




Office of the City Manager

CONSENT CALENDAR
September 19, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Sherry M. Kelly, City Clerk

Subject: Minutes for Approval

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).

CONTACT PERSON

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

Attachments:

- 1: July 17, 2006 Special Closed City Council Minutes
- 2: July 18, 2006 Special City Council Minutes
- 3: July 18, 2006 Regular City Council Minutes
- 4: July 24, 2006 Special Closed City Council Minutes
- 5: July 25, 2006 Special City Council Minutes
- 6: August 1, 2006 Special City Council Minutes

MINUTES

BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING

MONDAY, JULY 17, 2006

Preliminary Matters

Roll Call: 5:00 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

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

1. Carl Friberg, et. al v. Tom Bates, et.al., Alameda County Superior Court number No. RG 05 230715
2. Arntz Builders v. City of Berkeley, et.al. Alameda County Superior Court No. BG 03 095394 and consolidated cases
3. Eugene Evans v. City of Berkeley- United States Supreme Court
 (Petition served Tuesday July 17, 2006, no docket number known as of agenda preparation).

Action: Discussion held.

Adjournment

Adjourned at 5:55 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of July 17, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
TUESDAY, JULY 18, 2006

Preliminary Matters

Roll Call: 6:03 p.m.

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

Absent: None.

Public Comment: Christian Pecaut and Susan Wengraf.

Work Session

1. Discuss Implementation of Council Expense Reimbursement Policy Under AB 1234

From: City Manager

Recommendation: Discuss establishing policies: 1) on expenditures and reimbursement for Mayor and Council expenses to conform to the City Charter and a new state law (AB 1234); and 2) 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: Discussion held and continued to regular meeting of July 18, 2006.

Communications

None.

To Be Delivered and Supplemental Reports 2

Item 1: Discuss Implementation of Council Expense Reimbursement Policy Under AB 1234

- Supplemental materials, submitted by City Attorney

Adjournment

Adjourned at 7:02 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of July 18, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 18, 2006

Preliminary Matters

Roll Call: 7:03 p.m.

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

Absent: None.

Ceremonial Matters:

1. Presentation of a photograph of a barn owl, our new City Bird, by Kelley Feranec.
2. Proclamation presented to Randy Strong, a blown glass artist, by Councilmember Maio.
3. Proclamation presented to Cindy Shelby, Volunteer Manager, and Anne Barron, on behalf of Berkeley East Bay Humane Society for Bay to Barkers Day 2006.
4. Announcement on passing of Imogene Scott, the Mayor's appointee to the Commission on Aging.

City Manager Comments: The City Manager recognized and thanked retired City Clerk Sherry Kelly for accepting the position of Acting City Clerk until a new City Clerk is hired.

Public Comment: Patti Dacty, Susan Pinto, Martin Poz Perez, Jean Molesky, Carmelita Cotten, Erika Lamm, Mark Hendrix, Elliot Cohen, Anne Marx, Sally Yip, Lucille Bradley, Patrick Kehoe, Mary Wyand, JoAnn Cook, Peter Hoffman, Terry Dillon, Juanita Kirby, Ben Rivers, Christian Pecaut, Rachel Bell, Zachary RunningWolf, Steven Donaldson, John Jenkel, Jim Hart, Alicia Nelson, Marcia Nelson, and Don Mill.

Consent Calendar

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

1. **FY 2007 Annual Appropriations Ordinance** (*First reading July 11, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second 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 Ordinance No. 6,935–N.S. Effective August 17, 2006.

Consent Calendar

- 2. Standard Placards to Indicate the Condition of a Structure for Continued Occupancy** *(First reading July 11, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second 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
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Ordinance No. 6,936–N.S. Effective August 17, 2006.
- 3. Parking Exemptions for City CarShare Vehicles Used for City Business** *(First reading July 11, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second 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 Ordinance No. 6,937–N.S. Effective August 17, 2006.
- 4. Pay-and-Display Dispensing Machine Ticket Display Guidelines** *(First reading July 11, 2006 – Unanimous)*
From: City Manager
Recommendation: Adopt second 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 Ordinance No. 6,938–N.S. Effective August 17, 2006.
- 5. Landmarks Preservation and Zoning Ordinances** *(First reading July 11, 2006 – Noes – Olds, Worthington; Abstain – Spring)*
From: City Manager
Recommendation: : 1) Adopt second reading of an Ordinance revising the City’s Landmarks Preservation Ordinance (Berkeley Municipal Code (BMC) Chapter 3.24; 2) Adopt second reading of associated amendments to the Zoning Ordinance (BMC Title 23); and 3) Repeal BMC Chapter 19.20 related to suspension and review of permits to demolish non-residential buildings over 40 years old.
Financial Implications:
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed from the Consent Calendar by Councilmember Worthington.

Moved, seconded, carried (Maio/Moore) to rescind the first reading of Ordinance repealing and reenacting Berkeley Municipal Code Chapter 3.24 (Landmarks Preservation Ordinance).

Consent Calendar

Moved, seconded, carried (Maio/Capitelli; Noes – Worthington; Abstain – Spring and Olds) to adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code Chapter 3.24 (Landmarks Preservation Ordinance) revised to include an effective date of November 1, 2006. Second reading scheduled for July 25, 2006.

Moved, seconded, carried (Maio/Capitelli; Noes – Worthington; Abstain – Spring) to adopt Ordinance No. 6,939-N.S. amending Berkeley Municipal Code Sections 23B.24.030 and 23B.32.050 (Zoning Ordinance) and Ordinance No. 6,940-N.S. repealing Berkeley Municipal Code Chapter 19.20 (Demolition Permit Applications) both with an effective date of August 17, 2006.

6. **Contract: Legislative Representation Services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Lynn M. Suter & Associates to provide the City with legislative representation services in Sacramento from July 1, 2006 to June 30, 2007, in an amount not to exceed \$49,970.

Financial Implications: General Fund - \$49,970

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Adopted Resolution No. 63,381–N.S.

7. **South Berkeley Revolving Loan Fund Certification**

From: City Manager

Recommendation: Adopt a Resolution endorsing the South Berkeley Revolving Loan Fund (RLF) Plan Certification as required by the federal Economic Development Administration (EDA).

Financial Implications: See Report

Contact: Thomas A. Myers, Acting Manager of Economic Development, 981-7500

Action: Adopted Resolution No. 63,382–N.S.

