

SUMMARY
BERKELEY CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 18, 2007

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

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – DONA SPRING

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – BETTY OLDS
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:23 p.m. Mayor Bates absent. Vice President Worthington assumed the Chair.

Ceremonial Matters:

1. Proclamations:
 - Halcyon Park Celebration, September 30
 - Commemorating Laura Anderson as Board of Library Trustee
 - Berkwood Hedge School Day, October 13
 - United Nations Day/62nd Anniversary, October 24
 - Indigenous Peoples Day, October 6
 - National Lead Safety Day Tour, September 22
2. Certificate of Completion for participants of the Mayor's Summer Internship Program
3. Presentation of check in the amount of \$600,000 – Cal Home Grant Award

Mayor Bates present at 7:42 p.m.

Public Comment on Consent Calendar Items Only – 8

Consent Calendar

Action: M/S/C (Moore/Wozniak) to adopt Consent Calendar in one motion except as indicated:

1. Tieback Encroachment Ordinance

From: City Manager

Recommendation: Adopt second reading of Ordinance 6,998–N.S amending Berkeley Municipal Code (BMC) sections 16.18.010, 16.18.025 and 16.18.080 to clarify the definitions of major and minor encroachments, to define tiebacks as minor encroachments, and establish tieback encroachment permit fees.

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

Action: Adopted Ordinance No.6,998–N.S. Effective date October 18, 2007.

Consent Calendar

- 2. Grant: Maddie's Fund, Pet Rescue Foundation to the Animal Care Shelter**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a grant agreement and any amendments with Maddie's Fund, Pet Rescue Foundation to accept \$20,000 to support the collection of Berkeley Animal Care Service's shelter statistics and other activities on behalf of lost, stray, or homeless dogs and cats.
Financial Implications: \$20,000 revenue
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 63,826–N.S.
- 3. Contract Amendment: Mental Health Vocational Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Rubicon Programs, Inc. (No. 6642), for the continued provision of vocational services to mental health clients and to increase the contract amount by \$31,057, for a total contract amount not to exceed \$79,057.
Financial Implications: See report
Contact: Fred Medrano, Health and Human Services, 981-5100
Action: Adopted Resolution No. 63,827–N.S.
- 4. Agreements: Solar America Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a cooperative agreement and any amendments with the U.S. Department of Energy for the period September 15, 2007 through September 14, 2009 in the amount of \$200,000 in revenues for solar power market development.
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted Resolution No. 63,828–N.S.
- 5. Contract: Mills Act - 2201 Blake Street**
From: City Manager
Recommendation: Adopt a Resolution to direct the City Manager to enter into a Mills Act contract for 2201 Blake Street.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,829–N.S.
- 6. Contract: Mills Act - 2501-2527 Rose Walk**
From: City Manager
Recommendation: Adopt a Resolution to direct the City Manager to enter into a Mills Act contract for 2501-2527 Rose Walk.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,830–N.S.

Consent Calendar

- 7. Contract: Mills Act - 2205 Blake Street**
From: City Manager
Recommendation: Adopt a Resolution to direct the City Manager to enter into a Mills Act contract for 2205 Blake Street.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,831–N.S.
- 8. Contract Amendment: MACTEC Engineering & Consulting, Inc.**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 6510 with MACTEC Engineering and Consulting, Inc., to provide geotechnical and engineering testing services for the Gilman Street Sports Fields Project for an additional amount not to exceed \$35,000 for a new contract total not to exceed \$900,719 for the period September 1, 2004 to September 30, 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,832–N.S.
- 9. Contract: Management Recruiters/Berkeley for Temporary Parking Services Manager**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Management Recruiters/Berkeley for a temporary Parking Services Manager for a total amount not to exceed \$58,500 for the period July 1, 2007 to June 30, 2008.
Financial Implications: Off-Street Parking Fund - \$58,500
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,833–N.S.
- 10. Contract Amendment: Corporation Yard Gates Public Art Project**
From: Economic Development
Recommendation: Adopt a Resolution amending Contract No. 7131 with Eric Powell to increase payment by \$25,000 to cover the unexpected increased costs for two, functional set of individually designed Gates for the City of Berkeley Corporation Yard.
Financial Implications: Public Art Fund - \$25,000
Contact: Michael Caplan, Economic Development, 981-7530
Action: Adopted Resolution No. 63,834–N.S.
- 11. Council Direction To Negotiate With College Prep High School** (*Held over from September 11, 2007*)
From: City Manager
Recommendation: Direct the City Manager to negotiate and execute a long-term agreement with College Preparatory High School for limited use of the Gilman Street Sports Fields in exchange for a capital contribution to the construction budget, subject to the approval of the East Bay Regional Park District and California Department of Parks and Recreation.
Financial Implications:
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Approved recommendation.

