

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 19, 2006

7:00 P.M.

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

Preliminary Matters

Roll Call: 7:20 p.m., All present.

Ceremonial Matters:

1. Pledge of Allegiance to the Flag
2. Oath of Office
3. Proclamation for Latino Health Month and Binational Health Week
4. Songs by Berkeley Guitar

City Manager Comments: None.

Public Comment: 15 speakers.

Consent Calendar – Recess

Action: Moved, seconded, carried (Maio/Worthington) to ratify actions taken by the City Manager during Council's Summer Recess in one motion except at indicated:

1. Contract: Handheld Parking Citation Computers

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to execute an amendment to the contract with Enforcement Technology Inc. (E-Tech) for the purchase of seven handheld parking citation computers, increasing the amount by \$69,000, in an amount not to exceed \$419,000.

Financial Implications: Enterprise Fund 840 - \$419,000

Contact: Douglas Hambleton, Chief of Police, 981-5700

Action: Adopted Resolution No. 63,418–N.S.

2. Purchase Order: Deoxyribonucleic Acid Testing

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to increase FY 2006 Purchase Order #57001 to Forensic Analytical Laboratory by \$11,720 for Deoxyribonucleic Acid (DNA) testing and analysis services provided in FY 2006, expenditures that exceeded the \$45,000 purchase limit.

Financial Implications: General Fund - \$11,720

Contact: Douglas Hambleton, Police, 981-5700

Action: Adopted Resolution No. 63,419–N.S.

Consent Calendar - Recess

3. **Contract: Planning and Consultation Services**

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during the City Council recess to execute an amendment to the contract with Vivian Kahn of Kahn/Mortimer Associates for planning and consulting services, increasing the amount from \$24,999 to \$35,644, for the completion of the mandated CEQA review for the Corporation Yard seismic safety project.

Financial Implications: Permit Service Center Fund - \$35,644

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Adopted Resolution No. 63,420–N.S.

4. **Purchase Order: Uniform Rental and Laundry Services**

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to increase the FY 2006 Blanket Purchase Order No. 57441 for Aramark Uniform Services from \$42,343 to \$47,952, in order to pay an outstanding account balance of \$5,609 incurred in FY 2006.

Financial Implications: Refuse Collection/Disposal Fund - \$5,609

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Resolution No. 63,421–N.S.

Consent Calendar

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

5. **Minutes for Approval**

From: City Manager

Recommendation: Approve the minutes for the Council meetings of July 17, 2006 (special closed), July 18, 2006 (special and regular), July 24, 2006 (special closed), July 25, 2006 (special), and August 1, 2006 (special).

Financial Implications: None.

Contact: Sherry M. Kelly, City Clerk, 981-6900

Action: Approved minutes.

6. **Formal Bid Solicitations and Request for Proposals**

From: City Manager

Recommendation: Approve the request for proposals (RFP) that will be, or is planned to be, issued upon final approval by the requesting department.

Financial Implications: Various Funds - \$4,105,125

Contact: Fran David, Finance, 981-7200

Action: Approved recommendation.

Consent Calendar

- 7. Contract: Dorothy Day House "Homeless Meals Delivery Van"**
From: City Manager
Recommendation: Adopt a Resolution authorizing an amendment to the contract with Dorothy Day House to increase the amount by \$5,700 for a total not to exceed \$ 98,853 for the period July 1, 2005 through June 30, 2007 for the purchase of a replacement van for the delivery of meals to the homeless for the Trinity Methodist Church Breakfast Program.
Financial Implications: General Fund - \$5,700
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,422–N.S.
- 8. Endorsing California Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006**
From: City Manager
Recommendation: Adopt a Resolution endorsing California Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006.
Financial Implications: None
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,423–N.S.
- 9. Retiree Health Premium Assistance Plan**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution 61,752-N.S. (Sections 2.13 and 2.16), the Retiree Health Premium Assistance Plan, to modify the definition of "Eligible Retiree" and "Years of Service" within the plan document to attract and retain regular at-will employees who have significant years of service in CalPERS in another public agency or in a 1937 County Retirement Act pension system, to be retroactive to July 1, 2005.
Financial Implications: See report
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,424–N.S.
- 10. Contract: Retiree Medical Plan Actuarial Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Milliman, Inc. in an amount not to exceed \$30,000 for actuarial services of the miscellaneous employees Retiree Health Premium Assistance Plan, the Berkeley Fire Fighters Association retiree medical benefit and the Berkeley Police Association retiree medical benefit for the period of September 25, 2006 through June 30, 2007.
Financial Implications: Payroll Deduction Trust Fund - \$30,000
Contact: David W. Hodgkins, Director of Human Resources, 981-6805
Action: Adopted Resolution No. 63,425–N.S.

