

ANNOTATED AGENDA

BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 9, 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: 7:16 p.m. All present.

Ceremonial Matters:

1. Proclamations:
 - Recognizing Binational Health Week, October 13-21
 - Appreciation to San Pablo Park Neighborhood Council for the Centennial Celebration
 - Recognizing National Coming Out Day, October 11, 2007.
2. Certificates of Completion for the Mayor's Summer Youth Internship Program

City Manager Comments: October 20 Second Annual All Storm Day

Public Comment on Consent Calendar Items Only – 7

Consent Calendar

Action: M/S/C (Anderson/Worthington) to adopt Consent Calendar in one motion except as follows: Items 2 & 13 removed for discussion; Items 6 & 12 continued to 10/23/07:

1. **Adoption of Findings - U-Haul Company, 2100 San Pablo Avenue**
From: City Manager
Recommendation: Adopt a resolution, including findings, that U-Haul, located at 2100 San Pablo Avenue, violated Use Permit No. 7575 and said permit is revoked and terminated, as previously determined by the City Council on September 18, 2007, after a public hearing.
Financial Implications: None
Contact: Manuela Albuquerque, City Attorney, 981-6950
Action: Accepted supplemental revised report and adopted Resolution No. 63,842–N.S.

Consent Calendar

2. Sale of Center Street Garage Setback Easement to SNK

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute all necessary documents to convey a fire separation easement above the Center Street Garage at 2025 Center Street to SNK Captec Arpeggio, LLC for an amount not to exceed \$200,000.

Financial Implications: See report

Contact: Phil Kamlarz, City Manager, 981-6900

Public Comments – 1

Action: Removed from Consent Calendar for discussion. Councilmember Spring made a substitute motion to refer this matter to BAPAC for policy implications and report back in two months. Motion failed. Vote: Ayes – Spring and Worthington; Noes – Maio, Capitelli, Olds, Bates; Abstain – Moore and Anderson. M/S/C (Maio/Capitelli) adopted first reading of Ordinance No. 6,999–N.S. Vote: Ayes – Maio, Moore, Anderson, Capitelli, Olds, Worthington, Wozniak, Bates; Noes: Spring. Second reading scheduled for October 23, 2007.

3. Adopt Revised Conflict of Interest Code

From: City Manager

Recommendation: Adopt a Resolution rescinding Resolution No. 63,433–N.S. and adopting a revised Conflict of Interest Code for the City of Berkeley.

Financial Implications: None

Contact: Pamyla Means, City Clerk, 981-6900

Action: Adopted Resolution No. 63,843–N.S.

4. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of July 10, 2007 (closed and regular), July 16, 2007 (joint closed and special), July 17, 2007 (regular adjourned, regular adjourned, and regular), July 31, 2007 (special), September 4, 2007 (closed), September 10, 2007 (closed), September 11, 2007 (special and regular), and September 18, 2007 (special and regular).

Financial Implications: None

Contact: Pamyla Means, City Clerk, 981-6900

Action: Approved minutes as submitted.

5. Contract: The Berkeley Alliance

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Alliance to provide administrative support and project services for a partnership endeavor with the Berkeley Unified School District (BUSD) and UC Berkeley not to exceed \$69,800 for the period July 1, 2007 to June 30, 2008.

Financial Implications: General Fund - \$69,800

Contact: Tracy Vesely, Budget Manager, 981-7000

Action: Adopted Resolution No. 63,844–N.S.

Consent Calendar

- 6. Reimbursement: Animal Shelter Pre-Development Expenditures**
From: City Manager
Recommendation: Adopt a Resolution declaring the intent of the City of Berkeley to reimburse certain expenditures made prior to the issuance of General Obligation bonds to improve the animal shelter, in accordance with the requirements of Treasury Regulation Section 1.150-2.
Financial Implications: None
Contact: Robert Hicks, Finance, 981-7300
Action: Continued to October 23, 2007.
- 7. Borrowing of Funds and the Sale and Issuance of FY 2008 Tax and Revenue Anticipation Notes**
From: City Manager
Recommendation: Adopt a Resolution approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2008 Tax and Revenue Anticipation Notes.
Financial Implications: See report
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted Resolution No. 63,845–N.S.
- 8. Formal Bid Solicitations and Request for Proposal Scheduled for Possible Issuance in the Next 30 Days**
From: City Manager
Recommendation: Approve the new invitation for bid/request for proposal (RFP) 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: See report
Contact: Robert Hicks, Finance, 981-7300
Action: Approved recommendation.
- 9. Audit: Seniors and Disabled Home Rehabilitation Loan Program**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 55,664–N.S. to revise program guidelines for the Seniors and Disabled Home Rehabilitation Loan Program.
Financial Implications: None
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted Resolution No. 63,846–N.S.

