

SUMMARY-MINUTES BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 10, 2007

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.

Ceremonial Matters: None

Public Comment on Consent Calendar Items Only – None

Consent Calendar

Action: M/S/C (Maio/Anderson) to adopt Consent Calendar in one motion except as indicated (1) moved Item 26 Sewer Service Fees from Action Calendar to Consent Calendar (no public hearing required) (2) moved Item #33 League of California Cities Annual conference voting delegates from Action Calendar to Consent Calendar:

1. FY 2008 Annual Appropriations Ordinance

From: City Manager

Recommendation: Adopt second reading of an Ordinance 6,987–N.S. setting the FY 2008 Annual Appropriations.

Financial Implications: See report

Contact: Tracy Vesely, Budget Manager, 981-7000

Action: Adopted second reading of Ordinance No. 6,987–N.S. Effective date August 9, 2007.

2. FY 2008 Tax Rate: Emergency Services for the Severely Disabled

From: City Manager

Recommendation: Adopt second reading of an Ordinance 6,988–N.S setting the FY 2008 tax rate for the provision of emergency services for the disabled at \$0.01086 (1.086 cents) per square foot of taxable improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted second reading of Ordinance No. 6,988–N.S. Effective date August 9, 2007.

Consent Calendar

- 3. FY 2008 Tax Rate: Fire Seismic General Obligation Bonds-Election of 1992 (Measure G, 2002 and 2007 General Obligation Refunding Bonds)**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,989-N.S setting the FY 2008 tax rate for Fire Seismic General Obligation Bonds (Measure G, 2002 and 2007 General Obligation Refunding Bonds) at 0.0160%.
Financial Implications: Fire Seismic Debt Service Fund - \$1,867,429 revenue
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,989–N.S. Effective date August 9, 2007.
- 4. Levying a Special Tax for Fiscal Year 2008 to Fund the Provision of Library Services**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,990-N.S setting the FY 2008 tax rate for the Library Services Tax at \$0.1504 (15.04 cents) per square foot for dwelling units and \$0.2276 (22.76 cents) per square foot for industrial, commercial, and institutional buildings.
Financial Implications: Library Tax - \$13,209,469 revenue
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,990–N.S. Effective date August 9, 2007.
- 5. FY 2008 Tax Rate: Disaster Fire Protection (Measure Q)**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,991-N.S setting the FY 2008 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of taxable improvements.
Financial Implications: Disaster Fire Protection-Measure Q - \$998,742 revenue
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,991–N.S. Effective date August 9, 2007.
- 6. FY 2008 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,992-N.S setting the FY 2008 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1078 (10.78 cents) per square foot.
Financial Implications: Park Tax Fund - \$8,240,205 revenue
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,992–N.S. Effective date August 9, 2007.

Consent Calendar

7. **FY 2008 Tax Rate: Measure S General Obligation Bonds-Election of 1996 (2007 Refunding Bonds)**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,993-N.S setting the FY 2008 tax rate for the Measure S General Obligation Bonds (Election of 1996, 2007 Refunding Bonds) at 0.029%.
Financial Implications: Measure S Debt Service Fund - \$3,405,532 revenue
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,993–N.S. Effective date August 9, 2007.
8. **FY 2008 Tax Rate to Fund the Provision of Emergency Medical Services**
From: City Manager
Recommendation: Adopt second reading of an Ordinance 6,994-N.S setting a special tax rate of \$0.02872 per square foot of taxable improvements to fund the provision of emergency medical services to Berkeley residents.
Financial Implications: See report
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted second reading of Ordinance No. 6,994–N.S. Effective date August 9, 2007.
9. **Contract: Downtown Berkeley YMCA**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$254,448 for fitness center memberships for City employees for the period July 1, 2007 through June 30, 2008.
Financial Implications: Payroll Deduction Trust Fund - \$254,448
Contact: Tracy Vesely, Budget Manager, 981-7000
Action: Adopted Resolution No. 63,762–N.S.
10. **Assessment: Elmwood Theater Business Improvement Area**
From: Elmwood Advisory Board
Recommendation: Adopt a Resolution:
1) Approving the Annual Assessment Report for the Elmwood Theater Business Improvement Area for Fiscal Year 2007;
2) Declaring an intention to levy annual assessments in the Improvement Area for Fiscal Year 2008; and
3) Setting a public hearing on the levy of assessments for July 31, 2007.
Financial Implications: See report
Contact: Michael Caplan, Economic Development, 981-7530
Action: Adopted Resolution No. 63,763–N.S.

