

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, NOVEMBER 28, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:03 p.m.

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

Absent: None.

City Manager Comments: The City, under the organization of the Police Department, gave away 500 Thanksgiving baskets.

Public Comment: 34 speakers.

Consent Calendar

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

- 1. Amendments to Zoning Ordinance** (*first reading on November 14, 2006 - Noes – Olds; Abstain – Capitelli, Wozniak*)

From: City Manager

Recommendation: Adopt second reading of an Ordinance adding BMC Section 23C.04.100 regarding rebuilding after disaster, with the language of Section 23C.04.100(A)(1) as recommended by the City Manager, and amending BMC Section 23B.44.010 regarding modifications to zoning regulations by a Use Permit to comply with the Creeks Ordinance.

Financial Implications: See report

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

Action: Removed from the Consent Calendar by Councilmember Capitelli. Moved, seconded, carried (Worthington/Maio; Noes – Capitelli) to adopt the second reading of Ordinance No. 6,954–N.S. Effective December 28, 2006.

Consent Calendar

- 2. Valentine v. City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. RG 05 220900 entitled Valentine Corporation v. City of Berkeley in the amount of \$23,500.
Financial Implications: \$23,500 - Refuse Fund
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Resolution No. 63,488–N.S.
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve minutes for meetings of November 13 (closed) and November 14, 2006 (special and regular).
Financial Implications: None
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Approved minutes.
- 4. Contract: Design and Construction of the Corporation Yard Gates**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Berkeley artist Eric Powell to design and construct two new gates for the Corporation Yard in an amount not to exceed \$69,000 for the period of December 1, 2006 through December 31, 2007.
Financial Implications: See report
Contact: Michael Caplan, Economic Development, 981-7000
Action: Adopted Resolution No. 63,489–N.S.
- 5. Lease: 1013 Pardee Street No. 105**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing a one year lease from October 1, 2006 to September 30, 2007 for an existing warehouse at 1013 Pardee Street, No. 105 (alternate address of 2700 10th Street) for the storage of fire and police equipment emergency supplies and equipment.
Financial Implications: Bond Measure Q - \$133,745
Contact: Debra Pryor, Fire, 981-5500
Action: Adopted first reading of Ordinance. Second reading scheduled for December 5, 2006.
- 6. Contract: Class – Earthquake: Introduction to Emergency Management**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Governor’s Office of Emergency Services in an amount not to exceed \$33,000 to provide a class entitled “Earthquake: An Introduction to Emergency Management in California”.
Financial Implications: See report
Contact: Debra Pryor, Fire, 981-5500
Action: Adopted Resolution No. 63,490–N.S.

Consent Calendar

- 7. Contract: Project Management Training Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Alex Walton, 3PM Company, for the development and delivery of a variety of project management training courses and related consulting services, increasing the contract amount by \$60,000 for an amount not to exceed \$84,999, and extending the term to December 31, 2009.
Financial Implications: Training Fund - \$60,000
Contact: David W. Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,491–N.S.
- 8. Contract: Financial Software Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract and any amendments with Sungard H.T.E. Inc. for maintenance of software for the City's financial system, FUNDS\$ from July 1, 2006 to June 30, 2009, for a total amount not to exceed \$400,000.
Financial Implications: General Fund - \$400,000
Contact: Chris Mead, Information Technology, 981-6510
Action: Adopted Resolution No. 63,492–N.S.
- 9. Contract: Web Content Management Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract and any amendments with Applied Knowledge, Inc. (AKI) for the purchase and installation of web content management software and associated services, from December 1, 2006 to December 1, 2008, for a total amount not to exceed \$70,000.
Financial Implications: General Fund - \$70,000
Contact: Chris Mead, Information Technology, 981-6510
Action: Adopted Resolution No. 63,493–N.S.
- 10. Contract: Email Subscription and Notification Service**
From: City Manager
Recommendation: Adopt a Resolution authorizing an amendment to the contract with GovDelivery Inc. (formerly GovDocs) to increase the amount by \$31,000 for a total not to exceed \$ 56,000 and extending the period to June 30, 2008 for the continuation of the service whereby members of the public are kept up to date on commission meetings, planning proposals, and other matters of interest.
Financial Implications: General Fund - \$31,000
Contact: Chris Mead, Information Technology, 981-6510
Action: Removed from the Agenda by the City Manager.