Consent Calendar

- 12. License Amendment: Bait Shop Operation**
From: City Manager
Recommendation: Approve an amendment to the current license agreement with the Berkeley Marina Charter Boat Association, Inc (BMCBA) to reduce the minimum yearly payment from \$45,000 to \$28,000 and terminate the agreement on December 31, 2007.
Financial Implications: Marina Fund - \$43,000 revenue
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 63,835-N.S.
- 13. Nature Center/Adventure Playground Rate Schedule**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution 63,777–N.S., establishing the rate schedule for the FY2008 Nature Center/Adventure Playground at the Berkeley Marina adopted on July 10, 2007 (to correct clerical oversight).
Financial Implications: See report
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 63,836–N.S.
- 14. Update: Five-Year Street Plan for FY 2007-2012***(Held over from September 11, 2007)*
From: City Manager
Recommendation: Adopt a Resolution adopting the update of the Five-Year Street Plan for FY 2007-2012.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,837–N.S.

Council Consent Items

- 15. Funding for Downtown Berkeley Jazz Festival**
From: Mayor Bates
Recommendation: Adopt a Resolution authorizing the expenditure of \$2,500 from the unallocated city-sponsored events budget to fund the Downtown Berkeley Jazz Festival.
Financial Implications: \$2,500 from the unallocated events and festivals budget.
Contact: Tom Bates, Mayor, 981-7100
Action: Removed from Consent Calendar for discussion. M/S/C (Spring/Anderson) adopted Resolution No. 63,838–N.S.
- 16. Fee Deferral for Freight and Salvage Coffee House**
From: Mayor Bates
Recommendation: That the City Council request the City Manager negotiate a deferral of the remaining permit fees of approximately \$350,000 with the Freight and Salvage Coffee House to be paid upon completion of the project or a mutually agreed upon schedule.
Financial Implications: See report.
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.

Council Consent Items

17. **Berkeley Holiday Fund**
From: Mayor Bates
Recommendation: Adopt a resolution allowing the Mayor's office to participate in the Berkeley Holiday Fund's annual campaign.
Financial Implications: See report.
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 63,839–N.S.
18. **Developing a City Preferred Alternative Route for Telegraph Avenue Bus Rapid Transit**
From: Mayor Bates
Recommendation: That the City Council request the Transportation Commission, Planning Commission, and staff develop a City preferred alternative route for the Telegraph Avenue Bus Rapid Transit (BRT) system under consideration by AC Transit.
Financial Implications: Unknown
Contact: Tom Bates, Mayor, 981-7100

Public Comments – 8

Action: Removed from Consent Calendar for discussion. M/S/C (Capitelli/Anderson) referred to Councilmembers Capitelli (on behalf of Mayor Bates proposal) and Worthington (on behalf of amendments submitted) to submit a joint proposal at a future date.

19. **Proclamation Honoring 15th Anniversary of Halcyon Neighborhood Association**
From: Councilmember Worthington
Recommendation: That the Berkeley City Council adopts a proclamation honoring the 15th Anniversary of the Halcyon Neighborhood Association.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Recess 9:19 – 9:31 p.m.

Action Calendar – Appeals

20. **LPC Appeal: 2747 San Pablo Avenue**
- a. **From: City Manager**
Recommendation: Adopt a Resolution to affirm the decision of the Landmarks Preservation Commission to deny the application for landmark status for 2747 San Pablo Avenue, the Joe Donham Automobile Showroom, and to dismiss the appeal.
Financial Implications: None
- b. **Appeal**
1. Laurie Bright

Action Calendar - Appeals

c. Communications

1. Julie Dickinson and Daniella Thompson
2. Julie Dickinson and Alan Hess
3. Robert E. Johnson

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

Action: Moved to Consent Calendar and adopted Resolution No. 63,840–N.S dismissing appeal and upholding LPC decision. (Noes – Worthington).

21. ZAB Appeal: 1625 Berkeley Way

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit No.06-10000117 to construct an addition to an existing dwelling located at 1625 Berkeley Way and dismissing the appeal.

