



Office of the City Manager

CONSENT CALENDAR
January 29, 2008

To: Honorable Mayor and Members of the City Council
From: *PK* Phil Kamlarz, City Manager
Submitted by: Pamyla C. Means, City Clerk
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of December 11, 2007 (special and regular), and December 18, 2007 (special and regular).

CONTACT PERSON

Pamyla C. Means, City Clerk, 981-6900

Attachments:

1. December 11, 2007–Special City Council Meeting
2. December 11, 2007–Regular City Council Meeting
3. December 18, 2007–Special City Council Meeting
4. December 18, 2007–Regular City Council Meeting

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, DECEMBER 11, 2007

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

Preliminary Matters

Roll Call: 5:03 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates (Anderson present at 5:07 p.m.; Olds present at 5:09 p.m.; Maio present at 5:37 p.m.). Mayor Bates excused at 6:12 p.m., Vice-President Wozniak assumed the Chair. Mayor Bates present at 6:16 p.m.

Absent: None.

Public Comment – Limited to items on this agenda only – 20

Work session:

- 1. City Council Work Session: Revision of the Condominium Conversion Ordinance (BMC Chapter 21.28)**
From: City Manager
Contact: Renelda Mary, Housing, 981-5400 and Dan Marks, Planning and Development, 981-7400
Action: Continued to 12/18/07 for recommendation/action

Adjournment – 7:09 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of December 11, 2007 as approved by the Berkeley City Council.

Pamyla Means, MMC, City Clerk

Communications

Supplemental Communications and Reports 1

Item 1: City Council Work Session: Revision of the Condominium Conversion Ordinance (BMC Chapter 21.28)

1. Tim Strohane, Planning & Development
2. Marie Bowman, Housing Advisory Commission

Supplemental Communications and Reports 2

Item 1: City Council Work Session: Revision of the Condominium Conversion Ordinance (BMC Chapter 21.28)

- Presentation, Planning & Development
3. Jesse Arreguin, Rent Stabilization Board
 4. John Lawler
 5. Don Holm (3)
 6. Unknown (2)

MINUTES

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, DECEMBER 11, 2007

Council Chambers, 2134 Martin Luther King Jr. Way

Teleconference Location – 1636 Channing Way, Berkeley, CA

Preliminary Matters

Roll Call: 7:20 p.m.

Present: Councilmembers Anderson, Maio, Moore, Olds, Spring, Worthington, Wozniak, and Mayor Bates (Anderson present at 7:28 p.m.; Worthington present at 7:29 p.m.).

Absent: Councilmember Capitelli.

Ceremonial Matters:

1. Poetry Flash 35th Anniversary Recognition
2. Declare November 15 as original Pollo's Restaurant Day
3. Recognition of city individuals assisting in the San Francisco Oil Spill cleanup/response
4. Recognition of Chevelle Richardson & Steven Pippins in serving Thanksgiving dinners to those in need
5. Proclamation recognizing the Molecular Foundry as the first Leed Gold Certified Building

Public Comment on Non-Agenda Matters – 5

Presentation - United in Action on the Subject of the Academic Achievement Gap

Public Comment on Consent Calendar and Information Items Only – 7

Consent Calendar

Action: M/S/C (Worthington/Moore) to adopt Consent Calendar in one motion except as indicated. Item 36 (Ellis Ordinance) moved to Consent Calendar; Item 34 (Budget Reductions) moved to Consent Calendar; Item 4 (Alcohol Outlets) moved to Action.

Consent Calendar

- 1. Lease Agreement: Property at 711 Harrison Street**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,006-N.S. authorizing the City Manager to execute a lease agreement and any amendments with Building Opportunities for Self-Sufficiency to lease a City-owned parcel of property to be created at 711 Harrison Street for the continued operation of emergency shelter and transitional housing at the site, and to allow BOSS to apply for State of California financing to rehabilitate the existing facility.
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted second reading of Ordinance No. 7,006-N.S. (Absent-Capitelli)
Effective date January 10, 2008.
- 2. Easement Agreement: 1310 University Avenue - Berkeley Montessori School Providing Public Access**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,007-N.S. authorizing the City Manager to accept the Easement Agreement granting public access on a 10-foot wide path through the property at 1310 University Avenue between the owner of the property, Berkeley Montessori School, and the City of Berkeley for a continuation of a pedestrian and bicycle path along West Street and south of University Avenue to Strawberry Park at Addison Street.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted second reading of Ordinance No. 7,007-N.S. (Absent-Capitelli)
Effective date January 10, 2008.
- 3. Public Commons for Everyone Initiative**
From: City Manager
Recommendation:
1) Adopt second reading of Ordinance 7,008-N.S amending Berkeley Municipal code section 13.36.015 regulating lying on sidewalks and the number of dogs on sidewalks at certain times and places. Vote: Ayes: Moore, Olds, Wozniak, Bates: Noes-Anderson, Spring, Worthington; Abstain-Maio. Absent-Capitelli.
2) Adopt second reading of Ordinance 7,009-N.S. amending the Berkeley Municipal Code, section 12.70.010, legislative findings, Section 12.70. 020, definitions, 12.70.030, locations where smoking is prohibited, and Section 12.70.120, Enforcement, expanding the locations at which smoking is prohibited and clarifying enforcement responsibilities. Vote: Ayes-Maio, Moore, Spring, Olds, Worthington, Wozniak, Bates; Abstain-Anderson; Absent-Capitelli.
Financial Implications: None
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted second reading of Ordinance No. 7,008-N.S. and Ordinance No. 7,009-N.S. (Absent-Capitelli) Effective date January 10, 2008.

Consent Calendar

4. Ordinance Establishing Operating Standards for Alcohol Outlets and Fee Options

From: City Manager

Recommendation: Adopt first reading of an Ordinance establishing operating standards and an inspection program for alcohol establishments with the second reading scheduled on January 15, 2008.

Financial Implications: See report

Contact: Zach Cowan, Acting City Attorney, 981-6950

Removed from Consent Calendar. Public Comments–1

Action: M/S/C main motion (Moore/Anderson) support flat fee of \$467.10 as supported by BAPAC. Vote: Ayes–Maio, Moore, Anderson, Spring, Olds, Worthington, Wozniak, Bates; Noes–None; Absent–Capitelli. M/S/C (Moore/Anderson) adopted first reading of Ordinance No. 7,010N.S. (Absent–Capitelli) Second reading scheduled for January 15, 2008. Vote: Ayes–Maio, Moore, Anderson, Spring, Olds, Worthington, Wozniak, Bates; Noes–None; Absent–Capitelli.