Consent Calendar

- 11. Contract: Internet and Network Bandwith Security Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Extra Team I.T. Consulting Group, Inc., to install internet and network bandwidth security management software and provide associated network security services, from December 4, 2006 to December 31, 2009, for a total not to exceed \$125,000.
Financial Implications: General Fund - \$125,000
Contact: Chris Mead, Information Technology, 981-6510
Action: Adopted Resolution No. 63,494–N.S.
- 12. Grant Application: Middle Dock Replacement at South Sailing Basin**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the California Department of Boating and Waterways (DBW) in an amount not to exceed \$90,000 for replacement of middle dock replacement at South Sailing Basin; to accept the grant; to execute resultant revenue agreements and amendments; and authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: Grant - \$90,000
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 63,495–N.S.
- 13. Creeks Ordinance**
From: City Manager
Recommendation: Adopt a Resolution approving the Negative Declaration and adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 17.08, Preservation and Restoration of Natural Watercourses.
Financial Implications: See report.
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed from the Consent Calendar by Councilmember Capitelli. Moved, seconded, carried (Worthington/Moore; Noes – Wozniak; Abstain – Capitelli; Absent –Olds) to adopt Resolution No. 63,496–N.S. and first reading of an Ordinance, with a minor amendment. Second reading scheduled for December 5, 2006.
- 14. Parking Enforcement Mission and Policy Statement**
From: City Manager
Recommendation: Adopt a Resolution endorsing the mission and policy statement that provides a clear message and direction to the residents of Berkeley, the Police Department and the Department of Public Works relative to parking enforcement goals.
Financial Implications: None
Contact: Douglas N. Hambleton, Police, 981-5700
Action: Adopted Resolution No. 63,497–N.S.

- 15. Construction and Demolition Debris Salvaging and Recycling**
From: City Manager
Recommendation: Adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) adding Chapter 19.24, Construction and Demolition ("C&D") Debris Salvage and Recycling, decreasing the amount of landfill material from select construction and demolition projects.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted first reading of Ordinance. Second reading scheduled for December 5, 2006.
- 16. Contract: On-Call Engineering Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments or extensions with Don Todd Associates, Inc., in an amount not to exceed \$250,000 to provide on-call engineering services for various Public Works projects for a period of thirty months from December 1, 2006 through June 30, 2009.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,498–N.S.
- 17. License Agreement: Veterans Memorial Building**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a license agreement and any amendments with the Ecology Center, Berkeley Farmers' Market, for use of the Veterans Memorial Building at 1931 Center Street.
Financial Implications: Revenue - \$100
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,499–N.S.
- 18. Contract: Construction Management Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute contracts and any amendments, with Swinerton Management and Consulting to provide construction management for the Brower Center/Oxford Plaza project, in an amount not to exceed \$582,000, for the period January 1, 2007 through July 30, 2009.
Financial Implications: Capital Improvement Fund - \$582,000
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,500–N.S. (Abstain - Capitelli)

Consent Calendar

19. Appointment to Committees, Commissions and Regional Bodies and Rotation of Vice President of the Council

From: Mayor Bates

Recommendation: Adopt a Resolution appointing members of the Council to various committees, commissions and regional bodies and establish a rotation for vice president of the Council as recommended by the Mayor.

Financial Implications: None

Contact: Tom Bates, Mayor, 981-7100

Action: Adopted Resolution No. 63,501–N.S. amended to appoint Councilmember Worthington as the alternate to the Alameda County Waste Management Authority

20. Re-appointment of Therese (Terry) Powell to the Board of Library Trustees

From: Board of Library Trustees

Recommendation: Adopt a Resolution re-appointing Trustee Therese (Terry) Powell to the Board of Library Trustees for a second term ending January 14, 2011.

