Adopted Resolution No. 63,348–N.S.

18. Lift the Boycott on the Claremont Resort and Spa

From: Councilmember Wozniak

Recommendation: Adopt a Resolution rescinding Resolution No. 61,447-N.S. and Resolution No. 62,407-N.S. to lift the boycott against The Claremont Resort and Spa and strongly encourage the community to return its business to the spa facility.

Financial Implications: None

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

Action: Removed from Consent by Councilmember Worthington. Adopted Resolution No. 63,349–N.S. as amended to remove the words "...and encourage the community to return its hotel and spa business to the Claremont" from the report and resolution.

19. Tobacco Prevention Policies

a. From: Community Health Commission

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 13.62.040 to expand the places free sampling of tobacco and distribution of tobacco coupons are prohibited to include any place open to the public and to apply it to anyone engaged in such activities; direct the City Manager to develop and submit a proposal for funding, and if funded, to craft specific voluntary and/or legislative policy recommendations in conjunction with all interested stakeholders including the Community Health Commission to prevent the exposure of drifting secondhand smoke in new and/or existing public or private multi-unit housing in Berkeley; and take no legislative action at this time to restrict smoking in cars transporting children due to State Vehicle Code preemption,

Consent Calendar

but ask the City's legislative representatives to introduce a bill similar to the 2004 Firebaugh bill prohibiting on a state-wide basis smoking in cars transporting children.

Financial Implications: See report

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

b. From: City Manager

Recommendation: The City Manager concurs with the recommendations in the Commission's Report as long as all additional costs are covered by outside funding.

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

Action: Adopted first reading of Ordinance. Second reading scheduled for June 27, 2006.

20. Termination of Berkeley Honda Labor Dispute

a. From: Commission on Labor

Recommendation: Adopt a Resolution commending the employees of Berkeley Honda and the ownership/management of the dealership for bringing their long-standing labor dispute to an end, and sending a copy of this resolution to the Berkeley Honda owners/managers.

Financial Implications: See report

Contact: Delfina Geiken, Secretary to the Commission on Labor, 981-7000

b. From: City Manager

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

Contact: Tom Myers, Economic Development, 981-7000

Action: Adopted Resolution No. 63,350–N.S. (Abstain – Olds).

Action Calendar – Appeal

21. Appeal: 1421 Second Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve the modification of Use Permit #8957 to allow the construction of a carbon adsorption system at Plant #3 of Pacific Steel Casting Company (PSC).

Financial Implications: None

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

b. Appeal

1. L.A. Wood

c. Communications

None

Action: Moved, seconded, carried (Wozniak/Maio) to adopt Resolution No. 63,351–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve the modification of Use Permit #8957 to allow the construction of a carbon adsorption system at Plant #3 of Pacific Steel Casting Company (PSC).

Action Calendar – Public Hearing

- 22. Fiscal Year 2007 Proposed Mid-Biennial Budget and Fees**
From: City Manager
Recommendation: Discuss the FY 2007 proposed mid-biennial budget update, work plan update and fees. Conduct a public hearing. Council will adopt the FY 2007 budget on June 27, 2006.
Financial Implications: See budget book and report
Contact: Tracy Vesely, City Manager, 981-7000
Public Testimony: The Mayor opened the public hearing. Janet Klein, Susie Bluestene, Joann Cook, Daniel Rudman, Laurie Baumgarten, Gianna Ranuzzi, Nicholas Smith, Steve Freedkin, Diana Bohn, Abby Levine, Richie Smith, Adam Wight, Christian Pecaut, David Snippen, Jos Sances, Mark Baldrige, Robbin Henderson, John Tammen, and Barbara Allen. Moved, seconded, carried (Olds/Maio) to close the public hearing.
Action: Discussion held.
- 23. Elmwood Theater Business Improvement Area**
From: Elmwood Advisory Board
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution confirming the Annual Assessment Report for the Elmwood Theater Business Improvement Area for FY 2006 and levying assessments in the area for FY 2007.
Financial Implications: General Fund - \$18,745
Contact: David Fogarty, Secretary to the Advisory Board for the Elmwood Theater Business Improvement Area, 981-7530
Public Testimony: The Mayor opened the public hearing. No speakers. Moved, seconded, carried (Worthington/Maio) to close the public hearing.
Action: Moved, seconded, carried (Wozniak/Worthington) to adopt Resolution No. 63,352–N.S.
- 24. North Shattuck Business Improvement District**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution: 1) confirming the Annual Report of the North Shattuck Business Improvement District (BID) for Fiscal Year 2006 and 2) levying assessments in the District for FY 2007.
Financial Implications: See report
Contact: Thomas 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 (Spring/Worthington) to adopt Resolution No. 63,353–N.S.
- 25. Marina Fee Increases for Fiscal Year 2007**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution establishing the rate schedule for Marina operations, increasing base berthing fees by 8% and

Action Calendar – Public Hearing

increasing the Nature Center/Adventure Playground fees by 5% for FY 2007, and rescinding Resolution No. 62,536-N.S. and all amendatory Resolutions.

Financial Implications: See report

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

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

Action: Moved, seconded, carried a severed motion as follows:

(Anderson/Maio; Noes–Worthington) approving an 8% berthing fee increase.

Moved, seconded, carried (Anderson/Maio; Noes – Moore, Capitelli, Olds, Wozniak) approving a 5% Nature Center/Adventure Playground fee increase, adopting Resolution No. 63,354–N.S. and rescinding Resolution No. 62,536–N.S. and all amendatory resolutions.

26. Establishing Refuse Rates for FY 2007 (*To be delivered*)

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution setting rates for the collection of refuse and organics, Transfer Station disposal, and special services; reconfirming existing refuse collection districts; and rescinding Resolution No. 62,952-N.S. and all amendatory resolutions, effective July 1, 2006.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. Pamela Frantz, Charles McParland, and Asn Dodsworth. Moved, seconded, carried (Capitelli/Moore) to close the public hearing.

Action: Moved, seconded, carried (Capitelli/Maio) to adopt Resolution No. 63,355–N.S.

27. Sewer Service Charges for FY 2007 (*To be delivered*)

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution to establish sewer service rates for FY 2007, effective July 1, 2006.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. Christian Pecaut. Moved, seconded, carried (Maio/Moore) to close the public hearing.

Action: Moved, seconded, carried (Moore/Capitelli; Abstain – Maio, Spring, Worthington, Bates) a motion to adopt Resolution No. 63,356-N.S. rejecting the 3% sewer service rate increase.

28. Establishment of Utility Underground Assessment District No. 2006-47

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, direct the City Clerk to provide for opening and tally of assessment ballots received; and upon confirmation from the City Clerk that the ballots satisfy both state law and Council policy, adopt three Resolutions: 1) a) overruling any protest; b) approving the Final Engineer's Report; c) levying assessments without modification; d) approving and ordering the work and improvements for the utility undergrounding project; e) directing the preparation and filing of a Notice of

Action Calendar – Public Hearing

Exemption (CEQA); and f) authorizing and directing related actions for the Utility Underground Assessment District No. 2006-47; 2) dissolving Zone of Benefit No. 15 of Berkeley Street Light Underground Assessment District No. 1985-1; and 3) authorizing the City Manager to cast the ballot for Assessment No. 188 in the amount of \$265 in favor of the Assessment District.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. Barbara Allen, John DeWitt, Irene Winston, and Michelle Benson. Moved, seconded, carried (Maio/Anderson) to close the public hearing.

Action: The City Clerk confirmed that the ballots satisfied state law and Council policy. Moved, seconded, carried (Olds/Wozniak) to adopt three Resolutions as follows:

1) Resolution No. 63,357–N.S. overruling any protest; approving the Final Engineer’s Report; levying assessments without modification; approving and ordering the work and improvements for the utility undergrounding project; directing the preparation and filing of a Notice of Exemption (CEQA); and authorizing and directing related actions for the Utility Underground Assessment District No. 2006-47; 2) Resolution No. 63,358–N.S. dissolving Zone of Benefit No. 15 of Berkeley Street Light Underground Assessment District No. 1985-1; and, 3) Resolution No. 63,359–N.S. authorizing the City Manager to cast the ballot for Assessment No. 188 in the amount of \$265 in favor of the Assessment District.