Consent Calendar

10. Shelter Plus Care Partner Agency Contracts

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to increase contract amounts as follows with the Berkeley Food and Housing Project and the Women's Daytime Drop-in Center in order to redistribute \$7,808 in General Funds initially allocated to the Homeless Action Center for the provision of case management services to participants in the City of Berkeley Shelter Plus Care Program:

- 1) The contract with the Berkeley Food and Housing Project shall be increased by \$6,246, for a total amount not to exceed \$597,400;
- 2) The contract with the Women's Daytime Drop-in Center shall be increased by \$1,562, for a total amount not to exceed \$151,558.

Financial Implications: See report

Contact: Renelda Mary, Housing, 981-5400

Action: Adopted Resolution No. 63,847–N.S.

11. Classification: Library Information Systems Administrator

From: City Manager

Recommendation: Adopt a Resolution to amend Resolution No. 61,840–N.S., Classification and Salary Resolution for Public Employees Union Local One, to establish the Classification of Library Information Systems Administrator with a salary range of \$6,796 - \$8,676 per month effective October 1, 2007.

Financial Implications: Library Discretionary Fund - \$160,832 annually

Contact: David Hodgkins, Human Resources, 981-6800

Action: Adopted Resolution No. 63,848–N.S.

12. Memorandum Of Understanding: Berkeley Fire Fighters Association/I.A.F.F. Local 1227

From: City Manager

Recommendation: Adopt Resolutions:

- 1) Approving a new four year Memorandum of Understanding with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 (hereinafter referred to as the "Association") with a term of July 2, 2006 through June 26, 2010; authorizing the City Manager to execute and implement the new labor agreement that includes certain adjustments to salaries and benefits retroactive to July 2, 2006 or other dates set forth in the contract;
- 2) Approving a new salary resolution for Representation Unit B that implements the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 60,867–N.S.

Financial Implications: See report

Contact: David Hodgkins, Human Resources, 981-6800

Action: Continued to October 23, 2007.

Consent Calendar

- 13. Classification: Watershed Resources Specialist**
From: City Manager
Recommendation: Adopt a Resolution to amend Resolution No. 61,840–N.S., Classification and Salary Resolution for Public Employees Union Local One, to establish the Classification of Watershed Resources Specialist with a salary range of \$5,348 - \$6,500 per month effective October 1, 2007.
Financial Implications: General Fund - \$58,535 FY 2008; \$104,360 FY 2009
Contact: David Hodgkins, Human Resources, 981-6800
Action: Removed from Consent Calendar for discussion. M/S/C (Moore/Maio) to adopt Resolution No. 63,849–N.S as amended with direction to obtain review and comment from the Public Works Commission regarding details of the classification requirements and level.
- 14. Contract Amendment: East Bay Conservation Corps for Storm Drain Cleaning and Graffiti Removal**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7086A with East Bay Conservation Corps, adding graffiti removal to the scope of services, increasing the amount by \$100,000 to a total not to exceed \$150,000, and extending the agreement to include the period October 18, 2006 to December 31, 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,850–N.S.
- 15. Audit: Marina Surprise Cash Count - Controls Over Cash Receipts Need Improvement**
From: Auditor
Recommendation: Request the City Manager to report back during January 2008 regarding the implementation status of each of the City Auditor's recommendations in the attached report, and to report back every six months thereafter, until all recommendations have been implemented.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
- 16. Invisible Problems: Weak Internal Controls May Require Disclosure by City Manager and Council Action**
From: Auditor
Recommendation: Request the City Manager to consider requiring departments to identify and dollarize significant internal control weakness that have not been addressed because of insufficient resources or staff capabilities. A written report from each department should be required as part of the annual budget submission, as well as the department's quarterly meeting with the City Manager. If possible, preliminary information should be drafted by key departments and reviewed by the Budget Office before the mid-year budget review in February.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.