Financial Implications: None

Contact: Roger Pearson, Secretary, Board of Library Trustees, 981-6100

Action: Removed from the Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Moore/Wozniak; Noes – Worthington) to adopt Resolution No. 63,502–N.S. re-appointing Therese Powell.

Action Calendar – Appeals

21. Appeal: 2411 Fifth Street

a. From: City Manager

Recommendation: Set for public hearing to consider the issues raised in the appeal of the Landmarks Preservation Commission's (LPC) decision designating 2411 Fifth Street, a City of Berkeley Structure of Merit

Financial Implications: None

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

b. Appeal

1. Laura Fletcher

c. Communications

1. Petition, with 66 signatures, submitted by Cathleen Quandt
2. Cathleen Quandt, on behalf of the neighbors of 2411 Fifth Street in favor of upholding the Structure of Merit Decision

Action: Moved to the Consent Calendar by Councilmember Moore. Adopted Resolution No. 63, 503-N.S. affirming the decision of the Landmarks Preservation Commission to designate 2411 Fifth Street a Structure of Merit and dismissing the appeal.

Action Calendar – Public Hearing

22. Appeal: Imposition of Lien to Recover Fees

a. From: City Manager

Recommendation: Conduct a Public Hearing and upon conclusion, adopt a Resolution denying the appeal of Vijay Lakireddy and rejecting the property owner's objection to the proposed lien of \$7,800 for unpaid Rental Housing Safety Program (RHSP) fees and costs associated with the enforcement of the Housing Code on the owner's rental property, and approving the special assessment lien on the property to be filed with the County of Alameda in order to collect the outstanding debt.

Financial Implications: See report

Contact: Stephen Barton, Housing, 981-5400

b. Appeal

1. Vijay Lakireddy

Public Testimony: The Mayor opened the public hearing. 1 speaker. Moved, seconded, carried (Maio/Anderson) to close the public hearing.

Action: Moved, seconded, carried (Spring/Maio) to adopt Resolution No. 63,504–N.S. denying the appeal and approving assessment.

23. Appeal: Imposition of Lien to Recover Fees

a. From: City Manager

Recommendation: Conduct a Public Hearing and upon conclusion, adopt a Resolution denying the appeal of Mohamed Mosleh and rejecting the property owner's objection to the re-inspection fee charged to him for his failure to make timely repairs to his rental property associated with the enforcement of the Housing Code under the Rental Housing Safety Program (RHSP), and approving the special assessment lien on the property to be filed with the County of Alameda in order to collect the outstanding debt.

Financial Implications: See report

Contact: Stephen Barton, Housing, 981-5400

b. Appeal

1. Mohamed Mosleh

Public Testimony: The Mayor opened the public hearing. 1 speaker. Moved, seconded, carried (Moore/Anderson) to close the public hearing.

Action: Moved, seconded, carried (Worthington/Capitelli) to adopt Resolution No. 63,505–N.S. denying the appeal and approving assessment.

Action Calendar – Old Business

24. 1310 Campus Drive Complaint *(Moved to Action on November 14, 2006 by Councilmember Worthington)*

From: City Manager

Contact: Claudette Ford, Public Works, 981-6300

Action: Discussion held. No action taken.

Action Calendar – New Business

- 25. Voting Delegates – National League of Cities’ Congress of Cities**
From: City Manager
Recommendation: Designate a voting delegate and alternate to act on behalf of the City at the annual business meeting at the National League of Cities’ Congress of Cities.
Financial Implication: See report
Contact: Sherry M. Kelly, City Clerk, 981-6900
Action: Discussion held. No action taken.
- 26. Unrepresented Employee Manual-Vacation Accrual for Library Executive Management**
- a. From: Board of Library Trustees**
Recommendation: Adopt a Resolution amending Resolution No. 60,777–N.S, the Unrepresented Employee Manual, to amend Article 13.08 (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: Library Tax Fund - \$4,500 in FY 2007, \$7,300 in FY 2008
Contact: Roger Pearson, Secretary, Board of Library Trustees, 981-6100
- b. From: City Manager**
Recommendation: Concurs with recommendation by the Board of Library Trustees.
Contact: David Hodgkins, Human Resources, 981-6800
Action: Moved to the Consent Calendar by Councilmember Moore. Adopted Resolution No. 63,506–N.S. (Noes – Worthington)
- 27. Mills Act Contract - 59-61 Panoramic Way**
From: City Manager
Recommendation: Adopt a Resolution directing the City Manager to enter into a Mills Act contract for 59-61 Panoramic Way.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Moved to the Consent Calendar by Councilmember Wozniak. Adopted Resolution No. 63,507–N.S.
- 28. Traffic Calming Policy**
From: Transportation Commission
Recommendation: Adopt a Resolution approving a Traffic Calming Policy that will: 1) identify the purpose and general application of traffic calming; 2) establish basic criteria for the application of traffic calming measures; 3) establish a ranking system applicable when the number of projects exceeds the available funding; 4) establish a process by which to prioritize requests; and, 5) seek opportunities to implement traffic calming measures.
Financial Implications: None
Contact: Peter K. Hillier, Secretary, Transportation Commission, 981-6300
Action: Moved, seconded, carried (Anderson/Moore) to adopt Resolution No. 63,508–N.S.

Information Reports

- 29. Parcel-Based Special Taxes, Fees and Assessments Audit - Status Report**
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
Action: Received and filed.
- 30. Off-Label Use of the Drug Cytotec**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Moved to Action for December 12, 2006 by Councilmember Maio.
- 31. Assisted Outpatient Mental Health Treatment**
From: Mental Health Commission
Contact: Carol Patterson, Secretary, Mental Health Commission, 981-5217
Action: Received and filed.
- 32. Quarterly Report on Employee Safety and Workers' Compensation**
From: City Manager
Contact: David W. Hodgkins, Human Resources, 981-6800
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.

Item 13: Creeks Ordinance

1. Cy. H. Silver
2. Kristen Quay
3. Laurie Capitelli

Item 24: 1310 Campus Drive Complaint

4. Rozalina Gutman (2)

Cell Phone Risks

5. Wes Lane

Election Results

6. Barbara Gilbert

Kitchen Grease Used to Power Wastewater Treatment Plant

7. Lynda Winslow (*referred by Councilmember Maio*)

Massacre in Tibet

8. Info@*****.com

Milo Foundation

9. Solano Avenue Neighborhood Association (SANA), submitted by Michael Sandrof

Communications

Arguments for Proposition H

10. Meg Starbuck

Sea Scouts

11. Greg Braly

Stadium Project

12. Kent Fauré

13. Matt Lowe

Save the Oaks at UC Stadium

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

Trader Joe's

Numerous email communications are on file in the City Clerk Department.

Supplemental Communications 1

Item 13: Creeks Ordinance

14. Cornelia Read and James Eggert
15. Moe Asadi
16. Dominique Philippine
17. Peter Klatt
18. David Nasatir
19. Charles T. Tart
20. Martha Jones
21. Stanley and Judith Lubman
22. Robert Shimshak and Marion Brenner
23. Anita C. Eblé
24. Abigail Fateman
25. Bob Kelly-Thomas
26. Alan Gould
27. Diane Tokugawa
28. Surinder Brar
29. Robert Sweibel
30. Eric Wasserman
31. Patrick Finley
32. Juliet Lamont
33. Neighbors on Urban Creeks
34. Judy Ziajka
35. Soraya Ali
36. Sherrick Slattery

Item 21: Appeal: 2411 Fifth Street

37. Photos submitted by Cathleen Quandt

Supplemental Communications 2

Item 22: Appeal: Imposition of Lien to Recover Fees

38. Vijay Lakireddy

Final Fix for Claremont Tunnel

39. Steve Wollmer

Book of Poems

40. Bob Randolph

Adjournment

Adjourned at 10:48 p.m. in memory of Anthony Lee Franklin.