





Office of the City Manager

CONSENT CALENDAR
October 25, 2011

To:  Honorable Mayor and Members of the City Council
From:  Phil Kamlarz, City Manager
Submitted by: Deanna Despain, City Clerk
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of September 6, 2011 (special closed), September 20, 2011 (special and regular), September 26, 2011 (special closed) and September 27, 2011 (special and regular).

CONTACT PERSON

Deanna Despain, City Clerk, 981-6900

Attachments:

1. September 6, 2011–Special Closed City Council Meeting
2. September 20, 2011–Special City Council Meeting
3. September 20, 2011–Regular City Council Meeting
4. September 26, 2011–Special Closed City Council Meeting
5. September 27, 2011–Special City Council Meeting
6. September 27, 2011–Regular City Council Meeting

**MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL AND BOARD OF LIBRARY TRUSTEES**

TUESDAY, SEPTEMBER 6, 2011

5:30 P.M.

2180 Milvia Street, 1st Floor, Cypress Room

Preliminary Matters

Roll Call: 5:30 p.m.

Present: Councilmembers Anderson, Capitelli, Moore, Wengraf, Worthington, Wozniak and Mayor Bates.

Absent: Councilmembers Arreguin and Maio.

Councilmember Arreguin present at 5:40 p.m.

Public Comment - Limited to items on this agenda only: 4 speakers

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):

Concerned Library Users, et al. v. City of Berkeley, et al. (ACSC Case No. RG 10533979)

Action: M/S/C(Worthington/Moore) to approve a settlement in the case of Concerned Library Users, et al. v. City of Berkeley, et al. (ACSC Case No. RG 10533979).

Vote: Ayes: Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates.
Absent: Maio.

Galpern v. City of Berkeley (USDC Case No., 10-4689 MMC)

Action: No reportable action taken.

Buckley Real Estate Inc. v. City of Berkeley and Fidelity National Title Company (Alameda County Case No. RG 11583014)

Action: No reportable action taken.

2. CONFERENCE WITH LEGAL COUNSEL-- ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (c)

Initiation of litigation – one case

The Berkeley City Council will consider whether to initiate litigation against the Kenneth Sarachan to foreclose on its lien for 2501 Haste Street.

Action: M/S/C(Worthington/Moore) to authorize the City Manager to initiate litigation against Kenneth Sarachan to foreclose on its lien for 2501 Haste Street.

Vote: Ayes: Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates.
Absent: Maio.

3. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

Title of position to be filled: Director of Public Works

Action: No reportable action taken.

OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

Adjourned at 7:10 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of September 6, 2011.

Deanna Despain, CMC, City Clerk

**MINUTES
BERKELEY CITY COUNCIL
SPECIAL MEETING
TUESDAY, SEPTEMBER 20, 2011
5:30 P.M.**

Council Chambers – 2134 Martin Luther King Jr. Way

TOM BATES, MAYOR
Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 5:35 p.m.

Present: Councilmembers Arreguin, Capitelli, Maio, Moore, Wengraf and Wozniak.

Absent: Councilmembers Anderson and Worthington and Mayor Bates.

Councilmember Anderson present at 5:36 p.m. Mayor Bates present at 5:38 p.m.
Councilmember Worthington present at 5:58 p.m.

Public Comment – Items on this agenda only: 6 speakers.

Worksession:

- 1. Safeway Project and EIR – 6310 College Avenue**
From: City Manager
Contact: Farid Javandel, Public Works, 981-6300
Action: Presentation made and discussion held.

Adjournment

Adjourned at 6:46 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of September 20, 2011 as approved by the Berkeley City Council.

Deanna Despain, CMC, City Clerk

Communications

None

Supplemental Communications and Reports 1

Item 1: Safeway Project and EIR – 6310 College Avenue

1. Sally Williams

Supplemental Communications and Reports 2

Item 1: Safeway Project and EIR – 6310 College Avenue

2. Transportation Commission
3. Jacquelyn McCormick
4. Friends and Neighbors of College Avenue (FANS)
5. Safeway

MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 20, 2011
7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:04 p.m.

Present: Councilmembers Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Mayor Bates.

Absent: None.

Ceremonial Matters:

1. Pledge of Allegiance to the Flag
2. Berkeley High School Crew Team
3. Berkeley Coffee and Tea Day

City Manager Comments: Crime report for the first 6 months of the year.

Public Comment on Non-Agenda Matters: 2 speakers.

Public Comment on Consent Calendar and Information Items Only: 2 speakers.

Consent Calendar

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

Recess Items

1. **Acceptance of Title X Funding for Family Planning and Health Services**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during the Council recess, to accept grant funds from the California Family Health Council (CFHC), in the total amount of \$171,836 for calendar year 2011 to support clinical reproductive health services, as well as individual and community health education and outreach activities; to execute the resultant revenue agreements, contracts and any amendments and extensions; and authorizing the implementation of the projects and appropriation of funding for related expenses.

Recess Items

Financial Implications: See report

Contact: Beth Meyerson, Health Services, 981-5100

Action: Adopted Resolution No. 65,425–N.S.

2. Contract: Bay Area Community Resources

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during the Council recess, executing a contract with Bay Area Community Resources (BACR) for the placement of AmeriCorps interns at the Berkeley High School Health Center (BHS HC) and the Vera Casey Pregnant and Parenting Teen Program in the amount of \$49,200 for the period July 1, 2011 through June 30, 2012.

Financial Implications: Various Funds - \$49,200

Contact: Beth Meyerson, Health Services, 981-5100

Action: Adopted Resolution No. 65,426–N.S.

3. Amend and Increase the Predevelopment Loan Agreement with Resources for Community Development for the University Avenue Cooperative Project

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess amending the City's Predevelopment Loan Agreement with Resources for Community Development (RCD) for an additional \$18,100, to complete the federal environmental review requirements for the University Avenue Cooperative Homes development (UA Co-op).

Financial Implications: See report

Contact: Jane Micallef, Housing, 981-5400

Action: Adopted Resolution No. 65,427–N.S.

4. Reallocation of Community Development Block Grant Funds to East Bay Community Law Center for Fair Housing Services

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to reallocate \$35,544 in Community Development Block Grant (CDBG) funds to East Bay Community Law Center (EBCLC) to provide fair housing services between September 1, 2011 and June 30, 2012 and execute any resultant agreements and amendments.

Financial Implications: See report

Contact: Jane Micallef, Housing, 981-5400

Action: Adopted Resolution No. 65,428–N.S.

5. Contract No. 8459 Amendment: City Mechanical, Inc.

From: City Manager

Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess, which authorizes the City Manager to execute an amendment to Contract No. 8459 with City Mechanical, Inc. for heating, ventilation and air conditioning services, increasing the contract not to exceed amount by \$6,500 for a new not to exceed amount of \$56,500.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 65,429–N.S.

Recess Items

- 6. Contract: Team Ghilotti, Incorporated for the Closed Landfill Riprap Improvements Project**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess:
1. Approving specifications for Closed Landfill Riprap Improvements 11-10589-C;
 2. Accepting the bid withdrawal of Stevens Creek Quarry Construction;
 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 with Team Ghilotti, Incorporated for the Closed Landfill Riprap Improvements Project, in an amount not to exceed \$306,194, which includes a 20% contingency for unforeseen circumstances.
- Financial Implications:** Refuse Fund - \$306,194
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,430–N.S.

Consent Calendar

- 7. Amendments to the Trees and Shrubs Ordinance, Berkeley Municipal Code Chapter 12.44**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 12.44 Trees and Shrubs Ordinance.
Financial Implications: See report
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted first reading of Ordinance No. 7,206–N.S. Second reading scheduled for September 27, 2011.
- 8. Authorization of Credit Bid at Trustee's Sale for Acquisition of 3135 Harper Street and Execution of the Necessary Documents to Complete the Sale**
From: City Manager
Recommendation: Adopt a Resolution authorizing City staff to credit bid at trustee's sale for acquisition of 3135 Harper Street and execute the necessary documents to complete the sale.
Financial Implications: None
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted Resolution No. 65,431–N.S.
- 9. Settlement of Leticia Marquez v. City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. RG 10 497398 entitled Marquez v. City of Berkeley, et al. in the amount of \$95,000.
Financial Implications: Public Liability Fund - \$95,000
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted Resolution No. 65,432–N.S. revised to include payment to the Department of Health Care Services in the amount of \$33,034.25 and payment to Leticia Marquez and her attorney, Matthew J. Witteman in the amount of \$61,965.75.

