



**BERKELEY CITY COUNCIL AGENDA COMMITTEE
SPECIAL MEETING**

**BERKELEY CITY COUNCIL
SPECIAL MEETING**

**MONDAY, MAY 24, 2010
2:30 P.M.**

6th Floor Conference Room, 2180 Milvia Street
Committee Members:
Mayor Bates, Councilmembers Linda Maio and Gordon Wozniak
(Alternate: Councilmember Anderson)

AGENDA

1. Roll Call
2. Public Comment
3. Approval of Minutes: May 10, 2010
4. Review and Action of draft agenda for June 1, 2010
 - a. 06/01/10 – 6:30 p.m. Regular Redevelopment Agency Meeting
 - b. 6/01/10 – 7:00 p.m. Regular City Council Meeting
5. Upcoming Council Items:
 - a. Iceland – 2727 Milvia
 - b. Proposed Upcoming Council Workshops
 1. Community Choice Aggregation – Worksession - Spring 2010
6. Land Use Calendar – accept and file
7. Adjournment – next meeting Monday, June 14, 2010

Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure Resolution No. 64,235-N.S., Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Deanna Despain, CMC, City Clerk, 981-6900.

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



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I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 20, 2010

A handwritten signature in black ink, appearing to read 'Deanna'.

Deanna Despain, CMC, City Clerk

**BERKELEY CITY COUNCIL AGENDA COMMITTEE  
REGULAR MEETING MINUTES**

**MONDAY, MAY 10, 2010  
2:30 P.M.**

6<sup>th</sup> Floor Conference Room, 2180 Milvia Street  
Committee Members:  
Mayor Bates, Councilmembers Gordon Wozniak and Max Anderson

1. Roll Call: 2:33 p.m. All present.
2. Public Comment: 1 speaker.
3. M/S/C (Wozniak/Anderson) to approve the minutes of April 26, 2010
4. Review and Action of draft agenda for May 18, 2010
  - a. 5/18/10 – 7:00 p.m. Regular City Council Meeting
    - Item 3: Contract: NetFile – revised recommendation to correct contract term.*
    - Item 15: Investment for Affordable Housing – Removed from Agenda.*
    - Items 17 & 18: Arizona boycott – renumbered as 17a and 17b. Revision for Item 18 submitted.*
    - Item 19: Large In-Home Daycare – Revised item submitted. Councilmember Moore added as co-sponsor.*
    - Item 23: Roman Reed Spinal Cord Injury Research Act – Councilmember Anderson added as co-sponsor.*
    - Item 25: Proclamation Honoring the Gray Panthers 40th Anniversary– Revised item submitted.*
    - Item 32: Recommended CO2 Limit – Revised report from City Manager.*
    - Addition: Relinquishment of Council Office Budget for Berkeley Juneteenth Festival.*
    - Addition: Submit Letter of Interest to the MTC Bay Area Initiative Grants – Innovation Grant.*
5. Upcoming Council Items:
  - a. Proposed Upcoming Council Workshops
    1. Community Choice Aggregation – Worksession - Spring 2010
6. Land Use Calendar – accepted and filed.

Adjournment – 2:45 p.m.



Deanna Despain, CMC, City Clerk





**BERKELEY REDEVELOPMENT AGENCY MEETING**

**TUESDAY, JUNE 1, 2010**

**6:30 P.M.**

Council Chambers – 2134 Martin Luther King Jr. Way

TOM BATES, CHAIR

Agency Members:

LINDA MAIO

DARRYL MOORE

MAX ANDERSON

JESSE ARREGUIN

LAURIE CAPITELLI

SUSAN WENGRAF

KRISS WORTHINGTON

GORDON WOZNIAK

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953, and Teleconferencing. Any member of the public may attend this meeting at either location. Questions regarding this matter may be addressed to Deanna Despain, Agency Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

**Preliminary Matters**

**Roll Call:**

**Ceremonial Matters:**

1. West Berkeley Project Area Commissioners

**Public Comment on Consent Calendar Items Only:**

**Agency Action:** *The Redevelopment Agency may take action related to any subject listed on the Agenda.*

**Consent Calendar**

*The Agency will consider removal and addition of items to the Consent Calendar prior to voting on the Consent Calendar. All items remaining on the Consent Calendar will be approved in one motion. Items removed from the Consent Calendar will be taken up after the "Action Calendar" unless the Agency reorders the agenda.*

**1. BRA Minutes for Approval**

**From:** Executive Officer

**Recommendation:** Approve the minutes of the April 27, 2010 regular meeting.

**Financial Implications:** None

Contact: Deanna Despain, Agency Secretary, 981-6900

## Consent Calendar

2. **Dissolution of the West Berkeley Project Area Commission**  
**From: Executive Officer**  
**Recommendation:** Adopt a Resolution dissolving the West Berkeley Project Area Commission effective July 30, 2010.  
**Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400

## Action Calendar

3. **Redevelopment Agency Budget Fiscal Year 2011 and Transfer of \$388,000 to City Public Works Department**  
**From: Executive Officer**  
**Recommendation:** Adopt a Resolution approving the Berkeley Redevelopment Agency's FY 2011 budget, including approval of the following:
  - 1 Statement of Proposed Revenues and Expenditures for FY 2011
  - 2 Redevelopment Agency Key Objectives for FY 2011 and FY 2010 Major Accomplishments
  - 3 FY 2011 Statement of New Indebtedness
  - 4 Transfer of Agency funds in an amount not to exceed \$388,000 to support capital projects consistent with the West Berkeley Project Implementation Plan**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400
4. **Seeking an Alternative Buyer to Northern California Land Trust (NCLT) for Agency's Disposition of 1654 Fifth Street**
  - a. **From Executive Officer**  
**Recommendation:** Provide direction to staff to develop terms and work with a realtor to sell 1654 Fifth Street to an investor willing to hold the property as restricted rental property for a minimum of 5 years.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400
  - b. **West Berkeley Project Area Commission**  
**Recommendation** The PAC recommends the Agency direct staff to continue negotiation of 1654 Fifth Street's sale under the previous conditions with Northern California Land Trust (NCLT) and not seek an alternative buyer, unless NCLT is unable to quickly complete its Chapter 11 proceedings. If by September 1, 2010 NCLT has not emerged from Chapter 11 proceedings, the PAC recommends the house be sold with 15-year tenant protections.  
**Financial Implications:** See report.  
Contact: Amber Evans, Commission Secretary, 981-7418

## Public Comment – Items Not Listed on the Agenda

## Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Archived indexed video streams are available at <http://www.CityofBerkeley.info/CityCouncil>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the Berkeley Redevelopment Agency are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the Redevelopment Agency, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6908 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

Agendas and agenda reports may be accessed via the Internet at

<http://www.CityofBerkeley.info/CityCouncil>

and may be read at reference desks at the following locations:

City Clerk Department

2180 Milvia Street

Tel: 510-981-6900

TDD: 510-981-6903

Fax: 510-981-6901

Email: [clerk@CityofBerkeley.info](mailto:clerk@CityofBerkeley.info)

Libraries:

Main - 2090 Kittredge Street

Claremont Branch – 2940 Benvenue

West Branch – 1125 University

North Branch – 1170 The Alameda

South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

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**4a.04b**

West Berkeley Project Area Commission

ACTION CALENDAR

June 1, 2010

To: Honorable Chairperson and Members of the Redevelopment Agency  
From: West Berkeley Project Area Commission  
Subject: Seeking an Alternative Buyer to NCLT for Agency's Disposition of 1654 Fifth St.