- 11. Vacation Accrual for Library Executive Management**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 60,777- N.S, the Unrepresented Employee Manual, (Article 13.08.02 -Vacation Schedules) to permit the Director of Library Services and the Deputy Director of Library Services to accrue vacation leave at a higher rate.
Financial Implications: See report
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Removed from the Agenda by the City Manager.
- 12. Grant: Department of Alcoholic Beverage Control**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to 1) execute a grant contract, and any amendments, with the State of California in order to accept \$84,300 in Department of Alcoholic Beverage Control (ABC) Grant funding and, 2) appropriate these funds for the enforcement of laws prohibiting alcohol to minors, persons under the age of 21 possessing alcohol, as well as other alcohol related crimes.
Financial Implications: ABC Grant Fund - \$84,300
Contact: Douglas Hambleton, Chief of Police, 981-5750
Action: Adopted Resolution No. 63,426–N.S.
- 13. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Shattuck Avenue, Tremont Street, 62nd Street, 63rd Street, Martin Luther King, Jr. Way, Adeline Street, and Parnassus Road backline; accepting the bid of Pacific Trenchless, Inc.; and 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 \$908,930 for a period of 220 days from the date of the execution of the contract.
Financial Implications:Sanitary Sewer Fund - \$908,930
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,427–N.S.
- 14. Funding for UC/CSU Host Cities Conference on Housing and Transportation**
From: Mayor Bates
Recommendation: Adopt a Resolution approving the expenditure of \$750 in FY07 funds from the Mayor’s Office budget for co-sponsorship of the UC-CSU Host Cities joint conference with the campuses - “Bridging the Town-Gown Divide: Issues in Transportation and Housing” to be held on October 12, 2006 at UC Davis.
Financial Implications:Mayor’s Office - \$750
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 63,428–N.S.

- 15. Support of Lt. Watada's Refusal to Fight in Iraq**
From: Councilmember Spring
Recommendation: Adopt a Resolution supporting Lt. Ehren Watada's refusal to fight in Iraq; forwarding the resolution to our federally elected officials; and issuing a press release of Council's action to the major national and local media.
Financial Implications: None
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Adopted Resolution No. 63,429–N.S.
- 16. Economic Development Quarterly Reports And Work Sessions**
From: Councilmember Worthington
Recommendation: Refer to the City Manager to 1) develop Economic Development Quarterly Reports that detail important economic details for the City, including job creation, unemployment statistics, sales tax revenue by business district, and retail vacancy rates; and 2) for one year, schedule quarterly work sessions to discuss these reports.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 17. Funding For A Campus Neighborhood Watch Program**
From: Councilmember Worthington
Recommendation: Adopt a Resolution committing matching funding of \$7,500 to support the Cal Campus Neighborhood Watch Program.
Financial Implications: \$7,500
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Removed from the Consent Calendar by Councilmember Olds. Held over to September 26, 2006 by Councilmember Worthington.
- 18. Support Proposition 84: Water Quality, Flood Control, And Natural Resource Protection Bond**
From: Councilmember Worthington
Recommendation: Support Proposition 84, which through a \$5.4 billion bond, would fund projects related to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 19. Support Proposition 86: Tax on Cigarettes for Health Services**
From: Councilmember Worthington
Recommendation: Support Proposition 86, which would impose an additional 13 cents on each cigarette which will provide funding to qualified emergency medical services.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.

Consent Calendar

- 20. Support Proposition 87: Alternative Energy Research Tax On California Oil**
From: Councilmember Worthington
Recommendation: Support Proposition 87, which would establish a program to reduce oil and gas usage with research and production incentives for alternative energy.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
- 21. Contract: Case Management Services - University Avenue Homes**
From: Homeless Commission
Recommendation: Adopt a Resolution supporting the Council's recommendation to allocate an additional \$21,000 for Lifelong Medical Care's Supportive Housing Program to provide case management services at University Avenue (UA) Homes and authorizing an amendment to the contract, increasing the amount by \$21,000 for a total not to exceed \$937,631 for the period July 1, 2005 through June 30, 2007.
Financial Implications: General Fund - \$21,000
Contact: Jane Micallef, Secretary, Homeless Commission, 981-5426
Action: Adopted Resolution No. 63,430–N.S.
- 22. Appointments to the Mental Health Commission**
From: Mental Health Commission
Recommendation: Adopt a Resolution re-appointing Michael Diehl (General Public Interest) and Howard King (General Public Interest) to three year terms beginning September 19, 2006 and ending September 18, 2009; reappointing Sandi Harrington (Special Public Interest) to her term ending June 22, 2008; reappointing Artensia Barry (Special Public Interest) to her term ending October 21, 2006 and reappointing her for another three-year term beginning October 22, 2006 and ending October 21, 2009 on the Mental Health Commission.
Financial Implications: None
Contact: Carol Patterson, Secretary, Mental Health Commission, 981-5217
Action: Adopted Resolution No. 63,431–N.S.
- 23. BPD Mutual Aid Agreements, Understandings and Policies, 2005 Publication**
From: Police Review Commission
Recommendation: Adopt a Resolution approving the Berkeley Police Department's (BPD) Mutual Aid Agreements, Understandings and Policies, 2005 Publication pursuant to Ordinance No. 4640-N.S.
Financial Implications: None
Contact: Victoria Urbi, Secretary, Police Review Commission, 981-4960
Action: Adopted Resolution No. 63,432–N.S.