M/S (Maio/Worthington) substitute motion to support hourly rate fee. Motion failed. Vote: Ayes–Maio, Worthington, Wozniak, Bates; Noes–Moore, Olds; Abstain–Anderson, Spring; Absent–Capitelli.

RECESS – 9:01 – 9:15 P.M.

5. Ratify – Continue Disaster Proclamation related to San Francisco Bay Oil Spill a. From: City Manager

Recommendation: Confirmation of the continuance of a declaration of disaster through Resolution No. 63,887N.S. Reviewing and Ratifying the Proclamation of Emergency by the Director of Emergency Services and Resolution No. 63,888N.S. Reviewing and Confirming Emergency Rules and Regulations Issued by the Director of Emergency Services adopted November 19, 2007 relative to Bay Oil Spill

Financial Implications: None

Contact: Phil Kamlarz, City Manager, 981-7000

b. From: Councilmember Spring

Recommendation: Write a letter to our federal representatives, with copies to applicable agencies such as the Coast Guard, suggesting that they pass the following legislation:

- 1) Work for an international ban on the use of ‘bunker oil’ in sea or waterway traveling ships or boats.
- 2) Work for an international requirement that all water traveling vehicles must have double hull containment of oil or other toxic materials that could contaminate waterways.
- 3) Require that the owners of ship barges/tankers maintain contracts with on-call cleanup companies at US ports so that there is an immediate response for containment and cleanup should any toxic substances leak from a vessel.

Financial Implications: None

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

Action: Approved recommendation.

Consent Calendar

- 6. Formal Bid Solicitations and Request for Proposals**
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.
- 7. Issuance of General Obligation Bonds - Measure I - Animal Shelter Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the issuance of \$7,200,000 aggregate principal amount of general obligation bonds, series 2008 (Measure I - Animal Shelter Project), and authorizing actions related hereto.
Financial Implications: None
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted Resolution No. 63,907-N.S (Absent–Capitelli)
- 8. Designate the Line of Succession for the Director of Emergency Services**
From: City Manager
Recommendation: Adopt a Resolution approving the designated line of succession to the position of Director of Emergency Services in the event of an officially declared disaster, and rescinding Resolution No. 63,127N.S.
Financial Implications: None
Contact: Debra Pryor, Fire, 981-3473
Action: Adopted Resolution No. 63,908-N.S. (Absent–Capitelli)
- 9. Adopt Amendments to the Fire Permit and Inspection Fee Schedule**
From: City Manager
Recommendation: Adopt a Resolution rescinding Resolution No. 62,535-N.S. and re-adopting amendments to the Annual Permit and Fire Inspection Fee Schedule.
Financial Implications: None
Contact: Debra Pryor, Fire, 981-3473
Action: Adopted Resolution No. 63,909-N.S. (Absent–Capitelli)
- 10. Contract 5894 Amendment: Sponsor-Based Shelter Plus Care**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment (No. 5894) with Bonita House, Inc. to operate as Sponsor under the Shelter Plus Care Program and receive Housing Assistance Payments for an amount not to exceed \$112,908 for the period of June 1, 2007 through June 30, 2008.
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted Resolution No. 63,910-N.S. (Absent–Capitelli)

Consent Calendar

- 11. Contract No. 7292 Amendment: Increase Dorothy Day House Contract**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase the two-year contract with Dorothy Day House (DDH) by \$29,790 to cover the costs to lease space from Trinity United Methodist Church (Trinity) where DDH provides homeless services for a total amount not to exceed \$127,420 (\$58,745 in FY 2008 and \$68,675 in FY 2009).
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted Resolution No. 63,911-N.S. (Absent–Capitelli)
- 12. Classification: Assistant Traffic Engineer**
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 revise the classification of Assistant Traffic Engineer and increase the salary range to \$6,577 - \$7,927 effective December 16, 2007.
Financial Implications: General Fund - \$6,875
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,912-N.S. (Absent–Capitelli)
- 13. Personnel Rules and Regulations Amendment**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 60,776-N.S., the Personnel Rules and Regulations, Section 9.03 - Promotion Through a Non-Competitive Personnel Action - to add the unlicensed classification of Traffic Engineering Assistant and the licensed classification of Assistant Traffic Engineer.
Financial Implications: None
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,913-N.S. (Absent–Capitelli)
- 14. Classification: Watershed Resources Specialist**
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 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 - \$104,360
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,914-N.S. (Absent–Capitelli) with amendment to #2 of the class specification to include "Communicate effectively and elicit community and organizational support for programs."

Consent Calendar

- 15. Fee Assessment - State of California Self-Insurance Fund**
From: City Manager
Recommendation: Adopt a Resolution authorizing payment to the State of California Department of Industrial Relations for fiscal year 2008 fee assessed for administering the Workers' Compensation Program, in an amount not to exceed \$120,000.
Financial Implications: Workers' Compensation Self-Insurance Fund, \$120,000.
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,915-N.S. (Absent–Capitelli)
- 16. Classification: Public Health Program Physician - Deputy Health Officer**
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 revise and retitle the classification of Public Health Program Physician (Certified) to Public Health Program Physician- Deputy Health Officer and abolish the Public Health Program Physician classification effective December 1, 2007.
Financial Implications: None
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,916-N.S. (Absent–Capitelli)
- 17. Lease Amendment, 2118 Milvia Street**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease amendment with N.E.W. Milvia Property, LLC, the successor in interest to NORA E. WAGNER, TRUSTEE UTD for real property located at 2118 Milvia Street for the purpose of leasing 3,774 square feet of additional office space for the Planning and Development Department for the approximate period Jan. 18, 2008 and continuing through August 31, 2011. Upon execution of the lease, the Planning and Development Department will occupy the whole building at 2118 Milvia Street.
Financial Implications: See report.
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted first reading of Ordinance No. 7,011-N.S. (Absent–Capitelli)
Second reading scheduled for December 18, 2007.
- 18. Interstate 80 Integrated Corridor Mobility Project**
From: City Manager
Recommendation: Adopt a Resolution supporting the Interstate-80 (I-80) Integrated Corridor Mobility (ICM) Project, the Project Concept and the Funding Plan.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,917-N.S. (Absent–Capitelli)