Consent Calendar

- 11. Claim Settlement: Mitsui Sumitomo Insurance Company**
From: City Manager
Recommendation: Adopt a Resolution approving the settlement of a public liability Claim No. GHB 011902 filed by claimant Mitsui Sumitomo Insurance Company in the amount of \$59,477.
Financial Implications: Public Liability Fund - \$59,477
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Adopted Resolution No. 63,764 –N.S.
- 12. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days**
From: City Manager
Recommendation: Approve the attached new invitation for bid/request for proposal that will be, or is planned to be, issued in the next 30 days upon final approval by the requesting department or division.
Financial Implications: Various funds - \$4,074,000
Contact: Robert Hicks, Finance, 981-7300
Action: Approved recommendation.
- 13. Contract Amendment: Innovative Technologies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Innovative Technologies Inc. increasing the amount by \$13,625 to cover additional work on the contract negotiations for the City of Berkeley's new public safety computer system, for a total amount not to exceed \$113,625.
Financial Implications: See report
Contact: Chris Mead, Information Technology, 981-6500
Action: Adopted Resolution No.63,765–N.S.
- 14. Amendment Of BMC – Condominium Conversion**
a. From: City Manager
Recommendation: That the Berkeley City Council adopt a first reading of an ordinance amending Berkeley Municipal Code (BMC) Section 21.28.065.B.1 to clarify that the affordable housing mitigation fee cap of 12.5% of unit sales prices applies to both vacant and tenant occupied units within a building, if the owner agrees to the specified long-term limit on rent increases for all current tenants within that building at the time of conversion.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted first reading of Ordinance No. 6,995–N.S. Second reading scheduled for July 17, 2007.

- 15. Grant Applications to the California Integrated Waste Management Board**
From: City Manager
Recommendation: Adopt a Resolution authorizing staff to apply for all grants available from the California Integrated Waste Management Board for used oil recycling and household hazardous waste programs.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,766–N.S.
- 16. License Agreement and Revenue Contract: Food Waste Collection and Hauling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a license agreement and revenue contract with Norcal Waste Services of Alameda County ("Norcal") for food waste collection and hauling with a contract term from July 10, 2007 through December 31, 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,767–N.S.
- 17. Use of Permeable Surfaces on City Projects**
From: City Manager
Recommendation: Adopt a Resolution:
1) Revising City of Berkeley parking and driveway standards to provide for use of permeable surfaces according to Bay Area Stormwater Management Agencies Association and Alameda County Clean Water Program C3 technical guidelines; and
2) Encouraging the use of these standards for commercial and residential driveways and private parking spaces that require City permits.
Financial Implications: Unknown
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,768–N.S.
- 18. Contract Amendment: Recycling Services**
From: City Manager
Recommendation: Adopt a Resolution amending Contract No. 2146D with the Berkeley Ecology Center **increasing the contract by \$2,076,222 in FY 2008 and extending the contract term to June 30, 2008, for a total contract amount not to exceed \$5,186,166 for Fiscal Years 2006 through 2008.**
Financial Implications: Refuse Fund - \$1,728,000
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,769–N.S.

Consent Calendar

19. **Purchase Order: Telephone Directory Advertising for Refuse and Recycling Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with AT&T Smart Yellow Pages in an amount not to exceed \$31,494 for FY 2008, to advertise the City's refuse collection and recycling services.
Financial Implications: Various Funds - \$31,494
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,770–N.S.
20. **Contract Amendment: Buyback and Drop-Off Operations at the Solid Waste Management Center**
From: City Manager
Recommendation: Adopt a Resolution amending Contract No. 6856 with Community Conservation Center to operate the buyback and drop-off program at the Solid Waste Management Center and extending the contract term one year to June 30, 2008 for a total amount not to exceed \$450,000 for FY 2008.
Financial Implications: Refuse Fund - \$450,000
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,771–N.S.
21. **Purchase Order: Fuel for City Vehicles**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to purchase fuel from Golden Gate Petroleum for City vehicles in an amount not to exceed \$1,400,000 for FY 2007, and in an amount not to exceed \$750,000 for the first six months of FY 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,772–N.S.