Consent Calendar

- 10. Settlement of Sarah Raphael v. City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution approving the settlement of the Alameda County Superior Court Action No. RG 09 484584 entitled Raphael v. City of Berkeley, et al. in the amount of \$100,000.
Financial Implications: Public Liability Fund - \$100,000
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted Resolution No. 65,433–N.S.
- 11. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of July 12, 2011 (special closed and regular) and July 19, 2011 (special closed and regular).
Financial Implications: None
Contact: Deanna Despain, City Clerk, 981-6900
Action: Approved minutes as submitted.
- 12. Appointment of Director of Public Works**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of Andrew Clough as Director of Public Works to be effective October 2, 2011.
Financial Implications: See report
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 65,434–N.S.
- 13. Donation: Paula Althoff to the Animal Shelter in Remembrance of Councilmember Dona Spring**
From: City Manager
Recommendation: Adopt a Resolution approving a donation to the Animal Shelter in the sum of \$2,500 from Paula Althoff in remembrance of Councilmember Dona Spring.
Financial Implications: Animal Shelter Donation Fund - \$2,500 (donation)
Contact: Phil Kamlarz, City Manager, 981-7000
Action: Adopted Resolution No. 65,435–N.S.
- 14. Annual Investment Report, Revisions to Investment Policies and Designation of Investment Authority**
From: City Manager
Recommendation: Adopt a Resolution accepting the Annual Investment Report and renewing the delegation of authority to make investments to the Director of Finance.
Financial Implications: None
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted Resolution No. 65,436–N.S. revised to read as follows:

“...BE IT FURTHER RESOLVED that the delegation of authority to the Director of Finance, or his or her designee, to make investments, including U.S. treasury bonds, pursuant to the investment policies is hereby renewed for FY 2012.”

Consent Calendar

- 15. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$12,282,000
Contact: Robert Hicks, Finance, 981-7300
Action: Approved recommendation.
- 16. Contract No. 7676F Amendment: Universal Building Services for Citywide Janitorial Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7676F with Universal Building Services, increasing the contract amount by \$65,000 for a total contract amount not to exceed \$2,565,000 for the period July 1, 2008 to June 30, 2013.
Financial Implications: Permit Service Center - \$65,000
Contact: Robert Hicks, Finance, 981-7300
Action: Adopted Resolution No. 65,437–N.S.
- 17. Revenue Contract: Alameda County for Mental Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a revenue contract and any amendments and/or supplemental agreements thereto, including any changes to the projected annual revenue amount, with Alameda County for the provision of mental health services, including Medi-Cal, Medicare and Early Periodic Screening, Diagnostic and Treatment (EPSDT) billing and reimbursement, for the period of July 1, 2011 to June 30, 2012, with annual renewal thereafter.
Financial Implications: See report
Contact: Beth Meyerson, Health Services, 981-5100
Action: Adopted Resolution No. 65,438–N.S. No requirement for a single audit noted.
- 18. Contract No. 7722 Amendment: Milliman, Inc. for Actuarial Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the existing Contract No. 7722 with Milliman, Inc. (hereinafter "Milliman") by increasing expenditure authority in an amount not to exceed \$60,000 for a total contract amount of \$189,999 through June 30, 2012 for actuarial services pertaining to retiree medical benefit plans.
Financial Implications: General Fund - \$60,000
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 65,439–N.S.

Consent Calendar

- 19. Contract No. 7470 Amendment: 2M Associates for Berkeley Tuolumne Camp Master Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7470 with 2M Associates to provide environmental clearance documents for the Berkeley Tuolumne Camp Master Plan by adding \$125,113 for a total amount not to exceed \$227,162, for a term ending on December 31, 2012.
Financial Implications: Playground Camp - \$125,113
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 65,440–N.S.
- 20. Voluntary Redevelopment Opt-In Program**
From: City Manager
Recommendation: Adopt first reading of an Ordinance to elect and implement participation by the City of Berkeley and the Redevelopment Agency of the City of Berkeley in the Alternative Voluntary Redevelopment Opt-In Program.
Financial Implications: See report
Contact: Wendy Cosin, Planning and Development, 981-7400
Action: Adopted first reading of Ordinance No. 7,207–N.S. Second reading scheduled for September 27, 2011.
- 21. Grant: University of California, Berkeley Chancellor's Partnership Fund for UCPD and BPD Crime Analysis Intern Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept \$36,000 from the University of California, Berkeley Chancellor's Partnership Fund ("CCPF") for equipment and personnel by the Berkeley Police Department in conjunction with the UC Police Department to conduct the "UCPD and BPD Crime Analysis Intern Program".
Financial Implications: See report
Contact: Michael Meehan, Police, 981-5900
Action: Adopted Resolution No. 65,441–N.S.
- 22. Contract: O.C. Jones & Sons, Inc. for Street Rehabilitation FY 2011**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Street Rehabilitation FY 2011 Project, 11-10560-C-REBID; accepting the bid of O.C. Jones & Sons, Inc. and 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 \$1,748,040.
Financial Implications: Street Capital Improvement Program - \$1,748,040
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,442–N.S.

Consent Calendar

- 23. Purchase Order: TYMCO, Inc. for Two Regenerative Air Sweepers**
From: City Manager
Recommendation: Adopt a Resolution, satisfying Berkeley Charter 67.2 requirements, accepting Houston-Galveston Area Council (H-GAC) contract bid procedures, and authorizing the City Manager to execute a purchase order for two regenerative air sweepers with TYMCO, Inc. for an amount not to exceed \$471,117.
Financial Implications: Equipment Replacement Fund - \$471,117
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,443–N.S.
- 24. Delegate to the Board of Library Trustees Acceptance Authority for All Gifts to the Library and to Require Annual Reporting to Council on Gifts Received in Excess of \$1,000 Aggregate Value**
From: Board of Library Trustees
Recommendation: Adopt a Resolution:
1. Delegating to the Board of Library Trustees authority to accept any gifts of funds, goods, or services made to the Library up to \$200,000 that do not include unduly restrictive conditions on their use; and
2. Delegating to the Board of Library Trustees authority to accept all gifts from the Library Foundation constituting payments toward the Foundation's branch library capital campaign pledge, and
3. Mandating annual reporting from the Board of Library Trustees of gifts in excess of \$1,000 in aggregate in an informational report to be presented before the Council on a regular Meeting agenda.
Financial Implications: None
Contact: Donna Corbeil, Commission Secretary, 981-6100
Action: Adopted Resolution No. 65,444–N.S.
- 25. Request for Commission Input Regarding Commission Consolidation**
From: Human Welfare and Community Action Commission
Recommendation: Direct the City Manager to:
1. Provide a report on the impact of Commission Consolidation and consult with Commissions on Commission consolidation; and
2. Include information in the staff report regarding the cost of staff-related Commission activities in relation to the benefit of Commission activities, a detail of the logistics of how Commissions would be combined, and a description of the functions of staff activities performed on behalf of Commissions.
Financial Implications: See report
Contact: Leah Talley, Commission Secretary, 981-5400
Action: Approved recommendation. City Manager to report on what commissions are compliant with the Fair Representation Ordinance.
- 26. Request for Two Additional Parks and Recreation Commission Meetings in 2011**
From: Parks and Recreation Commission
Recommendation: Adopt a Resolution approving two additional Parks and Recreation Commission Meetings for calendar year 2011.
Financial Implications: See report
Contact: Virginia Aiello, Commission Secretary, 981-6660
Action: Adopted Resolution No. 65,445–N.S. City Manager to report on the cost of Commission meetings.

Consent Calendar

27. **Approval of Berkeley Police Department's (BPD) Mutual Aid Agreements, Understandings and Policies (Mutual Aid Pacts) for 2010**
From: Police Review Commission
Recommendation: Adopt a Resolution approving the Berkeley Police Department's Mutual Aid Pacts for 2010.
Financial Implications: See report
Contact: Lillian Mayers, Police Review Commission, 981-4950
Action: Removed from the Agenda.

Council Consent Items

28. **Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Bates
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Bates to the Berkeley Holiday Fund's annual campaign with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Bates and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Fund - \$500
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 65,446–N.S. revised to include the following contributions – Councilmember Maio - \$100, Councilmember Anderson- \$150, Councilmember Wengraf - \$100, Councilmember Wozniak - \$200.
29. **Berkeley High Parent Resource Center: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds to Produce the BUSD Black Family Reunion**
From: Councilmembers Moore, Maio, Anderson and Worthington
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember to the Berkeley High Parent Resource Center with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmembers Moore, Maio, Anderson and Worthington, as well as any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - \$250
Contact: Darryl Moore, Councilmember, District 2, 981-7120
Action: Adopted Resolution No. 65,447–N.S. revised to include the following contributions – Councilmember Maio - \$100, Councilmember Worthington - \$250 and Mayor Bates - \$250.
30. **Berkeley Youth Alternatives: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds for its 40th Anniversary Dinner**
From: Councilmembers Moore and Anderson
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember to Berkeley Youth Alternatives with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmembers Moore and Anderson, as well as any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - \$500
Contact: Darryl Moore, Councilmember, District 2, 981-7120
Action: Adopted Resolution No. 65,448–N.S.