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

From: City Manager

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

Financial Implications: Capital Improvement Fund - \$1,200,000

Contact: Fran David, Director, Finance, 981-7300

Action: Approved recommendation.

9. **Purchase Order: Office Supplies**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into purchase orders with Office Depot to supply all miscellaneous office supplies and 100% recycled processed chlorine-free (PCF) copy paper for a period of 3 years from July 1, 2006 through June 30, 2009, in an amount not to exceed \$550,000 per year.

Financial Implications: See report

Contact: Fran David, Finance, 981-7200

Consent Calendar

Action: Removed from the Consent Calendar by Councilmember Maio. Moved, seconded, carried (Capitelli/Wozniak; Noes – Spring; Abstain – Moore; Absent – Olds and Worthington) to adopt Resolution No. 63,383–N.S.

10. Combating Alcohol and Other Drug Problems

From: City Manager

Recommendation: Adopt a Resolution generally supporting the analysis in the report, 1) *City of Berkeley Taking the Lead in Combating Alcohol and Other Drug Problems* and 2) directing the City Manager to analyze the feasibility of implementing some or all of the recommendations in the report to develop an implementation plan, and report to the Council in December 2006.

Financial Implications: Unknown

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

Action: Adopted Resolution No. 63,384–N.S.

11. Contract: Legal Advisory Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Goldfarb and Lipman LLP for legal advisory services, increasing the contract amount by \$100,000 for a new contract amount not to exceed \$219,950 and expiring when services are no longer required.

Financial Implications: General Fund - \$100,000

Contact: Stephen Barton, Housing, 981-5400

Action: Adopted Resolution No. 63,385–N.S.

12. Contract: Supplementary Retirement and Income Plan Self Directed Investment Account Third Party Administrator

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Prudential Insurance Company of America (Prudential) to provide administrative services for the Supplementary Retirement and Income Plan (SRIP) Self Directed Investment Account.

Financial Implications: None

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

Action: Adopted Resolution No. 63,386–N.S.

13. Donation: Aquatics Equipment

From: City Manager

Recommendation: Adopt a Resolution accepting a cash donation from the United Pool Council (UPC) in the amount of \$5,600 and an equipment donation valued at \$3,060.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,387–N.S.

- 14. Off-street Parking in Required Yards on Residential Lots**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 to: 1) allow by-right one new parking space within a required side yard so long as the parking area is a permeable surface approved by the Public Works Department and Office of Transportation, vegetative screening is provided, and the impact on usable open space is minimized; 2) require an Administrative Use Permit (AUP) for new uncovered parking spaces in front and rear yards on residential lots, except when the space is for a by-right Accessory Dwelling Unit and not in the front yard; 3) revise the definition of “yard” to no longer prohibit parking in required yards; and 4) 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: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Capitelli/Moore; Noes – Spring and Worthington; Abstain – Anderson; Absent – Olds) to adopt first reading of a revised Ordinance. Second reading scheduled for July 25, 2006.
- 15. Purchase Order: Telephone Directory Advertising**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with SBC Smart Yellow Pages to advertise refuse collection and recycling services in an amount not to exceed \$34,437 for FY 2007.
Financial Implications: Various Funds - \$34,437
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,388–N.S.
- 16. Contract: FY 2006 Curb Ramp Installation Project**
From: City Manager
Recommendation: Adopt a Resolution to: 1) approve plans and specifications for FY 2006 Curb Ramp Installation; 2) reject all bids submitted on March 30, 2006 and re-scope the project and re-advertise for bids; 3) accept the bid of AJW, Inc., submitted on April 20, 2006; and 4) authorize the City Manager to execute a contract and any amendments, in an amount not to exceed \$284,900 for a period of 120 calendar days for the period August 1, 2006 to December 1, 2006.
Financial Implications: Community Development Block Grant - \$284,900
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,389–N.S.
- 17. Contract: Transit Benefits Program Administrator**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a three-year contract and any amendments in an amount not to exceed \$82,735 for the period of October 1, 2006 through September 30, 2009 to Conexis Benefits Administrators to administer the Transit Benefits Program for employees; and for options to extend the contract for two

Consent Calendar

additional one-year periods up to a maximum of five years, at the City's discretion, for a total contract amount not to exceed \$134,400.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,390–N.S.

18. Lease: 2434 Durant Avenue

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Liaquat M. Choudary for 2434 Durant Avenue in the Telegraph Channing Shops, formerly known as Sather Gate Garage Shops, for the purpose of operating a dollar-style variety store.

Financial Implications: Off Street Parking Fund - \$131,616 Revenue

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

Action: Adopted first reading of Ordinance. Second reading scheduled for July 25, 2006.

19. Lease: 2432 Durant Avenue

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Kwi Ja Chon at 2432 Durant Avenue, Telegraph Channing Shops, formerly known as Sather Gate Garage Shops, for the purpose of operating a shoe repair shop.

Financial Implications: Off Street Parking Fund - \$181,764 Revenue

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

Action: Adopted first reading of Ordinance. Second reading scheduled for July 25, 2006.

20. Contract: On-Call Traffic Engineering Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Korve Engineering for on-call traffic engineering services, increasing the amount by \$50,000 for a new contract total amount not to exceed \$90,000, and extending the term of the contract through October 31, 2007.

Financial Implications: Bike Plan Implementation Fund and Traffic Calming Fund - \$50,000

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

Action: Adopted Resolution No. 63,391–N.S.

21. Contract: Security Guard Services

From: City Manager

Recommendation: Adopt a Resolution 1) accepting the bid of Securitas Security Services USA, Inc.; 2) authorizing the City Manager to execute a contract and any amendments with Securitas Security Services USA, Inc., for security guard services at the Corporation Yard and Solid Waste Management Center for the period September 1, 2006 to June 30, 2007 for an amount not to exceed \$170,375; and 3) approving options to extend the contract for two additional one-year periods with the amounts to be adjusted pursuant to the Consumer Price Index (CPI).

Financial Implications: See report

Consent Calendar

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Resolution No. 63,392–N.S.

22. Final Tract Map 7696: 1406 San Pablo Avenue

From: City Manager

Recommendation: Adopt a Resolution approving the final Tract Map 7696, an eight-unit residential and commercial condominium located at 1406 San Pablo Avenue.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,393–N.S.

