

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 26, 2006

7:00 P.M.

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

Preliminary Matters

Roll Call: 7:00 p.m. All present.

City Manager Comments: The City Manager announced that long time retired city employee and park supporter, Dorothy Bolte, passed away on Sunday.

Public Comment: 17 speakers.

Consent Calendar

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

- 1. Development Standards Related to Density Bonuses** (*first and second reading – Noes: Olds; Abstain: Anderson, Worthington*)
From: City Manager
Recommendation: Adopt a second reading of an Ordinance amending Berkeley Municipal Code (BMC) amending Title 23, Zoning Ordinance, Section 23E, to provide second story and above transition setbacks and clarify existing policy regarding required yards on lots in the C-1, C-W, C-T districts abutting residential districts; establish development standards for ground floor commercial uses in mixed-use buildings and modify the open space requirements in the C-1 and C-W districts, and in commercial districts; limit rooftop open space; restrict the use of mechanical parking lifts for required parking; provide a minimum 10 foot setback from abutting residential districts; and restrict residential uses on the ground floor of mixed-use buildings and including a sunset provision.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Ordinance No. 6,948–N.S. Effective October 26, 2006.
- 2. Major Residential Additions** (*first and second reading – Noes: Moore, Anderson*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23, Zoning Ordinance, Sections 23 (D, E and F) regarding residential

Consent Calendar

additions in all residential districts and regarding development standards in the Hillside Overlay District provisions.

Financial Implications: See report.

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

Action: Adopted Ordinance No. 6,949–N.S. Effective October 26, 2006.

3. Conflict of Interest Code

From: City Manager

Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code and rescinding Resolution No. 62,642-N.S. (2004 Conflict of Interest Code).

Financial Implications: None

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

Action: Adopted Resolution No. 63,433–N.S.

4. Contract: Computer Network Cabling

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Capitol Communications Inc. increasing the amount by \$175,000 to cover additional cabling work on the computer network, for a total amount not to exceed \$210,000, and extending the term to June 30, 2008.

Financial Implications: General Fund - \$175,000

Contact: Chris Mead, Information Technology, 981-6500

Action: Adopted Resolution No. 63,434–N.S.

5. Contract: Environmental Analysis for Aquatic Park Improvement Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with Laurel Marcus and Associates for design, engineering and environmental analysis of hydrology and habitat improvements at Aquatic Park in an amount not to exceed \$372,264 for the period August 1, 2006 to December 31, 2007.

Financial Implications: See report

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

Action: Removed from the Consent Calendar by Mayor Bates. Moved, seconded, carried (Moore/Wozniak) to adopt Resolution No. 63,435–N.S.

6. Contract: Inspections for Condominium Conversion Applications

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend the contract with 4Leaf, Inc. for condominium inspections, increasing the amount by \$60,000 for a total not to exceed \$84,999 and extending the term until June 30, 2009.

Financial Implications: See report

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

Action: Adopted Resolution No. 63,436–N.S.

Consent Calendar

- 7. Amendment No. 2 to Alameda County Measure B Expenditure Plan**
From: City Manager
Recommendation: Adopt a Resolution approving Amendment No. 2 to the 1986 Alameda County Transportation Expenditure Plan as proposed by the Alameda County Transportation Authority (ACTA) contingent on the approval of the same amendment by the Metropolitan Transportation Commission (MTC).
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,437–N.S.
- 8. Council Support for Proposition 89 - Clean Money**
From: Mayor Bates
Recommendation: Support Proposition 89 – California Clean Money and Fair Elections Act on the ballot this November.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
- 9. Funding to Non-Profit Organizations**
From: Councilmember Olds
Recommendation: Adopt a Resolution approving funding from Councilmember Olds' office budget to several non-profit organizations as stated in the report.
Financial Implications: See report
Contact: Betty Olds, Councilmember District 6, 981-7160
Action: Held over to October 10, 2006 by Councilmember Olds.
- 10. Protection of California State Park, San Onofre State Beach**
From: Councilmember Spring
Recommendation: Adopt a Resolution: 1) endorsing the California State Park and Recreation Commission's resolution opposing a proposed toll road alignment and request for action to protect San Onofre State Beach; 2) requesting the Foothill/Eastern Transportation Corridor Agency withdraw its plans to construct a toll road with an alignment through the state park; 3) directing the City Manager to refrain from acquiring any bonds for, or making other financial investments in, the Foothill-South Toll Road; and 4) sending a copy of this resolution to the Commission, Foothill/Eastern Transportation Corridor Agency, the California Governor, Attorney General and Treasurer, Resources Agency, Department of Parks and Recreation, and Department of Transportation.
Financial Implications: None
Contact: Dona Spring, Councilmember District 4, 981-7140
Action: Adopted Resolution No. 63,438–N.S.