Council Consent Items

22. **Amend B.M.C. Section 21.28.050 To Prohibit Condominium Conversion For No-Fault Evictions**
From: Councilmember Worthington
Recommendation: That the Berkeley City Council adopt a first reading of an ordinance amending Berkeley Municipal Code (B.M.C.) Section 21.28.050 to prohibit condominium conversion for ten years for no-fault evictions and make clarifying amendments to existing language.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted first reading of Ordinance No. 6,996–N.S. Second reading scheduled for July 17, 2007.

Action Calendar – Public Hearings

23. LPC Appeal: 2727 Milvia Street – Berkeley Iceland

a. From: City Manager

Recommendation: Conduct a Public Hearing and upon conclusion, adopt a Resolution modifying the decision of the Landmarks Preservation Commission (LPC) to designate 2727 Milvia Street, Berkeley Iceland, a City of Berkeley Landmark with respect to the “features to be preserved” as stated in the Notice of Decision dated April 5, 2007: deleting “the packed earth berms on the north and south sides” as “features to be preserved”

Financial Implications: None

b. Appeal

1. Richard Zamboni

c. Communications

1. Tom Killilea, Save Berkeley Iceland

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

Public Testimony: The Mayor opened the public hearing. 41 speakers. M/S/C (Anderson/Moore) to close the public hearing.

Action: M/S/C (Anderson/Maio) to continue deliberation and action to 6:00 p.m., Tuesday, July 17, 2007.

RECESS 8:51 – 9:05 p.m. Worthington absent.

PUBLIC HEARING ITEMS #24 THROUGH #30 COMBINED. Mayor Bates opened the hearings. There were no speakers. M/S/C (Moore/Maio) to close the public hearings. M/S/C (Maio/Wozniak) to approve recommendations. Absent – Worthington.

24. Rental Housing Safety Program: Administrative Lien Fee

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution to increase the administrative lien fee charged to residential rental property owners who are delinquent in paying Rental Housing Safety Program fees from \$75 to \$125 for each delinquent account.

Financial Implications: See report

Contact: Lisa Caronna, Housing, 981-5400

Action: Resolution No. 63,773–N.S.

Action Calendar – Public Hearings

- 25. Fees: Increases and Additions - Planning and Development Master Fee Schedule**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution:
1). Establishing the fee schedule for the Permit Service Center for development related services provided by the Planning and Development Department, and
2). Rescinding Resolution No. 63,323–N.S.
3). Establishing new fees for subsurface tiebacks in the public right-of-way.
4). Revising creek fees to conform to the new permit categories under the Creeks Ordinance, Ordinance 6,956–N.S.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Resolution No. 63,774–N.S.
- 26. Sewer Service Fees**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution 63,356–N.S. to clarify that the sewer service fee rate established thereby does not terminate by its own terms as of June 30, 2007.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-63003
Action: Moved to Consent Calendar and adopted Resolution No. 63,775–N.S.
- 27. Small Animal Adoption Fee Increases**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing adoption fees for rabbits, poultry, small rodents, birds and exotic animals, and rescinding Resolution No. 62,538-N.S
Financial Implications: See report
Contact: Jim Hynes, Office of the City Manager, 981-7000
Action: Resolution No. 63,776–N.S.
- 28. Marina Fee Increases for Fiscal Year 2008**
From: City Manager
Recommendation: Conduct a Public Hearing and upon conclusion adopt a Resolution:
1) Increasing berth fees by 5%;
2) Increasing selected service fees by up to 10%;
3) Increasing the Chain fee by 100%;
4) Establish one new fee (Event parking fee); and
5) Increasing Nature Center/Adventure Playground fees by 5%, for Fiscal Year 2008, and rescinding Resolution No. 63,354–N.S. and all amendatory Resolutions.
Financial Implications: See report
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Resolution No. 63,777–N.S.