Council Consent Items

- 31. City Sponsorship of PEERS Mental Health and Wellness Walk**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution approving City Co-sponsorship of the PEERS inaugural Mental Health and Wellness Walk to be held on October 1, 2011 at Cesar Chavez Park.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 65,449–N.S.
- 32. Proclamation Declaring October 8, 2011 as Indigenous Peoples Day and Approving City Co-Sponsorship**
From: Councilmember Arreguin
Recommendation: Approve the attached proclamation:
1. Declaring October 8, 2011 as Indigenous Peoples Day in the City of Berkeley; and
2. Approving City co-sponsorship of the 2011 Indigenous Peoples Day event.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Approved proclamation.
- 33. Rescind Pro Plastic Bag Edits to California’s Environmental Curriculum**
From: Councilmember Arreguin
Recommendation: Send a letter to Governor Jerry Brown urging him to rescind the Department of Education’s acceptance of pro plastic bag edits to California’s environmental curriculum.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Approved recommendation.
- Vote:** Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Worthington. Noes: None. Abstain: Wengraf, Wozniak, Bates.
- 34. Stonewall Festival/Berkeley Pride: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$200 from Councilmember Arreguin to the Stonewall Festival/Berkeley Pride with funds relinquished to the City’s general fund for this purpose from the discretionary Council Office Budgets of Councilmember Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember’s Discretionary Fund - \$200
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 65,450–N.S. revised to include the following contributions – Councilmember Maio - \$100, Councilmember Anderson - \$200, Councilmember Capitelli - \$100, Councilmember Wengraf - \$100, Councilmember Worthington - \$1,000.

Council Consent Items

- 35. City Co-Sponsorship: Berkeley Stonewall Festival**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution approving City Co-Sponsorship of the 2011 Berkeley Stonewall Festival.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 65,451–N.S.
- 36. City Employees/Interns at City Council Public Comment**
From: Councilmember Capitelli
Recommendation: Incorporate into the “Guidelines for Public Comment and Council Meeting Order” a recommendation that employees and interns of the City of Berkeley are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops. Include the request in “Preliminary Matters” preceding the City Council agendas.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Continued to September 27, 2011.
- 37. Opting Out of Phone Book Delivery**
From: Councilmembers Capitelli and Wozniak
Recommendation: Request that the City Manager:
1. Write a letter to the AT&T Yellow Pages regarding their phone book drop-off, requesting that they honor the voluntary opt-out program as provided through the City of Berkeley’s Catalog Choice program; and
2. Refer to Alameda County StopWaste.org the Seattle phone book opt-out ordinance to consider development of a model ordinance for jurisdictions within the county.
Financial Implications: Staff time
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action:
1 Approved recommendation to write a letter to the AT&T Yellow Pages regarding their phone book drop-off, requesting that they honor the voluntary opt-out program as provided through the City of Berkeley’s Catalog Choice program.
2 Continued to September 27, 2011, the recommendation to Refer to Alameda County StopWaste.org the Seattle phone book opt-out ordinance to consider development of a model ordinance for jurisdictions within the county.
- 38. Berkeley Public Library Foundation: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Councilmember Wengraf to the Berkeley Public Library Foundation with funds relinquished to the City’s General Fund for this purpose from the Discretionary Council Office Budgets of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember’s Discretionary Fund - \$1,000
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 65,452–N.S. revised to include the following contributions – Councilmember Maio - \$100, Councilmember Anderson - \$200.

Council Consent Items

- 39. Supporting New Priorities Campaign to Reduce Military Spending**
From: Councilmembers Worthington, Anderson, Arreguin and Maio
Recommendation: Adopt a Resolution supporting the New Priorities Campaign in their effort to end the wars in Iraq and Afghanistan and cut the military budget by increasing pressure from local and state governments on Congress.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Continued to September 27, 2011.
- 40. City Sponsorship of the "Making Cents: Forging a New California in a Time of Crisis" Conference**
From: Councilmembers Worthington and Arreguin
Recommendation: Adopt a Resolution co-sponsoring the "Making Cents: Forging a New California in a Time of Crisis" Conference.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 65,453–N.S. revised to reflect October 22, 2011 as the event date.
- Vote:** Ayes: Maio, Moore, Anderson, Arreguin, Worthington. Noes: None. Abstain: Wengraf, Capitelli, Wozniak, Bates.
- 41. "Making Cents: Forging a New California in a Time of Crisis" Conference: Relinquishment of Council Office Budget Funds To General Fund and Grant of Such Funds**
From: Councilmember Worthington
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$200 per Councilmember including \$200 from Councilmember Worthington to the "Making Cents: Forging a New California in a Time of Crisis" Conference with funds relinquished to the City's general fund for this purpose that the City of Berkeley support the Conference and for costs associated with conference refreshments, production, and operations from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$200
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 65,454–N.S. revised to include the following contributions – Councilmember Arreguin - \$200.
- 42. Decline to Sign HOTLINE (877) 440-9585 to Protect the Fair Education Act**
From: Councilmembers Worthington and Moore
Recommendation: Support the decline to sign hotline (877) 440-9585 to prevent a referendum of the FAIR Education Act and to encourage people to call the hotline in order to ensure potential petition signers know the facts about the referendum.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
- Vote:** Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Worthington, Wozniak, Bates. Noes: None. Abstain: Wengraf.

Council Consent Items

43. **Proclamation Honoring Halcyon Neighborhood Association on the 15th Anniversary of Halcyon Commons**
From: Councilmembers Worthington and Anderson
Recommendation: Adopt a proclamation honoring Halcyon Neighborhood Association on the 15th anniversary of Halcyon Commons.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved proclamation.
44. **Support AB 1148: The California Disclose Act to Reveal Funders of Political Ads**
From: Councilmember Worthington
Recommendation: Adopt a Resolution supporting AB 1148, the California Disclose Act.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 65,455–N.S.
45. **Support CA Proposition 1481: "Tax on California Oil Revenues to Education. Initiative Statute."**
From: Councilmember Worthington
Recommendation: Support California Prop 1481, which seeks to use profits from the production and sale of crude oil to support the funding of public education in the state of California.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
46. **Support HR 156: Amending the Constitution to Allow Publicly Funded Elections**
From: Councilmember Worthington
Recommendation: Adopt a Resolution supporting HR 156 to increase environmental and social responsibility by adding an amendment to the U.S. Constitution overturning the Supreme Court's decision in Citizens United v. FEC, which removed limits, set up by Congress, on corporate spending in federal elections.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 65,456–N.S.
- Vote:** Ayes: Maio, Moore, Anderson, Arreguin, Worthington, Bates. Noes: None.
Abstain: Capitelli, Wengraf, Wozniak.

Action Calendar - Appeals

47. **ZAB Appeal: 2801 Adeline Street**
From: City Manager
Recommendation: Adopt a Resolution setting a public hearing in order to do one of the following:
1. Overturn the Zoning Adjustment Board's (ZAB) decision to approve Use Permit No. 10-10000034 to allow retail sales of beer and wine for off-site consumption at an existing retail pharmacy, and deny the Use Permit based on the plain meaning of BMC Section 23E.16.040.B.2.c; or

Action Calendar - Appeals

2. Continue the hearing and adopt a Resolution initiating an amendment for the Planning Commission's consideration which would revise Section 23E.16.040.B.2.c by specifying additional circumstances under which a Use Permit for alcohol sales or service may be approved where the applicant has prior violations.

Financial Implications: None

Contact: Wendy Cosin, Planning and Development, 981-7400

a. Appellant

1. Berry Cisco Gardner, Jr.

b. Communications

-None

Action: M/S/C (Anderson/Moore) to adopt Resolution No. 65,457–N.S. setting a public hearing in order to do one of the following:

1. Overturn the Zoning Adjustment Board's (ZAB) decision to approve Use Permit No. 10-10000034 to allow retail sales of beer and wine for off-site consumption at an existing retail pharmacy, and deny the Use Permit based on the plain meaning of BMC Section 23E.16.040.B.2.c; or

2. Continue the hearing and adopt a Resolution initiating an amendment for the Planning Commission's consideration which would revise Section 23E.16.040.B.2.c by specifying additional circumstances under which a Use Permit for alcohol sales or service may be approved where the applicant has prior violations.

Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates. Noes: None.

48. ZAB Appeal: 2861 Buena Vista Avenue

From: City Manager

Recommendation: Adopt a Resolution denying the appeal and affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 10-10000058, a request by Robert Mueller to allow construction of a new single-family residence on a vacant parcel in the R-1(H) Single-Family Hillside District.

Financial Implications: None

Contact: Wendy Cosin, Planning and Development, 981-7400

a. Appellant

1. Leszek J. Wolfram

b. Communications

-None

Action: M/S/C (Worthington/Capitelli) to adopt Resolution No.65,458–N.S. denying the appeal and affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 10-10000058, a request by Robert Mueller to allow construction of a new single-family residence on a vacant parcel in the R-1(H) Single-Family Hillside District.

Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates. Noes: None.

Action Calendar - Appeals

49. ZAB Appeal: 1423 Kains Avenue

From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to deny MODUP No. 10-70000010 and Variance No. 10-10000071, which would modify Use Permit No. 07-10000045 by reducing the amount of approved off-street parking from four spaces to two, where four spaces are required.

Financial Implications: None

Contact: Wendy Cosin, Planning and Development, 981-7400

a. Appellant

1. A. Ali Eslami

b. Communications

-None

Action: M/S/C (Maio/Moore) to adopt Resolution No. 65,459–N.S. setting a public hearing to discuss the decision of the Zoning Adjustments Board (ZAB) to deny MODUP No. 10-70000010 and Variance No. 10-10000071, which would modify Use Permit No. 07-10000045 by reducing the amount of approved off-street parking from four spaces to two, where four spaces are required.

Vote: Ayes: Maio, Moore, Anderson, Capitelli, Wengraf, Bates. Noes: Arreguin, Worthington. Abstain: Wozniak.

Recess: 8:58 p.m. - 9:13 p.m.

Action Calendar – Old Business

50. Write-Off of a Delinquent Loan Balance Owed by the former Spud's Pizza to the City's South Berkeley Revolving Loan Fund *(Continued from July 19, 2011)*

From: City Manager

Recommendation: Adopt a Resolution authorizing the write-off of the outstanding loan balance of \$85,198 owed by the former Spud's Pizza to the City's South Berkeley Revolving Loan Fund (RLF).

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

Action: Moved to Consent Calendar. Adopted Resolution No. 65,460–N.S. authorizing the write-off of the outstanding loan balance of \$85,198 owed by the former Spud's Pizza to the City's South Berkeley Revolving Loan Fund (RLF).

51. West Berkeley Plan Timeline for Additional Master Use Permit Amendments

From: City Manager

Recommendation: Provide direction for completion of additional environmental analysis to allow Council consideration of additional Master Use Permit amendments.

Financial Implications: See report

Contact: Wendy Cosin, Planning and Development, 981-7400

Action: 9 speakers.

1. M/S/C (Wengraf/Wozniak) to direct staff to study a 75-foot residential height limit in MU-R areas that are part a of MUP sites in the Environmental Impact Report (EIR)

Action Calendar – Old Business

Vote: Ayes: Moore, Capitelli, Wengraf, Wozniak, Bates. Noes: Maio, Anderson, Arreguin, Worthington.

2. M/S/C (Wengraf/Wozniak) to direct staff to study a 100-foot height limit for specific industrial needs in MUP sites in the Environmental Impact Report (EIR)

Vote: Ayes: Maio, Capitelli, Wengraf, Wozniak, Bates. Noes: Arreguin, Worthington. Abstain: Moore, Anderson.

3. M/S/C (Capitelli/Moore) to direct staff to:

a. identify in the EIR the 6-7 sites existing as of August 1, 2011, that would be eligible for MUPs;

b. analyze in the EIR inclusion of MU-R areas in MUPs, with increased residential density consistent with MUP flexibility standards, and allowing residential uses in the MU-LI areas, in the potential Fantasy and Peerless MUP sites, but only those sites; and

c. analyze in the EIR inclusion of C-W areas in MUPs, with increased residential density consistent with MUP flexibility standards, if they meet all other eligibility requirements.

Vote: Ayes: Maio, Moore, Anderson, Capitelli, Wengraf, Wozniak, Bates; Noes: None; Abstain: Arreguin. Absent: Worthington

Absent: Councilmember Worthington – 10:30 p.m. – 10:36 p.m.

52. **Modification of Berkeley Municipal Code Chapter 9.52 Taxicabs and Automobiles for Hire; Adding Permit Transfer Fees; and Establishing New Taxicab Stands**

From: City Manager

Recommendation:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 9.52 regarding regulation of taxicabs and automobiles for hire; and
2. Adopt a Resolution amending Resolution No. 62,299 Section A to include taxi business permit transfers and taxi vehicle permit transfers as part of the fee schedule and amending Section D to relocate the taxi stand on University Avenue (Amtrak Station), and to establish new taxi stands on Bancroft Way, Piedmont Avenue and Martin Luther King Jr. Way.

Financial Implications: See report

Contact: Christine Daniel, Deputy City Manager, 981-7000

Action: Moved to Consent Calendar.

- 1 Continued to October 25, 2011, first reading of an ordinance amending Berkeley Municipal Code Chapter 9.52 regarding regulation of taxicabs and automobiles for hire.

Action Calendar – Old Business

- 2 Adopted Resolution No. 65,461–N.S. revised to amend only Resolution No. 62,299, Section D to relocate the taxi stand on University Avenue (Amtrak Station), and to establish new taxi stands on Bancroft Way, Piedmont Avenue and Martin Luther King Jr. Way.

Action Calendar – New Business

53. Policy for Charging of Electric Vehicles

a. From: City Manager

Recommendation: Direct staff to monitor regional efforts to promote plug-in electric vehicle (PEV) adoption, to monitor local and regional funding opportunities related to PEV policy and infrastructure, to develop print and web-based information that provides guidance to residents on the safe and legal installation of home PEV charging systems, to report on these and other relevant efforts to City Council as part of the annual Climate Action Plan update, and continue to ensure that parking spaces in the public right-of-way are not dedicated to an individual's exclusive use, including for the purpose of charging a PEV.

Financial Implications: No direct fiscal impact

Contact: Andrew Clough, Public Works, 981-6300

b. From: Energy Commission

Recommendation: As staff resources allow, establish a staff working group to develop an Electric Vehicle (EV) strategic plan for Berkeley. The Energy Commission also recommends that the City refer to the guidelines (Guiding Principles for Berkeley's Electric Vehicle Infrastructure) as EV policy is developed.

Financial Implications: See report

Contact: Neal DeSnoo, Commission Secretary, 981-7400

c. From: Public Works Commission

Recommendation: Adopt a Resolution establishing a restricted policy for the charging of electric vehicles (EVs) for owners of EVs living in residential neighborhoods lacking adequate off-street parking. In so doing, avoid the private use of the public right-of-way (PROW) to charge EVs adjacent to owners' residences, since preferable alternatives exist and are expected to expand soon.

Financial Implications: See report

Contact: Jeffrey Egeberg, Commission Secretary, 981-6400

d. From: Transportation Commission

Recommendation: Support both the Public Works Commission's recommendations for a policy for charging of electric vehicles (see companion PW Commission report), with certain modifications, and the Energy Commission's recommended Guiding Principles for Berkeley's Electric Vehicle Infrastructure (see companion Energy Commission report); and avoid adopting a policy that provides for exclusive personal private use of the public right-of-way.

Financial Implications: Unknown

Contact: Farid Javandel, Commission Secretary, 981-6300

Action Calendar – New Business

Action: 1 speaker. M/S/C (Wengraf/Worthington) to approve the City Manager's recommendation to Direct staff to monitor regional efforts to promote plug-in electric vehicle (PEV) adoption, to monitor local and regional funding opportunities related to PEV policy and infrastructure, to develop print and web-based information that provides guidance to residents on the safe and legal installation of home PEV charging systems, to report on these and other relevant efforts to City Council as part of the annual Climate Action Plan update, and continue to ensure that parking spaces in the public right-of-way are not dedicated to an individual's exclusive use, including for the purpose of charging a PEV. Staff to consider the Energy, Public Works and Transportation Commission's recommendations. Referred to the Agenda Committee for future scheduling.

Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates. Noes: None.

**54. City Manager Referral: Revisions to the Development Agreement Procedures
From: Mayor Bates**

Recommendation: Request the City Manager develop revisions to the Development Agreement procedures in the Berkeley Municipal Code to be more consistent with State law.

Financial Implications: Unknown
Contact: Tom Bates, Mayor, 981-7100

Action: 0 speakers. M/S/C (Bates/Maio) to approve the Mayor's recommendation to request the City Manager develop revisions to the Development Agreement procedures in the Berkeley Municipal Code to be more consistent with State law.

Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Wozniak, Bates. Noes: Worthington.

Action: M/S/C (Arreguin/Wozniak) to suspend the Council Rules of Procedure and extend the meeting to 11:15 p.m. Adopted by unanimous consent

**55. Referral to City Manager: Vacancy Registration Fee
From: Councilmember Arreguin**

Recommendation: Refer to the City Manager the attached proposal for a Vacancy Registration Fee for review and the development of a policy to address the issue of vacant ground floor commercial spaces throughout Berkeley.

Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: 0 speakers. M/S/C (Bates/Worthington) to approve Councilmember Arreguin's recommendation to refer to the City Manager the proposal for a Vacancy Registration Fee for review and the development of a policy to address the issue of vacant ground floor commercial spaces throughout Berkeley. Staff to begin with consideration of blighted properties.

Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates. Noes: None.