Consent Calendar

11. Expansion of Eco-Pass Program

From: Councilmember Worthington

Recommendation: Support exploring the expansion of the Eco-Pass program to UC Berkeley, Alta Bates/Sutter Health, and other businesses along the Telegraph Avenue Corridor.

Financial Implications: None at this time.

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

Action: Approved recommendation.

Action Calendar – Appeals

12. 2721 Shattuck Avenue - Zoning Adjustments Board Appeal – Verizon

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit #05-10000033 for a new wireless telecommunications facility (including five antennas and related equipment) for Verizon Wireless at 2721 Shattuck Avenue and dismissing the appeal.

Financial Implications: None

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

b. Appeal

1. Ellen McGovern

c. Communications

1. Karl Reeh on behalf of LeConte Neighborhood Association
2. Ellen McGovern
3. Paul B. Albritton, Mackenzie & Albritton, LLP

Action: Moved, seconded, carried (Anderson/Wozniak) to adopt Resolution No. 63,439-N.S. remanding the matter to the Zoning Adjustments Board for purposes of reviewing new information and working out issues related to the parking and loading areas and equipment placement.

Action Calendar – Appeals

13. 2721 Shattuck Avenue Zoning Adjustments Board Appeal – Nextel

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit #04-10000068 for a new wireless telecommunications facility (including twelve antennas and related equipment) for Nextel Communications at 2721 Shattuck Avenue and dismissing the appeal.

Financial Implications: None

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

b. Appeal

1. Ellen McGovern

c. Communications

1. Karl Reeh on behalf of LeConte Neighborhood Association
2. Ellen McGovern

Action: Moved, seconded, carried (Anderson/Wozniak) to adopt Resolution No. 63,440-N.S. remanding the matter to the Zoning Adjustments Board for purposes of reviewing new information and working out issues related to the parking and loading areas and equipment placement.

Action Calendar – Public Hearing

14. 2104 Sixth Street

a. From: City Manager *(report of July 25, 2006)*

Recommendation: Conduct a Public Hearing and upon conclusion, 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#06-10000027), and dismiss the appeal.

Financial Implications: None

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

b. Appeal *(July 25, 2006)*

Jeff Hoffman on behalf of Friends of Oceanview-Sisterna Historic District *(July 25, 2006)*

Public Testimony: The Mayor opened the public hearing. 10 speakers. Moved, seconded, carried (Moore/Anderson) to close the public hearing.

Action: Moved, seconded, carried (Capitelli/Wozniak; Noes – Maio, Moore, Worthington) to adopt Resolution No. 63,441–N.S. affirming the decision of the Zoning Adjustments Board and dismissing the appeal.

15. 2104 Sixth Street

a. From: City Manager *(report of July 25, 2006)*

Recommendation: Conduct a Public Hearing and upon conclusion, adopt a Resolution affirming the decision of the Landmarks Preservation Commission (LPC) to approve the

Action Calendar – Public Hearing

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 (*July 25, 2006*)

Jano Bogg on behalf of Friends of Oceanview-Sisterna Historic District (*July 25, 2006*)

Public Testimony: The Mayor opened the public hearing. 10 speakers. Moved, seconded, carried (Moore/Anderson) to close the public hearing.

Action: Moved, seconded, carried (Capitelli/Olds; Noes – Moore, Worthington; Abstain - Spring) to adopt Resolution No. 63,442–N.S. affirming the decision of the Landmarks Preservation Commission and dismissing the appeal.