29. Fiscal Year 2007 Street Lighting Assessments

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution, confirming the assessments in the Engineer’s Report, dated April 2006, and authorize the levying of FY 2007 Assessments for Berkeley Street Lighting Assessment District No. 1982-1.

Financial Implications: See report

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

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

Action: Moved, seconded, carried (Moore/Capitelli) to adopt Resolution No. 63,360–N.S.

30. Utility Underground District No. 47 (Miller/Stevenson)

From: City Manager

Recommendation: Conduct a public hearing and on conclusion, adopt a Resolution amending Resolution No. 56,237–N.S. to modify the boundary of Utility Underground District No. 47 (Miller/Stevenson) to exclude three parcels, include seventeen additional parcels and add specific dates for utility companies and property owners to complete required work.

Financial Implications: None

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

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

Action: Moved, seconded, carried (Olds/Capitelli) to adopt Resolution No. 63,361–N.S.

Action Calendar – Old Business

31. **Telegraph Property and Business Improvement District Assessment** (*Held over from June 13, 2006. Attachments revised*)
From: City Manager
Recommendation: Adopt a Resolution approving the Annual Assessment Report for the Telegraph Property and Business Improvement District (TBID) for FY 2006, declaring an intention to levy special assessments in the District for FY 2007, and setting a public hearing on the levy of assessments for July 18, 2006.
Financial Implications: See report
Contact: Thomas Myers, Economic Development, 981-7000
Action: Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 63,362–N.S.
32. **Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots** (*Held over from April 25 and June 13, 2006*)
- a. **Additional Information - Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots** (*June 13, 2006*)
From: City Manager
Fiscal Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
- b. **Supplemental Report – Inadvertent Omission of Attachment 6** (*April 25, 2006*)
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
- c. **From: City Manager** (*April 25, 2006*)
Recommendation: Adopt a first reading of one of two alternative Ordinances amending Berkeley Municipal Code (BMC) Title 23 to: 1a) require an Administrative Use Permit (AUP) for new uncovered parking spaces in all yards on residential lots, except when the space is for a by-right Accessory Dwelling Unit and not in the front yard, as recommended by the Planning Commission; or 1b) allow new uncovered parking spaces in rear and side yards by-right and require an AUP for parking in front yards on residential lots, as recommended by Staff; 2) revise the definition of “yard” to no longer prohibit parking in required yards; and 3) expand screening requirements for uncovered parking in rear yards, eliminate landscaping requirements along shared driveways, and clarify the intent and organization of the parking regulations.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400
Action: Moved, seconded, failed (Worthington/Spring; Noes – Capitelli, Bates; Abstain–Maio, Moore, Anderson) a substitute motion to adopt the Planning Commission’s recommendation as amended to require an Administrative Use Permit instead of a certificate.
- Moved, seconded, carried (Capitelli/Maio; Noes – Spring, Olds, Worthington) to adopt first reading of an Ordinance adopting the Planning Commission’s recommendations as amended to allow one parking space in a side yard where none exists to be approved with a zoning certificate conditioned on the following: 1) the driveway in the parking area shall be a permeable surface unless determined by the Public Works Department to be inappropriate; 2)

vegetative screening shall be required; and 3) the location of the parking space shall be such that the impact on usable open space is minimized and any other car would require an Administrative Use Permit. Second reading scheduled for June 27, 2006.

- 33. Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft Environmental Impact Report** (*Held over from June 13, 2006*)
From: City Manager
Recommendation: That the City Council give staff input on the University of California's May 8, 2006 Draft Environmental Impact Report for the Southeast Campus Integrated Projects (SCIP) including the California Memorial Stadium Seismic Corrections, other modifications to the stadium and a new Student Athlete High Performance Center, the 911 space parking garage below a modified Maxwell Family Field, and the School of Law/Haas Business school joint building.
Fiscal Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Held over to June 27, 2006 by Mayor Bates to allow Council to bring written comments for discussion.
- 34. Ballot Measure: Greenhouse Gas Ballot Measure** (*Held over from May 23 and June 13, 2006*)
- a. Revised Climate Protection Draft Text for Discussion** (*June 13, 2006*)
From: Mayor Bates
- b. From: Mayor Bates** (*May 23, 2006*)
Recommendation: Discuss placing an advisory measure on the November ballot to support aggressive efforts to reduce greenhouse gas emissions and actively engage in climate-disaster preparations to address the likely local climate change impacts such as flooding, shortages of potable water, and dramatically increased costs of energy.
Financial Implications: \$9,000 to place the item on the ballot
Contact: Tom Bates, Mayor, 981-7100
Action: Moved, seconded, carried (Worthington/Maio) a motion to refer to the City Attorney to prepare ballot language.
- 35. Ballot Measure: A Clean Water Measure to Address Severe Flooding, Sewage Contamination, Creek and Culvert Improvements** (*Held over from June 13, 2006*)
From: Councilmembers Maio and Moore
Recommendation: Request placement of a measure on the November ballot to address severe flooding, sewage contamination, creek and culvert improvement-A Clean Water measure.
Financial Implications: To be determined
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120
Action: Moved, seconded, failed (Moore/Anderson; Noes – Capitelli, Olds, Worthington, Wozniak, Bates; Abstain –Maio, Spring) a substitute motion to request placement of the measure on the November 2006 ballot.

Action Calendar – Old Business

Moved, seconded, carried (Maio/Wozniak; Abstain – Moore) a main motion to withdraw the item.

36. **Ballot Measure - Survey on Lowering Voting Age** (*Held over from June 13, 2006*)

a. From: Youth Commission

Recommendation: Adopt a Resolution to direct the City Manager to place a survey item on the November ballot asking Berkeley residents whether they support lowering the voting age to seventeen for School Board elections in Berkeley.

Financial Implications: \$10,000

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

b. From: City Manager

Recommendation: Take no action at this time.

Financial Implications: See report

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

Action: Moved, seconded, carried (Wozniak/Capitelli; Noes – Spring, Worthington; Abstain – Moore, Anderson) a motion to table the item.

Action Calendar – New Business

37. **Funding to Complete the Warm Water Pool**

From: Councilmember Spring

Recommendation: Request that the City Manager either 1) prepare a ballot measure to go to the voters in November 2006 to increase the parcel tax approved by the voters in 2000 to provide the additional funding needed to build a new swimming pool at the location chosen by the BUSD Board on the former BHS tennis courts; or 2) prepare a certificate of participation to be paid back over 20 to 30 years from the general fund to cover the remaining funding gap.

Financial Implications: See report

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

Action: Discussion held. Councilmember Spring's motion failed for lack of a second. No action taken.

38. **Nexus Art Cooperative and the Berkeley Humane Society**

a. From: Civic Arts Commission

Recommendation: Direct the City Manager to intervene in the action proposed by the Berkeley-East Bay Humane Society to evict the tenants of 2707 Eighth Street, i.e., the Nexus Institute, and to delay the eviction of more than two dozen practicing artists and craftsperson's from the building for a reasonable period of time in which to secure comparable space or spaces in West Berkeley as provided by Berkeley Municipal Code Section 23E.84.090.

Financial Implications: See report

Contact: Mary Ann Merker, Secretary to the Civic Arts Commission, Economic Development, 981-7533

b. From: City Manager

Recommendation: No action should be taken by the city regarding private disputes between a landlord and tenants.

Contact: Thomas Myers, Economic Development, 981-7530

Action: The City Manager's recommendation was moved to Consent as amended by Councilmember Maio to read: "No action will be taken at this time."

39. Berkeley Marina Ordinance Revisions and Updates

a. From: Waterfront Commission

Recommendation: Adopt first reading of an Ordinance to amend Berkeley Municipal Code Chapter 6.20 Sections 010 (Definitions); 040 (Berth rates and service charges); 080 (Care in berthing vessels); 090 (Registration and numbering – Furnishing information to the Harbormaster) 100 (Accident reports); 180 (Prohibited Activities); 190 (Cruising vessels used as a residence); and 200 (Residential Houseboats).

Financial Implications: None

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6740

b. From: City Manager

Recommendation: The City Manager recommends adopting all changes to Berkeley Municipal Code (BMC) Chapter 6.20 proposed by the Waterfront Commission except for BMC Sections 6.20.040.A (Berth Rates and Service Charges) and 6.20.180.A (Prohibited Activities); and replacing BMC Sections 6.20.200 and 280 with proposed language from this report.