Action Calendar – Council Items

56. Referring to Planning Commission Revised Zoning Language Relating to the Sale of Non-Processed Edibles

From: Councilmember Arreguin

Recommendation: Refer to the Planning Commission revised Zoning language relating to the sale of Non-Processed Edibles in Residential districts and suggest consideration of the following option: Lowering the permitting requirement for the sale of Non-Processed Edibles to a Low Impact Home Occupation use (Zoning Certificate) subject to the conditions in the draft zoning language (limits on customer sales; hours of sales; location of sales; soils testing etc.).

Financial Implications: Unknown

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Moved to Consent Calendar. Approved Councilmember Arreguin's recommendation to refer to the Planning Commission revised Zoning language relating to the sale of Non-Processed Edibles in Residential districts and suggest consideration of the following option: Lowering the permitting requirement for the sale of Non-Processed Edibles to a Low Impact Home Occupation use (Zoning Certificate) subject to the conditions in the draft zoning language (limits on customer sales; hours of sales; location of sales; soils testing etc.).

57. Sale of Non-Processed Edibles in Residential Districts

From: Councilmembers Capitelli and Wengraf

Recommendation: Refer to the Planning Commission consideration of defining businesses in residential areas that sell non-processed food items grown on site in gardens under 1000 square feet as low-impact home occupations that require only zoning certificates and business licenses. Refer to the City Manager City development of guidelines and "best practices" for these very small food producers.

Financial Implications: Unknown staff time

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

Action: Moved to Consent Calendar. Approved Councilmembers Capitelli and Wengraf's recommendation to refer to the Planning Commission consideration of defining businesses in residential areas that sell non-processed food items grown on site in gardens under 1000 square feet as low-impact home occupations that require only zoning certificates and business licenses. Refer to the City Manager City development of guidelines and "best practices" for these very small food producers.

58. City Manager Referral: Consideration of Implementation of New DUI Policies

From: Councilmember Worthington

Recommendation: Refer to the City Manager consideration of the establishment of a DUI ordinance similar to one in Oakley, California where those convicted of a DUI must pay for all city expenses due to their DUI crime.

Financial Implications: None

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

Action: Continued to September 27, 2011.

Action Calendar – Council Items

59. City Manager Referral: Ordinance to Allow Civil Cause of Action to Limit Harassment

From: Councilmember Worthington

Recommendation: Refer to City Manager consideration of establishing an ordinance like LA's to limit harassment.

Financial Implications: Minimal

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

Action: Continued to September 27, 2011.

Information Reports

60. Investment Report: Quarter Ended June 30, 2011

From: City Manager

Contact: Robert Hicks, Finance, 981-7300

Action: Received and filed.

61. Voting on League of California Cities 2011 Annual Conference Resolutions

From: Councilmember Worthington

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

Action: Received and filed. Councilmember Worthington acknowledged that item 1 will have amendments.

62. Report on Regional Bodies Participation

From: Councilmember Worthington

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

Action: Received and filed.

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

Adjournment

Adjourned at 11:14 p.m. in celebration of the repeal of the “Don’t Ask, Don’t Tell” policy. And in memory of the following individuals: Ethel Gomez, Euradee H. Maybuce-Lamons, Tania Levy, Armando Tanori.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 20, 2011 as approved by the Berkeley City Council.

Deanna Despain, CMC, City Clerk

Communications

Item 51: West Berkeley Plan Timeline for Additional Master Use Permit Amendments

1. Laura Heyenga

Communications

Panhandling Suggestion

2. Oliver Homann

Commentary on Previous Council Items

3. Berkeley Council Watch

Public Hearing Request

4. Alan Revere – Referred to the City Manager by Councilmember Worthington.

Elmwood Zoning

5. Gordon Wozniak

Redistricting Proposal

6. Audrey Gutierrez

Lawrence Berkeley National Laboratory Synthetic Biology Campus

7. Jim Thomas

Parker Place / GreenTRIP Certification

8. Ann Cheng

Bicycle Facilities

9. Marcy Greenhut

SmartMeter Update

10. Steve Martinot

Electric Charging Station at 1865 University

11. Tim Southwick

2501 Haste Street

12. Holly Hartley

13. Ken Sarachan

Supplemental Communications and Reports 1

Item 37: Opting Out of Phone Book Delivery

14. Anne Whyte

Item 47: ZAB Appeal: 2801 Adeline Street

15. Robert Nicholas, Hass & Najarian, LLP

Item 48: ZAB Appeal: 2861 Buena Vista Avenue

16. William Berland, Ferguson & Berland

17. Leszek Wolfram

Item 49: ZAB Appeal: 1423 Kains Avenue

18. Aaron Ehrlich, Katzoff & Riggs

Item 51: West Berkeley Plan Timeline for Additional Master Use Permit Amendments

19. Julie Dickinson

Item 55: Referral to City Manager: Vacancy Registration Fee

20. Ito Ripsteen

Supplemental Communications and Reports 1

Item 56 & 57: Referring to Planning Commission Revised Zoning Language Relating to the Sale of Non-Processed Edibles and Sale of Non-Processed Edibles in Residential Districts

21. Martin Bourque, on behalf of the Berkeley Food Policy Council

Supplemental Communications and Reports 2

Item 41: "Making Cents: Forging a New California in a Time of Crisis" Conference: Relinquishment of Council Office Budget Funds To General Fund and Grant of Such Funds

22. Unknown

Item 51: West Berkeley Plan Timeline for Additional Master Use Permit Amendments

- Presentation, submitted by Planning & Development (see agenda item)

23. Joe DeCredico

Item 53: Policy for Charging of Electric Vehicles

24. Unknown (2)

MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
MONDAY, SEPTEMBER 26, 2011
5:30 P.M.

2180 Milvia Street, 1st Floor, Cypress Room

Preliminary Matters

Roll Call: 5:32 p.m.

Present: Councilmembers Arreguin, Capitelli, Wengraf, Worthington and Mayor Bates.

Absent: Councilmembers Anderson Maio, Moore and Wozniak.

Councilmember Maio present at 5:37 p.m. Councilmember Anderson present at 5:37 p.m.

Public Comment - Limited to items on this agenda only: 0 speakers.

CLOSED SESSION:

The City Council will convene in closed session to meet concerning the following:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):

a. Rollie French v. Arntz Builders, City of Berkeley, et al. (Alameda County Superior Court No.2002-043461

consolidated with:

- i. Helix Electric v. Arntz Builders, et al. (Alameda County Superior Court No. 2002-061480);
- ii. Thyssenkrupp Elevator Corp. v. Arntz Builders, et al. (Alameda County Superior Court No.2002-071479);
- iii. F.W. Spencer & Son, Inc. v. Arntz Builders, et al. (Alameda County Superior Court No. RG03082302);
- iv. Bay Systems Integrators, Inc. v. Helix Electric, Inc., et al. (Alameda County Superior Court No. RG03089440); and
- v. Arntz Builders, Inc. v. City of Berkeley, et al. (Alameda County Superior Court No. RG 03095394.)

Action: No reportable action taken.

b. Galpern v. City of Berkeley (USDC Case No., 10-4689 MMC)

Action: M/S/C(Maio/Capitelli) to approve a settlement in the case of Galpern v. City of Berkeley, USDC Case No., 10-4689 MMC in the amount of \$60,000. The City will also comply with a two year Consent Judgement.

Vote: Ayes: Maio, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates. Absent: Moore, Wozniak.

c. Cochrell, Terry v. Berkeley Unified School District; City of Berkeley
USDC, Northern Dist. of CA C11-03395 JCS

Action: No reportable action taken.

d. Gatzke v. City of Berkeley, et al. (ACSC No. RG10 502193)

Action: No reportable action taken.

2. CONFERENCE WITH LABOR NEGOTIATOR; GOVERNMENT CODE SECTION 54957.6:

Negotiators: Phil Kamlarz, City Manager, Christine Daniel, Deputy City Manager, David W. Hodgkins, Director of Human Resources, Teresa Berkeley-Simmons, Budget Manager, Michael Meehan, Chief of Police, Sarah Reynoso, Assistant City Attorney, Margaret Edwards, Associate Human Resources Analyst

Employee Organizations: Berkeley Police Association

Negotiators: Phil Kamlarz, City Manager, Christine Daniel, Deputy City Manager, David W. Hodgkins, Director of Human Resources, Teresa Berkeley-Simmons, Budget Manager, Sarah Reynoso, Assistant City Attorney.

Employee Organizations: Service Employees International Union Local 1021
Community Services and Part-Time Recreation Leaders Association Chapters, Public Employees Union Local 1, International Brotherhood of Electrical Workers local 1245 and Unrepresented Employees in Representation Units Z1, Z2, Z3 and Z4.

Action: No reportable action taken.

OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

Adjournment

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of September 26, 2011.