Action Calendar – Old Business

16. 1201 San Pablo Avenue / 1100 Harrison Street (*Public hearing closed on September 19, 2006. Council expected to take action at this meeting.*)

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: 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

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

f. Supplemental Communications (*September 19, 2006*)

1. Jim Hart – Revised Proposal
2. 1201 San Pablo/1100 Harrison Appellants (2)
3. Stephen Wollmer
4. Scott, Kelli and Nathan Bodensteiner
5. Jim Hart – Drawing
6. Mary Wyand

Action: Moved, seconded, carried (Maio/Anderson; Noes – Olds; Abstain - Wozniak) to continue the decision to October 10, 2006.

Action Calendar – Old Business

17. **Funding For A Campus Neighborhood Watch Program** *(held over from September 19, 2006 by Councilmember Worthington)*

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: Moved, seconded, carried (Worthington/Anderson; Noes - Olds) to ask the Mayor to send a letter to the University inviting them to match any contributions made by the City for this program and held over the remainder of the item to October 10, 2006 to receive a report from the City Manager on the budget and scope of the program and to determine if other councilmembers desire to contribute monies from their office budgets to assist in funding this program.

Action Calendar – New Business

18. **2007 City Council Meeting Schedule**

From: City Manager

Recommendation: Adopt a Resolution establishing the Council regular meeting schedule for 2007, with starting times of 7:00 p.m.

Financial Implications: None

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

Action: Moved to the Consent Calendar by Mayor Bates. Adopted Resolution No. 63,443–N.S. as amended by the Mayor.

19. **2817 Eighth Street - Certify for Review and Remand to Zoning Adjustments Board**

From: City Manager

Recommendation: Adopt a Resolution: 1) certifying the Zoning Adjustments Board's (ZAB) approval of Use Permit 05-100000116 application to demolish an existing single-family dwelling at 2817 Eighth Street and to construct a new building with four market-rate condominium dwelling units, on a lot of 7,315 square feet in the MU-R (Mixed Use-Residential) zoning district and 2) remanding the matter to ZAB for a new public hearing to reconsider the project as being subject to the City's inclusionary housing requirements.

Financial Implications: None

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

Action: Moved to the Consent Calendar by Councilmember Worthington. Adopted Resolution No. 63,444–N.S.

Information Reports

20. **Early Voting and Absentee Voting Options**

From: City Manager

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

Action: Received and filed.

Information Reports

- 21. Storm Drain Cleaning Plan** *(to be delivered)*
From: City Manager
Contact: Claudette 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.

Save the Oak Trees – UC Memorial Stadium

(Numerous email communications submitted in a substantially similar format are on file in the City Clerk Department).

Smoking Ban in Westin Hotels

1. Anne Whyte

Flood Insurance

2. Barbara Gilbert

Supplemental Communications 1

Item #2: Major Residential Additions

3. Mark W. Troup
4. Chris Bailey *(Referred by Councilmember Moore)*
5. Willie Pettus
6. Alan and Aleyda Swain

Item #10: Protection of California State Park, San Onofre State Beach

7. James Birkelund
8. Elizabeth Lambe

Item #11: Expansion of Eco-Pass Program

9. Hank Resnik
10. Len Conly

Items #12 and 13: 2721 Shattuck Avenue - Zoning Adjustments Board Appeal – Verizon and Nextel

11. Jim Hultman
12. Ellen McGovern
13. Brett Brooks
14. Suzanne Masuret
15. Karl Reeh
16. Karl Reeh
17. Suzanne Masuret

Item #16: 1201 San Pablo Avenue / 1100 Harrison Street

18. Jim Hart – Revised Application
19. Prakash Pinto
20. Daniel W. Corvello

Supplemental Communications 1

21. Mary Wyand
22. Beth Bernstein
23. Jean Molesky
24. Yvette Bozzini
25. Uile Cuileannain
26. Mary Wyand for Erika Lamm
27. Jim Hart

Item #19: 2817 Eighth Street - Certify for Review and Remand to Zoning Adjustments Board

28. Xin Jin

Supplemental Communications 2

Item #16: 1201 San Pablo Avenue / 1100 Harrison Street

29. Rena Rickles
30. Don Mill
31. Rempel Architects

Item #17: Funding For A Campus Neighborhood Watch Program

32. Garrett Keating

Complaint – La Loma Pathway

33. Rozalina Gutman (*Referred by Councilmember Worthington*)

Poem Two Oaks – UC Memorial Stadium

Adjournment

Adjourned at 9:53 p.m. in memory of Dorothy Bolte.

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.*