Financial Implications: See report

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6740

Action: Moved, seconded, carried (Wozniak/Olds) a motion to approve the City Manager's recommendation, adopt the first reading of Ordinance and refer windsurfing issues to staff for further analysis. Second reading scheduled for June 27, 2006.

40. Compromise Landmarks Ordinance

From: Mayor Bates

Recommendation: That the City Council support, in principle, the draft compromise revisions to the Berkeley Landmarks Preservation Ordinance (LPO) and refer those changes to staff, the Landmarks Preservation Commission, and the State Historic Preservation Office (SHPO) for review in time for the scheduled Council public hearing in July.

Financial Implications: None

Contact: Tom Bates, Mayor, 981-7100

Action: Moved, seconded, carried (Wozniak/Maio; Noes – Spring) a motion to remove the word "compromise" from the recommendation, refer to the Council, Landmarks Preservation Commission and the public for review and comment, and bring back to Council on July 11, 2006.

41. Grandfathering Recycling Box on 1700 Block of Channing Way

From: Councilmember Spring

Recommendation: Request that the City Manager create a classification to accommodate the 35 year recycling box, known as "Wishing Well," on the sidewalk median strip on the 1700 block of Channing Way and waive any proposed costs.

Action Calendar – New Business

Financial Implications: None

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

Action: Moved, seconded, carried (Spring/Maio) a motion to refer to the City Manager to review and bring a recommendation back to Council regarding the “Wishing Well” and neighborhood bulletin boards to allow them to remain with the conditions that there be regular maintenance, that community well wishers be responsible for the upkeep and maintenance, and that there be mediation between the neighbors regarding the Wishing Well.

Information Reports

42. Audit Plan for FY 2007

From: Auditor

Contact: Ann-Marie Hogan, City Auditor

Action: Received and filed.

43. Quarterly Report on Employee Safety and Workers' Compensation (CF07-04)

From: City Manager

Contact: David W. Hodgkins, Human Resources, 981-6805

Action: Received and filed.

44. Landmarks Preservation Commission Notice of Decision - 2104 Sixth Street

From: City Manager

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

Action: Received and filed.

45. Annual Work Plan

From: Commission on Labor

Financial Implications: None

Contact: Delfina Geiken, Secretary, Commission on Labor, 981-7000

Action: Received and filed.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Crime Rate in South Berkeley

1. Sam Herbert
2. Phyllis Schafer
3. Don Link

The Wishing Well

4. Martin Bourque, Ecology Center
5. Lori Hines
6. Petition with 170 Signatures, submitted by Barbara Cappa, The Well Wishers

Request for Stop Sign at Edith and Rose Street Junction

7. Hamid Mostowfi, Office of Transportation

Train Whistles

- 8. Marti Stites
- 9. Doris Campbell

Annual Berkeley World Music Festival

10. Dianna Ranuzzi

The New Grass at Live Oak Park

- 11. Margot Smith
- 12. Jill A. Martinucci, on behalf of Councilmember Laurie Capitelli

To Be Delivered and Supplemental Reports 2

Item 22: Fiscal Year 2007 Proposed Mid-Biennial Budget and Fees

- Supplemental report, submitted by Mayor Bates

Item 26: Establishing Refuse Rates for FY 2007

- To be delivered report, submitted by City Manager

Item 27: Sewer Service Charges for FY 2007

- To be delivered report, submitted by City Manager

Item 34: Ballot Measure: Greenhouse Gas Ballot Measure

- Revised report, submitted by Mayor Bates

Item 40: Compromise Landmarks Ordinance

- Supplemental Report, submitted by Mayor Bates

To Be Delivered and Supplemental Reports 2

Item 28: Establishment of Utility Underground Assessment District No. 2006-47

- Revised report attachment, submitted by City Manager

Supplemental Communications 1

Item 6: Adoption of Findings To Abate Public Nuisance at Black and White Liquors -3027 Adeline Street

13. Richard Warren

Item 21: Appeal: 1421 Second Street

- 14. Jack P. Broadbent, Bay Area Air Quality Management District
- 15. David Schroeder
- 16. David Schroeder

Item 22: Fiscal Year 2007 Proposed Mid-Biennial Budget and Fees

17. Diane Tokugawa

Item 32: Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots (Held over from April 25 and June 13, 2006)

18. Sharon Hudson

Item 33: Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft

19. Sharon Hudson

Item 34: Ballot Measure: Greenhouse Gas Ballot Measure (Held over from May 23 and June 13, 2006)

20. Tom Kelly

Item 38: Nexus Art Cooperative and the Berkeley Humane Society

21. Stephanie Hayes

Item 39: Berkeley Marina Ordinance Revisions and Updates

22. James McGrath

Item 41: Grandfathering Recycling Box on 1700 Block of Channing Way

23. Annette Walt et al.

24. Ashley Foster

25. Richard Adler

Supplemental Communications 2

Item 21: Appeal: 1421 Second Street

26. Jack P. Broadbent, Bay Area Air Quality Management District

27. L A Wood

Item 22: Fiscal Year 2007 Proposed Mid-Biennial Budget and Fees

28. Susan Schwartz

29. Judith White Marcellini

30. Barbara Allen et al., \$BudgetWatch\$

Item 31: Telegraph Property and Business Improvement District Assessment

31. Adam Wight

Item 38: Nexus Art Cooperative and the Berkeley Humane Society

32. Aspy Khambatta et al., Nexus Steering Committee

Item 39: Berkeley Marina Ordinance Revisions and Updates

33. James McGrath

Item 40: Compromise Landmarks Ordinance

34. Alan Tobey, Livable Berkeley

35. Sharon Hudson

36. Lisa Bullwinkel

Item 41: Grandfathering Recycling Box on 1700 Block of Channing Way

37. Petition containing approximately 140 signatures

“New Campaign Shows Progress for the Homeless”, The New York Times article published on June 7, 2006

38. Anonymous

Adjournment

Adjourned at 12:33 a.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of June 20, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, JUNE 27, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:15 p.m.

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

Absent: None.

Ceremonial Matters:

1. Proclamation declaring June 27, 2006 as Cindy Sheehan Day in honor of Cindy Sheehan, a peace activist.
2. Proclamation declaring July as Parks and Recreation Month.

City Manager Comments: None.

Public Comment: 35 speakers.

Consent Calendar

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

1. **Abatement of Nonconforming/Substandard Sewer Laterals on Private Property** (*First reading June 20, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Section 2 of Ordinance No. 6914–N.S., Abatement of Nonconforming/Substandard Sewer Laterals on Private Property, to change the effective date from July 1, 2006 to October 1, 2006.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Ordinance No.6,924–N.S. Effective July 27, 2006.
2. **Berkeley Marina Ordinance Revisions and Updates** (*First reading June 20, 2006– Unanimous*)
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code Chapter 6.20 Sections 010 (Definitions); 040 (Berth rates and service charges); 080 (Care in

Consent Calendar

berthing vessels); 090 (Registration and numbering – Furnishing information to the Harbormaster) 100 (Accident reports); 180 (Prohibited Activities); 190 (Cruising vessels used as a residence); 200 (Residential Houseboats); 280 (San Francisco Bay Conservation and Development Commission Permit); 290 (Notice); 320 (Appeals) and 330 (Charter Vessels).

Financial Implications: None

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6740

Action: Adopted Ordinance No.6,925–N.S. Effective July 27, 2006.

3. Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots (*First reading June 20, 2006. Noes – Spring, Olds and Worthington*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 amending Berkeley Municipal Code (BMC) Title 23F.04.010 and 23D.12.080.

Financial Implications: None

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

Action: Held over to the meeting of July 11, 2006.

4. Tobacco Prevention Policies (*First reading June 20, 2006– Unanimous*)

From: Community Health Commission

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 13.62.040 to expand the places free sampling of tobacco and distribution of tobacco coupons are prohibited to include any place open to the public and to apply it to anyone engaged in such activities.

Financial Implications: See report

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

Action: Adopted Ordinance No.6,926–N.S. Effective July 27, 2006.

5. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of March 20, 2006 (closed), April 25, 2006 (special), May 8, 2006 (closed), May 15, 2006 (closed), May 16, 2006 (special and regular), and May 23, 2006 (special and regular).

Financial Implications: None

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

Action: Approved minutes as submitted.