Consent Calendar

- 19. Contract No. 7442 Amendment: Lincoln & Associates for Executive Recruitments**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7442 with Lincoln & Associates, increasing the not to exceed amount to \$52,500, adding recruitment for the Transportation Manager to the scope of services, and extending the term of the contract by four months to June 30, 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,918-N.S. (Absent–Capitelli)
- 20. Contract No. 7260A Amendment: Environmental Delivery Services, Inc.**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7260A with Environmental Delivery Services, Inc. for food scrap pail delivery and labeling services, increasing the amount by \$30,422 for a total amount not to exceed \$80,647, for the period March 1, 2007 through December 31, 2007.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,919-N.S. (Absent–Capitelli)
- 21. Contract No. 7055A Amendment: Securitas Security Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7055A with Securitas Security Services USA, Inc., for security guard services at the Corporation Yard, Solid Waste Center and Berkeley Marina for the period July 1, 2007 to June 30, 2008, in an amount not to exceed \$300,095; and approving the option to extend the contract through FY 2009 in an amount not to exceed \$309,158, based on availability of funds. The total amount of the contract from FY 2007 through FY 2009 will not exceed \$851,628.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,920-N.S. (Noes–Worthington; Absent–Capitelli).
- 22. Contract No. 6278 Amendment: St Vincent de Paul Society for Mattress Recycling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 6278 with St. Vincent de Paul Society of Lane County, Inc. to haul and recycle mattresses from the Berkeley Transfer Station, increasing the amount by \$88,000 for a total amount not to exceed \$338,000, and extending the term one-year to include the period February 1, 2004 to June 30, 2008.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,921-N.S. (Absent–Capitelli)

Consent Calendar

- 23. Grant Application: New Freedom Program for Ed Roberts Campus**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an application to the New Freedom Program administered by the Metropolitan Transportation Commission for funds in an amount not to exceed \$735,200 for transportation and accessibility enhancements related to the Ed Roberts Campus at the Ashby BART Station accept the grant, and execute any resultant agreements and amendments.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,922-N.S. (Absent–Capitelli)

Council Consent Items

- 24. Discretionary Budget Allocation: Building Opportunities for Self-Sufficiency**
From: Councilmember Maio
Recommendation: Adopt a resolution approving the expenditure of \$250 to Building Opportunities for Self-Sufficiency (BOSS) with funds from Councilmember Maio's discretionary budget (D-13) to support their 35th Anniversary Celebration on May 8, 2008, which is a fundraiser to support their ongoing program.
Financial Implications: Councilmember Maio's Discretionary Fund - \$250
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Adopted Resolution No. 63,923-N.S. (Absent–Capitelli)
- 25. General Fund Allocation: East Bay Housing Organizations**
From: Councilmember Maio
Recommendation: That the City Of Berkeley officially become a member of East Bay Housing Organizations (EBHO) for \$500.
Financial Implications: General Fund - \$500
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Approved recommendation.
- 26. Downtown Street Cleaning**
From: Councilmember Spring
Recommendation: Request that the City Manager return to Council with a plan for improving the cleaning of streets in the downtown area, including the feasibility of limiting overnight parking on some downtown streets occasionally so that streets can be thoroughly cleaned and to report back to Council within four months.
Financial Implications: None
Contact: Dona Spring, Councilmember, District 4, 981-7140
Action: Approved recommendation and directed the City Manager to include other commercial areas in the plan.

Council Consent Items

27. **Schedule Presentation: Independent Oil Berkeley**
From: Councilmember Spring – added Worthington
Recommendation: Allow a brief presentation at the December 18, 2007 Council meeting from Independent Oil Berkeley, a grassroots citizen activist group planning the transition to fossil fuel free era in Berkeley.
Financial Implications: None
Contact: Dona Spring, Councilmember, District 4, 981-7140
Action: Approved recommendation.
28. **Opposition to Initiative 1248 - California Property Owners and Farmland Protection Act**
From: Councilmember Worthington
Recommendation: Express opposition to Initiative 1248, the California Property Owners and Farmland Protection Act which undermines environmental protections, local control over land use, and affordable housing laws.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
29. **Opposition to Unfair Gaming Initiatives, Propositions 94-97**
From: Councilmember Worthington
Recommendation: Express opposition to the four unfair gaming initiatives (Propositions 94, 95, 96 and 97) on the February 2008 ballot, which will allow for fewer limits on the growth of casinos in California while providing fewer environmental, labor and taxpayer benefits.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
30. **Recommend Policies to Address Foreclosures and Subprime Lending - Endorsing House Resolution 1852**
From: Councilmembers Worthington, Moore and Anderson
Recommendation: Adopt a Resolution regarding subprime lending and foreclosures, recommending policies to address foreclosures in the City of Berkeley, and endorsing House Resolution 1852, the Expanding America Homeownership Act.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 63,924-N.S. (Absent–Capitelli) with an amendment to include that one of the policies would be an ordinance mandating mediation before there can be initiation of a foreclosure.

Council Consent Items

31. **Support for Prevention Through Affordable Access Act**
From: Councilmembers Worthington, Spring, Maio and Olds
Recommendation: Support Senate Bill 2347/House Resolution 4054, the Prevention Through Affordable Access Act, which will fix a legislative glitch that has raised prescription contraception prices and ensure that more women have access to affordable birth control methods.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
32. **Support Proposition 92, The Community College Initiative**
From: Councilmembers Worthington and Moore
Recommendation: Support Proposition 92 on the February 5, 2008 ballot, which would lower student fees, guarantee minimum funding for community college growth and increase access to higher education.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Action Calendar – Items Removed from the Consent Calendar

Action Calendar – Public Hearing

33. **Zoning Ordinance, General Plan, and West Berkeley Plan Amendments and Revised Mitigated Negative Declaration to Allow Automobile Sales in the Manufacturing District**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion,
1) Adopt a Resolution amending the General Plan and West Berkeley Plan as recommended by the Planning Commission;
2) Adopt first reading of an Ordinance amending Chapters 23E.72 (Manufacturing District) and 23F.10 (Definitions); and
3) Adopt a Resolution adopting the Mitigated Negative Declaration. The amendments allow automobile sales in the Manufacturing District of the City.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Public Testimony: The Mayor opened the public hearing - 5 speakers. M/S/C (Anderson/Moore) to close the public hearing.
Action: M/S/C (Maio/Moore) to refer Councilmember requests for removal of areas to staff for consideration and continue to December 18, 2007 for action.