Deanna Despain, CMC, City Clerk

**MINUTES
BERKELEY CITY COUNCIL
SPECIAL MEETING
TUESDAY, SEPTEMBER 27, 2011
5:30 P.M.**

Council Chambers – 2134 Martin Luther King Jr. Way

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 5:31 p.m.

Present: Councilmembers Capitelli, Maio, Moore, Wengraf and Wozniak.

Absent: Councilmembers Anderson, Arreguin and Worthington and Mayor Bates.

Councilmember Anderson present at 5:38 p.m. Councilmember Worthington present at 5:38 p.m.

Public Comment – Items on this agenda only: 8 speakers.

Worksession:

1. Parks, Pools and Waterfront Capital Needs

From: City Manager

Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

Action: Presentation made and discussion held.

Adjournment

Adjourned at 6:39 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of September 27, 2011 as approved by the Berkeley City Council.

Deanna Despain, CMC, City Clerk

Communications

None

Supplemental Communications and Reports 1

Item 1: Parks, Pools and Waterfront Capital Needs

1. Commission on Disability
2. Robert Davison
3. Tom Killiea
4. Linda Maio

Supplemental Communications and Reports 2

Item 1: Parks, Pools and Waterfront Capital Needs

- Presentation, submitted by Parks, Recreation & Waterfront (see agenda item)
- 5. Susan Hall
- 6. Rob Collier

MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 27, 2011
7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:08 p.m.

Present: Councilmembers Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Mayor Bates.

Absent: None.

Ceremonial Matters:

1. In Honor of Ben Stern on his 90th Birthday
2. Indigenous Peoples Day
3. In Honor of Shotgun Players
4. In Recognition of the Women's Therapy Center

City Manager Comments: None

Public Comment on Non-Agenda Matters: 3 speakers.

Public Comment on Consent Calendar and Information Items Only: 0

Consent Calendar

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

Consent Calendar – Continued Business

A. Amendments to the Trees and Shrubs Ordinance, Berkeley Municipal Code Chapter 12.44

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,206–N.S. amending Berkeley Municipal Code Chapter 12.44 Trees and Shrubs Ordinance.

Consent Calendar – Continued Business

Financial Implications: See report

First Reading Vote: All Ayes

Contact: Zach Cowan, City Attorney, 981-6950

Action: Adopted second reading of Ordinance No. 7,206–N.S.

B. Voluntary Redevelopment Opt-In Program

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,207–N.S. to elect and implement participation by the City of Berkeley and the Redevelopment Agency of the City of Berkeley in the Alternative Voluntary Redevelopment Opt-In Program.

Financial Implications: See report

First Reading Vote: All Ayes

Contact: Wendy Cosin, Planning and Development, 981-7400

Action: Adopted second reading of Ordinance No. 7,207–N.S.

Consent Calendar

1. Enhancement of Recording Council Annotated Agendas and Minutes

From: City Manager

Recommendation: Adopt a Resolution revising the recording of the Council Annotated Agendas and Minutes to include all final actions.

Financial Implications: Minimal staff time

Contact: Deanna Despain, City Clerk, 981-6900

Action: Adopted Resolution No. 65,462–N.S.

2. Establish 2012 City Council Meeting Schedule

From: City Manager

Recommendation: Adopt a Resolution establishing the Council regular meeting schedule for 2012, with starting times of 7:00 p.m.

Financial Implications: None

Contact: Deanna Despain, City Clerk, 981-6900

Action: Adopted Resolution No. 65,463–N.S.

3. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days

From: City Manager

Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Financial Implications: Various Funds - \$3,271,178

Contact: Robert Hicks, Finance, 981-7300

Action: Approved recommendation.

4. Increase the Maximum Household Very Low-Income Level from \$35,700 to \$36,950 to Qualify for City Tax and Fee Refunds, Animal License Fee Waiver, and Community Service Eligibility

From: City Manager

Recommendation: Adopt a Resolution establishing the maximum income level for 1-2 person households in order to qualify for the Very Low Income (VLI) exemption from

Consent Calendar

specified local taxes and fees, Animal Licensing fee waiver, and Community Service eligibility at \$36,950 effective July 1, 2011, and rescinding Resolution No. 64,553-N.S.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted Resolution No. 65,464–N.S.

5. Agency Transfer Payment Agreement with the Redevelopment Agency

From: City Manager

Recommendation: Adopt a Resolution authorizing the execution of the Agency Transfer Payment Agreement with the Redevelopment Agency of the City of Berkeley.

Financial Implications: See report

Contact: Wendy Cosin, Planning and Development, 981-7400

Action: Adopted Resolution No. 65,465–N.S.

6. Contract: IPS Group, Inc. for Credit-Card Enabled Parking Meters and Data Management System

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a 3-year contract with IPS Group, Inc. to provide parking meter parts and meter management software effective October 1, 2011 through June 30, 2014 for an amount not to exceed \$1,614,805; with an option to extend the contract for an additional 1-year period through June 30, 2015 for an amount not to exceed \$230,000 and a total contract amount not to exceed \$1,844,805 for the period October 1, 2011 through June 30, 2015.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 65,466–N.S.

Council Consent Items

7. Re-Appointment of Katherine Gale to the Berkeley Housing Authority Board of Commissioners

From: Mayor Bates

Recommendation: Adopt a Resolution approving the re-appointment of Katherine Gale to the Berkeley Housing Authority (BHA) Board of Commissioners.

Financial Implications: None

Contact: Tom Bates, Mayor, 981-7100

Action: Adopted Resolution No. 65,467–N.S.

8. Auto Dealers on South Shattuck

From: Mayor Bates and Councilmember Anderson

Recommendation: Refer to the Planning Commission a Zoning Ordinance amendment to allow automobile dealers to become a legal conforming use on South Shattuck Ave, including the ability to lease or purchase additional property if necessary.

Financial Implications: None

Contact: Tom Bates, Mayor, 981-7100

Action: Approved recommendation.

Council Consent Items

**9. Proclamation Recognizing the 100th Anniversary of Women's Vote in California
From: Councilmembers Maio, Wengraf and Capitelli**

Recommendation:

1. Approve the attached proclamation honoring both the 100th anniversary of California women obtaining the right to vote, and the 100th anniversary of the founding of the League of Women Voters of Berkeley, Albany, Emeryville (LWVBAE);
2. The Mayor of Berkeley present the proclamation to representatives from the LWVBAE at the Council's regular meeting of October 11, 2011;
3. Adopt a Resolution cosponsoring the October 2011 "Berkeley Women Vote" events as listed on the attached flyer.

Financial Implications: None

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

Action: Approved and presented proclamation; Adopted Resolution No. 65,468–N.S.

10. Options Recovery Services: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Arreguin

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$324 per Councilmember, including \$324 from Councilmember Arreguín, to Options Recovery Services for its Ride for Recovery fundraiser with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguín and any other Councilmembers who would like to contribute.

Financial Implications: Councilmember's Discretionary Fund - \$324

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Adopted Resolution No. 65,469–N.S.

11. Proclamation in Honor of the 20th Anniversary of the Berkeley Video and Film Festival

From: Councilmembers Arreguin and Worthington

Recommendation: Adopt a proclamation in honor of the East Bay Media Center's Berkeley Video and Film Festival on the occasion of its 20th anniversary and honoring the East Bay Media Center for its years of work in organizing the festival and for its many contributions to the Berkeley community.

Financial Implications: None

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Approved proclamation.

Council Consent Items

12. Sign On to United Farm Workers Petition to End Secure Communities Program From: Councilmembers Arreguin and Worthington

Recommendation: Sign on to the United Farm Workers petition to end the federal Secure Communities Program. Petition language reads as follows:

“Your decision to force all localities to enroll in Secure Communities (S-Comm) is anti-democratic, and will further devastate our communities by placing innocent immigrants in deportation and breaking trust between police and immigrants. We demand that you terminate the S-Comm program immediately!”

Financial Implications: None

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Approved recommendation.

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates; Noes - Wozniak.

13. Friends of the Fountain and Walk: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmembers Capitelli and Wengraf

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$200 per Councilmember including \$200 each from Councilmembers Capitelli and Wengraf to the Friends of the Fountain and Walk with funds relinquished to the City’s general fund for this purpose from the discretionary Council Office Budgets of Councilmembers Capitelli and Wengraf and any other Councilmembers who would like to contribute.

Financial Implications: Councilmembers’ Discretionary Fund - \$200

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

Action: Adopted Resolution No. 65,470–N.S.

14. Decline to Sign Hotline: 1-877-440-9585 to Prevent Deceptive Anti-Union Ballot Petition

From: Councilmembers Worthington and Anderson

Recommendation:

1. Support the Decline to Sign hotline (1-877-440-9585) to prevent the deceptively-named ‘Stop Special Interests Act’ ballot petition being circulated under pretenses of ‘fighting special interests’, which in fact takes away the right to make voluntary paycheck deduction contributions to union political action funds, and
2. Encourage the people of Berkeley to actively oppose this falsely-portrayed ballot petition by calling the toll-free number to report petition gatherers who try to obtain signatures by deceptively talking about ‘special interests’ in politics.