6. Contract: Downtown Berkeley YMCA

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$248,310 for fitness center memberships for City employees for the period July 1, 2006 through June 30, 2007.

Financial Implications: Payroll Deduction Trust Fund - \$248,310

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Adopted Resolution No.63,363–N.S.

7. Establishing the Maximum Household Income Level for Exemption From Local Taxes and Specified Fees at \$33,500

From: City Manager

Recommendation Adopt a Resolution establishing the maximum income level for 1-2 person households in order to qualify for the Very Low Income (VLI) exemption from local taxes and specified fees at \$33,500 effective July 1, 2006; and rescinding Resolution Nos. 59,042-N.S; 55,966-N.S., 57,041-N.S., 55,981-N.S., 55,998-N.S.; and 54,765-N.S and all resolutions amendatory.

Financial Implications: See report

Contact: Frances David, Finance, 981-7300

Action: Adopted Resolution No.63,364–N.S.

8. Formal Bid Solicitations and Request for Proposals

From: City Manager

Recommendation: Approve a request for proposal for towing services that will be, or is planned to be, issued upon final approval by the Police Department.

Financial Implications: General Fund - \$30,000

Contact: Fran David, Finance, 981-7300

Action: Approved recommendation.

9. MOU: ABAG/Bay Area Regional GIS Council Servers

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the Association of Bay Area Governments (ABAG) to host a pair of public facing servers to provide Geographical Information Systems (GIS) data from the nine county bay area region to the public and agencies of the region.

Financial Implications: None

Contact: Chris Mead, Information Technology, 981-6500

Action: Adopted Resolution No. 63,365–N.S.

10. Contract: Food Services at Berkeley Tuolumne Camp

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract for food services at City of Berkeley's Tuolumne Camp in an amount not to exceed \$1,000,000 for the period June 21, 2006 through June 30 2008, subject to the City's annual budget appropriation process.

Financial Implications: Playground Camps Fund - \$1,000,000

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

Action: Adopted Resolution No. 63,366–N.S.

Consent Calendar

- 11. Contract: Janitorial Services (CF 51-04)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Township Building Services, Inc., for janitorial services at the North, South, and West Berkeley Senior Centers and increasing the contract amount by \$52,000 for a total not to exceed amount of \$283,200 for the term July 1, 2004 to June 30, 2007.
Financial Implications: FY 2007 Building Maintenance Fund - \$52,000
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No.63,367–N.S. (Abstain – Spring)
- 12. Support Assembly Bill 32 - Climate Protection Act of 2006**
From: Mayor Bates
Recommendation: Support Assembly Bill 32 (Pavley) - The California Climate Act of 2006 and notify the legislature of the City's position.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
- 13. City Sponsorship of the 32nd Annual Solano Stroll**
From: Councilmember Capitelli
Recommendation: That the city co-sponsor the 2006 Solano Stroll to be held on Solano Avenue on Sunday, September 10, 2006 and that the Council give permission for use of the name, the City of Berkeley, and the City's logo in media coverage of the Solano Avenue Stroll. This includes print, internet, radio and television media.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Approved recommendation.
- 14. Oppose Senate Bill 1627 – Wireless Telecommunication Facility Bill**
From: Councilmember Maio
Recommendation: Send a letter of opposition to SB 1627 – Wireless Telecommunication Facilities Bill – to Governor Arnold Schwarzenegger, Senator Don Perata, and Assembly member Loni Hancock.
Financial Implications: None
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Approved recommendation as amended by Councilmember Maio that Council send a letter opposing Senate Bill 1627 unless the bill is amended to exclude the City's ability to consider where antennas can be located in our local jurisdiction.

Consent Calendar

15. **Reaffirm Support for S.809/H.R. 1652 Access to Legal Pharmaceuticals Act to Ensure Pharmacies Fill All Prescriptions**
From: Councilmember Worthington
Recommendation: Council reaffirm its support for the access to Legal Pharmaceuticals Act (“ALPhA”: S.809/H.R. 1652) and urge Senator Diane Feinstein to join the list of co-sponsors for the Senate Bill.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
16. **Worker Retention Ordinance**
From: Councilmember Worthington
Recommendation: Refer to the City Manager the drafting of a worker retention ordinance for the City of Berkeley.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.

Action Calendar - Presentation

17. **Presentation to Council by Maddy Oden on the Off-Label Use of the Drug, Cytotec**
From: Councilmembers Maio and Anderson
Contacts: Linda Maio, Councilmember District 1, 981-7110 and Max Anderson, Councilmember District 3, 981-7130
Action: Presentation made and discussion held. Moved, seconded, carried (Maio/Wozniak; Abstain – Worthington) to refer to the Community Health Commission and request that the Health Officer examine the issue and make a recommendation back to Council regarding the sending of a letter from the Mayor to Alta Bates Hospital.

Action Calendar – Old Business

18. **Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft Environmental Impact Report** (*Held over from June 13 and 20, 2006*)
From: City Manager
Recommendation: That the City Council give staff input on the University of California’s May 8, 2006 Draft Environmental Impact Report for the Southeast Campus Integrated Projects (SCIP) including the California Memorial Stadium Seismic Corrections, other modifications to the stadium and a new Student Athlete High Performance Center, the 911 space parking garage below a modified Maxwell Family Field, and the School of Law/Haas Business school joint building.
Fiscal Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Discussion Held.

Action Calendar - Budget

19. Adoption of the FY 2007 Budget

From: City Manager

a. Adoption of Budget

Recommendation: Adopt a Resolution adopting the FY 2007 Budget as contained in the City Manager's FY 2007 Proposed Mid-Biennial Budget Update and Revised Work Plan, presented on May 16, 2006 and as amended by Council;

1. Authorize the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2007, as reflected in Attachment A, and as amended by Council.
2. Approve the Telegraph Avenue Plan as reflected in Attachment B.
3. Approve a 25-cent per hour increase of parking meter rates effective January 2007.
4. Adopt a citywide Traffic Calming Policy as discussed in Attachment C; and
5. Adopt the City Manager's responses as resolution of audit recommendations detailed in Attachment D.

Financial Implications: See report.

Contact: Tracy Vesely, City Manager, 981-7000

b. Mayor's FY 2007 Budget Recommendations dated June 19, 2006

Recommendation: Adopt the City Manager's FY 2007 Proposed Mid-Biennial update with the revisions contained in the Mayor's report dated June 19, 2006.

Financial Implications: See report.

Contact: Tom Bates, Mayor, 981-7100

c. Annual Appropriations Ordinance

Recommendation: Adopt first reading of the FY 2007 Annual Appropriations Ordinance.

Financial Implications: See report

Contact: Tracy Vesely, City Manager, 981-7000.

Action: Moved, seconded, carried (Spring/Capitelli) to: 1) Adopt Resolution No. 63,368–N.S., approving the City Manager's budget recommendations as contained in the FY 2007 Proposed Mid-Biennial Budget Update and revised citywide work plan, presented on May 16, 2006 as amended by the Mayor's revised budget recommendation dated June 22, 2006 and authorize the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2007 as reflected in a revised Attachment B dated June 27, 2006; 2) Approve the Telegraph Avenue Plan as presented in Attachment A; 3) Approve a policy to increase a 25 cent per hour increase to parking meter rates effective January 2007; and 4) Adopt the City Manager's responses as resolution of audit recommendations detailed in Attachment detailed in Attachment D.

The Citywide Traffic Calming Policy was severed at the request of Councilmember Capitelli and will return to Council for further consideration at a future date.

Item 19c, Annual Appropriations Ordinance, was carried over to the meeting of July 11, 2006.

Action Calendar - Budget

- 20. FY 2007 Tax Rate: Library Services Tax**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for the Library Services Tax at \$0.1440 (14.40 cents) per square foot for dwelling units, and \$0.2180 (21.80 cents) per square foot for industrial, commercial, and institutional buildings.
Financial Implications: Library Tax Fund - Estimated Collections: \$12,580,535.
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 21. FY 2007 Tax Rate: Measure S General Obligation Bonds (Election of 1996)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for the Measure S General Obligation Bonds (Election of 1996) at 0.035%.
Financial Implications: Measure S Debt Service Fund - Estimated Collections: \$3.6 million
Contact: Frances David, Finance. 981-7300
Action: Moved to the Consent Calendar by Councilmember Wozniak. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 22. FY 2007 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1043 (10.43 cents) per square foot.
Financial Implications: Park Tax Fund - Estimated Collections: \$7,975,189
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 23. FY 2007 Tax Rate: Disaster Fire Protection (Measure Q)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$952,333
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.