Action Calendar – New Business

34. **Proposed General Assistance Budget Reductions in FY08** (*Held over from November 27, 2007*)
- a. From: City Manager**
Recommendation: Adopt a Resolution directing the City Manager to work closely with the Alameda County Social Services Agency to mitigate the negative consequences of General Assistance cuts to Berkeley residents.
Financial Implications: None
Contact: Renelda Mary, Housing, 981-5400
- b. From: Homeless Commission**
Recommendation: Adopt a Resolution opposing the County of Alameda's Social Service Agency's plan to limit General Assistance to six months of the year in this fiscal year for people the Agency determines are "employable".
Financial Implications: None
Contact: Jennifer Vasquez, Commission Secretary, 981-5400
- Action:** Moved to Consent:
- a.** Adopted Resolution No. 63,925N.S. (Absent–Capitelli) directing the City Manager to work closely with the Alameda County Social Services Agency to mitigate the negative consequences of General Assistance cuts to Berkeley residents.
- b.** Adopted Resolution No. 63,926N.S. (Absent–Capitelli) opposing the County of Alameda's Social Service Agency's plan to limit General Assistance to six months of the year in this fiscal year for people the Agency determines are "employable."
35. **Underground Policy for Rule 20A Monies** (*Held over from November 27, 2007*)
- From: Public Works Commission**
Contact: Jeff Egeberg, Secretary, Public Works Commission, 981-5400
- Main motion (Spring/Worthington) to accept and file the report, including three General Plan criteria for funding: (1) major arterial; (2) emergency/evacuation route and (3) high volume traffic. Substitute motion (Moore/Wozniak) to direct the City Manager to work with Public Works Commission to put together a presentation on undergrounding to be submitted to Council in March 2008.
- Action:** M/S/C (Spring/Worthington) accepted substitute motion as friendly amendment to (1) direct the City Manager to work with the Public Works Commission; (2) refer to Agenda Committee to schedule a workshop and; (3) direct staff to provide a report of street projects completed with Rule 20A funds.

Action Calendar – Council Items

36. Modification of Berkeley Municipal Code Section 13.77.055 - Ellis Implementation Ordinance

From Councilmembers Capitelli and Maio

Recommendation: Adopt the first reading of an Ordinance amending section 13.77.055 of the Berkeley Municipal Code (BMC) (Ellis Implementation Ordinance) to adjust the base amount of relocation payments to displaced tenants from \$4,500 per unit to \$8,700 per unit and that there be an additional rent differential of \$5,000 per unit for tenancies that began prior to January 1, 1999. The amount of \$2,500 for senior, disabled and low-income tenants would remain unchanged but households with minor children in residence would be added to the list of tenants eligible to receive this additional relocation assistance.

Financial Implications: None

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Action: Moved to Consent and adopted first reading of Ordinance No. 7,012N.S. (Absent–Capitelli) Second reading scheduled for December 18, 2007.

37. Measuring Electromagnetic field (EMF) Levels

From: Councilmembers Spring and Maio, Anderson and Mayor Bates

Recommendation: Request the City Manager:

- 1) Immediately arrange for expert measurement of EMF, including RF radiation, levels at and around UC Storage and the French Hotel, and
- 2) Provide the Council data on the current radiation levels with places, dates and times of collection, and
- 3) Offer a schedule for subsequent testing and reports to Council, and
- 4) Refer to the City Manager possible revisions to the Wireless Telecommunications Ordinance (Chapter 23C.17 of the Berkeley Municipal Code).

Financial Implications: Unknown

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

Public Comments–9

Action: M/S/C (Spring/Maio) to approve Councilmembers Spring, Maio, Anderson and Mayor Bates' recommendation to request the City Manager to:

- 1) Immediately arrange for expert measurement of EMF, including RF radiation, levels at and around UC Storage and the French Hotel.
- 2) Provide the Council data on the current radiation levels with places, dates and times of collection, and
- 3) Offer a schedule for subsequent testing and reports to Council and
- 4) Refer to the City Manager possible revisions to the Wireless Telecommunications Ordinance (Chapter 23C.17 of the Berkeley Municipal Code).
- 5) Added–submit a schedule for implementation.

Information Reports

38. FY 2008 First Quarter Budget Update

From: City Manager

Contact: Tracy Vesely, Budget Manager, 981-7000

Action: Received and filed.

Information Reports

39. **Unrepresented Temporary Employees**
From: City Manager
Contact: David Hodgkins, Human Resources, 981-6800
Action: Received and filed.
40. **LPC NOD: 2611 Ashby Avenue**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
41. **Watershed Resources Specialist**
From: City Manager
Contact: Claudette Ford, Public Works, 981-6300
Action: Received and filed.
42. **Status of Old Fire Station 7 (2931 Shasta Road)**
From City Manager
Contact: Debra Pryor, Fire, 981-3473
Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda – 2

Adjournment – 10:28 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of December 11, 2007 as approved by the Berkeley City Council.

Pamyla Means, MMC, City Clerk

Communications

Communications – 12/11/07

LBNL Shuttle Bus

1. Tom Kelly

East Bay Bus Rapid Transit Proposal

2. Robert Lauriston

Berkeley Community Facilities

3. Barbara Gilbert

Police Support

4. Sam Herbert

Pool Closure

5. Iain Boal

Contract for East Stockton Transfer Recycle for Construction & Demolition Waste Processing

6. Kent Lewandowski, Sierra Club Northern Alameda County Group

Supplemental Communications and Reports

Item 4: Ordinance Establishing Operating Standards for Alcohol Outlets and Fee Options

- Revised attachment, City Attorney

Item 30: Recommend Policies to Address Foreclosures and Subprime Lending - Endorsing House Resolution 1852

- Revised report, Councilmember Kriss Worthington, District 7

Item 31: Support for Prevention Through Affordable Access Act

- Revised report, Councilmember Kriss Worthington, District 7

Item 33: Zoning Ordinance, General Plan, and West Berkeley Plan Amendments and Revised Mitigated Negative Declaration to Allow Automobile Sales in the Manufacturing District

7. Unknown

Item 36: Modification of Berkeley Municipal Code Section 13.77.055 - Ellis Implementation Ordinance

- Revised attachment, Councilmember Laurie Capitelli, District 5

A 2020 Vision for Berkeley Education

8. Santiago Casal and Michael Miller

Homeowner and Bank Protection Act

9. Unknown

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, DECEMBER 18, 2007

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

Preliminary Matters

Roll Call: 5:03 p.m.

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

Absent: Councilmember Anderson. (Worthington/Moore present at 5:15 p.m.; Capitelli present at 5:55 p.m.)

Public Comment – Limited to items on this agenda only–8

Worksession:

1. **DAPAC Worksession – Discussion and Direction**

From: City Manager

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

Action: Accept and filed.

Adjournment – 6:52 p.m. (Noes–Spring).

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of December 18, 2007 as approved by the Berkeley City Council.

Pamyla Means, MMC, City Clerk

Communications

Supplemental Communications 1

Item 1: DAPAC Worksession – Discussion and Direction

1. Doug Buckwald

Supplemental Communications 2

Item 1: DAPAC Worksession – Discussion and Direction

2. Len Conly
3. Jenny Wenk
4. Harold Gilliam

MINUTES

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, DECEMBER 18, 2007

Council Chambers, 2134 Martin Luther King Jr. Way

Teleconference Location – 1636 Channing Way, Berkeley, CA

Preliminary Matters

Roll Call: 7:10 p.m.