Action Calendar – Public Hearings

- 29. Fees: Parks and Recreation Programs and Facilities for FY 2008/2009**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution:
1) Approving new fees for parks and recreation programs and facilities in FY08/09 by: a) increasing fees over \$33 by 1.5%; b) increasing selected user fees by .50¢; c) increasing fees between \$23 and \$33 by \$1; d) establishing fees for the new skate park program);
2) Authorizing the Director of the Parks Recreation & Waterfront Department to establish fees for new programs initiated throughout the year, not to exceed \$250 per person per program; and 3) rescinding Resolution No. 62,950-N.S. and 63,216-N.S. and all amendatory Resolutions.
Financial Implications: Revenue of \$81,000 in FY2008 and \$92,950 in FY2009
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Resolution No. 63,778–N.S.
- 30. Refuse Fees: Transfer Station Rate Increases FY 2008**
From: City Manager
Recommendation: Conduct a Public Hearing, and upon conclusion, adopt a Resolution amending Resolution No. 62,952-N.S. and all amending resolutions, effective July 1, 2007, to adjust rates for Transfer Station and special services fees, set forth in Sections 18, 21 and 22 of the Resolution.
Financial Implications: Refuse Fund - Approximately \$750,000 revenue
Contact: Claudette Ford, Public Works, 981-6300
Action: Resolution No. 63,779–N.S.

WORTHINGTON PRESENT

RECESS 10:10 – 10:18 P.M. Councilmembers Wozniak and Capitelli recused on Item No. 31

Action Calendar – Old Business

- 31. ZAB Appeal: 2629-2635 Ashby Ave - Wright's Garage** *(Carried over from June 12, 2007. Motion to set date for hearing failed. No action taken. If council fails to act within 30 days (by July 10, 2007 meeting), the decision of the Zoning Adjustments Board will be approved by operation of law. BMC 23B.32.060)*
a. From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustment Board to approve Use Permit No. 06-10000098 to convert an existing three-unit commercial building (The Wright's Garage Building) into a 4 to 7 unit commercial building; and to change uses to one restaurant, one exercise/dance study, and up to 5 retail spaces, and dismissing the appeal.
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

Action Calendar- Old Business

b. Appeal

2. Elmwood Merchants Association
3. Elmwood Neighborhood Association

c. Communications *(after June 26, 2007)*

4. Noelle Duncan and Kevin Kelleher
5. Henry Siegel
6. Lee Jester
7. Judith Epstein
8. Harry Pollack
9. Teddy Milder
10. Janice and Lanny Weingrod
11. Manuela Albuquerque, City Attorney

d. From: Councilmember Worthington *(June 26, 2007)*

Recommendation: To set the matter for a public hearing or remand the project to the Zoning Adjustments Board.

Financial Implications: None

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

Public Comment: 31

M/S/C (Worthington/Maio) extend meeting to 11:15 p.m. Abstain – Olds; Absent – Capitelli, Wozniak.

M/S/ (Worthington/Spring) substitute motion to remand back to ZAB. Ayes – Anderson, Spring, Worthington; Noes – Maio, Moore, Bates; Abstain – Olds; Absent – Capitelli, Wozniak.

Action: M/S (Maio/Anderson) main motion to set a public hearing. Ayes – Maio, Anderson, Spring, Worthington; Noes – Olds, Bates; Abstain – Moore; Absent – Capitelli, Wozniak. The decision of the Zoning Adjustments Board is deemed approved by operation of the law.

32. Draft Ordinance Establishing Operating Standards for Alcohol Outlets and Fee Options

From: City Manager

Recommendation: Consider the draft ordinance and fee structure options and give staff guidance as to the preferred fee structure

Financial Implications: See report

Contact: Manuela Albuquerque, City Attorney, 981-6950

Public Comment: 1

Action: M/S/C (Maio/Moore) straw vote to include restaurants in the fee structure. Ayes – Maio, Moore, Spring, Capitelli, Wozniak; Noes – Anderson, Olds, Worthington, Bates. Council concurred with staff recommendations and directed staff to proceed to meet with stakeholders.

Action Calendar- New Business

33. Voting Delegates - League of California Cities

From: City Manager

Recommendation: That Council designate a voting delegate and alternate for the business meeting of the Annual League of California Cities meeting to be held on Saturday, September 8, 2007, at the Sacramento Convention Center.