Financial Implications: See report

b. Appeal

4. Morrison Chun

c. Communications

5. Dea Lee Harrison
6. Jeff Stein

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

Public Comments – 6

Action: M/S/C (Capitelli/Wozniak) to adopt Resolution No. 63,841–N.S. dismissing the appeal and affirming the ZAB decision. (Ayes – Moore, Anderson, Capitelli, Wozniak and Bates; Noes – Olds and Worthington; Abstain – Maio and Spring)

Action Calendar – Public Hearing

22. U-Haul Company: 2100 San Pablo Avenue

From: Zoning Adjustments Board

Recommendation: Conduct a public hearing and declare that the U-Haul Company, a truck and trailer rental store at 2100 San Pablo Avenue, is in violation of Use Permit No. 7575 under Berkeley Municipal Code Section 23B.60.020, and revoke Use Permit No. 7575.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 6 speakers. M/S/C (Moore/Maio) to close the public hearing.

Action: M/S/C (Moore/Capitelli) to revoke Use Permit No. 7575, findings to be adopted 10/9/07.

Information Reports

- 23. Audit: Fire - Overtime and Lost Time**
From: City Manager
Contact: Debra Pryor, Fire, 981-5500
Action: Received and filed.
- 24. CalHome Program**
From: City Manager
Contact: Renelda Mary, Housing, 981-5400
Action: Received and filed.
- 25. Schedule for Condominium Conversion Ordinance Revision**
From: City Manager
Contact: Renelda Mary, Housing, 981-5400
Action: Removed for discussion. Received and filed.
- 26. LPC NOD: 1920 Allston Way**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed for discussion. Received and filed.
- 27. LPC NODs: 1505 Shattuck Ave., 2200 Shattuck Ave., 2947-53 College Ave. and 2130 Center St.**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
- 28. Interim Report: Pacific Steel Casting, 1333 Second Street**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Removed for discussion. M/S/C (Maio/Moore) directed staff to obtain responses from the Bay Area Air Quality District to Councilmember Maio's written questions submitted this date.

Public Comment – Items Not Listed on the Agenda – 6

Adjournment – 10:34 p.m. in memory of Charity Moore (101 years of age)

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.

UC Berkeley Student Athlete High Performance Center

1. Julie Anderson
2. Marcia Tanner
3. Richard Wallace
4. Jerry Wachtel
5. James Keith
6. Jillian Hagan
7. Joseph Stubbs
8. Linda & John Gage
9. Scott Wachenheim
10. Frank Lynch
11. Merrilie Mitchell

Lawrence Berkeley National Laboratory

12. Merrilie Mitchell

Lawrence Livermore Laboratory

13. Merrilie Mitchell

UC Planning Process

14. Anonymous

Think Trees

15. Anonymous

Leadership East Bay 2007-08

16. Lisa Bullwinkel

Concerns Regarding City of Berkeley

17. Robert Gaebler

Protesting Traitors and Bush

18. John Jenkel

Hybrid Swimming Pool Heating Act

19. Jody Gorran

Community Chose Aggregation Workshop

20. Tom Kelly, KyotoUSA

Cal Quarterback – Nate Longshore

21. Robert Gaebler

Item 22: U-Haul Company: 2100 San Pablo Avenue

22. Fred Cosentino

Supplemental Communications 1

Item 14: Update: Five-Year Street Plan for FY 2007-2012

- Supplemental information, submitted by City Manager

Item 18: Developing a City Preferred Alternative Route for Telegraph Avenue Bus Rapid

- 23. Gregory Murphy
- 24. Charles Siegel
- 25. Len Conly & Hank Resnik
- 26. Steve Geller
- 27. Michael Katz

Item 20: LPC Appeal: 2747 San Pablo Avenue

- 28. David Mayeri & Laura Billings

Item 21: ZAB Appeal: 1625 Berkeley Way

- 29. Christopher Wolf, Planning & Development Department

Item 22: U-Haul Company: 2100 San Pablo Avenue

- 30. Margaret Fauchier (3)
- 31. Barbara Gregory

Item 28: Interim Report: Pacific Steel Casting, 1333 Second Street

- 32. Elisabeth Jewel

Supplemental Communications and Reports 2

Item 9: Contract: Management Recruiters/Berkeley for Temporary Parking Services Manager

- Supplemental material, submitted by Public Works

Item 18: Developing a City Preferred Alternative Route for Telegraph Avenue Bus Rapid Transit

- 33. Kriss Worthington
- 34. Unknown
- 35. Michael Katz

Item 20: LPC Appeal: 2747 San Pablo Avenue

- 36. Gary Parsons

Item 22: U-Haul Company: 2100 San Pablo Avenue

- 37. Gregory Daniel, Code Enforcement
- 38. Jeremy Frank, U-Haul

Item 28: Interim Report: Pacific Steel Casting, 1333 Second Street

- 39. Linda Maio

Indigenous Peoples Day

- 40. Unknown