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

Absent: Councilmember Anderson.

Ceremonial Matters:

1. Recognition of Chuck Mack – Teamsters Union Local 70
2. Recognition Linda Schacht Gage – Berkeley Library Foundation.

Public Comment on Non-Agenda Matters–3

Presentation: Oil Independent Berkeley – received.

Public Comment on Consent Calendar and Information Items Only – 1

Consent Calendar

Action: M/S/C (Maio/Moore) to adopt Consent Calendar in one motion except as indicated: Moved Items No 31 (Cable ordinance) and No. 32 (Teleconferencing) to the Consent Calendar; removed Item No. 22 (Berkeley High School) for discussion; and removed Item No. 3 (Oil Spill) from the agenda. Absent–Anderson and Worthington.

1. Lease Amendment, 2118 Milvia Street

From: City Manager

Recommendation: Adopt second reading of Ordinance 7,011-N.S. authorizing the City Manager to execute a lease amendment with N.E.W. Milvia Property, LLC, the successor in interest to NORA E. WAGNER, TRUSTEE UTD for real property located at 2118 Milvia Street for the purpose of leasing 3,774 square feet of additional office space for the Planning and Development Department for the approximate period Jan. 18, 2008 and continuing through August 31, 2011. Upon execution of the lease, the Planning and Development Department will occupy the whole building at 2118 Milvia Street.

Financial Implications: See report.

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

Action: Adopted second reading of Ordinance No. 7,011-N.S. (Absent–Anderson, Worthington)

Consent Calendar

- 2. Modification of Berkeley Municipal Code Section 13.77.055 - Ellis Implementation Ordinance**
From: Councilmembers Capitelli and Maio
Recommendation: Adopt second reading of an Ordinance 7,012-N.S. amending section 13.77.055 of the Berkeley Municipal Code (BMC) (Ellis Implementation Ordinance) to adjust the base amount of relocation payments to displaced tenants from \$4,500 per unit to \$8,700 per unit and that there be an additional rent differential of \$5,000 per unit for tenancies that began prior to January 1, 1999. The amount of \$2,500 for senior, disabled and low-income tenants would remain unchanged but households with minor children in residence would be added to the list of tenants eligible to receive this additional relocation assistance.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Adopted second reading of Ordinance No. 7,012-N.S. (Absent–Anderson, Worthington)
- 3. Ratify – Continue Disaster Proclamation - San Francisco Bay Oil Spill**
From: City Manager
Recommendation: Confirmation of the continuance of a declaration of disaster through Resolution No. 63,887-N.S. Reviewing and Ratifying the Proclamation of Emergency by the Director of Emergency Services and Resolution No. 63,888-N.S. Reviewing and Confirming Emergency Rules and Regulations Issued by the Director of Emergency Services adopted November 19, 2007 relative to Bay Oil Spill
Financial Implications: None
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Removed from agenda.
- 4. Removal of the Berkeley Aquatic Park Noise Barrier Project - 2008 State Transportation Improvement Program (STIP)**
From: City Manager
Recommendation: Adopt a Resolution requesting California Department of Transportation (Caltrans) to delete the Berkeley Aquatic Park Noise Barrier project from the 2008 State Transportation Improvement Program (STIP) and release \$1.5 million that can be allocated to the Ed Roberts Campus as part of matching grant funding.
Financial Implications: Allows \$1.5 million to be released by Caltrans and reprogrammed by the Alameda County Congestion Management Agency (ACCMA) for matching funds for construction of Ed Roberts Campus.
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 63,927-N.S. (Absent–Anderson, Worthington)
- 5. Downtown Berkeley Business Improvement District Annual Assessment**
From: City Manager
Recommendation: Reschedule the public hearing for the 2008 Downtown Berkeley Business Improvement District (BID) Annual Assessment from December 18, 2007 to the regular City Council meeting of January 15, 2008.
Financial Implications: None
Contact: Michael Caplan, Economic Development, 981-7530
Action: Approved recommendation.

Consent Calendar

- 6. 2008 Agenda Committee Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the Agenda Committee regular meeting schedule for 2008.
Financial Implications: None
Contact: Pamyla Means, City Clerk, 981-6900
Action: Adopted Resolution No. 63,928-N.S. (Absent–Anderson, Worthington)
- 7. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of October 25, 2007 (adjourned), November 6, 2007 (adjourned, special and regular), November 19, 2007 (special) and November 27, 2007 (special and regular).
Financial Implications: None
Contact: Pamyla Means, City Clerk, 981-6900
Action: Approved minutes (with correction to November 27, 2007 minutes).
- 8. Contract: Implement the Management District Plan for North Shattuck Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association to implement the Management District Plan and approved Work Plan for the North Shattuck Business Improvement District (BID) in an amount not to exceed \$170,238 for FY 2007.
Financial Implications: North Shattuck Business Improvement District - \$170,238
Contact: Michael Caplan, Economic Development, 981-7530
Action: Adopted Resolution No. 63,929-N.S. (Absent–Anderson, Worthington)
- 9. Adoption of the Local Conditions and Findings for 2007 California Fire Code**
From: City Manager
Recommendation: Adopt a Resolution (Attachment 1) setting forth findings of local conditions that require more stringent regulations than those provided by the 2007 California Fire Code for submission to the California Building Standards Commission and rescinding Resolution number 61,782-N.S.
Financial Implications: None
Contact: Debra Pryor, Fire, 981-5500
Action: Adopted Resolution No. 63,930-N.S. (Absent–Anderson, Worthington)
- 10. Berkeley Mental Health Housing Fund Policy**
From: City Manager
Recommendation: Adopt a Resolution approving the Berkeley Mental Health Housing Fund Policy on the use of Mental Health Services Act funds for affordable housing development. This Policy will guide the use of up to \$500,000 currently available in MHSA funds that will be included in a Request for Proposals to be released in December 2007.
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
Action: Adopted Resolution No. 63,931-N.S. (Absent–Anderson, Worthington)