23. Speed Limit Reductions on Claremont Ave and Eastshore Highway

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 14.24.150 and 14.24.220 to reduce the speed limit on Frontage Road between Hearst Avenue and Gilman Street from 40 mph to 35 mph and on Claremont Avenue between Ashby Avenue and Oakland city limit from 30mph to 25mph.

Financial Implications: Measure B Local Streets and Roads Fund - \$3,000

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

Action: Adopted first reading of Ordinance. Second reading scheduled for July 25, 2006.

Action Calendar – Appeal

24. 1201 San Pablo Avenue / 1100 Harrison Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 05-10000029 to construct a 30-unit, mixed-use project, and dismissing the appeal.

Financial Implications: None

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

b. Appeal

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

c. Communications

2. James E. Hart

Action: Moved, seconded, carried (Maio/Anderson) to set the matter for a public hearing in September.

Action Calendar – Public Hearing

- 25. Telegraph Property And Business Improvement District**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution confirming the Annual Report on the Telegraph Property and Business Improvement District for FY 2006 and levying assessments in the District for FY 2007.
Financial Implications: See report
Contact: Thomas A. Myers, Acting Manager of Economic Development, 981-7500
Public Testimony: The Mayor opened the public hearing. Christian Pecaut. Moved, seconded, carried (Maio/Moore) to close the public hearing.
Action: Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 63,394–N.S.
- 26. In-Lieu Fees for Inclusionary Condominium Units**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 23C.12 by adding Section 23C.12.035 allowing an in-lieu fee in place of providing otherwise required inclusionary condominiums.
Financial Implications: See report
Contacts: Stephen Barton, Housing, 981-5400 and Dan Marks, Planning and Development, 981-7400
Public Testimony: The Mayor opened the public hearing. Jesse Arreguin, Jason Overman, Zeld Bronstein, Christian Pecaut, and Marcia Levenson. Moved, seconded, carried (Capitelli/Anderson) to close the public hearing.
Action: Moved, seconded, carried (Capitelli/Worthington) to adopt first reading of Ordinance. Second reading scheduled for July 25, 2006.
- Moved, seconded, failed (Worthington/Spring; Noes – Maio, Moore, Capitelli, Olds, Wozniak, Bates) to table any action on an evaluation for six months.
- Moved, seconded, carried (Capitelli/Olds; Noes – Anderson, Spring, Worthington) to direct staff to consult with the Housing Advisory Commission and the Planning Commission and the development community regarding the fee structure including consideration of actual construction costs and return to Council with a report in November.
- 27. Transportation Services Fee (CF 69-01)**
a. From: City Manager (*continued from July 11, 2006*)
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

Action Calendar – Public Hearing

b. From: City Manager

Supplemental Materials (*July 11, 2006*)

1. Revised Resolution
2. Fact Sheet
3. Nelson/Nygaard Consulting Associates

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

c. 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

d. 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: Public hearing continued without taking testimony to the meeting of July 25, 2006.

Action Calendar – Old Business

28. Implementation of Council Expense Reimbursement Policy Under AB 1234 (*held over from July 11, 2006*)

From: City Manager

Recommendation: Adopt two revised 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 to the meeting of July 25, 2006.

Action Calendar – New Business

29. Worker Retention (*to be delivered*)

From: City Manager

Recommendation: Adopt first reading of an Ordinance to establish a requirement that whenever there is an ownership change in a business entity of specified employers within the Marina Zone, the successor entity must retain specified employees for at least ninety days.

Financial Implications: See report.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved to the Consent Calendar by Councilmember Worthington. Adopted first reading of revised Ordinance. Second reading scheduled for July 25, 2006.

Action Calendar – New Business

30. Voting Delegates-League of California Cities

From: City Manager

Recommendation: Designate a voting delegate and alternate for the business meeting of the Annual League of California Cities meeting to be held on Saturday, September 9, 2006, at the San Diego Convention Center in San Diego, California and direct the City Clerk to forward the name of the delegate and alternate to the League no later than August 15, 2006.

Financial Implications: Conference fees - \$485 full conference; \$300 one-day pass

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Moved, seconded, carried (Capitelli/Moore) to designate Councilmember Worthington as voting delegate and to approve reasonable travel expenditures be paid for out of the General Fund.

Election Matters

31. Ballot Measure: Impeachment of President Bush and Vice President Cheney

From: City Manager

Recommendation: Review the ballot title, text and analysis prepared by the City Attorney and adopt a Resolution placing an advisory measure calling for the impeachment of President Bush and Vice President Cheney on the November 7, 2006 ballot.

Financial Implications: General Fund - \$10,000.

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

Action: Moved, seconded, carried (Worthington/Maio) to adopt Resolution No. 63,395–N.S. revised to change the language “call upon” to “petition”.

32. Ballot Measure: Greenhouse Gas Emissions

From: City Manager

Recommendation: Review the ballot title, text and analysis prepared by the City Attorney and adopt a Resolution placing an advisory measure supporting aggressive efforts to reduce greenhouse gas emissions on the November 7, 2006 ballot.

Financial Implications: General Fund - \$10,000.

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

Action: Moved, seconded, carried (Worthington/Maio; Abstain - Spring) to adopt Resolution No. 63,396–N.S. as revised.

33. Ballot Measure: Warm Water Pool (*to be delivered*)

From: City Manager

Recommendation: Discuss 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.

Financial Implications: See report.

Contact: Phil Kamlarz, City Manager, 981-7000

Action: Moved, seconded, carried (Worthington/Spring) to direct the City Manager to take specific actions and define the schedule related to the possible financing and construction of a new warm water pool at the Berkeley High School (BHS) tennis court site, including but not limited to: 1) developing a full-scale project; 2) exploring options for: a) a special mail ballot election in 2007; b) a June or November election in 2008; or c) funding through

Election Matters

certificates of participation; 3) moving this project up to the first tier of priorities in the City's workplan; and 4) authorizing the City Manager to expend the necessary monies from the General Fund already set aside for the warm water pool to accomplish Council's direction.

34. Ballot Measure: Conversion of Rental Units to Condominiums

From: Councilmember Spring

Recommendation: Consider placing a Council approved Ordinance amending Berkeley Municipal Code (BMC) Section 21.28.050 to allow conversion of rental units to condominiums with payment of an affordable housing mitigation fee and protection of sitting tenants on the November ballot. .