Action Calendar - Budget

- 24. FY 2007 Tax Rate: Fund the Provision of Emergency Medical Services**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate to fund provision of emergency medical services to Berkeley residents at \$0.0278 (2.78 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$2,120,827
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 25. FY 2007 Tax Rate: Emergency Services for the Severely Disabled**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for the provision of emergency services for the disabled at \$0.0104 (1.04 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$771,244
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 26. FY 2007 Tax Rate: Fire Seismic General Obligation Bonds (Measure G, Series C) and 2002 General Obligation Refunding Bonds**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2007 tax rate for Fire Seismic General Obligation Bonds (Measure G, Series C) and 2002 General Obligation Refunding Bonds at 0.0175%.
Financial Implications: Estimated Collections: \$1.8 million
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Wozniak. Adopted first reading of Ordinance. Second reading scheduled for July 11, 2006.
- 27. Appropriations Limit for FY 2007**
From: City Manager
Recommendation: Adopt a Resolution establishing the appropriations limit at \$149,783,257 for FY 2007 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.
Financial Implications: None
Contact: Frances David, Finance, 981-7300
Action: Moved to the Consent Calendar by Councilmember Maio. Adopted Resolution No. 63,369–N.S.

Action Calendar - Budget

28. Temporary Appropriations FY 2007

From: City Manager

Recommendation: Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2006, until the effective date of the FY 2007 Annual Appropriations Ordinance.

Financial Implications: See report

Contact: Frances David, Finance, 981-7300

Action: Moved to the Consent Calendar by Councilmember Maio. Adopted Resolution No. 63,370–N.S.

29. Budget Allocation from the Mayor's Office

From: Mayor Bates

Recommendation: Approve the expenditure of \$11,000 in FY06 funds from the Mayor's Office budget to the Berkeley Alliance to fund the Berkeley Champions for Kids program and a Project BUILD summer math tutoring program at King Middle School.

Financial Implications: \$11,000 from the Mayor's FY 2006 office budget (no impact on the general fund.)

Contact: Tom Bates, Mayor, 981-7100

Action: Moved to the Consent Calendar by Councilmember Moore. Approved recommendation.

Action Calendar – New Business

30. Review of Council Procedures for Public Input at Council Meetings

From: City Manager

Recommendation: 1) Review existing Council procedures and practices concerning public input at Council meetings; 2) Consider whether and how to amend them; and 3) Determine the process to be followed to consider and decide these questions.

Financial Implications: None

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Discussion held. Referred to the Agenda Committee for further discussion and direction to come back to Council with additional recommendations.

31. Amendments to Telephone Users Tax Ordinance

From City Manager

Recommendation: Adopt first reading of an ordinance amending Berkeley Municipal Code (BMC) Sections 7.70.020 and 7.70.050.

Financial Implications: No change in coverage or rate of tax.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved to the Consent Calendar by Councilmember Maio. Adopted first reading of Ordinance. Second reading scheduled for June 30, 2006.

Action Calendar – New Business

32. 2116 Allston Way, Gaia Building: Implementation of Cultural Use Requirements

From: City Manager

Recommendation: Accept the June 13, 2006 letter from Panoramic Interests as the implementation plan to prioritize cultural uses at the Gaia Arts Center and direct staff to report back to the City Council on the schedule of events in six months.

Financial Implications: See report

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

Action: Held over to the July 11, 2006.

Action Calendar – Ballot Measures

33. Ballot Measure: Adopting a Resolution Placing a Charter Amendment Related to Filling a Vacancy on the Rent Stabilization Board on the November 7, 2006 Ballot

From: City Manager

Recommendation: Review the ballot title, text and analysis prepared by the City Attorney and adopt a Resolution placing a charter amendment related to filling a vacancy on the Rent Stabilization Board on the November 7, 2006 ballot.

Financial Implications: See report

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

Action: Moved to the Consent Calendar by Councilmember Maio. Adopted Resolution No. 63,371–N.S.

34. Ballot Measure: Impeachment of President and Vice President

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution placing an advisory measure on the November 7, 2006 ballot calling for impeachment of President George W. Bush and Vice President Richard B. Cheney.

Financial Implications: Costs resulting from placement of this ballot measure on the November ballot.

Contact: Manuel Hector Jr., Secretary, Peace and Justice Commission, 981-5110

b. From: City Manager

Recommendation: The City Manager recommends against placing this measure on the November 2006 ballot and advises against the creation of a new advisory body.

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

Action: Moved, seconded, carried (Maio/Moore) to place an advisory measure on the November 7, 2006 ballot calling for the impeachment of President George W. Bush and Vice President Richard B. Cheney and deny the request for creation of a new advisory body. The City Attorney to draft title and analysis and revised text for council approval on July 18, 2006.

Action Calendar – Ballot Measure

35. Oral Report from Fair Campaign Practices Commission Regarding Placement of a Public Financing of Elections Measure on the November 2006 ballot.

From: Fair Campaign Practices Commission

Recommendation: The Fair Campaign Practices Commission recommends that the Berkeley City Council place on the November 2006 ballot a measure to amend the City Charter to mandate appropriation of \$410,972 per year and make related changes to the Berkeley Election Reform Act (“BERA”) to establish a public financing program for both mayoral and city council election campaigns beginning with the 2008 election.

Financial Implications: See report

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Severed into two motions at the request of Councilmember Spring. Moved, seconded, failed (Spring/Moore; Noes – Capitelli, Olds; Abstain – Maio, Anderson, Wozniak) to place on the November 2006 ballot a measure to amend the City Charter to establish public funding for the Mayoral election.

Moved, seconded, failed (Spring/Moore; Noes – Capitelli, Olds, Wozniak; Abstain – Maio, Moore, Anderson, Bates) to place on the November 2006 ballot a measure to amend the City Charter to establish public funding for the election of City Councilmembers.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

West Berkeley Bowl - 920 Heinz Avenue

1. Steve Smith

Train Whistles

2. Victor Bluestone

Livermore Nuclear Weapons Lab

3. Leuren Moret

Decline in Commercial Districts

4. Robin Wright

Vehicle Accidents

5. Charles L. Smith

To Be Delivered and Supplemental Reports 1

Item 17: Presentation to Council by Maddy Oden on the Off-Label Use of the Drug, Cytotec

- Presentation materials, submitted by Councilmembers Maio and Anderson

Item 19: Adoption of the FY 2007 Budget

- Revised report, submitted by Mayor Bates

To Be Delivered and Supplemental Reports 1

Item 35: Oral Report from Fair Campaign Practices Commission Regarding Placement of a Public Financing of Elections Measure on the November 2006 Ballot

- To Be Delivered report, submitted by Fair Campaign Practices Commission

To Be Delivered and Supplemental Reports 2

Item 19: Adoption of the FY 2007 Budget

- Revised Report, submitted by City Manager

Supplemental Communications 1

Item 3: Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots

6. Robert Lauriston
7. Robert Lauriston

Item 6: Contract: Downtown Berkeley YMCA

8. Marie Bowman (same as Item 19 No. 12)

Item 7: Establishing the Maximum Household Income Level for Exemption From Local Taxes and Specified Fees at \$33,500

9. Barbara Gilbert

Item 19: Adoption of the FY 2007 Budget

10. Ernest Landauer
11. Osha Neumann et al.
12. Marie Bowman
13. Susan Schwartz
14. Sam Herbert
15. Jesse Townley

Item 30: Review of Council Procedures for Public Input at Council Meetings

16. Barbara Gilbert

Supplemental Communications 2

Item 6: Contract: Downtown Berkeley YMCA

17. Marie Bowman (same as Item 19 No. 12)

Item 18: Update: Review of U.C. Berkeley Southeast Campus Integrated Projects Draft Environmental Impact Report (Held over from June 13 and 20, 2006)

18. Anonymous

Item 19: Adoption of the FY 2007 Budget

19. Marie Bowman
20. Diana Bohn, on behalf of David Bacon

Supplemental Communications 2

Item 30: Review of Council Procedures for Public Input at Council Meetings

21. Sophia Cope

Item 34: Ballot Measure: Impeachment of President and Vice President

22. Kamila Kennedy

23. Montana Podva

Adjournment

Adjourned at 10:56 p.m. in honor of Berkeley Police Officer Calvin J. Newton.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of June 27, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

FRIDAY, JUNE 30, 2006

12:00 P.M.