Financial Implications: None

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

Action: Approved recommendation.

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Worthington, Bates; Abstain - Capitelli, Wengraf, Wozniak.

Council Consent Items

- 15. Stand in Solidarity with Verizon Workers**
From: Councilmember Worthington
Recommendation: Send a letter to Verizon Wireless President and CEO Lowell McAdam, expressing that the City of Berkeley stands in solidarity with Verizon workers, the Communications Workers of America (CWA) and the International Brotherhood of Electrical Workers (IBEW) as they negotiate contracts with Verizon Wireless.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
- Vote:** Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates; Noes – None; Abstain - Wozniak.
- 16. Support the BlueGreen Alliance JOBS21! Blueprint to Solve the Job Crisis**
From: Councilmember Worthington
Recommendation: Support the BlueGreen Alliance JOBS21! Blueprint for expanding the number and quality of jobs in the clean energy economy.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
- Vote:** Ayes - Maio, Moore, Anderson, Arreguin, Worthington, Bates; Noes – None; Abstain - Capitelli, Wengraf, Wozniak.
- 17. Support Proclamation for National Coming Out Day October 11, 2011**
From: Councilmembers Worthington, Moore and Arreguin
Recommendation: Support a proclamation for National Coming Out Day on October 11, 2011.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Action Calendar – Public Hearing

- 18. Southside Plan, Environmental Review, General Plan and Zoning Amendments**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion;
1. Adopt a Resolution certifying the Environmental Impact Report (EIR) and adopting CEQA findings and the Mitigation Monitoring Program;
 2. Adopt a Resolution adopting amendments to the General Plan text and map to implement the Southside Plan;
 3. Adopt a Resolution adopting the Southside Plan;
 4. Adopt first reading of an Ordinance amending the Zoning Ordinance (BMC Chapter 23) by creating a new Chapter, 23D.48 (R-S);
 5. Adopt first reading of an Ordinance amending the Zoning Ordinance (BMC Chapter 23) by creating a new Chapter, 23D.52 (R-SMU);
 6. Adopt first reading of an Ordinance amending the Berkeley Municipal Code, and Zoning Ordinance (BMC Chapter 23) by amending the existing requirements for the

Action Calendar – Public Hearing

Telegraph Commercial District (C-T, 23E.56) and Multiple Family Residential (R-3, 23D.36), and by making technical changes to BMC 14.72.080, 23A.04.030, 23A.16.020, Sub-Title 23D, 23D.12.020, 23D.12.090, 23D.40.030, 23D.40.050, 23E.08.020, 23E.28.130, 23E.32.020, 23E.96.070, and 23F.04.010; and
7. Adopt first reading of an Ordinance amending the Zoning Map by rezoning subareas R-4 and C-1 within the Southside Area to either R-3, R-S, R-SMU, or C-SA.

Financial Implications: See report

Contact: Wendy Cosin, Planning and Development, 981-7400

Public Testimony: The Mayor opened the public hearing. 19 speakers. M/S/C (Maio/Worthington) to close the public hearing. Adopted by unanimous consent

Action: M/S/C (Worthington/Arreguin) to accept supplemental material from staff and Councilmembers for consideration. Adopted by unanimous consent.

Action: M/S/C (Maio/Worthington) to adopt the following:

1. Resolution No. 65,471–N.S. certifying the Environmental Impact Report (EIR) and adopting the CEQA findings and the Mitigation Monitoring Program;
2. Resolution No. 65,472 –N.S. adopting amendments to the General Plan text and map to implement the Southside Plan;
3. Resolution No. 65,473–N.S. adopting the Southside Plan with the following revisions;

- *Policy LU-A2: Housing and mixed use projects with housing for students, should be the University of California's highest priority for the use of University-owned opportunity sites in the Southside except those with frontage on Bancroft.*
- *Policy LU-A2 C. City of Berkeley supports the UC policy ending the Parking Replacement Fee. Consistent with previously adopted Resolution 60,220, Berkeley calls on the UC Chancellor to revise the successor Capital Renewal Fee to provide a blanket exemption for student housing.*
- *Policy LU-F5 A. Support development of student housing on University-owned and other surface parking lots.*

4. First reading of Ordinance No. 7,208–N.S. amending the Zoning Ordinance (BMC Chapter 23) by creating a new Chapter, 23D.48 (R-S); Second reading scheduled for October 25, 2011;

5. First reading of Ordinance No. 7,209–N.S. amending the Zoning Ordinance (BMC Chapter 23) by creating a new Chapter, 23D.52 (R-SMU); Second reading scheduled for October 25, 2011;

6. First reading of Ordinance No. 7,210–N.S. amending the Berkeley Municipal Code, and Zoning Ordinance (BMC Chapter 23) by amending the existing requirements for the Telegraph Commercial District (C-T, 23E.56) and Multiple Family Residential (R-3, 23D.36), and by making technical changes to BMC 14.72.080, 23A.04.030, 23A.16.020, Sub-Title 23D, 23D.12.020, 23D.12.090, 23D.40.030, 23D.40.050, 23E.08.020, 23E.28.130, 23E.32.020, 23E.96.070, and 23F.04.010; Second reading scheduled for October 25, 2011;

Action Calendar – Public Hearing

7. First reading of Ordinance No. 7,211–N.S. amending the Zoning Map by rezoning subareas R-4 and C-1 within the Southside Area to either R-3, R-S, R-SMU, or C-SA; Second reading scheduled for October 25, 2011.

Refer the following to the Planning Commission:

AFFORDABLE HOUSING

- Amend Policy LU-A1 (page 54 of draft Plan) to add the following policy:

Provide an additional height bonus in the R-S, R-SMU and C-T Districts in the form of an extra story for housing projects that provide 10% of the units affordable to households making 50% or less of the Area Median Income.

Projects would still be eligible for a Density Bonus under Government Code Section 65915, which would result in an residential floor space depending on the number of affordable units provided and their level of affordability. In other sub areas, explore the creation of incentives to encourage the provision of affordable units, such as increased lot coverage or reduced parking requirements.

ZONING AMENDMENTS

Add to the proposed Zoning Ordinance amendments an affordable housing bonus in the R-S, R-SMU and C-T Districts, modeled after the standards recommended in the 2001 and 2003 draft Southside Plan.

- ❖ Amend Proposed BMC Section 23D.48.070 (R-S Development Standards) on Page 180 of packet as follows:

C. The height for a Main Building shall satisfy the following requirements:

- 1. The maximum height shall be three stories and 35 feet, except as otherwise provided in paragraph 2 below.*
- 2. The Board may approve a Use Permit to increase a project's height to a maximum height of four stories and 45 feet if ~~it makes both~~ both of the following findings are made by the Board:*
 - a. At least 50% of the total building floor areas is designated for residential use.*
 - b. At least 10% of the housing units are affordable to households earning up to 50% of the Area Median Income (AMI).*
 - c. The project meets the purposes of the District.*

- ❖ Amend Proposed BMC Section 23D.52.070 (R-SMU Development Standards) on Pages 193 and 194 as follows:

C. The height for a Main Building shall satisfy the following requirements:

- 1. The maximum height shall be four stories and 60 feet, except as otherwise provided in paragraphs 2 and 3 below.*
- 2. Within the portions of the District located east of Telegraph Avenue and/or more than 130 feet south of Bancroft Way, the Board may approve a Use Permit to increase a project's maximum height to five stories and 65 feet if it makes ~~both~~ all of the following findings:*
 - a. At least 50% of the total building floor area is designated for residential use; and*

Action Calendar – Public Hearing

- b. At least 10% of the housing units are affordable to households earning up to 50% of the Area Median Income (AMI).
 - c. The project meets the purposes of the District.
 3. Within the portion of the District located west of Telegraph Avenue and within 130 feet from Bancroft Way, the Zoning Board may approve a Use Permit to increase a project's maximum height to five stories and 75 feet if it makes ~~both~~ all of the following findings:
 - a. At least 50% of the total building floor area is designated for residential use; and
 - b. At least 10% of the housing units are affordable to households earning up to 50% of the Area Median Income (AMI).
 - c. The project meets the purposes of the District.
- ❖ Amend BMC Section 23E.56.070 (C-T District Development Standards) on Page 234 of the packet to read as follows:
- A. The height for a Main Building shall not exceed the following limits and shall satisfy the following requirements: ~~The height of a Main Building shall satisfy the following requirements:~~
 1. The minimum height shall be three stories and 35 feet.
 2. The maximum height shall be four stories and 50 feet.
 3. The Zoning Board may approve a Use Permit to increase a project's maximum height to five stories and 65 feet if it makes ~~both~~ all of the following findings:
 - a. At least 50% of the total building floor area is designated for residential use; and
 - b. **At least 10% of the housing units are affordable to households earning up to 50% of the Area Median Income (AMI); and**
 - c. The project will not result in a significant reduction in sunlight on Telegraph Avenue sidewalks.
 4. The maximum height of the Telegraph/Channing garage shall be seven stories and 85 feet.