Consent Calendar

- 11. Side Letter of Agreement with SEIU Local 1021**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union (SEIU) Local 1021 (formerly 535) to implement After-Hours Telephone Response, a component of the Full Service Partnership, as required by the Mental Health Services Act.
Financial Implications: State Mental Health Realignment, \$45,000
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,932-N.S. (Absent–Anderson, Worthington)
- 12. Contract: HealthComp Inc - Dependent Care Assistance Plan Third Party Administrator**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with HealthComp Inc. in an amount not exceed \$6,000 to provide administrative services for the City of Berkeley's Dependent Care Assistance Plan for January 1, 2008, through December 31, 2009.
Financial Implications: Payroll Deduction Trust Fund - \$6,000
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,933-N.S. (Absent–Anderson, Worthington)
- 13. Contract: The Lipman Company - Third-Party Administrator For Retiree Health Programs**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with The Lipman Company, Inc. (TLC) for administration of the Retiree Health Premium Assistance Plan for Non-Sworn retirees and other retiree medical programs for sworn Fire and Police for the period covering January 1, 2008, through December 31, 2009, for a total cost not to exceed \$125,000 for the contract period.
Financial Implications: See report
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 63,934-N.S. (Absent–Anderson, Worthington)
- 14. Health Plan Rate Increases**
From: City Manager
Recommendation: Adopt two Resolutions:
1) Approving a 4% rate increase for the Kaiser Foundation Health Maintenance Organization (HMO) health plan for Active Employees, an 11.0% rate increase for Pre-Medicare Eligible Retirees, and a rate reduction of 4.18% for Senior Advantage (Medicare Supplement) Retirees; and
2) Approving a 24.05% rate increase for the Health Net HMO health plan for Active Employees, a 24.05% rate increase for Pre-Medicare Eligible Retirees, a 13.3% rate increase for Seniority Plus (Medicare Supplement) Retirees, a 0% change for the Health Net Point of Service (POS) for Active Employees and Pre-Medicare Eligible Retirees, and a 10.2% increase for Health Net POS Post-65 Retirees effective January 1, 2008 through December 31, 2008.
Financial Implications: Payroll Deduction Trust Fund - \$1,632,000
Contact: David Hodgkins, Human Resources, 981-6800

Consent Calendar

Action: Adopted Resolution No. 63,935-N.S. approving Kaiser Foundation Health Maintenance Organization rate increases, and Resolution No. 63,936-N.S. approving rate increases for the Health Net HMO. (Absent–Anderson, Worthington)

- 15. Contract: Software AG - Enterprise Service Bus Software (Middleware)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into an agreement with Software AG for the purchase of enterprise service bus software and related services for a total contract amount not to exceed \$125,000, for the period December 18, 2007 to December 31, 2009.
Financial Implications: General Fund - \$125,000
Contact: Donna LaSala, Information Technology, 981-6500
Action: Adopted Resolution No. 63,937-N.S. (Absent–Anderson, Worthington)
- 16. Contract No. 7362 Amendment: Gilman Project Management Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7362 with Project Management Services, LLC for project management services for \$71,060 for a total contract amount not to exceed \$95,000.
Financial Implications: General Fund - \$95,000
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 63,938-N.S. (Absent–Anderson, Worthington)
- 17. Contract No. 6424 Amendment: EIR Services for the Draft Southside Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 6424 with LSA Associates, Inc. to add \$50,620 to complete the Southside Plan Environmental Impact Report (EIR) for a total amount not to exceed \$379,948.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
Action: Adopted Resolution No. 63,939-N.S. (Absent–Anderson, Worthington)
- 18. Contract No. 6347D: Township Building Services for Janitorial Services - Senior Centers**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 6347D with Township Building Services, Inc., for janitorial services at the North, South, and West Berkeley Senior Centers, and increase the contract amount by \$52,000 for a total not to exceed amount of \$335,200 for the term July 1, 2007 to June 30, 2008.
Financial Implications: Building Maintenance Fund - \$52,000
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,940-N.S. (Absent–Anderson, Worthington)

Consent Calendar

19. **Contract: Pacific Trenchless Inc. for Sanitary Sewer Project at Fourth St, Allston Way et al**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Fourth Street, Allston Way, Bancroft Way, Channing Way, Webster Street, Claremont Avenue, and San Mateo Road backline; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Pacific Trenchless, Inc., until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$740,465 for a term of 220 calendar days from the date of the execution of the contract.
Financial Implications: Sewer Fund 830 - \$740,465
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,941-N.S. (Absent–Anderson, Worthington)
20. **Contract: Precision Engineering Inc for Sanitary Sewer Project at Bancroft, Sacramento et al**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Bancroft Way, Sacramento Street, Acton Street, Dohr Street, Stanton Street, Russell Street and Oregon Street; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Precision Engineering, Inc., until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$637,873 for a term of 220 calendar days from the date of the execution of the contract.
Financial Implications: Sewer Fund 830 - \$637,873
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,942-N.S. (Absent–Anderson, Worthington)
21. **Contract: MCK Services, Inc. for Street Rehabilitation FY 2008 Phase I**
From: City Manager
Recommendation: Adopt a Resolution:
1) Approving plans and specifications for the Street Rehabilitation FY 2008 Phase 1 Project, 08-10265-C;
2) Accepting the bid of MCK Services, Inc.;;
3) Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$963,765.
Financial Implications: Capital Improvement Fund - \$963,765
Contact: Claudette Ford, Public Works, 981-6300
Action: Adopted Resolution No. 63,943-N.S. (Absent–Anderson, Worthington)

Consent Calendar

- 22. Nomination of the Berkeley High School Campus Historic District to the National Register of Historic**
From: Landmarks Preservation Commission
Recommendation: Direct City staff to draft a letter for the Mayor's signature regarding the Landmarks Preservation Commission (LPC) recommendation to list the Berkeley High School Campus Historic District to the National Register of Historic Places. The letter and an accompanying report will be transmitted to the State Historic Preservation Officer by the City Clerk's Office.
Financial Implications: None
Contact: Terry Blount, Commission Secretary, 981-7400

Action: Removed from Consent Calendar. Main Motion M/S/C (Spring/Moore) direct letter be sent. Vote on Main Motion: Ayes—Maio, Moore, Spring, Olds, Worthington, Bates; Noes—none; Abstain—Capitelli, Wozniak; Absent—Anderson.

Substitute Motion M/S (Wozniak/Capitelli) to refer to Agenda Committee to reschedule for January 2008. Vote: Ayes—Capitelli, Wozniak; Noes—Maio, Spring, Olds, Worthington, Bates; Abstain—Moore; Absent—Anderson. Motion failed.