Preliminary Matters

Roll Call: 12:00 p.m.

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

Absent: Councilmembers Maio, Moore and Wozniak.

Ceremonial Matters: None.

City Manager Comments: None.

Public Comment: No speakers.

Consent Calendar

The Council will consider removal and addition of items to the Consent Calendar prior to voting on the Consent Calendar. All items remaining on the Consent Calendar will be approved in one motion. Items removed from the Consent Calendar will be taken up after the "Action Calendar" unless the Council reorders the agenda.

- 1. Amendments to Telephone Users Tax Ordinance** (*First reading June 27, 2006 – Unanimous*)

From City Manager

Recommendation: Adopt second reading of an ordinance amending Berkeley Municipal Code (BMC) Sections 7.70.020 and 7.70.050.

Financial Implications: No change in coverage or rate of tax.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted Ordinance No.6,927–N.S. Effective July 30, 2006.

Adjournment

Adjourned at 12:03 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of June 30, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
TUESDAY, JULY 11, 2006
5:00 P.M.

Preliminary Matters

Roll Call: 5:03 p.m.

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

Absent: None.

Public Comment: Eric Kelly, Laura Billings, David M. Mayeni, John Lineweaver, Mark McLeod, Jesse Awequin, Herb Doughty, Rozalina Gutman, Helen Burke, and Miriam Ng.

Work Session

1. Discussion Regarding Authorizing Payment of In-Lieu Fees for Inclusionary Condominium Units

Contact: Stephen Barton, Housing, 981-5400

Action: Discussion held.

2. Discussion of Transportation Services Fee *(There will also be a public hearing scheduled during tonight's 7:00 City Council regular meeting.) (to be delivered)*

From City Manager

Contact: Peter Hillier, Public Works, 981-6300

Action: Discussion held.

Communications

None.

To Be Delivered and Supplemental Reports 1

Item 2: Discussion of Transportation Services Fee

- Fact Sheet, submitted by Public Works

To Be Delivered and Supplemental Reports 2

Item 2: Discussion of Transportation Services Fee

- Presentation, submitted by Public Works

Supplemental Communications 1

None.

Supplemental Communications 2

Item 2: Discussion of Transportation Services Fee

1. Form letters from 184 citizens in support of the Transportation Commission recommendation, submitted by Andy Katz
2. Andy Katz

Adjournment

Adjourned at 7:05 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of July 11, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 11, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:19 p.m.

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

Absent: None.

Ceremonial Matters:

1. Proclamation in recognition of the Muboubi Movement.

City Manager Comments:

1. Posters indicating that smoking is not allowed are being installed at all Berkeley bus shelters
2. The City is kicking off its emergency disaster supply cache program. Notices have been sent to 276 neighborhood groups, which are encouraged to apply for the emergency cache supplies.
3. There will be helicopters at Cesar Chavez Park tomorrow where the City will be hosting an emergency medical ambulance event. Helicopters from the Coast Guard, Cal Air Ambulance and the Sonoma Sheriff's Office will participate.
4. Tonight is the last Council meeting for City Clerk Sara Cox, who has taken the City Clerk position with the City of Napa.
5. The July 18, 2006 Housing Authority meeting has been canceled and rescheduled for July 25, 2006.

Public Comment: Marv Sternberg, Kate Bernier, Jinky Gardner, Sherry Smith, Lori Kirschner, Charles Pappas, Selma Spector, Nancy Reynolds, Kirstin Bunkley, Anne Marx, Martha Colburn, Daniel Rudman, Daryl Meshack, Martha Colburn, Ed Joseph, Clara Johnson, Corinne Goldstick, Sherry Smith, Sam Ferguson, and Lisa Gambino.

Youth Comments: David Pastor, Nia Willis, Alana Habin, Amri Giray, Jewelie Perez, Kimberly Scott, and Tara West.

Consent Calendar

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

- 1. FY 2007 Tax Rate: Library Services Tax** (*First reading June 27, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for the Library Services Tax at \$0.1440 (14.40 cents) per square foot for dwelling units, and \$0.2180 (21.80 cents) per square foot for industrial, commercial, and institutional buildings.
Financial Implications: Library Tax Fund - Estimated Collections: \$12,580,535.
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,928–N.S. Effective August 10, 2006.
- 2. FY 2007 Tax Rate: Measure S General Obligation Bonds (Election of 1996)** (*First reading June 27, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for the Measure S General Obligation Bonds (Election of 1996) at 0.035%.
Financial Implications: Measure S Debt Service Fund - Estimated Collections: \$3.6 million
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,929–N.S. Effective August 10, 2006.
- 3. FY 2007 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping** (*First reading June 27, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for funding all improvements for the maintenance of parks, city trees, and landscaping in the City of Berkeley at \$0.1043 (10.43 cents) per square foot.
Financial Implications: Park Tax Fund - Estimated Collections: \$7,975,189
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,930–N.S. Effective August 10, 2006.
- 4. FY 2007 Tax Rate: Disaster Fire Protection (Measure Q)** (*First reading June 27, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$952,333
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,931–N.S. Effective August 10, 2006.

Consent Calendar

- 5. FY 2007 Tax Rate: Fund the Provision of Emergency Medical Services** *(First reading June 27, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate to fund provision of emergency medical services to Berkeley residents at \$0.0278 (2.78 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$2,120,827
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,932–N.S. Effective August 10, 2006.
- 6. FY 2007 Tax Rate: Emergency Services for the Severely Disabled** *(First reading June 27, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for the provision of emergency services for the disabled at \$0.0104 (1.04 cents) per square foot of improvements.
Financial Implications: Estimated Collections: \$771,244
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,933–N.S. Effective August 10, 2006.
- 7. FY 2007 Tax Rate: Fire Seismic General Obligation Bonds (Measure G, Series C) and 2002 General Obligation Refunding Bonds** *(First reading June 27, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2007 tax rate for Fire Seismic General Obligation Bonds (Measure G, Series C) and 2002 General Obligation Refunding Bonds at 0.0175%.
Financial Implications: Estimated Collections: \$1.8 million
Contact: Frances David, Finance, 981-7300
Action: Adopted Ordinance No. 6,934–N.S. Effective August 10, 2006.
- 8. FY 2007 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt first reading of an Ordinance adopting the FY 2007 Annual Appropriations Ordinance (AAO) in the amount of \$350,740,656 (gross) and \$296,087,062 (net).
Financial Implications: See Report
Contact: Tracy Vesely, City Manager's Office, 981-7000
Action: Adopted first reading of Ordinance. Second reading scheduled for July 18, 2006.
- 9. Contract: Mental Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a performance contract and any amendments with the State Department of Mental Health for the provision of mental health services in accordance with California Welfare and Institutions Code Section 5650 for FY 2006.
Financial Implications: None
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 63,372–N.S.

- 10. Contract: Laboratory Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with the State of California Department of Health Services Microbial Disease Laboratory for laboratory tests for diseases of public health significance to increase the contract amount by \$300,000 for a total contract amount not to exceed \$586,878; and to extend the period to June 30, 2007.
Financial Implications: Various Funds - \$300,000
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 63,373–N.S.
- 11. Contract: Workers' Compensation Actuarial Services**
From: City Manager
Recommendation: Adopt a Resolution to authorizing the City Manager to execute a contract and any amendments with Bickmore Risk Services in an amount not to exceed \$11,000 to perform an actuarial study of the City of Berkeley's workers' compensation program for fiscal year 2006 effective July 17, 2006 through March 31, 2007.
Financial Implications: Workers' Compensation Self Insurance Fund - \$11,000
Contact: David W. Hodgkins, Human Resources, 981-6805
Action: Adopted Resolution No. 63,374–N.S.
- 12. Joint Powers Implementing Agreement (JPA) for Gilman Street Playing Fields Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a third agreement with five JPA cities (Albany, Berkeley, El Cerrito, Emeryville, and Richmond) to implement Section 3 of the Joint Exercise of Powers agreement authorized on November 18, 2003 to develop, operate, and maintain the Gilman Street Playing Fields.
Financial Implications: See report
Contact: Marc Seleznow, Parks Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 63,375–N.S.
- 13. Creeks Task Force - Revised Schedule**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 62,711A-N.S. revising the schedule for the Creeks Task Force and for suspension of the creek culvert provisions in the Creeks Ordinance (Berkeley Municipal Code (BMC) Chapter 17.08).
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,376–N.S.
- 14. Establishing Standard Placards to Indicate the Condition of a Structure for Continued Occupancy**
From: City Manager
Recommendation: Adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Section 19.28.050, to authorize the posting of standard placards specifying the suitability of a structure for continued occupancy following a hazard event, such as earthquake, flood, wind storm or fire.
Financial Implications: None

Consent Calendar

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

Action: Adopted first reading of Ordinance. Second reading scheduled for July 18, 2006.