RECOMMENDATION

The PAC recommends the Agency direct staff to continue negotiation of 1654 Fifth Street's sale under the previous conditions with Northern California Land Trust (NCLT) and not seek an alternative buyer, unless NCLT is unable to quickly complete its Chapter 11 proceedings. If by September 1, 2010 NCLT has not emerged from Chapter 11 proceedings, the PAC recommends the house be sold with 15-year tenant protections.

FISCAL IMPACTS OF RECOMMENDATION

Under the PAC recommendation, 1654 Fifth Street's sale would provide \$50,000 (preferred alternative) to an estimated \$150,000 (second alternative). This revenue will be regarded as Community Development Block Grant program revenue and transferred from the Agency to the City's Housing Department for distribution under the Housing Trust Fund.

CURRENT SITUATION AND ITS EFFECTS

The Agency owns a three bedroom home at 1654 Fifth Street rented under a long term lease to a couple with a Section 8 voucher for 2-bedrooms. The Section 8 supported rent is below the market rate rent for West Berkeley 3 bedroom homes due to the family's smaller size. The West Berkeley Project Area 2009-2014 Implementation Plan called for sale of the property prior to the Agency devolvement in January 2012. Agency staffing for capital programs will be eliminated as of December 31, 2010 and the monitoring and financial functions of the Agency will be transferred to the Housing and Finance Departments.

BACKGROUND

On May 13, 2010 the PAC passed the following motion, following discussion of alternatives to selling to NCLT including sales to a moderate income household or a market rate sale:

Because of the PAC's desire to maintain affordable housing for very low income families, our desire not to move the family and recognizing Northern California Land Trust's (NCLT) continued commitment to provide affordable housing following their reorganization, the PAC recommends the Agency continue to negotiate the sale of 1654 Fifth Street under the previous conditions established for sale of the property to NCLT. If by September 1, 2010 NCLT has not emerged from Chapter

11 proceedings, then the PAC recommends the house be sold with 15 year tenant protections.

*Motion: DeCredico, Risley (4-0-1-2).*

Subsequent to this PAC action, staff analyzed the alternative in this recommendation. Analysis indicated that a sale price of \$150,000 with 15 years protection would result in essentially no profit to the buyer for 15 years but then upon sale for market value the purchaser would receive a significant return. The sale price of \$150,000 was assumed as this price with a 10% down payment is sustainable under the existing rental stream. A hypothetical sale in 15 years for \$500,000 (in 2010 dollars) would result in net proceeds of \$350,000, which averaged over 15 years, would result in slightly over \$23,000 in average annual revenue or nearly \$2,000 a month for every month the existing tenants were accommodated. The revenue would not be received until the protections expired. In the interim, the rent would cover the mortgage and expenses during the protection period, unless unanticipated expenses arise. The risk of unknown expenses are part of the difficulty in proposing a higher initial sale price given the limited income stream and tenant protections.

#### RATIONALE FOR RECOMMENDATION

The PAC has discussed the terms of sale for this and another Agency owned tenant occupied unit for over three years and are committed to both deep subsidy of very low income housing and potential home ownership assistance as offered by partnership with NCLT. The family in the home has indicated to the PAC that they are elderly, disabled and wish to remain in the home and that they consider relocation a significant hardship. The PAC has concern that the family's Section 8 voucher might not be readily transferable in Berkeley. NCLT staff stated they remained deeply committed to purchasing the property and saw no reason upon completion of the reorganization they could not proceed directly with the purchase. NCLT staff noted numerous uncompensated hours were devoted to developing the terms of sale for both the property eventually sold to Rhiannon at 729/731 Virginia and 1654 Fifth Street. Financing for about 50% of the purchase cost has been identified and the remainder is not, considering the low price, a concern.

#### ALTERNATIVE ACTIONS CONSIDERED

The PAC considered alternatives to increase the revenue from the sale of the property and dismissed any that would not allow the tenant to remain in the property.

#### CITY MANAGER

See companion memo.

#### CONTACT PERSON

Amber Evans, WB Project Area Commission Secretary, Redevelopment 981-7418  
Dennis Markham, West Berkeley Project Area Commission, Acting - Chair

## DRAFT AGENDA



## BERKELEY CITY COUNCIL MEETING

TUESDAY, JUNE 01, 2010

7:00 PM

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Deanna Despain, City Clerk, 981-6900*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

*In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.*

## **Consent Calendar**

*The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

*After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.*

- 1. Amendment to Ordinance Counting Saturday as a Business Day For Animal Holding Periods, BMC Section 1.04.080**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 1.04.080 regarding animal holding periods to conform to state law.  
**Financial Implications:** None  
Contact: Zach Cowan, City Attorney, 981-6950
  
- 2. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the May 18, 2010 regular City Council Meeting.  
**Financial Implications:** None  
Contact: Deanna Despain, City Clerk, 981-6900
  
- 3. Contract No. 6268 Amendment: ImageSource, Inc. - Enterprise Content Management System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with ImageSource, Inc. for payment of annual maintenance and software assurance for an Enterprise Content Management System for a period of two years from July 1, 2010 to June 30, 2012 (with two one-year extensions) in an amount not to exceed \$120,000 for a new total contract amount of \$840,000.  
**Financial Implications:** General Fund - \$120,000  
Contact: Deanna Despain, City Clerk, , 981-6900

## Consent Calendar

- 4. Assessment: North Shattuck Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution:

  - 1 Approving the FY 2010 Report of the North Shattuck Business Improvement District (NSBID);
  - 2 Declaring Council's intention to levy an annual assessment for the NSBID for FY 2011; and
  - 3 Scheduling a public hearing for July 13, 2010 to consider levying a renewed assessment for FY 2011.

**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
  
- 5. Assessment: Telegraph Property and Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution

  - 1 Approving the Annual Assessment Report for the Telegraph Property and Business Improvement District (TBID) for FY 2010,
  - 2 Declaring an intention to levy special assessments in the District for FY 2011
  - 3 Scheduling a public hearing on this topic for July 13, 2010.

**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
  
- 6. Assessment: Elmwood Theater Business Improvement Area for FY 2010 and Renewal of Assessments for FY 2011**  
**From: Elmwood Advisory Board**  
**Recommendation:** Adopt a Resolution:

  - 1 Approving the Annual Assessment Report for the Elmwood Theater Business Improvement Area for Fiscal Year 2010;
  - 2 Declaring an intention to levy annual assessments in the Improvement Area for Fiscal Year 2011; and
  - 3 Setting a public hearing on the levy of assessments for July 13, 2010.

**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
  
- 7. 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 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 - \$4,250,000  
Contact: Robert Hicks, Finance, 981-7300

## Consent Calendar

### 8. Notice of Appropriations Limit for Fiscal Year 2011

**From: City Manager**

**Recommendation:** Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2011 at its meeting of June 22, 2010; and 2) the amount of the limit and the background material used in its calculation will be available for public review in the City Clerk Department on or before June 7, 2010.

**Financial Implications:** See report.

Contact: Robert Hicks, Finance, 981-7300

### 9. Accepting \$54,001 in Department of Energy Weatherization Assistance Program (DOE WAP) Funds

**From: City Manager**

**Recommendation:** Adopt a Resolution

1 Authorizing the City Manager or his designee to execute a contract with the California Department of Community Services and Development in order to receive a grant in the amount of \$54,001 from the U.S. Department of Energy Weatherization Assistance Program for the period of June 30, 2010 to June 30, 2011 in order to provide weatherization assistance for eligible residents of Berkeley, Albany, and Emeryville; and

2 Authorizing the City Manager to designate a representative to sign the required fiscal and programmatic reports to the State of California and the U.S. Department of Energy.