Council Consent Items

- 23. Energy Efficient Parking Enforcement Vehicles**
From: Mayor Bates and Councilmember Wozniak
Recommendation: Direct the City Manager to investigate the feasibility of replacing Interceptor parking enforcement vehicles with electric low-speed vehicles (LSVs) or energy efficient high mileage vehicles. If replacement is deemed feasible, it is recommended that test vehicles be purchased as prototypes before a phased replacement of the existing fleet begins. The City Manager should report back to the Council with his recommendations by the end of March 2008. If such a replacement is feasible this would result in a substantial reduction in CO₂ emissions from the enforcement fleet and a substantial savings of taxpayer dollars.
Financial Implications: See report
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
- 24. Mayor's Office Funding for Berkeley Carbon Offset Study**
From: Mayor Bates
Recommendation: Authorize the payment of \$500 from the Mayor's discretionary budget to Kyoto USA/ Sequoia Foundation to help fund the hiring of a consultant to conduct a feasibility study on a local Berkeley carbon offset program.
Financial Implications: \$500
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
- 25. Budget Referral: 3rd Annual Berkeley International Food Festival for 2008**
From: Councilmember Moore and Maio
Recommendation: Refer a request for \$7,500 to be allocated for producing the 3rd Annual Berkeley International Food Festival for 2008.
Financial Implications: General Fund - \$7,500
Contact: Darryl Moore, Councilmember, District 2, 981-7120

Council Consent Items

Action: Approved recommendation.

26. Support of "Oil Independent Berkeley" – Peak Oil Crisis

From: Councilmembers Spring and Worthington

Recommendation: Adopt a Resolution in appreciation of "Oil Independent Berkeley", a concerned citizen group, which is making efforts to organize Berkeley and network with other nearby regional groups to prepare for the "Peak Oil" crisis.

Financial Implications: None

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

Action: Adopted Resolution No. 63,944N.S. (Absent–Anderson, Worthington)

27. Budget Referral: Violence Prevention and Response Plan

From: Councilmember Worthington

Recommendation: Refer the Violence Prevention and Response Plan to the mid-year budget process.

Financial Implications: See report

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

Action: Approved recommendation.

28. Expanding City Manager's Authority Over Service Contracts

From: Councilmember Wozniak

Recommendation: Direct the City Manager to investigate increasing the current expenditure authority of \$25,000 for service contracts to \$50,000 or an appropriate amount that takes into account inflation and the general increase in the cost of services. The City Manager should report back to Council with a recommendation in March 2008.

Financial Implications: See report

Contact: Gordon Wozniak, Councilmember, District 8, 981-7180

Action: Approved recommendation. Noes–Spring.

Action Calendar – Items Removed from the Consent Calendar

Action Calendar – Old Business

29. Revision of the Condominium Conversion Ordinance (BMC Chapter 21.28)

(Continued from December 11, 2007)

From: City Manager

Recommendation: Provide guidance to staff regarding streamlining of the Condominium Conversion Ordinance (BMC Chapter 21.28)

Financial Implications: Unknown

Contact: Renelda Mary, Housing, 981-5400 and Dan Marks, Planning and Development, 981-7400

Action Calendar – Old Business

Action: M/S/C (Maio/Capitelli) to direct staff to prepare an ordinance consistent with recommendations regarding streamlining of the Condominium Conversion Ordinance (BMC Chapter 21.28); including direction to staff to submit a report outlining work that has been done without permits, information regarding the status of applications in process, direction that a visible only health and safety inspection will be performed as part of the permit process, a report on average per unit costs/fees and the value of those costs; and extension of the 1992 implementation deadline to June 30, 2008. Severed and approved direction to staff to gather information regarding fees. Vote: Ayes–Maio, Moore, Capitelli, Olds, Worthington, Wozniak, Bates; Noes–Spring; Absent–Anderson). Vote on Main Motion: Ayes–Maio, Moore, Spring, Capitelli, Olds, Worthington, Wozniak, Bates; Noes–None; Absent–Anderson.

30. **Zoning Ordinance, General Plan, and West Berkeley Plan Amendments and Revised Mitigated Negative Declaration to Allow Automobile Sales in the Manufacturing District** *(Continued from December 11, 2007)*

a. From: City Manager

Recommendation:

- 1) Adopt a Resolution amending the General Plan and West Berkeley Plan as recommended by the Planning Commission;
- 2) Adopt first reading of an Ordinance amending Chapters 23E.72 (Manufacturing District) and 23F.10 (Definitions); and
- 3) Adopt a Resolution adopting the Mitigated Negative Declaration. The amendments allow automobile sales in the Manufacturing District of the City.

Financial Implications: See report

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

b. From: Councilmembers Moore, Maio and Spring

Recommendation: Exempt the solid waste and recycling facilities at Second and Gilman Streets from the West Berkeley Auto Sales Zoning Overlay and these sites are to be maintained for municipal services.

Financial Implications: To be determined

Contact: Darryl Moore, Councilmember, District 2, 981-7120

Public Comments on 30b–3

Action: M/S/C (Moore/Maio) to:

1. Adopt Resolution No 63,945-N.S. amending the General Plan and West Berkeley Plan as recommended by the Planning Commission. Approve Councilmembers Moore, Maio and Spring's recommendation to exempt the solid waste and recycling facilities at Second and Gilman Streets from the West Berkeley Auto Sales Zoning Overlay. (Absent–Anderson)
2. Adopt first reading of Ordinance No. 7,013-N.S. (Amending Chapters 23E.72 and 23F.10.). (Absent–Anderson). Second reading scheduled for January 15, 2008.
3. Adopt Resolution No. 63,946-N.S. adopting the Mitigated Negative Declaration. (Absent–Anderson)

Action Calendar – New Business

Action Calendar – New Business

- 31. Adoption of Ordinance for Cable Public Access (PEG) Support**
From: City Manager
Recommendation: Adopt first reading of an Ordinance adding a new chapter to the Berkeley Municipal Code ('BMC'), Chapter 9.58 entitled "Video Franchise Fees, Customer Service and Other Video Related Matters" to enable the City to receive an additional fee equal to one percent (1%) of the gross revenue of a video franchisee to support PEG and to establish customer service standards.
Financial Implications: None
Contact: Zach Cowan, Acting City Attorney, 981-6950
Action: Moved to Consent Calendar and adopted first reading of Ordinance No. 7,014N.S. (Absent–Anderson, Worthington). Second reading scheduled for January 15, 2008.
- 32. Use of Teleconferencing for Participation in Commission Meetings**
From: City Manager
Recommendation: Allow the use of teleconferencing by commission members to participate in commission meetings due to extreme, unforeseen health or disability limitations only.
Financial Implications: See report
Contact: Pamyla Means, City Clerk, 981-6900
Action: Moved to Consent Calendar and approved the City Manager's recommendation to allow the use of teleconferencing by commission members to participate in commission meetings due to extreme, unforeseen health or disability limitations only. (Absent–Anderson, Worthington; Noes–Bates).
- 33. Election Date for Landmarks Preservation Ordinance Referendum**
From: City Manager
Recommendation: Select election date to submit the Landmarks Preservation Ordinance Referendum to the voters, and direct the City Attorney to prepare ballot title, text and impartial analysis
Financial Implications: See report
Contact: Pamyla Means, City Clerk, 981-6900
Action: M/S/C (Worthington/Maio) select November 4, 2008 election date to submit the Landmarks Preservation Ordinance Referendum, and direct the City Attorney to prepare ballot title, text and impartial analysis.
- 34. Contracts: Disposal Services (To be delivered)**
a. Contract: East Stockton Transfer Recycle for Construction & Demolition Waste Processing (Held over from November 27, 2007 (Revised Item - To be delivered))
From: City Manager
Recommendation: continued from 11/27/07
Contact: Claudette Ford, Public Works, 981-6300
Public Comments (34 a)–5

