



Office of the City Manager

CONSENT CALENDAR

October 24, 2006

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Sherry M. Kelly, City Clerk

Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of September 18, 2006 (special closed), September 19, 2006 (regular), September 26, 2006 (special closed), and September 26, 2006 (regular).

CONTACT PERSON

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

Attachments:

- 1: September 18, 2006 Special Closed City Council Minutes
- 2: September 19, 2006 Regular City Council Minutes
- 3: September 26, 2006 Special Closed City Council Minutes
- 4: September 26, 2006 Regular City Council Minutes

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
MONDAY, SEPTEMBER 18, 2006

Preliminary Matters

- Roll Call:** 5:00 p.m.
- Present:** Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak.
- Absent:** Mayor Bates.
- Public Comment:** No speakers.

Closed Session

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

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

- Unions:** Berkeley Fire Fighters Association Local 1227 I.A.F.F.
- City Negotiators:** Philip Kamlarz, City Manager
Lisa Caronna, Deputy City Manager
Tracy Vesely, Budget Manager
Debra Pryor, Fire Chief
David Orth, Deputy Fire Chief
David Hodgkins, Director of Human Resources
Margarita Zamora, Senior Human Resources Analyst
Robert Kraus, Senior Human Resources Analyst

Action: Discussion held.

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

City of Berkeley v. Reza Valiyee, et al.
ACSC No. 737686-3

City of Berkeley v. Reza Valiyee, et al.
ACSC No. 748526-4

Closed Session

Eugene Evans, et al. v. City of Berkeley, et al.

ACSC No. 809180-4; California Supreme Court No. S112621; United States Supreme Court No. 06-40

Elizabeth O'Malley, et al. v. City LPC, et al.

ACSC No. 837247-5

City of Berkeley v. Reza Valiyee

ACSC No. 837667-1

Rash B. Ghosh v. Shirley Dean, Mayor, City Council, ZAB, Zoning Dept.

ACSC No. 2002 043750

Berkeley Police Association v. City of Berkeley, PRC

ACSC No. 2002 057569

Helix Electric Inc., v. Arntz Builders; The American Insurance Company; City of Berkeley

ACSC No. 2002 061480

Richard Schwarzmann v. City of Berkeley, et al.

ACSC No. 2001 26119

Bay Systems Integrators, Inc. v. Helix Electric, Inc., City of Berkeley, American Ins. Co.

ACSC No. RG 03 089440

Earnest Darden v. Berkeley Community Media and Berkeley City Council

USDC No. C 03 3264 MMC

Arntz Buildings v. City of Berkeley, Library Project Manager

ACSC No. BG 03 095394

Ruth Ellen Pearce, Trustee of the Ruth Ellen Pearce Revocable Trust, et al. v. All Persons Claiming Any Interest In, or Lien Upon, the Real Property Herein Described; City of Berkeley, et al.

ACSC No. RG 04 181677

Americans For Safe Access, James Blair, Michael L. Goodbar, and Donald O. Tolbert v. County of Alameda, Bradley Clark, City of Berkeley

ACSC No. RG 04 192053

Raymond Chamberlin v. City of Albany, City of Berkeley

ACSC No. HG 05 200281

City of Berkeley v. University of California, Regents of the University of California

ACSC No. RG 05 199505

Soroya Radmanesh v. City of Berkeley

ACSC No. RG 04 191982

Closed Session

Randolph Walker v. City of Berkeley and Roland Anolin
ACSC No. RG 05 205825

Maarteen Kalway and Mary Kalway v. City of Berkeley, Planning Commission, Dan Marks, Planning and Development Director
ACSC No. RG 05 05208534

City of Berkeley v. The Boykin Group, Boykin Berkeley, LLC, Boykin Hotel Properties, LP, Berkeley I. Leasing, LLC
ACSC No. HG 05 199209

Jaipal Walia v. City of Berkeley
ACSC No. RG 05 222860

Valentine Corp. v. City of Berkeley
ACSC No. RG 05 220900

City of Berkeley v. Hernan Galvan, an individual, DBA American Systems Parking, and Metropolitan Systems Parking
ACSC No. RG 05 226079

Association for Responsible Development v. City of Berkeley, Berkeley City Council
ACSC No. HG 05 220335

Carl Friberg, Anne Wagley, Jim Sharp and Dean Metzger v. Tom Bates, CouncilMembers Maio, Moore, Anderson, Capitelli, Wozniak, City of Berkeley, City Council, Phil Kamlarz, Manuela Albuquerque
ACSC No. RG 05 230715

Jacqueline Bradley v. City of Berkeley
DFEH No. U200506M1127-00-p

Daniel McMullan, Michael Diehl v. City Of Berkeley
ACSC No. RG 06 274017

Sherry Kelly, Clerk Of The City Of Berkeley, Petitioner v. Alameda County Board Of Supervisors, Tom Bates, Doris Maslach, Elizabeth P. Merrill, Orna Shaughnessy, Afam Agbodike, Blake Von Knopka, Eleanor Peebles, Dean Metzger, Jim Smith, Shirley Dean
ACSC No. RG 06 285827