15. Contract: Environmental Impact Report Services for the Downtown Area Plan

From: City Manager

Recommendation: Adopt a resolution authorizing the City Manager to execute a contract with Lamphier-Gregory to prepare an Environmental Impact Report (EIR) for the Downtown Area Plan (DAP) in conformance with CEQA requirements and guidelines, for a total amount not to exceed \$200,000 for Phase 1 services.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,377–N.S. Councilmember Spring indicated that the Planning Director has agreed that before consultants work on the historic survey, they will meet with the sub-committee on historic preservation composed of the Downtown Area Plan Advisory Committee and the Landmarks Preservation Commission to allow them to provide input contribute to the guidelines that will be used in assessing historic resources in downtown.

16. Parking Exemptions for City CarShare Vehicles Used for City Business

From: City Manager

Recommendation: Adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Section 14.08.060 to correct administrative errors.

Financial Implications: None

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted first reading of Ordinance. Second reading scheduled for July 18, 2006.

17. Pay-and-Display Dispensing Machine Ticket Display Guidelines

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 14.52.040, Operational procedure to be followed, and Section 14.52.050, to change the operational procedures for displaying the pay-and-display dispensing machine ticket (DMT).

Financial Implications: See report

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

Action: Adopted first reading of Ordinance. Second reading scheduled for July 18, 2006.

18. Contract: Piedmont Avenue Reconstruction Project (to be delivered)

From: City Manager

Recommendation: Adopt a Resolution 1) approving plans and specifications for the Piedmont Avenue Reconstruction Project, 06-10118-C; 2) accepting the bid of the lowest responsible bidder to be determined when bids are opened on July 6, 2006; and 3) authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed the amount of the lowest responsible bid which cannot exceed the budgeted amount of \$1,239,234, for the period of 120 calendar days from July 17, 2006 through November 13, 2006.

Financial Implications: See Report

Consent Calendar

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Resolution No. 63,378–N.S.

19. Employee Representation at the West Berkeley Bowl

From: Councilmembers Capitelli, Anderson, Moore and Worthington

Recommendation: Adopt a Resolution supporting an expeditious and open process for employee representation at the West Berkeley Bowl.

Financial Implications: None

Contacts: Laurie Capitelli, Councilmember District 5, 981-7150; Max Anderson, Councilmember District 3, 981-7130; Darryl Moore, Councilmember District 2, 981-7120; and Kriss Worthington, Councilmember District 7, 981-7170

Action: Held over to July 25, 2006 by Councilmember Capitelli.

20. Support of Fair Labor Practices

From: Councilmember Spring

Recommendation: Adopt a Resolution requesting that the Berkeley Bowl and other Berkeley businesses support fair labor practices and refer to the City Manager a request that staff work with community members and union members to create an ordinance that will encourage the hiring of community members for jobs with fair labor standards.

Financial Implications: See Report

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

Action: Removed to Action by the City Manager. Councilmember Moore was added as a co-sponsor. Discussion held. Held over to July 25, 2006 by Mayor Bates.

21. Fifth Annual Peace Lantern Ceremony

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution endorsing the Fifth Annual Peace Lantern Ceremony to be held in Aquatic Park on Sunday, August 6, 2006; and directing the City Manager to post the event on the City's Community Calendar.

Financial Implications: None

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

b. From: City Manager

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

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

Action: Adopted Resolution No. 63,379–N.S.

Action Calendar - Presentation

22. Presentation by Berkeley Alcohol Policy Advisory Coalition (BAPAC) Proposal to Modernize Alcohol Outlet Policy

From: Councilmembers Moore, Anderson and Spring

Contacts: Darryl Moore, Councilmember District 2, 981-7120; Max Anderson, Councilmember District 3, 981-7130; and Dona Spring, Councilmember District 4, 981-7140

Action: Presentation made and discussion held.

Action Calendar - Presentation

23. **Healthy Neighborhoods: Reducing Over-Concentration of Alcohol Outlets**

From: Councilmembers Moore, Anderson and Spring

Recommendation: Direct the City Manager to pursue a multi-tiered strategy to reduce the number of alcohol outlets in areas of over-concentration that would supplement the April 25, 2006 proposal from Berkeley Alcohol Policy Advisory Coalition (BAPAC). This strategy would involve 1) an annual assessment evaluating off-site sales alcohol outlets that are located in all over-concentrated census tracts and/or areas of Berkeley that have alcohol-related crime rates that are higher than average; 2) sending a letter to California Department of Alcohol Beverage Control (ABC) informing them that the City does not wish to have alcohol licenses issued to aforementioned sites when there is a transfer of ownership and/or change of business.

Financial Implications: Unknown

Contacts: Darryl Moore, Councilmember District 2, 981-7120; Max Anderson, Councilmember District 3, 981-7130; and Dona Spring, Councilmember District 4, 981-7140

Action: Moved to Consent by Councilmember Maio. Approved recommendation.

Action Calendar – Public Hearing

24. **Landmarks Preservation and Zoning Ordinances**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Chapter 3.24 (the Landmarks Preservation Ordinance) with an effective date of November 1, 2006; 2) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 23B.24.030 and 23B.32.050; and 3) adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapter 19.20 related to suspension and review of permits to demolish non-residential buildings over 40 years old as amended.

Financial Implications:

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

Action: Public Testimony: The Mayor opened the public hearing. Roger Marquis, Martha Nicoloft, Fran Packard, Anne Wagley, Alan Tobey, Carrie Olson, Elizabeth O'Malley, Patti Dacty, Doug Buckwald, Rena Rickles, Laurie Bright, Elliott Cohen, Leslie Emmington-Jones, Shirley Dean, Merrilie Mitchell, and John English. Moved, seconded, carried (Maio/Anderson) to close the public hearing.

Action: Moved, seconded, failed (Worthington/Olds; Noes – Maio, Moore, Capitelli, Wozniak, Bates; Abstain – Anderson) a substitute motion to approve the staff recommendation as amended to remove the Request for Determination process.

Moved, seconded, carried (Wozniak/Maio; Noes – Olds, Worthington; Abstain – Spring) a main motion to: 1) adopt Resolution No. 63,380–N.S. as amended approving a negative declaration; 2) adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Chapter 3.24 (the Landmarks Preservation Ordinance) with an effective date of November 1, 2006; 3) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 23B.24.030 and 23B.32.050; and 4) adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapter 19.20 related to

Action Calendar – Public Hearing

suspension and review of permits to demolish non-residential buildings over 40 years old. Second reading of the three ordinances scheduled for July 18, 2006.

25. **Transportation Services Fee (CF 69-01)** *(to be delivered)*

a. From: City Manager

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 22.20, Mitigation and Fees--Conditions For Approval of Development Projects, to enact a Transportation Services Fee; 2) adopt a Resolution establishing the fee level, applicability, and procedures for assessing the Transportation Services Fee; and 3) direct the Planning Commission to remove all references to the previous Transportation Services Fee in the City's Zoning Ordinance and make any other necessary changes to the Zoning Ordinance.

Financial Implications: See report

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

b. From: Transportation Commission *(Held over from April 25, 2006)*

Recommendation: Adopt the Transportation Services Fee with the following conditions included in the ordinance: 1) tie the threshold for fee application to a discretionary permit and 1,000 square feet of new floor area; 2) use a five-year definition of vacancy; and 3) assess the full fee six months after adoption of the enabling ordinance.