Financial Implications: None

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

Action: Withdrawn by Councilmember Spring.

35. Conversion of Rental Units to Condominiums

From: Councilmembers Worthington and Anderson

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 21.28.050 prohibiting the conversion of rental units to condominiums for five years for specific terminations of tenancy and requiring notice to tenants regarding their rights before a request for allocation is filed with the City.

Financial Implications: None

Contact: Kriss Worthington, Councilmember District 7, 981-7170; Max Anderson, Councilmember District 3, 981-7130

Action: Moved, seconded, carried (Anderson/Worthington: Absent - Olds) to adopt first reading of Ordinance as revised. Second reading scheduled for July 25, 2006.

36. Impact Report: Initiative amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums (to be delivered)

From: City Manager

Contact: Stephen Barton, Housing, 981-5400

Action: Held over to meeting of July 25, 2006.

Information Reports

37. Use of Biodiesel Fuel

From: City Manager

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

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.

Ballot Measure: Impeachment of President and Vice President

1. Glenn Hernandez
2. Charlie Jacob

Pedestrian Safety in College Avenue Neighborhoods

3. Anne Whyte

To Be Delivered and Supplemental Reports 1

Item 6: Contract: Legislative Representation Services

- Revised Report, submitted by City Manager

Item 9: Purchase Order: Office Supplies

- Revised Report, submitted by Finance

Item 14: Off-street Parking in Required Yards on Residential Lots

- Revised Ordinance, submitted by Planning and Development

Item 29: Worker Retention

- Revised Report, submitted by City Attorney

Item 33: Ballot Measure: Warm Water Pool

- To Be Delivered Report, submitted by Finance

Item 36: Impact Report: Initiative amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums

- To Be Delivered Report, submitted by Housing

To Be Delivered and Supplemental Reports 2

Item 24: 1201 San Pablo Avenue / 1100 Harrison Street

- Supplemental Report, submitted by Planning and Development

Supplemental Communications 1

Item 5: Landmarks Preservation and Zoning Ordinances

4. Joseph Stubbs

Item 14: Off-street Parking in Required Yards on Residential Lots

5. Robert Lauriston

Item 25: Telegraph Property And Business Improvement District

6. Barbara Ryken

Supplemental Communications 1

Item 27: Transportation Services Fee (CF 69-01)

7. John Blankenship
8. Miriam Walden, on behalf of Mike Friedrich and David Early
9. R. Clark Morrison

Item 32: Ballot Measure: Greenhouse Gas Emissions

10. Tom Kelly
11. Tom and Jane Kelly

Item 33: Ballot Measure: Warm Water Pool

12. Lupe Rivera-Perez
13. Alan Cunningham
14. Sheila McCormick
15. Denise Ramsey
16. Leticia Soto
17. Judith C. Dambowic

Item 35: Conversion of Rental Units to Condominiums

18. Elaine Green, N.A.A.C.P.

Supplemental Communications 2

Item 5: Landmarks Preservation and Zoning Ordinances

19. Gale Garcia
20. Patti Dacty

Item 24: 1201 San Pablo Avenue / 1100 Harrison Street

21. Susan M. Pinto

Item 31: Ballot Measure: Impeachment of President Bush and Vice President Cheney

22. John Jenkel

Item 33: Ballot Measure: Warm Water Pool

23. Joann Cook
24. Anne Marx

Adjournment

Adjourned at 11:03 p.m. in memory of Imogene Scott and Thunder.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of July 18, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES
BERKELEY CITY COUNCIL SPECIAL CLOSED MEETING
MONDAY, JULY 24, 2006

Preliminary Matters

Roll Call: 5:00 p.m.

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

Absent: None.

Public Comment: Lisa Ang and Jason Overman.

Closed Session

The City Council will recess to closed session to discuss each of the following matters, not necessarily in the order listed below:

- 1. 1. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:**

Title of position to be filled: Director of Public Works.

Adjournment

Adjourned at 5:25 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of July 24, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, JULY 25, 2006

Preliminary Matters

Roll Call: 7:16 p.m.

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

Absent: None.

Ceremonial Matters:

1. Proclamation presented to Bay Area Productions & Another Planet Entertainment for their commitment to providing the community with a forum for musical enjoyment and in recognition thereof, declaring July 29, 2006 Berkeley Jazz Festival Day, by Councilmember Anderson.

City Manager Comments: None.

Public Comment: Elliot Cohen, Christian Pecaut, Jane Kelly, Marcy Greenhut, Dan Cloak, Daniel Montes, Jan Nguyen, Christoph Cantor, Taylor Allbright, Lauren Karasek, Igor Tregub, Ted Edlin, Dean Metzger, Brian Macdonald, Martin Vargas, Elisa Blumenfield, Elaine Greed, Jason Overman, Marilee Mitchell, Becky Tarbotton, Kate Bernier, David M Wilson, Jesse Arreguin, Robert Vogel, Stephen Wollmer, Sarah Satterlee, Tom Hunt, Eric Dynamic, Patrick McCullough, and Lucille Bradley.

Consent Calendar

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

1. **Worker Retention** (*First reading July 18, 2006. Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance adding a new chapter to the Berkeley Municipal Code (BMC) Chapter 13.25 entitled “Marina Zone Worker Retention Ordinance” to establish a requirement that upon a transfer of ownership, specified employers within the public trust tidelands, may only terminate employees for cause for 90 days.

Financial Implications: See report.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Adopted Ordinance No. 6,941–N.S. Effective August 24, 2006.

Consent Calendar

2. **Landmarks Preservation and Zoning Ordinances** (*First reading July 18, 2006 – Noes – Worthington; Abstain – Spring, Olds*)

From: City Manager

Recommendation: 1) Adopt second reading of an Ordinance revising the City's Landmarks Preservation Ordinance (Berkeley Municipal Code (BMC) Chapter 3.24. with an effective date of November 1, 2006.

Financial Implications: See report

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

Action: Removed from the Consent Calendar by Mayor Bates. Moved, seconded, carried (Worthington/Maio) to withdraw this item from the agenda and to not move forward with a second reading at this time.