Landmarks Preservation Update 2006 Laurie Bright And Roger Marquis v. County Of Alameda Bradley J. Clark In His Official Capacity As County Of Alameda Registrar Of Voters, City Of Berkeley And Does 1-20, Inclusive, Respondents And Defendants; Berkeley City Council, Real Parties In Interest
ACSC No. RG 06 285758

Closed Session

Cheryl F. Lindenau v. City Of Berkeley, Does 1 – 50
ACSC No. RG 06 283007

Brian Archibald v. BOSS, City Of Berkeley, et al.
ACSC No. RG 04 181788

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

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

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

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

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

State Farm Mutual Automobile Ins. Co. v. City Of Berkeley
ACSC No. BG 06 254541

Harry K. Vernon v. City Of Berkeley, et al.
ACSC No. 842999-1; California Court of Appeal No. A109680

AMICUS CASES:

City of Marina and Fort Ord Reuse Authority v. Board of Trustees of the Cal State University
Cal. Supreme Ct. No. S 117816

Ayon, et al. v. Cintas Corporation
Los Angeles Superior Court Case No. BC 310696

Council of the City of New York v. Michael R. Bloomberg, Mayor of New York
New York Supreme Court – Appellate Div. First Department, New York County No. 115214/04

Closed Session

Jackie Pieri, et al. v. City and County of San Francisco, et al.
California Court of Appeal Case No. A110571

Action: Discussion held.

Adjournment

Adjourned at 6:35 p.m.

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

Sherry M. Kelly, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 19, 2006

Preliminary Matters

Roll Call: 7:20 p.m.

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

Absent: None.

Ceremonial Matters:

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

City Manager Comments: None.

Public Comment: Tim Perry, Cathy Roha, Robin Kibby, Teresa Clarke, Anthony Hawthorne, Donald Zinn, Charles Pappas, Harriet Berg, Zelda Bronstein, Mark McLeod, Martha Nicoloff, Deborah Badia, Mary Wyand, Jason Kaldis and Carl Strand.

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 as 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.

Consent Calendar

- 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.

Consent Calendar

- 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.

- 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. Jim Hart, Susan Pinto, Prakash Pinto, Beth Bernstein, Doris Iaroli, Stephen Wollmer, Dan Corvello, Mary Wyand, Yvette Bozzini, Jean Molesky-Poz, William Dolphin, Erika Lamm, David Mayeri, Lynn Riordan, Steven Donaldson, Rena Rickles. Moved, seconded, carried (Wozniak/Capitelli) to close the public hearing.

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

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.

Action Calendar – New Business

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

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.

Information Reports

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.
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

Communications

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

Communications

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

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

Supplemental Communications 1

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

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.

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
TUESDAY, SEPTEMBER 26, 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: Joanna Dwyer, Lesley Emmington Jones.

Closed Session

CONFERENCE WITH LEGAL COUNSEL-- ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (c)

Initiation of litigation—one case

The Berkeley City Council will consider whether to initiate litigation under the California Environmental Quality, the Alquist-Priolo Act and other laws, challenging the anticipated approval by the Regents of the University of California of the Southeast Campus Integrated Projects.

Report from Closed Session: Moved, seconded, carried (Maio/Capitelli; Noes – Worthington) to direct the City Attorney to hire outside legal counsel to prepare for possible legal action.

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 September 26, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk

MINUTES

BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 26, 2006

Preliminary Matters

Roll Call: 7:00 p.m.

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

Absent: None.

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

Public Comment: Elizabeth Goldstein, Zachary Running Wolf, Kent Brown, Rozalina Gutman, Jake Gelender, Michie McConnell, Ellen McGovern, Gene Bernardi, Alan Swain, Joe Hartman, Cynthia Johnson, Alex Fisher, Andrea Pritchett, Steve White, Robert Schoenberger, Merrile Mitchell, Bo Schorberger and Garrett Keating.

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

Consent Calendar

- 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 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.
- 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.

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. John Gutierrez, Tim Rempel, Jano Bogg, Lacy Bloomingfield, Neil Bloomingfield, Sara Saterlee, John McCrane, Maryanne Rashada, Liz Miranda, Gary Feiner. 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 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. John Gutierrez, Tim Rempel, Jano Bogg, Lacy Bloomingfield, Neil Bloomingfield, Sara Saterlee, John McCrane, Maryanne Rashada, Liz Miranda, Gary Feiner.. 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.

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.

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

Communications

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
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

Supplemental Communications 2

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.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 26, 2006 as approved by the Berkeley City Council.

Sherry M. Kelly, City Clerk