Action Calendar – New Business

Action: 34a. M/S (Wozniak/Capitelli) to authorize the City Manager to enter into a contract with East Stockton Transfer Recycle for construction and demolition waste processing. No action taken on Main Motion—see Substitute Motion. M/S (Worthington/Spring) to table until issues and compromises have been addressed and agreed to. Vote: Ayes—Spring, Worthington, Bates; Noes—Maio, Capitelli, Olds, Wozniak; Abstain—Moore; Absent—Anderson. Motion failed.

Substitute Motion: M/S/C (Maio/Moore) to direct staff to re-advertise for requests for proposals for the transfer recycle for construction and demolition waste processing. Vote: Ayes—Maio, Moore, Spring, Worthington, Bates; Noes—Capitelli, Olds, Wozniak; Absent—Anderson.

**b. Contract: Allied Waste, Inc. for Landfill Disposal Services (To be delivered)
From: City Manager**

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract with Allied Waste, Inc. for landfill disposal services for six months in an amount not to exceed \$519,350 for the period January 1, 2008 to June 30, 2008, for an additional five years at \$1,035,700 per year from FY 2009 through FY 2013, for a total contract amount not to exceed \$5,712,850 for the period January 1, 2008 to June 30, 2013.

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

c. Contract: Waste Management, Inc. for Landfill Disposal Services (To be delivered)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract with Waste Management, Inc. for landfill disposal services in an amount not to exceed \$208,000 for the period January 1, 2008 to June 30, 2008, and for an additional five years at \$416,000 per year from FY 2009 through FY 2013, for a total contract amount not to exceed \$2,288,000 for the period January 1, 2008 to June 30, 2013.

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

Public Comments (34 b & c)—1

Recess—9:18—9:26 p.m.

Action: 34b&c. M/S/C (Moore/Maio) to adopt Resolution No. 63,947–N.S. authorizing the City Manager to enter into a contract with Allied Waste, Inc., for landfill disposal services and to adopt Resolution No. 63,948–N.S. authorizing the City Manager to enter into a contract with Waste Management, Inc., for landfill disposal services. Vote: Ayes—Maio, Moore, Spring, Capitelli, Worthington, Wozniak, Bates; Noes—None; Abstain—Olds; Absent—Anderson.

Action Calendar – New Business

35. **Dredging in Aquatic Park** (*Held over from November 27, 2007*)
From: City Manager
Contact: Claudette Ford, Public Works, 981-5400
Action: M/S/C (Maio/Moore) to accept report submitted outside of deadline pursuant to Council Rules. Vote: Ayes–Maio, Moore, Spring, Capitelli, Olds, Worthington; Noes–None; Abstain–Wozniak; Absent–Anderson. No action taken–accept and file.

Action Calendar – Council Items

36. **Fee Deferral Request: 1800 San Pablo Avenue**
From: Councilmembers Maio and Capitelli
Recommendation: Approve a deferral of permit fees and sewer fees for the approved 51-unit condo project at 1800 San Pablo (at Delaware) until completion of construction, on condition that the developer pay 6% interest on the amount of the deferred fees, and that the debt be secured by a deed of trust on a property owned by the developer subject to the Manager's approval
Financial Implications: See report
Contact: Linda Maio, Councilmember, District 1, 981-7110

Public Comment–1

Action: M/S/C (Maio/Capitelli) to approve Councilmembers Maio and Capitelli's recommendation to approve a deferral of permit fees and sewer fees for the approved 51-unit condo project at 1800 San Pablo (at Delaware) providing that a Certificate of Occupancy will not be issued until permit fees are paid, and on condition that the developer pay 6% interest on the amount of the deferred fees, and that the debt be secured by a deed of trust on a property owned by the developer subject to the Manager's approval. M (Worthington) to amend Main Motion to include that sewer fees be paid prior to connection. Amendment accepted. Vote on motion as amended: Ayes–Maio, Moore, Spring, Capitelli, Olds, Worthington, Wozniak, Bates; Absent–Anderson.

Information Reports

37. **Status Update - Right-to-Know Ordinance**
From: City Manager
Contact: Michael Caplan, Economic Development, 981-7530
Action: Received and filed.
38. **Status of Seismic Strengthening Work Qualifying For The Transfer Tax Reduction**
From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: Received and filed.
39. **Status Report: Private Sewer Lateral Rehabilitation Program**
From: City Manager
Contact: Claudette Ford, Public Works, 981-6300
Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda – 1

Adjournment – 10:11 p.m. in memory of Charlie Brown, Michael Wilson and Gus Schultz.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of December 18, 2007 as approved by the Berkeley City Council.

Pamyla Means, MMC, City Clerk

Communications – 12/18/07

Missing BHS Student Rescued

1. Sam Herbert

Free Speech at MLK Swim Center

2. Eric Rhodes

Urban Density/Development in Berkeley

3. Barbara Gilbert

Becky Temko Tot Park

4. Hal Reynolds

Metro Lighting Exonerated

5. Lawrence Grown

Supplemental Communications and Reports 1

Item 22: Nomination of the Berkeley High School Campus Historic District to the National Register of Historic

6. Marie Bowman

Item 29: Revision of the Condominium Conversion Ordinance (BMC Chapter 21.28)

7. David Wilson (2)

Item 38: Status of Seismic Strengthening Work Qualifying For The Transfer Tax Reduction

8. Barbara Gilbert

Supplemental Communications and Reports 2

Item 26: Support of "Oil Independent Berkeley" – Peak Oil Crisis

9. Unknown (oversized poster available for viewing at City Clerk Department)

Item 34: Contracts: Disposal Services

- To Be Delivered reports, submitted by Public Works
10. Dan Knapp and Mary Lou Van Deventer, Urban Ore
 11. Unknown

Item 35: Dredging in Aquatic Park

- Revised report, submitted by Public Works

Item 36: Fee Deferral Request: 1800 San Pablo Avenue

12. Barbara Gilbert

13. Jerry Landis

14. Robin Wright

Dacey v. Berkeley City Council, et al.

15. Patti Dacey