3. **Off-street Parking in Required Yards on Residential Lots** (*First reading July 18, 2006. Noes – Spring, Worthington; Abstain – Anderson; Absent – Olds*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 to: 1) allow by-right one new parking space within a required interior side yard so long as the parking area is a permeable surface approved by the Public Works Department and Office of Transportation, vegetative screening is provided, and the impact on usable open space is minimized; 2) require an Administrative Use Permit (AUP) for new uncovered parking spaces in front, street-side side yards, and rear yards on residential lots, except when the space is for a by-right Accessory Dwelling Unit and not in the front yard; 3) revise the definition of "yard" to no longer prohibit parking in required yards; and 4) 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: See report

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

Action: Adopted Ordinance No. 6,942–N.S. (*Noes – Olds, Spring, Worthington; Abstain – Anderson*) Effective August 24, 2006.

4. **Lease: 2434 Durant Avenue** (*First reading July 18, 2006. Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement with Liaqat M. Choudary for 2434 Durant Avenue in the Telegraph Channing Shops, formerly known as Sather Gate Garage Shops, for the purpose of operating a dollar-style variety store.

Financial Implications: Off Street Parking Fund - \$131,616 Revenue

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

Action: Adopted Ordinance No. 6,943–N.S. Effective August 24, 2006.

5. **Lease: 2432 Durant Avenue** (*First reading July 18, 2006. Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement with Kwi Ja Chon at 2432 Durant Avenue, Telegraph Channing Shops, formerly known as Sather Gate Garage Shops, for the purpose of operating a shoe repair shop.

Consent Calendar

Financial Implications: Off Street Parking Fund - \$181,764 Revenue

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

Action: Adopted Ordinance No. 6,944–N.S. Effective August 24, 2006.

6. Speed Limit Reductions on Claremont Ave and Eastshore Highway (*First reading July 18, 2006. Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 14.24.150 and 14.24.220 to reduce the speed limit on Frontage Road between Hearst Avenue and Gilman Street from 40 mph to 35 mph and on Claremont Avenue between Ashby Avenue and Oakland city limit from 30mph to 25mph.

Financial Implications: Measure B Local Streets and Roads Fund - \$3,000

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

Action: Adopted Ordinance No. 6,945–N.S. Effective August 24, 2006.

7. In-Lieu Fees for Inclusionary Condominium Units (*First reading July 18, 2006. Unanimous*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code Chapter 23C.12 by adding Section 23C.12.035 allowing an in-lieu fee in place of providing otherwise required inclusionary condominiums.

Financial Implications: See report

Contacts: Stephen Barton, Housing, 981-5400 and Dan Marks, Planning and Development, 981-7400

Action: Adopted Ordinance No. 6,946–N.S. Effective August 24, 2006.

8. Conversion of Rental Units to Condominiums (*First reading July 18, 2006. Unanimous*)

From: Councilmembers Worthington and Anderson

Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 21.28.050 prohibiting the conversion of rental units to condominiums for five years for specific terminations of tenancy and requiring notice to tenants regarding their rights before a request for allocation is filed with the City.

Financial Implications: None

Contact: Kriss Worthington, Councilmember District 7, 981-7170; Max Anderson, Councilmember District 3, 981-7130

Action: Adopted Ordinance No. 6,947 –N.S. Effective August 24, 2006.

9. 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).

Financial Implications: None

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

Action: Approved minutes with revisions to minutes of June 27, 2006 and July 11, 2006.

Consent Calendar

- 10. Appointment of Director of Public Works**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of Claudette R. Ford as Director of Public Works.
Financial Implications: See report
Contact: Phil, Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 63,397–N.S.
- 11. Contract: Berkeley Alliance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Alliance to provide administrative support and project services for a partnership endeavor with the Berkeley Unified School District (BUSD) and UC Berkeley in an amount not to exceed \$72,800 for the period July 1, 2006 through June 30, 2007.
Financial Implications: See report.
Contact: Arrietta Chakos, City Manager, 981-7000
Action: Adopted Resolution No. 63,398–N.S.
- 12. Contract: Artwork for Maudelle Shirek Mural**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a professional service artist contract with Mildred Howard & Daniel Galvez to create a mural of the life of Maudelle Shirek in Old City Hall in an amount not to exceed \$38,000 for the period of August 1, 2006 through June 30, 2006.
Financial Implications: Public Art Fund - \$38,000
Contact: Thomas Myers, Acting Manager of Economic Development, 981-6500
Action: Adopted Resolution No. 63,399–N.S.
- 13. Agreement: Community Relationship Management Software *(to be delivered)***
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) Approve the selection of a vendor to be either Lagan Technologies Inc., or Tier 1 Innovations, based on Requests for Proposals (RFP) submitted; and 2) Execute a 3-year contract during the Council recess with the selected vendor to provide comprehensive Community Relationship Management software in an amount not to exceed \$500,000 plus annual maintenance not to exceed \$50,000 for the period of September 1, 2006 through August 31, 2009.
Financial Implications: General Fund - \$650,000
Contact: Frances David, Finance, 981-7300
Action: Item not received. Withdrawn by the City Manager.
- 14. Grant: Mental Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept a grant from the California Department of Mental Health and execute a revenue agreement in the amount of \$2,510,238 to plan and implement transformative mental health programs under the

Consent Calendar

Mental Health Services Act Community Services and Supports; to execute the resultant revenue agreement and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.

Financial Implications: Revenue to Mental Health Fund – See report

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

Action: Adopted Resolution No. 63,400–N.S.

15. Contract: Mental Health Workforce Development

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Lippitt Consultant Services for services in support of activities related to increasing the diversity and skill base of the public mental health workforce and to increase the amount by \$2,618 for a total contract amount not to exceed \$38,618.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,401–N.S.

16. Contract: Public Health Trainee

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Tanya Perez, California Epidemiological Investigation Service trainee, to develop communicable disease protocols, flu prevention campaign, avian flu preparedness, and other communicable disease prevention and control activities in an amount not to exceed \$43,000.

Financial Implications: Various Funds - \$43,000

Contact: Fred Medrano, Health and Human Services, 981-5300

Action: Adopted Resolution No. 63,402–N.S.