Action Calendar – Public Hearing

24. 1201 San Pablo Avenue / 1100 Harrison Street

a. Supplemental Report (July 18, 2006)

From: City Manager

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

b. From: City Manager (July 18, 2006)

Recommendation: Conduct a Public Hearing and upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 05-1000029 to construct a 30-unit, mixed-use project, and dismissing the appeal.

Financial Implications: None

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

c. Appeal (July 18, 2006)

1. Susan Pinto and Kain/Stannage Neighbors who also join in the appeal.

d. Communications (July 18, 2006)

1. James E. Hart
2. 1201 San Pablo Appellants

e. Communications (September 19, 2006)

1. Stephen Wollmer

Public Testimony: The Mayor opened the public hearing. 17 speakers. Moved, seconded, carried (Wozniak/Capitelli) to close the public hearing.

Action: Moved, seconded, carried (Capitelli/Maio) to continue the decision to September 26, 2006.

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 – New Business

25. **Development Standards Related To Density Bonuses** *(to be delivered)*

From: City Manager

Recommendation: Discussion on options and recommendations from Joint Subcommittee on Density Bonus to adopt first reading of an ordinance amending Title 23.E related to density bonus for mixed used and multi-family residential projects in commercial districts.

Financial Implications: See report

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

Actions: Moved, seconded, failed (Olds/Maio; Noes – Moore, Capitelli, Bates; Abstain – Anderson, Wozniak) a substitute motion to adopt first reading of an ordinance as proposed by the Subcommittee.

Moved, seconded, carried (Wozniak/Capitelli; Noes – Olds; Abstain – Anderson, Worthington) the main motion to adopt first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23 as proposed by staff and further amended to include a sunset provision. Second reading scheduled for September 26, 2006.

26. **Major Residential Additions** *(to be delivered)*

From: City Manager

Recommendation: Discussion on options and recommendations to adopt first reading of an ordinance amending Berkeley Municipal Code Title 23 to: 1) create new height limits for residential additions; 2) alter the definition of major residential additions; 3) alter the calculation of maximum height; 4) limit the dimensions for roof appendages; and 5) create a definition for dormers.

Financial Implications: See report

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

Action: Moved, seconded, carried (Olds/Spring; Noes – Moore, Anderson) to adopt first reading of an ordinance amending Berkeley Municipal Code Title 23. Second reading scheduled for September 26, 2006.

27. **Street Sweeping Program**

a. **From:** Public Works Commission

Recommendation: The following recommendations are made in response to Council's request for advice on an implementation program for city-wide residential street sweeping: a) The regular residential city-wide street sweeping policy adopted a decade ago be implemented in several stages. b) The first phase to be reintegration of exempted or opt-out blocks into existing routes where possible. c) This first phase be preceded by a press release stressing the necessity for expanding sweeping of streets and by written notification to residents of blocks affected. d) The City begins to look for funds to achieve further expansion which will require additional employees and equipment.

Financial Implications: See report

Contact: Jeff Egeberg, Secretary, Public Works Commission, 981-6400

Action Calendar – New Business

b. From: City Manager

Recommendation: It is recommended that staff be given until January, 2007 to fully analyze the financial and operational impacts of the expanded street sweeping proposed by the Public Works Commission (PWC).

Financial Implications: None

Contact: Claudette Ford, Public Works, 981-6300

Action: Moved, seconded, carried (Moore/Spring) to approve a recommendation that the City Manager return in January with recommendations on how to implement the street sweeping program including benefits and costs.