Consent Calendar

17. **Audit: Animal Shelter Surprise Cash Count: Controls Need Improvement**
From: City Manager
Recommendation: Request the City Manager to report back on or before January 2008, and every three months thereafter, regarding the implementation status of the audit recommendations in the attached audit report until each recommendation is fully implemented.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
18. **Audit of Controlled Substances in the Fire Department: Control Activities and Monitoring Should Be Strengthened**
From: Auditor
Recommendation: Request the City Manager implement the recommendations in the attached report, and to report back by September 2008, and every six months thereafter, until all recommendations are implemented.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.

Council Consent Items

19. **Discretionary Budget Allocation: Berkeley Cougars**
From: Councilmember Moore and Mayor Bates
Recommendation: Adopt a Resolution approving the expenditure of \$1000 from Councilmember Darryl Moore's and Mayor Tom Bates' discretionary budget (D-13), \$500 from each office, to make a grant to Berkeley Cougars to benefit local youth.
Financial Implications: Discretionary Budget Funds - \$1000
Contact: Darryl Moore, Councilmember, District 2, 981-7120
Action: Adopted Resolution No. 63,851–N.S.
20. **Increase Percentage Of Bio-Diesel Fuels For City Vehicles**
From: Councilmembers Worthington and Spring
Recommendation: Refer to the City Manager an increase in the percent of bio-diesel fuels from the current 20 percent to 100 percent or 50 percent in the next invitation for a bid for fuel for city vehicles and that there be a report back to the City Council regarding this referral before the invitation of a bid.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Council Consent Items

21. Iraq Moratorium

From: Councilmember Worthington on behalf of Peace and Justice Commission

Recommendation: Adopt a Resolution endorsing the Iraq Moratorium on October 19, November 16, and December 21, 2007 and every subsequent third Friday of every month until there is an end to the United States war in Iraq, and urging all of the citizens of the City of Berkeley to take the Iraq Moratorium pledge and participate in some way in the Iraq Moratorium campaign until the United States war in Iraq is ended.

Financial Implications: None

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

Action: Adopted Resolution No. 63,852–N.S.

22. Letter To Louisiana Governor, et al In Support Of The Jena 6

From: Councilmembers Worthington, Moore and Anderson

Recommendation: Direct staff to send a letter to the Governor of Louisiana, the Louisiana State Attorney General, the US Justice Department, Federal Bureau of Investigation and the US Attorney General's office expressing its support for the Jena 6 and urging them to ensure that constitutional protections are afforded to the six students and that they receive a just trial.

Financial Implications: None

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

Action: Approved recommendation.

RECESS 8:33 – 8:43 P.M.

Action Calendar – Appeals

23. ZAB Appeal: 2008 Virginia Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the ZAB decision to allow the construction of a 1,434 sq. ft. addition by raising the existing structure approximately 6' to create habitable space on the ground level, and by expanding the footprint of the building, thereby creating a two-story, west wing to the existing single-family residence.

b. Appeal

1. Hallie M. Frazier

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

Action: Appeal withdrawn – no action taken.

Action Calendar – Council Items

24. Revised Amendments to the Berkeley City Council Rules of Procedure

a. From: Mayor Bates

Recommendation: Request that:

- 1) The City Manager return to Council with a proposal and cost analysis to move City Council meetings to a venue that is adequate in size for public participation, accessible for people with disabilities and seismically safe;
- 2) Request the City Council accept these revised amendments to the Berkeley City Council Rules of Procedure and Order (last amended May 8, 2007) Chapter IV – Conduct of Meeting, Sections A and E. Specifically, replace Section A - Comments from the Public with: a) Public Comment on Consent Calendar and Information Items; b) Public Comment on Action items; c) Appeals appearing on Action Calendar, and d) Public Comment on Non-Agenda Items; and amend Section E, F and G on Public Hearings, Work sessions and Public Discussions, respectively.
- 3) After listening to the public feedback and discussion at the September 11th Council Work session and Council meeting, I am submitting these revisions detailing the process for how the Presiding Officer may allocate public comment speaker time and allow for the yielding of time to other speakers. The revisions are in italics, bold print and underlined.