17. Amendment to Pre-Development Agreement - Oxford Plaza Housing Development (*to be delivered*)

From: City Manager

Recommendation: Adopt a Resolution 1) approving the use of \$610,000 from a fund reservation of \$2,200,000 previously approved for the Oxford Plaza from the Housing Trust Fund, and authorizing the City Manager to amend and execute loan agreements concerning the Predevelopment Agreement with Resources for Community Development; (RCD) and 2) Adopt a Resolution amending Resolution No. 62,797–N.S. for the Oxford Plaza project to amend the conditions for the funding reservation to exempt any funds which are reallocated to pre-development funding, to be exempt from specific funding reservation requirements.

Financial Implications: See report

Contact: Stephen Barton, Housing, 981-5400

Action: Removed from the Consent Calendar by Councilmember Capitelli. Moved, seconded, carried (Worthington/Maio – Noes: Olds; Abstain – Capitelli) to adopt Resolution No. 63,403–N.S. approving the use of \$800,000 and other approvals and conditions as stated in the staff report and resolution.

Consent Calendar

- 18. Contract: Sustainable Berkeley**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with Community Energy Services Corporation (CESC) for Sustainable Berkeley in an amount not to exceed \$133,700.
Financial Implications : See report
Contact: Stephen Barton, Housing, 981-5400
Action: Adopted Resolution No. 63,404–N.S.
- 19. Contract: Occupational Health Medical Examinations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with U. S. HealthWorks for occupational health medical examinations including pre-employment and annual physicals, and drug and alcohol sample collection.
Financial Implications: Various Funds including General Fund, \$150,000
Contact: David W. Hodgkins, Human Resources, 981-6805
Action: Adopted Resolution No. 63,405–N.S.
- 20. Contract: Public Safety Computer System**
From: City Manager
Recommendation: 1) Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with New World Systems, Inc. for a Computer Aided Dispatch System, Records Management System, and supporting systems and associated services, for a total amount not to exceed \$2,000,000 for the period September 1, 2006 through June 30, 2008 and 2) Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Alpine Software Inc. for Fire Inspection, Inventory, Fire Prevention and other supporting systems and associated services, for a total amount not to exceed \$200,000 for the period September 1, 2006 through June 30, 2008.
Financial Implications: See report
Contacts: Douglas Hambleton, Police, 981-5700; Debra Pryor, Fire and Emergency Services, 981-5500; and Chris Mead, Information Technology, 981-6500
Action: Adopted Resolution Nos. 63,406-N.S. and 63,407–N.S.
- 21. Contract: Public Safety Computer System Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Innovative Technologies Inc. increasing the amount by \$75,000 to cover additional work on the City of Berkeley’s new public safety computer system, for a total amount not to exceed \$100,000.
Financial Implications: See report
Contact: Chris Mead, Information Technology, 981-6500
Action: Adopted Resolution No. 63,408–N.S.

Consent Calendar

- 22. Contract: Assessment Engineering Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Harris & Associates for assessment engineering services on the Utility Underground Assessment District No. 2006-47 (Miller/Stevenson), increasing the contract amount by \$12,000 for a total not to exceed \$37,000 and extending the term through June 30, 2007.
Financial Implications: See report.
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,409–N.S.
- 23. Pavement Markings and Motorcycle Parking on Telegraph Avenue**
From: City Manager
Recommendation: Direct the City Manager to remove the 17 small channelization islands on Telegraph Avenue in order to straighten the alignment of the lane lines on Telegraph Avenue, between Ashby Avenue and Dwight Way, and to reinstate the car parking spaces where they were removed to accommodate the lane configuration.
Financial Implications: Building Purchases and Management Fund - \$50,000
Contact: Claudette R. Ford, Public Works, 981-6300
Action: Approved recommendation.
- 24. Oppose Senate Bill 1056: Regulation of Seeds and Nursery Plants**
From: Councilmember Maio
Recommendation: Adopt a Resolution opposing SB 1056 which would pre-empt local governments in their ability to regulate at the local level, seeds and nursery plants.
Financial Implications: None.
Contact: Linda Maio, Councilmember District 1, 981-7110
Action: Adopted Resolution No. 63,410–N.S.
- 25. Proclamation: Celebration of Americans with Disability Act's 16th Anniversary**
From: Councilmembers Worthington and Spring and Mayor Bates
Recommendation: Approve a proclamation in Celebration of American's with Disability Act (ADA) 16 Year Anniversary.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved proclamation.
- 26. Support AB 2068: Workers Right to Continue Physician Predesignation**
From: Councilmembers Worthington and Moore
Recommendation: Support AB 2068, which would allow an employee to be treated by a physician of his or her choice and at a facility of his or her choice, within a reasonable geographic area, beginning 30 days after a job-related injury, unless the employer's insurer has established a medical provider network.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.

Consent Calendar

27. **Pilot Residential Parking Program for Southside**
From: Councilmembers Worthington and Wozniak
Recommendation: Refer to the City Manager the development of a pilot program under which one side of certain streets will be designated for residential parking only, while the other areas will remain under the current two-hour parking limit for non-residential permit holders. This pilot program to be implemented between Dwight Way on the north, Parker Street on the south, College Avenue on the east, and Telegraph Avenue on the west, with final boundaries, hours and days of enforcement, and other specifics to be determined with neighborhood input. If successful in the pilot, the program may be implemented as needed in any neighborhood impacted by new and expanding institutions, facilities, and developments.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
28. **Oppose Proposition 85: California Constitutional Amendment requiring Parental Notification for Abortion**
From: Councilmembers Worthington and Moore
Recommendation: Oppose a constitutional amendment that would require health care providers to notify the parents of women under the age of 18 before providing abortion services.
Financial Implications: None
Contact: Kriss Worthington, Councilmember District 7, 981-7170
Action: Approved recommendation.
29. **Budget Allocation for Kitchen Democracy**
From: Councilmember Wozniak
Recommendation: Approve the expenditure of \$3,000 in FY 2006 funds from Councilmember Wozniak's office budget to fund Kitchen Democracy's efforts to increase participatory democracy in Berkeley.
Financial Implications: \$3,000 from Councilmember Wozniak's Office Budget
Contact: Gordon Wozniak, Councilmember District 8, 981-7180
Action: Removed from Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Worthington/Wozniak) to adopt Resolution No. 63,411-N.S.