Information Reports

- 28. Fee Deferral: Oxford Plaza and David Brower Center**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 29. Impacts of Proposition 90 (to be delivered)**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 30. Landmarks Preservation Commission – Notice Of Decision: 2411 Fifth Street Structure of Merit Designation**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 31. Landmarks Preservation Commission – Notice Of Decision: 1350 Fourth Street - Structural Alteration Permit**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 32. Landmarks Preservation Commission – Notice Of Decisions: 1) 2947-53 College Avenue (Landmark) 2) 2988-2992 Adeline Street (Structure of Merit)**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 33. Landmarks Preservation Commission – Notice Of Decision: 1770 La Loma Avenue (Landmark)**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.

Information Reports

- 34. UC Berkeley Memorial Stadium Nomination to National Register of Historic Places - Response by Landmarks Preservation Commission (LPC)**
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.

Re-designing People's Park

1. Carol Denney

Solar Power System Installations

2. Tom Roberts, Sierra Club, San Francisco Bay Chapter

Greenhouse Gas

3. Walter Wood

Oak Tree Removal

4. Daniella Thompson
5. Daniella Thompson

Save the Oak Trees – UC Memorial Stadium

6. Mr. and Mrs. N.K. Farrell
7. Kay Lyman
8. Melinda Fernando (*Numerous communications submitted in a substantially similar format to this communication are on file in the City Clerk Department*).

Berkeley Lab's Site Environmental Report

9. Michael Ruggieri

Be Part of History

10. Falun Gong Human Rights Working Group

UCB Full Mitigation of Expansion Impacts

11. Wendy Alfsen

Parking Citation Fine Schedule

12. Thomas W. Cline

Berkeley Economic Development

13. Barbara Gilbert

Declining Public School Enrollment

14. Barbara Gilbert

Communications

Wi-Fi in Berkeley

- 15. Eric C.S. Dynamic
- 16. Eric Dynamic

Warm Water Pool

- 17. *****@limage-lab.com

Relocation of Clif Bar & Co.

- 18. Gary Erickson and Kit Crawford, Owners, Clif Bar & Co.

FEMA Remapping of Flood Risk Zones

- 19. Fred Dodsworth

Use of Neighborhood Parking Spaces by UC

- 20. Sharon Hudson

Wachovia Corporation Acquisition

- 21. A. Linwood Gill, III

Global Warming Disaster

- 22. Evan Raymond

Proposition 218: Property-related Fees

- 23. Barbara Gilbert

Draft EIR of the Southeast Campus Integrated Projects

- 24. Dean Metzger

Affordable Housing

- 25. Barbara Gilbert

“Doing the Wrong Thing in Afghanistan: Depleted Uranium: The Definitive Moral Paradox”

- 26. An Article by Michael Clarke, submitted by Leuren Moret

Access to Legal Pharmaceuticals Act

- 27. Senator Dianne Feinstein

Emergency Cleaning of Storm Drain System

- 28. Jennifer Pearson
- 29. Fred Dodsworth

BAPAC Proposal

- 30. Andrea DuFlon

Communications

Paris Gets it Right

31. An article from “Parler Paris”, submitted by Hank Resnik

Modeling after Downtown San Rafael

32. Barbara Gilbert

Urban Quality of Life

33. Sharon Hudson

Community Choice

34. Eight postcards submitted by Rasjidah Berger

Development Standards related to Density Bonus

35. Sharon Hudson

Major Residential Additions

36. Patricia and Robert Spear

Supplemental Communications 1

Item 17: Funding For A Campus Neighborhood Watch Program

37. Julia Harter

Item 24: 1201 San Pablo Avenue / 1100 Harrison Street

38. Jim Hart

39. 1201 San Pablo / 1100 Harrison Appellants (2)

40. Stephen Wollmer

41. Scott, Kelli and Nathan Bodensteiner

Item 25: Development Standards Related To Density Bonuses

42. Elizabeth Lake on behalf of Urban Housing Group and Essex Property Trust (UHG/Essex)

43. Barbara Gilbert

44. Pam Speich

45. Elizabeth Lake

46. Betsy Thagard

47. Teresa Clarke

48. Marie Bowman

49. Kristen Leimkuhler

Item 26: Major Residential Additions

50. Margaretta K. Mitchell

51. G.S. Morris

52. Donald Zinn

53. Traci Bone

54. Jason Kaldis (2)

55. Carl & Joan Strand

56. Alan and Aleyda Swain

Supplemental Communications 1

Item 30: Landmarks Preservation Commission – Notice Of Decision: 2411 Fifth Street Structure of Merit Designation

57. Appeal filed by Laura Fletcher

Supplemental Communications and Reports 2

Item 24: 1201 San Pablo Avenue / 1100 Harrison Street

58. Jim Hart – Drawing

59. Mary Wyand

Item 25: Development Standards Related To Density Bonuses

60. Marie Bowman

Item 26: Major Residential Additions

61. Catherine Roha

Adjournment

Adjourned at 11:28 p.m.