ZONING MAP CHANGES

- ❖ Amend the revised Zoning map (Exhibit A, Attachment 7, page 244) to downzone the all parcels south of Dwight Way, which do not confront Dwight in the area bounded by Shattuck-Dwight-Telegraph-Blake as R-2A (as illustrated in the attached map). Also see attached summary of differences between R-2A and R-3 zoning.
- ❖ Amend the Resolution adopting the Southside Plan on pages 169 to reflect rezoning to R-2A
- ❖ Amend Ordinance amending the Zoning map on page 227 to reflect rezoning to R-2A

Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None.

Recess: 8:56 p.m. – 9:11 p.m.

Action Calendar – Continued Business

C. City Employees/Interns at City Council Public Comment *(Continued from September 20, 2011)*

From: Councilmember Capitelli

Recommendation: Incorporate into the “Guidelines for Public Comment and Council Meeting Order” a recommendation that employees and interns of the City of Berkeley are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops. Include the request in “Preliminary Matters” preceding the City Council agendas.

Financial Implications: None

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

Action: M/S/C (Capitelli/Wengraf) to approve Councilmember Capitelli’s revised recommendation to incorporate into the “Guidelines for Public Comment and Council Meeting Order” a recommendation that employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops. Include the request in “Preliminary Matters” preceding the City Council agendas.

Vote: Ayes - Maio, Moore, Capitelli, Wengraf, Wozniak, Bates. Noes - Arreguin, Worthington; Abstain - Anderson.

D. Opting Out of Phone Book Delivery *(Continued from September 20, 2011)*

From: Councilmembers Capitelli, Wozniak and Worthington

Recommendation: Request that the City Manager refer to Alameda County StopWaste.org the Seattle phone book opt-out ordinance to consider development of a model ordinance for jurisdictions within the county.

Financial Implications: Staff time

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

Action: M/S/C (Capitelli/Worthington) to accept supplemental material for consideration. Adopted by unanimous consent.

Action: 1 speaker. M/S/C (Capitelli/Worthington) to approve Councilmembers Capitelli Wozniak and Worthington’s revised recommendation to:

a. Because the deadline is coming up soon for the printed directory distribution of Valley Yellow Pages, the City needs to promptly publicize the opt-out program by alerting people about the existing Berkeley voluntary opt-out program available at www.CatalogChoice.org

b. Refer to City Manager and Information Technology, during the four to eight week period immediately preceding annual phonebook distribution, for the City to prominently post information regarding the opt-out program via the City’s homepage on its website. Publicizing the DEADLINE for the two largest phone book distributions (AT&T and Valley Yellow Pages) is a cost-effective use of the City web site.

Action Calendar – Continued Business

- c. Include in the referral to StopWaste.Org the creation of an educational program to use emails, Facebook, Twitter and other social media and newspapers, radio and television to publicize any city or other program to encourage Phone Book & Junk mail opt out.
- d. Refer to StopWaste.Org, Ecology Center, and City Manager (Public Works) creation of a door-hanger to publicize existing Berkeley opt-out program.
- e. Include in the referral to StopWaste.org consideration of a Pilot Program to address City Mail Center operations to reduce unwanted junk mail coming to City offices.
- f. Rather than restricting the referral to Alameda County StopWaste.org to one particular program, expand it to include consideration of any programs adopted by Seattle, Washington; San Francisco, California or any other cities.

Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None.

E. Supporting New Priorities Campaign to Reduce Military Spending *(Continued from September 20, 2011)*

From: Councilmembers Worthington, Anderson, Arreguin and Maio

Recommendation: Adopt a Resolution supporting the New Priorities Campaign in their effort to end the wars in Iraq and Afghanistan and cut the military budget by increasing pressure from local and state governments on Congress.

Financial Implications: None

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

Action: Moved to Consent Calendar. Adopted Resolution No. 65,474–N.S. supporting the New Priorities Campaign in their effort to end the wars in Iraq and Afghanistan and cut the military budget by increasing pressure from local and state governments on Congress.

F. City Manager Referral: Consideration of Implementation of New DUI Policies *(Continued from September 20, 2011)*

From: Councilmember Worthington

Recommendation: Refer to the City Manager consideration of the establishment of a DUI ordinance similar to one in Oakley, California where those convicted of a DUI must pay for all city expenses due to their DUI crime.

Financial Implications: None

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

Action: M/S/C (Capitelli/Wengraf) to refer to the Peace and Justice Commission consideration of the establishment of a DUI ordinance similar to one in Oakley, California where those convicted of a DUI must pay for all city expenses due to their DUI crime.

Vote: Ayes – Moore, Anderson, Capitelli, Wengraf, Bates. Noes – Arreguin, Worthington. Abstain – Maio, Wozniak.

Action Calendar – Continued Business

G. City Manager Referral: Ordinance to Allow Civil Cause of Action to Limit Harassment *(Continued from September 20, 2011)*

From: Councilmember Worthington

Recommendation: Refer to City Manager consideration of establishing an ordinance like LA's to limit harassment.

Financial Implications: Minimal

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

Action: 2 speakers. M/S/C (Worthington/Arreguin) to approve Councilmember Worthington's recommendation to refer to City Manager consideration of establishing an ordinance like LA's to limit harassment.

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates. Noes - Wozniak.

Action Calendar – New Business

19. Rescinding and Reenacting Relocation Ordinance, Chapter 13.84 of Berkeley Municipal Code

From: City Manager

Recommendation:

1. Rescind and reenact a first reading of the Relocation Ordinance (Chapter 13.84 of the Berkeley Municipal Code), and
2. Adopt a Resolution authorizing dollar amounts for the following relocation payments referenced in Section 13.84.070 of the revised ordinance: 1) per diem payments of \$120 for a single person household, \$135 for a two-person household and \$166 per day for a household of three or more persons; 2) dislocation allowance of \$400; 3) fixed payment for moving costs of \$300; 4) fixed payment for storage costs of \$200; and 5) reimbursement for pet boarding costs up to a maximum of \$50 per day for dogs and \$20 per day for cats.

Financial Implications: See report

Contact: Jane Micallef, Housing, 981-5400

Action: 4 speakers. M/S/C (Bates/Wengraf) continue the matter to October 11, 2011 and direct staff to return with default definitions of "household" and "pet" for tenants without a signed lease agreement. Clarify landlords' remedies when undertaking voluntary code compliance and tenant refuses to vacate.

Vote: Ayes: Maio. Capitelli, Wengraf, Wozniak, Bates. Noes: Anderson, Arreguin, Worthington. Abstain: Moore.

Information Reports

20. Affidavit of Residency Process

From: City Manager

Contact: Deanna Despain, City Clerk, 981-6900

Action: Received and filed.

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

Adjournment

Adjourned at 10:53 p.m.in honor of Dee Rossman.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of September 27, 2011 as approved by the Berkeley City Council.

Deanna Despain, CMC, City Clerk

Communications

None

Supplemental Communications and Reports 1

Item 8: Auto Dealers on South Shattuck

1. Gordon Wozniak, District 8

Item 12: Sign On to United Farm Workers Petition to End Secure Communities Program

2. Gordon Wozniak, District 8

Item 18: Southside Plan, Environmental Review, General Plan and Zoning Amendments

3. Joan Barnett, on behalf of the Dwight/Hillside Neighborhood Association (2)
4. Stephanie Altamirano
5. Daniel Kronovet
6. Elaina Marshalek
7. Andrew Albright

Item F: City Manager Referral: Consideration of Implementation of New DUI Policies

8. Gordon Wozniak, District 8

Item G: City Manager Referral: Ordinance to Allow Civil Cause of Action to Limit Harassment

9. Gordon Wozniak, District 8

Item 19: Rescinding and Reenacting Relocation Ordinance, Chapter 13.84 of Berkeley Municipal Code

10. Rent Stabilization Board
11. Sidhardha Lakireddy, on behalf of the Berkeley Property Owners Association
12. Gordon Wozniak, District 8

Supplemental Communications and Reports 2

Item 18: Southside Plan, Environmental Review, General Plan and Zoning Amendments

- Presentation, submitted by Planning & Development Department (see agenda item)
13. Jesse Arreguin, District 4
 14. Kriss Worthington, District 7

15. Michael Ellison

Item D: Opting Out of Phone Book Delivery

16. Kriss Worthington, District 7

Item 19: Rescinding and Reenacting Relocation Ordinance, Chapter 13.84 of Berkeley Municipal Code

- Presentation, submitted by Housing Department (see agenda item)

Capital Renewal Fee/Parking Replacement Fee

17. Unknown

Employee Costs Analysis

18. Jacquelyn McCormick