**Financial Implications:** See report

Contact: Jane Micallef, Housing, 981-5400

### 10. Shelter Plus Care Program Renewal Grant

**From: City Manager**

**Recommendation:** Adopt a Resolution ratifying the City Manager's execution of Shelter Plus Care renewal grant number CA0121C9T020802 and amending Resolution No. 64,808-N.S. which authorized the City Manager to execute the renewal grant agreement with the U.S. Department of Housing and Urban Development for the incorrect grant amount. The resolution incorrectly stated the award amount for the Supportive Housing Network as \$117,648 instead of 125,088.

**Financial Implications:** See report

Contact: Jane Micallef, Housing, 981-5400

## Consent Calendar

- 11. Grant: Measure B Paratransit Revenue**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution:  
1 Approving the Measure B Program Plan for paratransit services;  
2 Authorizing the City Manager to take any other actions required to execute an agreement with the Alameda County Transportation Improvement Authority (ACTIA) in the amount of \$146,648 for Measure B annual pass-through funds for use during FY 2011;  
3 Authorizing the City Manager to apply for stabilization funding authorized by ACTIA in an amount up to \$16,294 if and when conditions are met making Berkeley eligible for these funds.  
**Financial Implications:** See report  
Contact: Jane Micallef, Housing, 981-5400
- 12. Contract No. 7722 Amendment- Milliman, Inc.**  
**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 \$40,000 in Fiscal Years 2010 and 2011 for actuarial services pertaining to retiree medical benefit plans.  
**Financial Implications:** General Fund - \$40,000  
Contact: David Hodgkins, Human Resources, 981-6800
- 13. Contract No. 6893B Amendment: Nexus IS - Telephone Equipment Warranty**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 6893B with Nexus IS for an extended telephone equipment warranty, increasing the amount by \$60,000, for a total contract amount not to exceed \$350,000 and extending the term to June 30, 2011.  
**Financial Implications:** See report  
Contact: Donna LaSala, Information Technology, 981-6500
- 14. Contract No. 5864B Amendment: Granicus Video Streaming Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 5864B with Granicus, Inc. for video streaming and archiving services, increasing the amount by \$50,800 for a total contract amount not to exceed \$234,800, and extending the term through June 30, 2012.  
**Financial Implications:** See report  
Contact: Donna LaSala, Information Technology, 981-6500

## Consent Calendar

- 15. Contract No. 5089F Amendment: AMS.NET - Computer Networking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 5089F with AMS.NET for computer networking hardware acquisition, installation, and maintenance, increasing the amount by \$125,000, for a total contract amount not to exceed \$894,000, and extending the term to June 30, 2012.  
**Financial Implications:** See report  
Contact: Donna LaSala, Information Technology, 981-6500
- 16. Contract: East Bay Conservation Corps/Civicorps Schools - Hazardous Vegetation Removal Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with East Bay Conservation Corps/Civicorps Schools (EBCC) in an amount not to exceed \$95,000 for the first year and a total of \$505,000 pending the approval of future budgets, for the term of June 1, 2010 through September 30, 2013, with options to extend for up to two 12-month periods.  
**Financial Implications:** Parks Tax Fund - \$505,000 over five years.  
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
- 17. Purchase Order No. 79993: WECO Industries for Truck Mounted TV Van and Trailer Flusher**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase FY 2010 Purchase Order No. 79993 to WECO Industries by \$55,485 for one truck mounted TV van and trailer flusher for a total of \$105,485.  
**Financial Implications:** Equipment Replacement Fund - 55,485  
Contact: Claudette Ford, Public Works, 981-6300
- 18. Contract No. 6475 Amendment: City CarShare for Fleet Vehicle Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 6475 with City CarShare for the continuation of the City Fleet Carsharing Program, including the AccessMobile and Plug-In Hybrid Electric Vehicle pilot programs, increasing the contract by \$195,000 for a total amount not to exceed \$813,000.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300

## Council Consent Items

- 19. Proclamation Honoring Reid's Records for 65 Years of Service to Berkeley**  
**From: Councilmembers Anderson and Worthington**  
**Recommendation:** Adopt a proclamation recognizing Reid's Records for 65 years of service to Berkeley.  
**Financial Implications:** None  
Contact: Max Anderson, Councilmember, District 3, 981-7130



## Council Consent Items

- 20. Opposing Arizona House Bill 2281, Banning Ethnic Studies**  
**From: Councilmember Arreguin**  
**Recommendation:** Adopt a Resolution opposing Arizona House Bill 2281, which bans ethnic studies in public schools.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 21. Urging the Inclusion of the Uniting American Families Act in the Comprehensive Immigration Reform Bill**  
**From: Councilmember Arreguin**  
**Recommendation:** Adopt a Resolution urging the inclusion of the Uniting American Families Act in the Comprehensive Immigration Reform Bill.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 22. Relinquishment of Council Office Budgets for the Pacific Center**  
**From: Councilmembers Worthington, Moore and Arreguin**  
**Recommendation:** Adopt a Resolution to approve the expenditure of \$1000 from Councilmember Worthington's D-13 account, up to \$250 from Councilmember Moore's and Councilmember Arreguin's D-13, as well as to invite other councilmembers to use discretionary Council Office Budget funds to be used for operations at the Berkeley Pacific Center.  
**Financial Implications:**  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 23. Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds to Berkeley Partners for Parks for the exclusive use to fund Berkeley Path Wanderers**  
**From: Councilmember Wengraf**  
**Recommendation:** Adopt a Resolution to approve the expenditure of up to \$250 to the Berkeley Partners for Parks to sponsor Berkeley Path Wanderers with funds relinquished to the City's General Fund for this purpose from Councilmember Wengraf's discretionary Council Office Budget.  
**Financial Implications:** \$250 from Councilmember Wengraf's Budget  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 24. Written Moratorium on Contract Enforcement About Vacations/Sick Time for Small Business Owners at Telegraph/Channing Garage**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a written moratorium on contract enforcement that would only apply to vacations/sick time for small business owners at Telegraph/Channing Garage, until the City Manager puts forth permanent modifications to the lease agreements to address this unintended consequence.  
**Financial Implications:** Minimal  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Council Consent Items

25. **Oppose Social Security and Medicare Solvency Commission Act (S. 276)**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter urging Senator Feinstein to withdraw this damaging bill or amend it to benefit the important needs of our senior citizens and people with disabilities and to send letters to Senator Boxer and Congresswoman Lee asking them to please oppose S. 276.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
26. **Seventh Annual Berkeley World Music Festival**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution proclaiming June 5th, 2010 as the Berkeley World Music Day.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
27. **Support Americans with Disabilities Act Campaign**  
**From: Councilmember Worthington**  
**Recommendation:** Acknowledges the spirit of the Americans with Disabilities Act by signing on to the ADA Campaign.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
28. **Referral to the City Manager: City Response to Smart Meter Problems and Preparation of a Letter to the California Public Utilities Commission**  
**From: Councilmember Worthington**  
**Recommendation:** Refer to the City Manager a city response to Smart Meter problems and preparation of a letter to the California Public Utilities Commission, including an investigation of the PG&E Smart Meter program, requirement of PG&E to submit a characterization study of the system planned to the City, requirement of PG&E to allow customers to 'opt out' of the program without repercussions, as well as an immediate moratorium on the disposal, recycling, or permanent alteration of old PG&E meters and a call for consideration of a moratorium on the further installation of PG&E Smart Meters.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
29. **Proclamation to Honor June as Lesbian Gay Bisexual Transgender and Questioning Pride Month and Authorize City Manager to Fly the Rainbow Flag for the Rest of June**  
**From: Councilmembers Worthington, Moore and Arreguin**  
**Recommendation:** Adopt a proclamation to honor June as Lesbian Gay Bisexual Transgender and Questioning Pride Month in the city of Berkeley and authorize City Manager to fly the rainbow flag for the rest of June.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Action Calendar