Action Calendar – Appeals

30. **2104 Sixth Street (to be delivered)**
- a. **From: City Manager**
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to adopt a Mitigated Negative Declaration (MND) and approve 1) the legalization of the demolition of 2104 Sixth Street; and 2) the reconstruction of the demolished portion of 2104 Sixth Street (UP#06-1000027), and dismiss the appeal.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

Action Calendar – Appeals

b. Appeal

1. Jeff Hoffman on behalf of Friends of Oceanview-Sisterna Historic District

c. Communications

1. None

Action: Moved, seconded, failed (Wozniak/Capitelli; Noes – Moore; Worthington, Bates; Abstain – Anderson, Spring) a substitute motion affirming the decision of the Zoning Adjustments Board.

Moved, seconded, carried (Moore/Worthington; Noes – Olds; Abstain – Capitelli, Wozniak) a main motion to schedule the matter for a public hearing.

31. 2104 Sixth Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Landmarks Preservation Commission (LPC) to approve the demolition of 2104 Sixth Street (Permit #06-40000003) and dismiss the appeal.

Financial Implications : None

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

b. Appeal

1. Jano Bogg on behalf of Friends of Oceanview-Sisterna Historic District

c. Communications

1. None

Action: Moved, seconded, failed (Wozniak/Capitelli; Noes – Moore; Worthington, Bates; Abstain – Anderson, Spring) a substitute motion affirming the decision of the Landmarks Preservation Commission.

Moved, seconded, carried (Moore/Worthington – Noes – Olds; Abstain – Capitelli, Wozniak) a main motion to schedule the matter for a public hearing.

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Action Calendar – Public Hearing

32. Transportation Services Fee (CF 69-01)

a. From: City Manager (continued from July 11, 2006 and July 18, 2006)

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

Action Calendar – Public Hearing

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: City Manager

Supplemental Materials (*July 11, 2006*)

1. Revised Resolution
2. Fact Sheet
3. Nelson/Nygaard Consulting Associates

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

c. 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

d. 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

Public Testimony: The Mayor opened the public hearing. Tamela Ekstrom (read letter by John Declerq, Claire Risley, Steve Geller, Nathan Landau, Khalil Bendib, Dennis Cohen, Stephen Wollmer, Andy Katz, Christian Pecaut, Michael Goldin, Adam Block, Darrell deTienne, Mark McLeod, Marcy Greenhut, Tim Perry, Jesse Arreguin, Jonathan Deyoe, Wendy Alfsen, Roland Peterson, and Brendan Heafey. Moved, seconded, carried (Anderson/Maio) to close the public hearing.

Action: Moved, seconded, carried (Capitelli/Maio) to schedule a work session on this matter.

Action Calendar – Old Business

33. Implementation of Council Expense Reimbursement Policy Under AB 1234 (*held over from July 11 and 18, 2006*)

a. From: City Manager

Recommendation: Adopt two revised 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

b. From: City Manager (*to be delivered*)

Action Calendar – Old Business

Supplemental Report – Response to Council Questions

Contact: Manuela Albuquerque, City Attorney, 981-6950

Action: Moved to the Consent Calendar by Councilmember Worthington and adopted revised Resolution Nos. 63,412-N.S. and 63,413-N.S.

34. Employee Representation at the West Berkeley Bowl *(Held over from July 11, 2006)*

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: Moved to the Consent Calendar by Councilmember Moore and adopted Resolution No. 63,414–N.S. as revised by Councilmember Moore.

35. Support of Fair Labor Practices *(Held over from July 11, 2006)*

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: Moved, seconded, carried (Capitelli/Spring; Absent – Maio) to refer to the City Manager and the Commission on Labor for a report and recommendations, including the possibility of an ordinance, to encourage Berkeley businesses to support fair labor practices and hiring of community members for jobs.

Action Calendar – New Business

36. Response to Grand Jury Final Report - Parking Meter Enforcement *(to be delivered)*

From: City Manager

Recommendation: Authorize the City Manager to send the following response to the Alameda County Civil Grand Jury in response to their final report on parking meter enforcement in Berkeley.

Financial Implications: See report

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

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

37. Ashby BART Development

From: Councilmembers Anderson and Wozniak and Mayor Bates

Recommendation: Re-affirm Council's commitment to develop a community process regarding the west parking lot of the Ashby BART station site under the direction and leadership of the Ashby BART Task Force appointed by the South Berkeley Neighborhood

Action Calendar – New Business

Development Corporation (SBNDC). The Council requests that by October 1, 2006 the Task Force 1) prepare a budget and work plan for implementing a wide outreach effort in the community to develop a vision, goals, objectives and criteria consistent with previously adopted Council policy to be used for a planning grant application; 2) that the criteria include objectives and criteria for relocation of the flea market in furtherance of Council policies should a feasible development plan ultimately be prepared for the parking lot; 3) that this outreach effort include BART as a full partner; and 4) that the outreach and visioning occur by August 2007 to allow time for the City to apply for grants by October 2007 that would support a more extensive development plan and implementation effort.

Financial Implications: \$6,000 to \$40,000 for work on this project.

Contact: Max Anderson, Councilmember District 3, 981-7130

Action: Moved, seconded, carried (Anderson/Moore; Noes - Worthington) to adopt Resolution No. 63,415-N.S. as amended by Councilmember Capitelli to change the language “relocation of the flea market” to “location of the flea market”.

Election Matters

38. Initiative Petition: Ordinance amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums and to Assist Tenants in Purchasing Their Own Units (*to be delivered*)

From: City Manager

Recommendation: Take one of the following actions as provided by Section 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk’s certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance without alteration, to a vote of the people at the November 7, 2006 General Municipal Election after review and comments on the ballot title and analysis as prepared by the City Attorney.

Financial Implications: See report

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

Action: Moved, seconded, carried (Wozniak/Olds) to adopt Resolution No. 63,416-N.S., as revised, and placing the initiative measure on the ballot.

39. Initiative Petition: Ordinance amending Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances

From: City Manager

Recommendation: Take one of the following actions as provided by Section 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk’s certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance without alteration, to a vote of the people at the November 7, 2006 General Municipal Election after review and comments on the ballot title and analysis as prepared by the City Attorney.

Financial Implications: See report

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

Action: Item held over to a Special Meeting on August 1, 2006 at 5:00 p.m.