Financial Implications: See report

Contact: Pamyla Means, City Clerk, 981-6900

Action: Designated Councilmember Wozniak as voting delegate and Councilmember Worthington as alternate.

Public Comment – Items Not Listed on the Agenda – None

Information Reports

34. Unrepresented Temporary Employees

From: City Manager

Contact: David Hodgkins, Human Resources, 981-6800

Action: Received and filed.

35. Staff Response to AC Transit's Bus Rapid Transit Draft EIR/EIS

From: City Manager

Contact: Claudette Ford, Public Works, 981-6300

Action: Received and filed.

Adjournment – To 6:00 p.m., Tuesday, July 17, 2007

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.

State Housing Law and Comments

1. Peter J. Mutnick

Chief of Police and Beat Coverage (REFERRED TO CITY MANAGER)

2. Laura Menard
3. "Residents of 1018 and 1020 Bancroft"
4. Susan Dembitz
5. Rabbi Diane Elliot

Public Commons for Everyone Initiative (REFERRED TO CITY MANAGER)

6. Barbara Sullivan

Berkeley Y Contract Renewal

7. H. Scott Prosterman

2110 Haste Street/Herbivore Restaurant

8. Anonymous

Fiscal Year 2008-2009 Budget

9. \$BudgetWatch\$

Shooting on Russell Street (REFERRED TO CITY MANAGER)

10. Sam Herbert
11. Arthur Eaton
12. Melissa and Michael Gomes McEwen
13. Paul Rauber
14. Dan B. Bristol

Vector Control Matter (REFERRED TO CITY MANAGER)

15. James Legler (2)

Meeting with Housing Authority

16. go2thesun@****.com

San Francisco Housing Plan In Court

17. Sharon Hudson

Bus Services

18. Margot Smith

Tourist Revenues

19. Barbara Gilbert

Free Legal Advice Clinics

20. East Bay Community Law Center

Supplemental Communications 1

Item 23: LPC Appeal: 2727 Milvia Street – Berkeley Iceland

21. Karl Reeh
22. Rena Rickles
23. Michael Corbett

Item 31: ZAB Appeal: 2629-2635 Ashby Ave - Wright's Garage

24. Louise Beattie
25. Lori Rosenthal
26. Alta Gerrey
27. Thomas Spivey
28. Susan M. Edwards
29. Eric Leenson
30. Heather Wood
31. Carol L. Nyhoff
32. Jacob Picheny
33. David Axel
34. Laurel J. Leichter
35. Richard B. Spohn
36. Shirley Dean
37. Norman R. Manzione
38. Judith Epstein, of Elmwood Neighborhood Association and Claudia Moudry, of Elmwood Merchants Association, submitted by Raymond Barglow
39. Debra R. Sanderson, Planning Department
40. Janet Dunlap
41. Lisa and David Kruse
42. Jeannie Zazzi (2)
43. Rob Teigen
44. Jonathan Jaffe
45. Barbara Gilbert
46. Harry Pollack
47. Manuela Albuquerque, City Attorney

Item 35: Staff Response to AC Transit's Bus Rapid Transit Draft EIR/EIS

48. Barbara Gilbert
49. Kent Lewandowski, Sierra club Northern Alameda County
50. Sheila Andres

Supplemental Communications 2

Item 9: Contract: Downtown Berkeley YMCA

51. H. Scott Prosterman

Item 23: LPC Appeal: 2727 Milvia Street – Berkeley Iceland

52. Unknown

53. Jill R. Johnson

54. Harrison S. Fraker, Jr.

55. Michael F. Crowe

56. Mark Hulbert

57. Unknown

58. Patrick Keilch

59. Unknown

60. Save Berkeley Iceland

Item 31: ZAB Appeal: 2629-2635 Ashby Ave - Wright's Garage

61. Tim Hansen

62. Unknown

Item 32: Draft Ordinance Establishing Operating Standards for Alcohol Outlets and Fee Options

- Presentation materials, submitted by City Attorney

ZAB Appeal: 1885 University Avenue

63. Kristin Leimkuhler

64. Raffi Zarouljav, et al.

65. Kris Eggen

Miscellaneous

66. Unknown