*After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

## Action Calendar – Appeals

*Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment.*

### 30. **ZAB Appeal: 3022 Harper Street, Administrative Use Permit No. 09-2000069**

**From: City Manager**

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit No. 09-2000069 that would legalize the construction of a 28-ft. long, 12-ft. wide garage with an average height of 10-ft., 5-in., that is within 4-ft. of a side property line and within 75-ft. of the front property line.

**Financial Implications:** None

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

#### **b. Communications**

1. Kirkendoll
2. Oppenheimer

## Action Calendar – Public Hearing

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

## Action Calendar – Public Hearing

### 31. Residential Preferential Parking Program Modifications to Residential Blocks near Trader Joe's Store

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving modification to the Residential Preferential Parking (RPP) Program in order to preserve adequate on-street parking for residents in the vicinity of the new Berkeley Trader Joe's store. The modification will consist of restricting parking for selected blocks on one side of the street to allow only vehicles displaying permits for the designated RPP Area; while parking on the other side will stay as is with RPP and 2-hour visitor parking. This modification will be limited to the already designated RPP blocks within 1,000 feet of the grocery store entrance

The blocks affected are as follows:

- Berkeley Way: 1700, 1800, and 1900 blocks (McGee Avenue to Milvia Street)
- Addison Street: 1800 block (Grant Street to Martin Luther King, Jr. Way)
- Bonita Avenue: 1900 block (Hearst Avenue to University Avenue)
- Grant Street: 1900 and 2000 blocks (Hearst Avenue to Addison Street)

**Financial Implications:** See report

Contact: Claudette Ford, Public Works, 981-6300

### 32. Budget Public Hearing #2

**From: City Manager**

**Recommendation:** Conduct a Public Hearing regarding the FY 2011 proposed budget.

**Financial Implications:** See May 4, 2011 Proposed FY 2011 Budget Report.

Contact: Tracy Vesely, Budget Manager, 981-7000

### 33. Budget - Council Recommendations

**From: Mayor and Council**

#### a. Refer \$44,000 to the FY 2010/2011 Budget Process for Options' Recovery Services to Hire a Case Manager/Housing and Benefits Coordinator

**From: Councilmembers Arreguin, Moore, Anderson and Wozniak**

**Recommendation:** Refer \$44,000 to the FY 2010/2011 budget process for Options' Recovery Services to hire a Case Manager/Housing and Benefits Coordinator.

**Financial Implications:** \$44,000

Contact: Jesse Arreguin, Councilmember, District 4, 971-7140

#### b. Budget Referral: Berkeley Student Cooperative

**From: Councilmember Wozniak**

**Recommendation:** Refer the following budget request to the budget process: A one-time request for \$30,000 to: a) energy retrofit a 2nd Berkeley Student Coop residence or b) do a deeper energy retrofit of Kingman House so that it would meet Berkeley's Measure G goals of reducing its Greenhouse Gas emissions by 80%.

**Financial Implications:** \$30,000

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

## Action Calendar – Public Hearing

34. **Refuse Collection Rates 3% Increase**  
**From: City Manager**  
**Recommendation:** placeholder  
**Financial Implications:**  
Contact: Claudette Ford, Public Works, 981-6300

## Action Calendar – Old Business

35. **Support ACLU Concerns About Punitive Interpretations of UC Student Conduct Code (Continued from May 4, 2010)**  
**From: Councilmember Worthington**  
**Recommendation:** placeholder  
**Financial Implications:**  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
36. **Fee Increase: Development-related Services Provided by Planning and Development (Continued from May 18, 2010)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution:  
1 Rescinding Resolution No. 64,077-N.S., and  
2 Establishing the fee schedule for the Permit Service Center (PSC) fund for development-related services provided by the Planning and Development Department.  
**Financial Implications:** Revenue: \$794,010  
Contact: Dan Marks, Planning and Development, 981-7400

## Action Calendar – New Business

37. **FY 2011 Budget Related Reports**
- a. **Temporary Appropriations FY 2011**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2010, until the effective date of the FY 2011 Annual Appropriations Ordinance.  
**Financial Implications:** See Annual Appropriations Ordinance.  
Contact: Robert Hicks, Finance, 981-7300
- b. **FY 2011 Tax Rate: Neighborhood Branch Library Improvements Project GO Bonds-Election of November 2008**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008) at 0.013%.  
**Financial Implications:** See report  
Contact: Robert Hicks, Finance, 981-7300

## Action Calendar – New Business

**c. FY 2011 Tax Rate: Fire Seismic General Obligation Bonds-Election of 1992 (Measure G, 2002 and 2007 General Obligation Refunding Bonds)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for Fire Seismic General Obligation Bonds (Measure G, 2002 and 2007 General Obligation Refunding Bonds at 0.0130%).

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

**d. FY 2011 Tax Rate: Measure S General Obligation Bonds-Election of 1996 (2007 Refunding Bonds)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for the Measure S General Obligation Bonds (Election of 1996, 2007 Refunding Bonds) at 0.020%.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

**e. FY 2011 Tax Rate: Animal Shelter General Obligation Bonds-Election of November 2002**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for the Animal Shelter General Obligation Bonds (Measure I, November 2002) at 0.002%.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

**f. Levying a Special Tax for FY 2011 to Fund the Provision of Library Services**

**From: City Manager**

**Recommendation:** Adopt an Ordinance to set the FY 2011 tax rate for the Library Services Tax at \$0.1609 (16.09 cents) per square foot for dwelling units and \$0.2434 (24.34 cents) per square foot for industrial, commercial, and institutional buildings.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

**g. FY 2011 Tax Rate: Disaster Fire Protection (Measure Q)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

## Action Calendar – New Business

### **h. FY 2011 Tax Rate to Fund the Provision of Emergency Medical Services**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting a special tax rate of \$0.0303 per square foot of improvements to fund the provision of emergency medical services to Berkeley residents.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

### **i. FY 2011 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for funding all improvements for the maintenance of parks, City Trees, and Landscaping in the City of Berkeley at \$0.1137 (11.37 cents) per square foot.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

### **j. FY 2011 Tax Rate: Emergency Services for the Severely Disabled**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for the provision of emergency services for the disabled at \$0.01162 (1.162 cents) per square foot of improvements.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

### **k. FY 2011 Tax Rate: Fire Protection and Emergency Response and Preparedness (Measure GG)**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2011 tax rate for Fire protection and Emergency Response and Preparedness at an annual rate of \$.04154 (4.154 cents) per square foot of improvements for dwelling units and setting the rate for all other property at an annual rate of \$.06286 (6.286 cents).