Financial Implications: See report

Contact: Tom Bates, Mayor, 981-7100

b. From: Councilmember Worthington (*Carried over from September 11, 2007*)

Recommendation: Amend Resolution 53,575—N.S. to incorporate the new procedures for Public Comment established by the Mayor and to incorporate other minor changes for clarity, consistency and performance with The Brown Act. Disseminate the amended resolution to the City Council, all Boards, Commissions, Committees and Task Forces for immediate implementation

Financial Implications: None

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

c. From: Councilmember Spring

Recommendation:

- 1) Request the City Council accept these revised amendments to the Berkeley City Council Rules of Procedure and Order (last amended May 8, 2007) Chapter IV – Conduct of Meeting, Sections A and E. Specifically, replace Section A - Comments from the Public with: a) Public Comment on Consent Calendar and Information Items; b) Public Comment on Action items; c) Appeals appearing on Action Calendar; and d) Public Comment on Non-Agenda Items; and amend Section E, on Public Hearings.
- 2) After listening to the public feedback and discussion at the September 11th Council and receiving Mayor Bates revised amendments, I am recommending the following amendments which are underlined.

Financial Implications: None

Contact: Dona Spring, Councilmember, District 4, 981-7140

Public Comments – 7

Action Calendar – Council Items

Action: M/S(Capitelli/Worthington) to approve the Mayor’s recommendation (a) as revised this date. Revisions to the Mayor’s proposal include Public Comment on items on the Consent Calendar; to clarify those items taken from the Consent Calendar when there are three or less persons wishing to speak will be addressed immediately following action on the Consent Calendar. Items removed from the Consent Calendar where there are more than three persons wishing to speak will be considered at the end of items listed under Action. At the request of Councilmember Spring, the main motion was severed to vote separately on the proposal with respect to “Appeals Appearing on Action Calendar” (land use determinations) amended this evening to provide for a period of seven minutes to the appellant and seven minutes to the project applicant. Vote: Ayes – Maio, Moore, Anderson, Capitelli, Olds, Wozniak, Bates; Noes – Spring, Worthington. Main motion carried. Vote: Ayes – Maio, Moore, Anderson, Spring, Capitelli, Olds, Worthington, Wozniak, Bates.

Information Reports

25. **Unrepresented Temporary Employees**
From: City Manager
Contact: David Hodgkins, Human Resources, 981-6800
Action: Received and filed.
26. **LPC NOD: 2500 Durant Ave.**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 2

Adjournment – 9:51 p.m. in honor of Jane Jackson

Communications

UC Berkeley Student Athlete High Performance Center

1. Albia Miller
2. Philip Studarus
3. Steve Corchado
4. Sherwood Parker
5. Jenny Wenk
6. Doug Marshall
7. Ron Bishop
8. Ramon Castellblanch
9. R. Sheldon Onstead
10. Jeffrey Taylor
11. Richard Wallace
12. George Wong
13. Brian Nace
14. Carolyn Scarr
15. Eileen Carey
16. Michael Marini
17. J.M. Xena Brenna

Communications

BRT

- 18. Bruce Kaplan
- 19. Michael Katz

Berkeley Adult Recreational Fields

- 20. Tim Wagner

Trouble on Telegraph

- 21. Doris Moskowitz

Inappropriate Street Behavior

- 22. Barbara Gilbert

Restoration of Codornices Creek

- 23. Susan Schwartz, Friends of Five Creeks

Berths Assignments at Berkeley Marina

- 24. Paul Canin
- 25. Robert Boyvey

Santa Cruz & Vagrancy

- 26. David McMillion

West Berkeley Plan and Proposed Re-Zoning

- 27. L. Darlene Pratt

Verizon Antennas [Closed Session Item]

- 28. Ronnen Levinson

Supplemental Communications 1

Item 1: Adoption of Findings - U-Haul Company, 2100 San Pablo Avenue

- 29. Marco Gonzalez

Item 2: Sale of Center Street Garage Setback Easement to SNK

- 30. Barbara Gilbert

Item 12: Memorandum Of Understanding: Berkeley Fire Fighters Association/I.A.F.F. Local 1227

- 31. Barbara Gilbert

Item 24: Revised Amendments to the Berkeley City Council Rules of Procedure

- 32. Jim Fisher, Gene Benardi and Jane Welford, on behalf of SuperBOLD

Supplemental Communications and Reports 2

Item 1: Adoption of Findings - U-Haul Company, 2100 San Pablo Avenue

- Supplemental report, submitted by City Attorney

Item 23: ZAB Appeal: 2008 Virginia Street

- 33. Rena Rickles

Item 24c: Revised Amendments to the Berkeley City Council Rules of Procedure

- Revised report, submitted by Dona Spring