Election Matters

40. **Impact Report: Initiative amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums** (*Held over from July 18, 2006*)
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
Action: Report received and filed.
41. **Impact Report: Initiative amending Landmarks Preservation and Demolition Permit Application for Non-Residential Building Ordinances** (*to be delivered*)
From: City Manager
Contact: Dan Marks, Planning and Development, 981-740
Action: Item held over to a Special Meeting on August 1, 2006 at 5:00 p.m.

Action Calendar – Time Critical

42. **Election of Student Action Executive Officers**
From: Councilmember Wozniak
Recommendation: Adopt a Resolution recognizing the election of four Student Action Executive Officers in a free and fair ASUC election and supporting their appeal against the attempts of the ASUC Judicial Council to deny victory by judicial machinations.
Financial Implications: None
Contact: Gordon Wozniak, Councilmember District 8, 981-7180
Action: Moved, seconded, failed (Wozniak/Olds; Noes – Maio, Anderson, Spring, Worthington, Bates; Abstain – Moore, Capitelli, Olds) to approve recommendation.

Information Reports

43. **Wireless Internet**
From: City Manager
Contact: Chris Mead, Information Technology, 981-6500
Action: Moved to Action by Councilmember Wozniak. Direction to City Manager to report back with additional information in response to Council's discussion.

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.

Clean Money Ballot Measure for Public Finance of Future Elections

1. Tom and Jane Kelly

Free Use of the Marina

2. WolverB@*****.com

Communications

LA Times Article on Crime

3. Barbara Gilbert

Kitchen Democracy

4. Robert Vogel

Illegal Activities on Oregon Street

5. David M. White (*Referred to City Manager by Maio, Moore, Spring, Worthington*)

Ballot Measure: Impeachment of President Bush and Vice President Cheney

6. Jill Martinucci, on behalf of Councilmember Capitelli

Transportation Services Fee (CF 69-01)

7. R. Clark Morrison

Supplemental Communications and Reports 1

Item 29. Budget Allocation for Kitchen Democracy

8. Karl Reeh

Item 32: Transportation Services Fee (CF 69-01)

9. David Ghosh

10. Bob Muzzy

11. Claire Risley

12. Phil Morton

13. John H. DeClercq, Library Gardens

Item 33: Implementation of Council Expense Reimbursement Policy Under AB 1234

- Supplemental Report, submitted by City Attorney

Item 34: Employee Representation at the West Berkeley Bowl

- Revised Resolution, submitted by Councilmembers Capitelli, Anderson, Moore and Worthington

Item 37: Ashby BART Development

14. Sam Herbert

15. Osha Neumann

16. Elaine Green, N.A.A.C.P.

Item 38: Initiative Petition: Ordinance amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums and to Assist Tenants in Purchasing Their Own Units

17. David M. Wilson

18. David M. Wilson

Item 42. Election of Student Action Executive Officers

19. Eleanor Walden

Item 43: Wireless Internet

20. Two Articles submitted by Councilmember Wozniak

Supplemental Communications and Reports 1

Ballot Measure: Warm Water Pool

21. Jude Sharp
22. Barbara Gilbert

Supplemental Communications and Reports 2

Item 29. Budget Allocation for Kitchen Democracy

23. Marie Bowman
24. Robert Vogel and Simona Carini

Item 32: Transportation Services Fee (CF 69-01)

25. 18 Postcards in support of Transportation Services Fee
 - Revised Resolution, submitted by Public Works.

Item 40: Impact Report: Initiative amending Berkeley Municipal Code Chapter 21.28 to Encourage and Regulate Conversion of a Limited Number of Rental Units to Condominiums

26. Theodore R Edlin
 - Supplemental attachment, submitted by Housing

Adjournment

Adjourned at 12:03 a.m. in memory of "Thunder".

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of July 25, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, AUGUST 1, 2006

Preliminary Matters

Roll Call: 5:05 p.m.

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

Absent: None.

City Manager Comments: The deadline for submitting arguments for or against the measure placing the initiative petition ordinance amending the Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances closes on Monday, August 7, 2006 at 12:00 p.m. The deadline for submitting rebuttals to arguments related to this measure closes on Monday, August 14, 2006 at 12:00 p.m.

Public Comment: Laurie Bright, Christian Pecaut, Patti Dacty, John McBride, Elliot Cohen, Jill Korte, John English, Sally Sach, Doug Buckwald, Shirley Dean, Roger Marquis, and Elisabeth O'Malley.

Action Calendar – Election Matters

1. Initiative Petition: Ordinance amending Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances

From: City Manager

Recommendation: Take one of the following actions as provided by Section 92(3 and 4) of the Charter of the City of Berkeley: 1) pass the Ordinance without alteration within 20 days after the attachment of the City Clerk's certificate of sufficiency to the petition; or 2) adopt a Resolution submitting the Ordinance without alteration, to a vote of the people at the November 7, 2006 General Municipal Election after review and comments on the ballot title and analysis as prepared by the City Attorney.

Financial Implications: See report

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

Action: Moved, seconded, carried (Capitelli/Maio; Noes - Worthington) to adopt Resolution No. 63,417-N.S. submitting the Ordinance without alteration, to a vote of the people at the November 7, 2006 General Municipal Election after review and comments on a revised ballot title and analysis prepared by the City Attorney and presented in the supplemental packet.

Action Calendar - Election Matters

Moved, seconded, carried (Maio/Capitelli; Noes – Spring, Olds, Worthington) to approve a revised ballot question presented by the City Attorney in the Supplemental Packet.

Moved, seconded, carried (Capitelli/Maio; Noes – Spring, Olds, Worthington) to approve recommended amendments to the revised City Attorney Analysis, specifically material effect item nos. 1, 5 and 7.

2. Impact Report: Initiative amending Landmarks Preservation and Demolition Permit Application for Non-Residential Building Ordinances

From: City Manager

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

Action: No action.

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.

Communication (or Agenda Item) Title

None.

Supplemental Communications and Reports 1

Item 1: Initiative Petition: Ordinance amending Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances

- Revised Exhibit B to the Resolution, submitted by City Attorney

1. Laurie Bright and Roger Marquis
2. Gale Garcia
3. Sally Sachs on behalf of Laurie Bright and Roger Marquis

Supplemental Communications and Reports 2

Item 1: Initiative Petition: Ordinance amending Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances

4. Laurie Bright
5. Wendy Markel

Adjournment

Adjourned at 6:05 p.m. in honor of Eli Katz.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of August 1, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk