

SUMMARY

BERKELEY CITY COUNCIL MEETING

TUESDAY, DECEMBER 5, 2006

7:00 P.M.

Preliminary Matters

Roll Call: 7:15 p.m.

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

Absent: None.

Public Comment

Consent Calendar

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

- 1. Lease: 1013 Pardee Street No. 105** (*First reading – November 28, 2006 – Unanimous*)
From: City Manager
Recommendation: Adopt second 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 for the storage of fire and police equipment and emergency supplies.
Financial Implications: Bond Measure Q - \$133,745
Contact: Debra Pryor, Fire, 981-5500
Action: Adopted Ordinance No. 6,955–N.S. Effective January 4, 2007.
- 2. Creek Ordinance** (*First reading – November 28, 2006 – Noes – Wozniak; Abstain – Capitelli; Absent – Olds*)
From: City Manager
Recommendation: Adopt second 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: Adopted Ordinance No. 6,956–N.S. (Noes: - Wozniak; Abstain – Capitelli, Olds) Effective January 4, 2007.

Consent Calendar

3. **Construction and Demolition Debris Salvaging and Recycling** (*First reading – November 28, 2006 – Unanimous*)

From: City Manager

Recommendation: Adopt a second reading of an Ordinance amending Berkeley Municipal Code (BMC) by 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 Ordinance No. 6,957–N.S. January 4, 2007.

4. **Appointment to Alameda County Mosquito Abatement District**

From: City Manager

Recommendation: Adopt a Resolution reappointing Dr. Jan Washburn to the Board of Trustees of the Alameda County Abatement District for a two-year term commencing on January 2, 2007 and ending on January 1, 2009.

Financial Implications: None

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

Action: Adopted Resolution No. 63,509–N.S.

5. **Landmarks Preservation Ordinance**

From: City Manager

Recommendation: 1) Adopt a Resolution rescinding the first reading of a proposed revised Landmarks Preservation Ordinance with an effective date of November 1, 2006; 2) Adopt a Resolution determining that the previously adopted Initial Study and Negative Declaration may be relied upon for adoption of revised Landmarks Preservation Ordinance; and 3) Adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Chapter 3.24, Landmarks Preservation.

Financial Implications: None

Contact: Manuela Albuquerque, City Attorney, 981-6950

Actions: Moved, seconded, failed (Olds/Spring; Noes – Capitelli, Wozniak, Bates; Abstain – Maio, Moore, Anderson) a substitute motion to continue to a meeting in January.

Moved, seconded, carried, (Wozniak/Capitelli) a main motion to adopt Resolution No. 63,510–N.S. rescinding the first reading of a proposed revised Landmarks Preservation Ordinance with an effective date of November 1, 2006.

Moved, seconded, carried (Capitelli/Maio; Noes – Spring, Olds, Worthington) to adopt Resolution No. 63,511–N.S. determining that the previously adopted Initial Study and Negative Declaration may be relied on for adoption of a revised Landmarks Preservation Ordinance.

Moved, seconded, failed (Worthington/Spring; Noes – Maio, Capitelli, Wozniak, Bates; Abstain – Moore, Anderson) to eliminate the revised and latest severability clause from the proposed ordinance.

Consent Calendar

Moved, seconded, carried (Wozniak/Maio; Noes – Spring, Olds, Worthington) to adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code (BMC) Chapter 3.24, Landmarks Preservation. Second reading scheduled for December 12, 2006.

6. Amendment to FY 2007 Annual Appropriations Ordinance *(to be delivered)*

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending the FY 2007 Annual Appropriations Ordinance No. 6,935 for FY 2007 based upon recommended re-appropriation of committed FY 2006 funding and other adjustments authorized since July 1, 2006.

Financial Implications: See report

Contact: Tracy Vesely, Budget Manager, 981-7000

Action: Adopted first reading of Ordinance. Second reading scheduled for December 12, 2006.

7. Classification: Manager of Aging Services

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 61,840–N.S., Classification and Salary Resolution for Public Employees Union Local One, to add the title of Manager of Aging Services and abolish the classification of Seniors Program Administrator effective January 1, 2007.

Financial Implications: General Fund (46%), Senior Nutrition Grant (50%), Family Caregiver Support Grant \$2,500 FY 2007

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

Action: Adopted Resolution No. 63,512–N.S.

8. Soft Story Ordinance

From: City Manager

Recommendation: 1) Adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 19.39, Soft Story Ordinance, to adopt the American Society of Civil Engineers Standard 31 (ASCE-31) - "Seismic Evaluation of Existing Buildings", 2003 Edition, for the required seismic analysis of a non-wood frame ground story; and, 2) In compliance with state law on adopting such codes by reference, hold a Public Hearing on December 12, 2006 to comply with state law.

Financial Implications: See report

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

Action: Adopted first reading of Ordinance. Second reading scheduled for December 12, 2006.

9. Telegraph Avenue Economic Development Assistance Plan

From: Councilmember Worthington and Mayor Bates

Recommendation: Refer to the mid-year budget process the retention of funding passed through the Telegraph Avenue Economic Development Assistance Plan.

Financial Implications: \$200,000 - \$250,000

Contact: Kriss Worthington, Councilmember, District 7, 981-7170 and Tom Bates, Mayor, 981-7100

Action: Approved recommendation.

Consent Calendar

10. Art/Craft Studios - West Berkeley Plan

From: Civic Arts Commission

Recommendation: Adopt a Resolution accepting the Civic Arts Commission's updated recommendation for the definition of Art/Craft Studio and refer this definition to the Planning Commission for immediate consideration for use in the zoning process for West Berkeley and request that the Planning Commission consider amending the July 6, 1989 date referenced in the Zoning Ordinance so that Art/Craft Studio uses established after this date will be afforded protection under the Zoning Ordinance.

Financial Implications: None

Contact: Mary Ann Merker, Secretary, Civic Arts Commission, 981-7000

Action: Adopted Resolution No. 63,513–N.S.

Action Calendar – Public Hearing

11. Downtown Berkeley Business Improvement District

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, 1) adopt a Resolution confirming the 2007 Annual Report of the Downtown Berkeley Business Improvement District (BID) and levying an annual assessment for calendar year 2007 and 2) adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) Main Street Program for \$250,000 of Downtown BID funds to support Downtown revitalization.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7400

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 Nos. 63,514–N.S. and 63,515–N.S.

12. Solano Avenue Business Improvement District

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, 1) adopt a Resolution confirming the 2006 Annual report of the Solano Avenue Business Improvement District (BID) and levying an annual assessment for calendar year 2007 and 2) adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Solano Avenue Association (SAA) for approximately \$35,000 of BID funds.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7400

Public Testimony: The Mayor opened the public hearing. 6 speakers.

Action: Moved, seconded, carried (Capitelli/Anderson) to continue the public hearing to December 12, 2006 and to allow for receipt of additional protests.

Action Calendar – New Business

13. **Manufactured Nanoparticle Health and Safety Disclosure**

From: Community Environmental Advisory Commission

Recommendation: 1) Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 15.12.040 and 15.12.050 to add a health and safety disclosure for nanoparticles. 2) Send a letter to elected officials asking them to include a percentage of all federal funds to the National Nanoparticle Initiative be earmarked for health and safety research.

Financial Implications: None

Contact: Nabil A Al-Hadithy, Secretary, Community Environmental Advisory Commission, 981-7400

Action: Councilmember Wozniak distributed corrections to the report. Moved, seconded, carried (Anderson/Wozniak) to adopt first reading of Ordinance. Second reading scheduled for December 12, 2006.

Information Reports

14. **Unrepresented Temporary Employees**

From: City Manager

Contact: David W. Hodgkins, Human Resources, 981-6500

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.

Energy Development and Community Choice Aggregation

1. Mary Ann Clegg

Opposition to the Foothill/South Toll Road

2. Office of the Governor, Office of Constituent Affairs

Dorm Noise

3. Sharon Hudson

Trader Joe's

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

Supplemental Communications and Reports 1

Item 2: Creeks Ordinance

4. Susan and Ron Berman

Item 5: Landmarks Preservation Ordinance

5. Supplemental reports, submitted by Planning and Development (2) (See separate packets)
6. Susan Brandt-Hawley

Supplemental Communications and Reports 1

Item 6: Amendment to FY 2007 Annual Appropriations Ordinance

7. Supplemental report, submitted by City Manager's Office (See separate packet)

Item 11: Downtown Berkeley Business Improvement District

8. Wendy Alfsen

Item 12: Solano Avenue Business Improvement District

9. Petitions with 77 signatures, submitted by Claire Marie Holman

Supplemental Communications and Reports 2

Item 5: Landmarks Preservation Ordinance

10. Supplemental information, submitted by Planning and Development

11. Wendy Markel, President, The Berkeley Architectural Heritage Association

12. Judith Epstein

Item 11: Downtown Berkeley Business Improvement District

13. Revised 2007 Work Plan, submitted by Downtown Berkeley Association

Item 12: Solano Avenue Business Improvement District

14. Harvey Peskin

15. Paul Kasrovi

Item 13: Manufactured Nanoparticle Health and Safety Disclosure

16. Supplemental report, submitted by Community Environmental Advisory Commission

17. Richard Seals

18. Edward Spencer

Adjournment

Adjourned at 9:31 p.m.