Financial Implications: Unknown

Contact: Peter Hillier, Commission Secretary, 981-6300

c. From: Planning Commission

Recommendation: Council not adopt the Transportation Service Fee at this time and that the Council direct staff and the appropriate commissions to develop alternative, broadly-based funding mechanisms that would fund the proposed projects.

Contact: Carli Paine, Commission Secretary, 981-7403

Action: Mayor Bates opened and continued the public hearing to July 25, 2006 for public comment and discussion.

Action Calendar – New Business

26. **Implementation of Council Expense Reimbursement Policy Under AB 1234**

From: City Manager

Recommendation: Adopt two Resolutions to: 1) Establish a policy on expenditures and reimbursement for Mayor and Council expenses to conform to the City Charter and a new state law (AB 1234); and 2) Establish a policy governing reimbursement of expenses by City boards and commissions as is also required by AB 1234.

Fiscal Implications: See report

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Held over by Mayor Bates to a special 6:00 pm. work session on July 18, 2006 and the regular meeting on July 18, 2006.

Action Calendar – New Business

27. Funding to Complete the Warm Water Pool

From: Councilmember Spring

Recommendation: Request the City Manager either 1) prepare a ballot measure to go to the voters in November 2006 to increase the parcel tax approved by the voters in 2000 to provide the additional funding needed to build a new swimming pool at the location chosen by the BUSD Board on the former BHS tennis courts; or 2) prepare a certificate of participation to be paid back over 20 to 30 years from the general fund to cover the remaining funding gap.

Financial Implications: See report

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

Action: Moved, seconded a severed motion as follows:

Carried (Spring/Anderson; Noes Maio, Capitelli, Wozniak, Bates) a motion to place a bond measure on the November 2006 ballot to raise \$4.6 million to build a new warm water pool.

Failed (Noes Moore, Anderson, Olds, Bates; Abstain Wozniak) a motion to prepare a certificate of participation to be paid back over 20 to 30 years from the general fund to cover the remaining funding gap.

Moved, seconded, carried (Maio/Moore; Abstain – Spring) a motion to direct the City Manager to bring a report back to Council on July 18, 2006 regarding options to provide funding needed to build a new warm water pool, including putting a measure on the ballot for a future special election or certificates of participation.

28. Clean Money Ballot Measure for Public Finance of Future Elections

From: Councilmember Worthington

Recommendation: Consider placement on the November 7, 2006 election ballot, a campaign finance reform item providing for public financing of future Berkeley elections.

Financial Implications: Approximately \$10,000

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

Action: Moved, seconded, failed (Worthington/Moore; Noes – Capitelli, Olds, Wozniak, Bates; Abstain – Maio) a motion directing the City Manager place a measure on the November 2006 to provide for public financing of future Berkeley elections and a sunset clause of six years.

Information Reports

29. Radiofrequency Exposure and Potential Health Effects

From: City Manager

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

Action: Referred to the City Manager for submission to the Board of Library Trustees.

30. Dog Licensing on the Internet

From: City Manager

Contact: Fran David, Finance, 981-7300

Action: Received and filed.

Information Reports

31. **Landmarks Preservation Commission Notice of Decision: 2501 Telegraph Avenue/2502 Dwight Way Structural Alteration Permit**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
32. **Landmarks Preservation Commission Notice of Decision: 2301 Bancroft Way - California Memorial Stadium**
From: City Manager
Contact: Dan Marks, Planning & Development, 981-7400
Action: Moved to Action by Councilmember Wozniak. Moved, seconded, carried (Wozniak/Moore; Noes – Spring; Abstain – Worthington) a motion to refer to the Agenda Committee to set a date for a public hearing to consider the discrepancy between the National Register application and the Landmarks application as reported in a letter from the University of California.
33. **Guidelines For Seismic Strengthening Work Qualifying For The Transfer Tax Reduction**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Improving Air Quality in California

1. Charlie Peters, Clean Air Performance Professionals

Caldecott 4th Bore Project

2. Roy Nakadegawa
3. Phil Kamlarz, City Manager

Congregation Beth El Neighborhood

4. Alan S. Kay

Crime Reduction Strategies

5. Barbara Gilbert

Da 9-11 Truth Campaign™ Opposing Undeclared Wars

6. John Jenkel

Ballot Measure: Impeachment of President and Vice President

7. Roger Hartje
8. Beren Correa
9. Cliff See
10. Dennis Baum

Communications

11. James Wagner
12. Roger Lee
13. Pat Carnes
14. Donald Burdin
15. Michael Turcich
16. John Montgomery
17. Dan Prinzing
18. Pamela Coker
19. Steve West
20. Ernie
21. Barbara G. Ellis, on behalf of the DFA's True Brew Coffee House MeetUp Group
22. Pat Hinderscheid
23. Joseph Galante
24. Charles Shearer
25. R. Frederick
26. Donald Raymond Lake

Opposing Weapons of Mass Destruction

27. Kathy Schmidt

Bay Area Smart Growth Scorecard Released by Greenbelt Alliance

28. Tom Steinbach, Greenbelt Alliance

Fire Department Personnel

29. Barbara Gilbert (*Wozniak*)

Transportation Services Fee (CF 69-01)

30. Dennis Cohen (*Wozniak*)

To Be Delivered and Supplemental Reports 1

Item 18: Contract: Piedmont Avenue Reconstruction Project

- Revised Report, submitted by Public Works

Item 22: Presentation by Berkeley Alcohol Policy Advisory Coalition (BAPAC) Proposal to Modernize Alcohol Outlet Policy

- Presentation, submitted by Berkeley Alcohol Policy Advisory Coalition (BAPAC)

Item 24: Landmarks Preservation and Zoning Ordinances

- Supplemental Report, submitted by Planning and Development

Item 25: Transportation Services Fee (CF 69-01)

- To Be Delivered Report, submitted by Public Works

Item 26: Implementation of Council Expense Reimbursement Policy Under AB 1234

- Revised Resolution, submitted by City Attorney

Item 27: Funding to Complete the Warm Water Pool

- Supplemental Report, submitted by Councilmember Spring

To Be Delivered and Supplemental Reports 2

Item 25: Transportation Services Fee (CF 69-01)

- Revised Resolution, submitted by Public Works

Item 26: Implementation of Council Expense Reimbursement Policy Under AB 1234

- Revised Resolution, submitted by City Attorney

Item 27: Funding to Complete the Warm Water Pool

- Supplemental Report, submitted by City Manager

Supplemental Communications 1

Item 22: Presentation by Berkeley Alcohol Policy Advisory Coalition (BAPAC) Proposal to Modernize Alcohol Outlet Policy

31. Lori Lott
32. Barbara Gilbert
33. Bob Allen

Item 25: Transportation Services Fee (CF 69-01)

34. Kirstin Miller
35. Steve Geller
36. Juliet Lamont
37. Wendy Alfsen
38. Dave Campbell
39. Julia Cato
40. Kathy Labriola
41. Mark Wieder

Item 28: Clean Money Ballot Measure for Public Finance of Future Elections

42. Andy Katz, Northern Alameda County Sierra Club
43. Jesse Townley
44. Barbara Gilbert

Supplemental Communications 2

Item 22: Presentation by Berkeley Alcohol Policy Advisory Coalition (BAPAC) Proposal to Modernize Alcohol Outlet Policy

45. Berkeley Alcohol Policy Advisory Coalition

Item 24: Landmarks Preservation and Zoning Ordinances

46. Susan Brandt-Hawley
47. Laurie Bright
48. Carrie Olson, on behalf of Susan Cerny

Item 25: Transportation Services Fee (CF 69-01)

49. Adam Millar-Hall, Nelson/Wygaard
50. Barbara Gilbert

Supplemental Communications 2

Item 27: Funding to Complete the Warm Water Pool

51. Melon Dash

52. Anne Marx

Item 29: Radiofrequency Exposure and Potential Health Effects

53. Carol James

Item 32: Landmarks Preservation Commission Notice of Decision: 2301 Bancroft Way - California Memorial Stadium

54. Irene Hegarty

Claim for Rainstorm Damages to Property

55. Lisa Gambino (5 letters)

Concert and Reception Benefiting the City Pool Passes for Homeless Youth

56. Councilmember Worthington

Construction of Stairway at La Loma Street and Campus Drive

57. Rozalina Gutman

Adjournment

Adjourned at 11:24 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of July 11, 2006 as approved by the Berkeley City Council.

Sara T. Cox, City Clerk