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

### **l. Borrowing of Funds and the Sale and Issuance of FY 2011 Tax and Revenue Anticipation Notes**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the borrowing of \$50,000,000 and the sale and issuance of Fiscal Year 2011 Tax and Revenue Anticipation Notes.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

## Action Calendar – New Business

### 38. Awarding of Contract for Emergency Services for Berkeley Residents with Severe Physical Disabilities

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1 Authorizing the City Manager to extend the City's contract with Easy Does It (EDI) through September 30, 2010 in an amount not to exceed \$108,059 in order to assist in the transition of emergency services for Berkeley residents with severe physical disabilities to Center for Independent Living (CIL); and

2 Authorizing the City Manager to execute a contract with Center for Independent Living to provide emergency services to Berkeley residents with severe physical disabilities for the period July 1, 2010 to June 30, 2011 in an amount not to exceed \$826,411 with an option to extend the term of the contract three additional years contingent upon a satisfactory performance evaluation conducted annually; and

3 Authorizing the purchase by CIL of a lift-equipped vehicle for provision of emergency transportation services and additional one-time equipment purchases from Measure E reserve funds in an amount not to exceed \$70,000 (included in the \$826,411 amount above).

**Financial Implications:** The emergency services program for residents with severe physical disabilities is funded by the Measure E, which was passed by Berkeley voters in 1998. The estimated amount available for FY11 is \$864,470. There is a funding reserve of \$414,874. \$934,470 for these contracts will come from budget code 018-7902-463-3510

Contact: Jane Micallef, Housing, 981-5400

### 39. New Markets Tax Credit Financing for Ed Roberts Campus

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute the necessary documents related to the New Markets Tax Credits (NMTC) financing for the Ed Roberts Campus (ERC) project and accept once ERC has met certain staff recommendations that certain conditions.

**Financial Implications:** See Report

Contact: Jane Micallef, Housing, 981-5400

### 40. Status Report on 2020 Vision and Resolution Supporting Work Plan and Pilot Projects

**From: City Manager**

**Recommendation:** Adopt a Resolution to support the 2020 Vision Phase I Work Plan and the Summer 2010 pilot projects.

**Financial Implications:**

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



## **Action Calendar – New Business**

41. **Stimulus Money for Energy Efficiency: Energy Efficiency and Conservation Block Grant Retrofit Rebate Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to disburse up to a total amount not to exceed \$516,185 in the form of rebates and grants for energy efficiency improvements and designating the eligibility requirements and standards for the Federal Stimulus funded suite of Money for Energy Efficiency programs, which will provide rebates and mini-grants for energy audits and improvements for Berkeley residents and property owners.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400

## **Information Reports**

42. **Investment Report: Quarter Ended March 31, 2010**  
**From: City Manager**  
Contact: Robert Hicks, Finance, 981-7300
43. **2009 Alameda Countywide Homeless Count Results**  
**From: City Manager**  
Contact: Jane Micallef, Housing, 981-5400
44. **Unrepresented Temporary Employee**  
**From: City Manager**  
Contact: David Hodgkins, Human Resources, 981-6800
45. **FUND\$ Report**  
**From: City Manager**  
Contact: Donna LaSala, Information Technology, 981-6500
46. **Making On-Line City Council Broadcasts More Widely Accessible on Computer and Portable Devices**  
**From: City Manager**  
Contact: Donna LaSala, Information Technology, 981-6500
47. **Update: Implementation of FUND\$ Change Management Audit Recommendations**  
**From: City Manager**  
Contact: Donna LaSala, Information Technology, 981-6500

## **Public Comment – Including Items Not Listed on the Agenda –**

## **Adjournment**

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.ci.berkeley.ca.us/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@ci.berkeley.ca.us](mailto:clerk@ci.berkeley.ca.us)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.





Elmwood Advisory Board

**4b.06**

CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Elmwood Advisory Board  
Submitted by: Dave Fogarty, Secretary to the Advisory Board for the Elmwood Theater Business  
Subject: Assessment: Elmwood Theater Business Improvement Area for FY 2010 and Renewal of Assessments for FY 2011

RECOMMENDATION

Adopt a Resolution: 1) approving the Annual Assessment Report for the Elmwood Theater Business Improvement Area for Fiscal Year 2010; 2) declaring an intention to levy annual assessments in the Improvement Area for Fiscal Year 2011; and 3) setting a public hearing on the levy of assessments for July 13, 2010.

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the Elmwood Theater Business Improvement Area are for the purpose of raising \$18,744.68 per year to repay the City's General Fund for a City loan of \$215,000 made in July, 1993, to the Elmwood Theater Foundation at 6% annual interest over a period of 20 years. Assessments for 2011 will represent the seventeenth year payment on the loan and the loan is on course to be repaid in May, 2014, at the same time that the assessment district will be extinguished.

BACKGROUND

On April 23, 2010, the Advisory Board for the Elmwood Theater Business Improvement Area met to discuss a draft Annual Assessment Report for Fiscal Year 2010 presented by its Secretary, Dave Fogarty. The Board passed the following motion: M/S/C (Moriarty/Salk) that the Board approve the Annual Assessment Report and recommend to the City Council that it be approved and that special assessments be levied for Fiscal Year 2011 on the same basis and method as they were levied for Fiscal Year 2010, with the addition and subtraction of businesses to be assessed a business license surcharge as detailed in the Assessment Report attached hereto. (Ayes: Harvey, Salk, Moriarty, Moudry, Ortega; Noes: None)

RATIONALE FOR RECOMMENDATION

Assessments levied in the Elmwood Theater Business Improvement Area are for the purpose of raising \$18,744.68 per year to recover a City loan of \$215,000 made in July, 1993, to the Elmwood Theater Foundation at 6% annual interest over a period of 20 years. Assessments for 2011 will represent the seventeenth year payment on the loan.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Dave Fogarty, Secretary to the Advisory Board for the Elmwood Theater Business Improvement Area, 981-7534

Fred Harvey, Chairperson of the Advisory Board for the Elmwood Theater Business Improvement Area, 845-4597

Attachments:

1: Resolution

Exhibit A: Elmwood Theater Business Improvement Area  
Annual Assessment Report, 2010

RESOLUTION NO. ##,###-N.S.

APPROVING THE ANNUAL ASSESSMENT REPORT FOR THE ELMWOOD THEATER BUSINESS IMPROVEMENT AREA FOR FISCAL YEAR 2010; DECLARING INTENT TO LEVY ASSESSMENTS IN THE AREA FOR FISCAL YEAR 2011; AND SETTING A PUBLIC HEARING ON RENEWAL OF THE ASSESSMENTS FOR JULY 13, 2010

WHEREAS, on July 20, 1993 the City Council adopted its Resolution No. 57,086-N.S., Resolution Overruling Protests, Establishing Elmwood Theater Business Improvement Area, and Levying Assessments for Fiscal Year 1993-94; and

WHEREAS, on the same date the City Council adopted its Resolution No. 57,086A-N.S., Authorizing Execution of a Loan Agreement with the Elmwood Theater Foundation, to be Repaid Through a Levy of Special Assessments in the Elmwood Theater Business Improvement Area; and

WHEREAS, the City Clerk has received an Annual Assessment Report from the Advisory Board for the Elmwood Theater Business Improvement Area for the sixteenth year of the assessments, Fiscal Year 2010; and

WHEREAS, said Annual Assessment Report on file with the City Clerk discusses the successful operation of the Elmwood Theater as a motion picture theater and community meeting hall during fiscal year 2010 (the "activity" financed in the Area); and

WHEREAS, the Annual Assessment Report and materials attached to it on file with the City Clerk contain a detailed description of the boundaries of the Elmwood Theater Business Improvement Area as well as the Core Benefit Zone and the Broad Benefit Zone established within it (including a map entitled "Boundaries of Elmwood Theater Business Improvement Area"); and

WHEREAS, said Annual Assessment Report and Exhibits on file with the City Clerk also contain information on the method and basis for levying the assessment.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

The Annual Assessment Report for the Elmwood Theater Business Improvement Area for Fiscal Year 2010 is hereby approved.

The City Council declares its intent to levy real property assessments for fiscal year 2011 upon the same properties and at the same rates as it did for fiscal years 1994 through 2010. The City Council declares its further intent to levy business license surcharge assessments on businesses in the Core Area according to the same method

of calculation as it did for fiscal years 1994 through 2010 with the changes or potential changes specified in the appropriate section of the Annual Assessment Report.

The activity financed in the Area is the purchase of the Elmwood Theater and its preservation as an operating motion picture theater and community meeting hall through a loan by the City of Berkeley to the Elmwood Theater Foundation, a nonprofit corporation, in the amount of \$215,000 as authorized by Resolution No. 57,086-N.S. of July 20, 1993, with a subsequent addition to the principal of \$40,000 authorized by Resolution No.64,159-N.S of July 22, 2008, for physical improvements to the theater. The amount of this loan, together with interest at the rate of six percent (6%) per annum on the unpaid balance thereof, is being recovered over a term of twenty (20) years through the annual levy of special assessments on business licenses of businesses operated within the Area and on real property within the Area classified as Commercial (3x Series) or Improved Commercial (8x or 9x Series) under the two-digit use code system of the Alameda County Assessor's Office.

The Elmwood Theater Business Improvement Area is located in Berkeley, California, within 1,600 feet of the Elmwood Theater at 2966 College Avenue, excepting property with addresses on Telegraph Avenue and Claremont Avenue. The Annual Assessment Report and materials attached to it on file with the City Clerk contain a detailed description of the boundaries of the Elmwood Theater Business Improvement Area as well as the Core Benefit Zone and the Broad Benefit Zone established within it (including a map entitled "Boundaries of the Elmwood Theater Business Improvement Area"), and information on the method and basis for levying the assessments within these Zones.

The City Council will conduct a public hearing on this proposal on Tuesday, July 13, 2010, in the Chambers of the City Council, 2134 Martin Luther King Jr. Way, Berkeley, California. A protest may be made orally or in writing by any interested person. Written protests shall be filed with the City Clerk at or before the time fixed for the public hearing. Each written protest shall contain a description of the business or property in which the person subscribing the protest is interested sufficient to identify the business or property.

#### Exhibits

- A: Annual Assessment Report for the Elmwood Theater Business Improvement Area for FY 10



Elmwood Advisory Board

**ELMWOOD THEATER BUSINESS IMPROVEMENT AREA  
ANNUAL ASSESSMENT REPORT, 2010**

On July 20, 1993, the City Council approved Resolution No. 57,086-N.S. establishing the Elmwood Theater Business Improvement Area and levying assessments for FY 1994. On the same date, the City council approved Resolution No. 57,086A-N.S., authorizing execution of a loan agreement for \$215,000 with the Elmwood Theater Foundation to be repaid through the levy of special assessments in the Elmwood Theater Business Improvement Area (hereafter “the Area). The assessments repay the \$215,000 loan at 6% interest over twenty years. In 2008, the City Council modified the purposes of the Area to allow assessment revenues to be spent on improvements to the Theater in addition to the existing purpose of loan repayment. At the same time, the Council appropriated \$40,000 for improvements and increased the loan principal by the same amount. However, assessment revenues are projected to be sufficient to repay the loan by its due date of May 2014, the same date the assessment levied through the Elmwood Theater Business Improvement Area is scheduled to expire.

Ordinance No. 6164-N.S., “Business Improvement Area Assessments,” Section 17, requires an annual assessment report for each fiscal year. Accordingly, City staff has prepared this report covering the seventeenth year of the assessment (FY 2010) for review by the Advisory Board for the Elmwood Theater Business Improvement Area. The report must be filed with the City Clerk and approved by the City Council before the Council levies assessments for the next fiscal year.

**Status of the Activity Financed by the Assessment**

The Activity financed in the Area “...is the purchase of the Elmwood Theater, 2966 College Avenue, and its preservation as an operating motion picture theater.” (Resolution No. 57,086-N.S.) The City loan of \$215,000 provided permanent financing for the Elmwood Theater Foundation’s purchase of the theater. When the City financing was in place, the Foundation borrowed approximately \$425,000 from private lenders, secured by a first deed of trust on the theater property, to finance repair, seismic upgrade and improvements to the theater that were necessary before it could be reopened. Most of the lenders were individuals who live and/or work in the Elmwood area. These lenders are being repaid through revenues the Theater Foundation receives by leasing the theater to a movie theater operator. The monthly lease payments from the theater operator are used to repay principal and interest on the debt to the lenders. The theater restoration project therefore included a combination of public financing (through the City loan repaid through the assessment district) and private financing (money borrowed by the Foundation and money and equipment invested by the theater operator).

The Elmwood Theater reopened on October 22, 1994, and operated successfully until October, 2004, when it was closed for repairs to the downstairs auditorium caused by water damage from a blocked sewer line on adjacent property. Since there was a possibility that raw sewage had contaminated the theater, the project has entailed complete removal and replacement of seats, rugs, wooden flooring and even the concrete under-floor. Fortunately, the theater operator had liability insurance that is paying for this work.

Because the theater was closed for repairs anyway, the Elmwood Theater Foundation decided to perform at the same time additional seismic work that had been requested by the City of Berkeley. This work was financed by an additional loan from the City of Berkeley for a total of \$170,000 at an interest rate of 5%. Work included strengthening of the support for the roof trusses and the front of the theater to make the building safe in the event of an earthquake. The City of Berkeley now considers that the Elmwood Theater conforms to the City's codes for the seismic safety of buildings in its occupancy class.

The second City loan of \$170,000 is being repaid through lease revenues from the theater operator.

After restoration of the interior and additional seismic work the theater reopened in October, 2005, and has operated on a regular schedule since then.

In June 2007, the Elmwood Theatre Foundation leased the theater to a new operator, Rialto Cinemas. In addition to improving the quality of films shown at the Elmwood, the principals of Rialto Cinemas, Ky J. Boyd and Michael O'Rand, invested over \$25,000 in physical improvements to the upstairs theater auditoriums as well as non-structural improvements to projection and sound equipment, the concession stand and other features. In standard commercial real estate practice the landlord, the Elmwood Theatre Foundation, would be responsible for sharing in the cost of permanent physical improvements to the theater building. The Theater Foundation, however, has no financial reserves and its only income, lease payments from the theater operator, are used entirely to service two debts: \$400,000 it borrowed from private lenders to repair and seismically retrofit the theater in 1993-1994 and an additional \$170,000 it borrowed from the City of Berkeley when the Building and Safety Division required additional seismic work in 2005. Since the Theater Foundation had no resources, the Advisory Board agreed to discuss using assessment revenues to finance part of the cost of physical improvements to the theater.

At the Advisory Board meeting of August 30, 2007, Ky Body and Michael O'Rand reviewed the improvements to the seating and sightlines in the upper auditorium, and proposed additional improvements that they wanted to make if funds were available. These included two illuminated "Elmwood" signs on the marquee, porthole windows in the entrance doors (to avoid collisions as the doors opened), and a possible painted "Welcome to the Elmwood" sign on the upper north side of the theater building. After hearing this report, the Advisory Board voted unanimously (M/S Salk-Kidson; Yes: Salk, Moudry, Moriarty, Leyhe, Kidson; Absent: Harvey ) to recommend to the City Council:

to allocate up to three years of the principal portion of loan repayments from assessment revenues to existing and proposed improvements to the theater, on condition that interest payments on the loan balance continue to be made from assessment revenues and that Elmwood Theater Business Improvement Area remain on schedule to repay the loan by its due date of May 2014.

On July 22, 2008, the City Council approved the Advisory Board's recommendation to make a grant of \$40,000 to the theater operator, Rialto Cinemas/Elmwood, for improvements to the theater. This amount was added to the loan balance, creating a new balance of approximately \$80,000. With annual assessment payments of approximately \$20,000-\$21,000, this balance will easily be repaid by May 2014, the date when the Elmwood assessment expires.



In 2009, Rialto Cinemas/Elmwood installed the illuminated “Elmwood” signs on the marquee and installed porthole windows in the entrance doors.

## **Assessment Revenues**

Assessments levied in the Elmwood Theater Business Improvement Area were originally intended to repay a City loan of \$215,000 at six percent (6%) interest over twenty years. Given these terms, the assessments need to raise at least \$18,744.68 per year.<sup>1</sup> (As explained above, in practice the yield has been somewhat higher, and one property owner paid its entire 20-year assessment as a lump sum. Since loan repayment was ahead of schedule, the Council made a grant for theater improvements that increased the loan balance by \$40,000.)

The Advisory Board recommended, and the Council approved, an assessment that included two benefit zones intended to reflect the degree of benefit businesses and properties would receive from restoration of the movie theater:

- The “Core Benefit Zone” is coterminous with the Elmwood Commercial district C1B(E) that extends for approximately two blocks on College Avenue plus a few addresses on Ashby, Russell and Webster. Within this district real property was assessed at the rate of five cents (\$.05) per square foot. The assessment on commercial property within the Core Benefit Zone was projected to raise \$9,314.00.
- The “Broad Benefit Zone” consists of territory beyond the Core Benefit Zone but within 1,600 feet of the Elmwood Theater, Commercial property within this district was assessed at twenty percent (20%) of the rate established for real property in the Core Benefit Zone. In practice, the Broad Benefit Zone includes Alta Bates Hospital and nearby medical office buildings. The property tax-based assessment in the Broad Zone was expected to raise \$6,432.27.

The real property assessment in both zones was therefore projected to raise a total of \$15,746.27.

In addition, the Advisory Board recommended, and the Council approved, an annual assessment on business licenses of businesses operated after 6 p.m. more than two (2) nights per week within the Core Benefit Zone. Businesses classified as Eating and Drinking Places (Industry Group 58) were assessed an amount equal to 25% of their business license tax payment. Businesses open 24 hours per day, including financing institutions with automatic teller machines were assessed 40% of the business license tax. (Financial institutions exempt from the City business license tax pay an in-lieu business license assessment equal to three times the real property assessment.) Finally, all other businesses open after 6 p.m. more than two nights per week were to pay an amount equal to 12.5% of their business license tax payment. While the exact amount raised by the assessment on business licenses would depend on gross receipts reported by the individual businesses (i.e., the basis for the business license tax payment), the assessment was projected to yield more than \$4,000. This added to the amount raised by the real property assessment would yield the requisite \$18,744.68 per year.

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<sup>1</sup> As explained above, in practice the yield has been somewhat higher, in the range of \$20,000-\$21,000 since about 1997. In addition, Wells Fargo Bank paid its entire 20-year assessment in advance as a lump sum. These two factors meant that loan amortization was well ahead of schedule until 2008. At that time, the City Council granted \$40,000 for improvements to the theater and added this amount to the loan balance. The new balance of approximately \$80,000 will be repaid by the time the assessment expires in May 2014.

## **Assessment Revenues as of March 31, 2010**

As of March 31, 2010, collections for the 2009/10 fiscal year are incomplete. For the property-based assessment, the City billed \$16,051.78 of which only the first installment, \$8,101.80 had been received by the end of March. As of the same date, 33 businesses had paid \$5,175.47 for the business license surcharge bringing total collections from both revenue sources to \$13,277.27. However, when the second installment of the property tax assessment is received in late May or early June, total collections are likely to exceed last year's total of \$21,053.65. While revenue from the property tax assessment remains approximately the same each year, revenue from the business license surcharge generally increases (and this year has already reached last year's level with payments from five businesses still outstanding).

For the first few years of the assessment, revenues fell slightly under the target amount of \$18,744.68 per year because some businesses, particularly Wells Fargo Bank, refused to pay. However, on January 15, 1997, Wells Fargo Bank made a lump-sum payment of \$24,127 to the City of Berkeley as settlement for its refusal to pay the in-lieu business license assessment. The bank had contended that it was exempt from all municipal taxes, including the in-lieu business license assessment. While the bank did not formally alter its position, it paid the amount owed, including back payments of \$1,898.85 for 1994, 1995 and 1996 and the Net Present Value of future payment out to the end of the 20-year assessment.

With the Wells Fargo prepayment, repayment of the loan was ahead of schedule. In addition, since 1997 annual revenue has surpassed the target amount of \$18,744.68 without even counting the prepayment. This can be attributed to the increased number of businesses, particularly restaurants, open after 6 pm and therefore subject to the business license surcharge.

As explained above, in 2008 the Council made a grant of \$40,000 for improvements to the theater and increased the loan balance by the same amount to approximately \$80,000. This amount can easily be amortized by the date the assessment expires in May 2014.

## **Recommendations**

The Advisory Board recommends that the City levy special assessments for Fiscal Year 2011 in the Elmwood Theater Business Improvement Area within the same boundaries, and on the same basis and method as they were levied for Fiscal Years 1994 – 2010. The Board notes the following new businesses appear to be open after 6 pm more than two nights per week: Ashby Market, 2642 Ashby; Dailey Method, 2631B Ashby; Summer Kitchen, 2944 College Avenue; Vintage Berkeley, 2949 College Avenue; and Goorin Brothers Hats, 2926 College Avenue but urges staff to work with the License and Collections staff to identify any other new businesses that meet the qualification and similarly charge them the surcharge.



Max Anderson  
Councilmember District 3

## CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Max Anderson and Councilmember Kriss Worthington  
Subject: Proclamation Honoring Reid's Records for 65 Years of Service to Berkeley

### RECOMMENDATION

That the City Council pass a proclamation recognizing Reid's Records for 65 years of service to Berkeley.

### BACKGROUND

Reid's Records is an African American family owned business that has served the Berkeley community since 1945. Reid's Records was created by Melvin Reid and Betty Reid Soskin. Its success came from 65 years of commitment and dedication from the Reid family and the community it has served. After Melvin Reid passed away, his son David Allen Reid took over management and ownership duties.

The Reid's Records story is uniquely American. Reid's Records originally carried 45's of all African-American music, from Miles Davis to James Brown. Councilmember Anderson's legislative aide, Charlene Washington, remembers purchasing many 45's as a young person. There will be a celebration on Saturday, June 12, 2010. Tickets may be purchased by phoning Reid's Records at 510 843-7282. However, in the late 60's, early 70's, when the large record businesses such as Leopold's, Tower Records, and others, competition caused Reid's to specialize in gospel music.

Reid's Records has endured 65 years of market changes, large corporation's advancements, and declines in music sales to successfully serve the city of Berkeley and the East Bay.

### FINANCIAL IMPLICATIONS

None.

### CONTACT PERSON

Councilmember Max Anderson                      510-981-7130  
Councilmember Kriss Worthington                510-981-7170





**Jesse Arreguín**  
Councilmember, District 4

CONSENT CALENDAR  
June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Jesse Arreguín  
Subject: Resolution Opposing Arizona House Bill 2281, Banning Ethnic Studies

RECOMMENDATION:

Adopt a resolution opposing Arizona House Bill 2281, which bans ethnic studies in public schools.

BACKGROUND:

Less than 20 days after signing the controversial immigration bill, Arizona Governor Jan Brewer signed House Bill 2281 into law, a bill that aims to ban ethnic studies in Arizona public schools.

According to HB 2281, public schools are now prohibited from including courses or classes which promote overthrowing the U.S. government; promote resentment towards a race or class of people; are designed primarily for pupils of a particular ethnic race; and advocate ethnic solidarity instead of the treatment of pupils as individuals.

FINANCIAL IMPLICATIONS:

None

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4      981-7140

Attachments:

1. Resolution
2. Copy of HB 2281



Attachment 1  
Not Received

Attachment 1 (Resolution) to this report, has not yet been received from the submitting department.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
*<http://www.cityofberkeley.info>*

REFERENCE TITLE: schools; prohibited courses; discipline

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

## **HB 2281**

Introduced by  
Representatives Montenegro, Gowan, Seel, Stevens: Antenori, Goodale,  
Weiers JP

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-111 AND 15-112; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO SCHOOL CURRICULUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 1, article 1, Arizona Revised Statutes,  
3 is amended by adding sections 15-111 and 15-112, to read:

4 15-111. Declaration of policy

5 THE LEGISLATURE FINDS AND DECLARES THAT PUBLIC SCHOOL PUPILS SHOULD BE  
6 TAUGHT TO TREAT AND VALUE EACH OTHER AS INDIVIDUALS AND NOT BASED ON ETHNIC  
7 BACKGROUND.

8 15-112. Prohibited courses and classes; enforcement

9 A. A SCHOOL DISTRICT OR CHARTER SCHOOL IN THIS STATE SHALL NOT INCLUDE  
10 IN ITS PROGRAM OF INSTRUCTION ANY COURSES OR CLASSES THAT EITHER:

11 1. ARE DESIGNED PRIMARILY FOR PUPILS OF A PARTICULAR ETHNIC GROUP.

12 2. ADVOCATE ETHNIC SOLIDARITY INSTEAD OF THE TREATMENT OF PUPILS AS  
13 INDIVIDUALS.

14 B. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT A  
15 SCHOOL DISTRICT OR CHARTER SCHOOL IS IN VIOLATION OF SUBSECTION A, THE  
16 SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOTIFY THE SCHOOL DISTRICT OR  
17 CHARTER SCHOOL THAT IT IS IN VIOLATION OF SUBSECTION A. IF THE  
18 SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR  
19 CHARTER SCHOOL HAS FAILED TO COMPLY WITH SUBSECTION A WITHIN SIXTY DAYS AFTER  
20 A NOTICE HAS BEEN ISSUED PURSUANT TO THIS SUBSECTION, THE SUPERINTENDENT OF  
21 PUBLIC INSTRUCTION MAY DIRECT THE DEPARTMENT OF EDUCATION TO WITHHOLD UP TO  
22 TEN PER CENT OF THE MONTHLY APPORTIONMENT OF STATE AID THAT WOULD OTHERWISE  
23 BE DUE THE SCHOOL DISTRICT OR CHARTER SCHOOL. THE DEPARTMENT OF EDUCATION  
24 SHALL ADJUST THE SCHOOL DISTRICT OR CHARTER SCHOOL'S APPORTIONMENT  
25 ACCORDINGLY. WHEN THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT  
26 THE SCHOOL DISTRICT OR CHARTER SCHOOL IS IN COMPLIANCE WITH SUBSECTION A, THE  
27 DEPARTMENT OF EDUCATION SHALL RESTORE THE FULL AMOUNT OF STATE AID PAYMENTS  
28 TO THE SCHOOL DISTRICT OR CHARTER SCHOOL.

29 C. ACTIONS TAKEN UNDER THIS SECTION ARE SUBJECT TO APPEAL PURSUANT TO  
30 TITLE 41, CHAPTER 6, ARTICLE 10.

31 D. THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT OR PROHIBIT:

32 1. COURSES OR CLASSES FOR NATIVE AMERICAN PUPILS THAT ARE REQUIRED TO  
33 COMPLY WITH FEDERAL LAW.

34 2. THE GROUPING OF PUPILS ACCORDING TO ACADEMIC PERFORMANCE, INCLUDING  
35 CAPABILITY IN THE ENGLISH LANGUAGE, THAT MAY RESULT IN A DISPARATE IMPACT BY  
36 ETHNICITY.

37 Sec. 2. Section 15-843, Arizona Revised Statutes, is amended to read:

38 15-843. Pupil disciplinary proceedings

39 A. An action concerning discipline, suspension or expulsion of a pupil  
40 is not subject to title 38, chapter 3, article 3.1, except that the governing  
41 board of a school district shall post regular notice and shall take minutes  
42 of any hearing held by the governing board concerning the discipline,  
43 suspension or expulsion of a pupil.



1           B. The governing board of any school district, in consultation with  
2 the teachers and parents of the school district, shall prescribe rules for  
3 the discipline, suspension and expulsion of pupils. The rules shall be  
4 consistent with the constitutional rights of pupils and shall include at  
5 least the following:

6           1. Penalties for excessive pupil absenteeism pursuant to section  
7 15-803, including failure in a subject, failure to pass a grade, suspension  
8 or expulsion.

9           2. Procedures for the use of corporal punishment if allowed by the  
10 governing board.

11           3. Procedures for the reasonable use of physical force by certificated  
12 or classified personnel in self-defense, defense of others and defense of  
13 property.

14           4. Procedures for dealing with pupils who have committed or who are  
15 believed to have committed a crime.

16           5. A notice and hearing procedure for cases concerning the suspension  
17 of a pupil for more than ten days.

18           6. Procedures and conditions for readmission of a pupil who has been  
19 expelled or suspended for more than ten days.

20           7. Procedures for appeal to the governing board of the suspension of a  
21 pupil for more than ten days, if the decision to suspend the pupil was not  
22 made by the governing board.

23           8. Procedures for appeal of the recommendation of the hearing officer  
24 or officers designated by the board as provided in subsection F of this  
25 section at the time the board considers the recommendation.

26           C. Penalties adopted pursuant to subsection B, paragraph 1 of this  
27 section for excessive absenteeism shall not be applied to pupils who have  
28 completed the course requirements and whose absence from school is due solely  
29 to illness, disease or accident as certified by a person who is licensed  
30 pursuant to title 32, chapter 7, 13, 15 or 17.

31           D. The governing board shall:

32           1. Support and assist teachers in the implementation and enforcement  
33 of the rules prescribed pursuant to subsection B of this section.

34           2. Develop procedures allowing teachers and principals to recommend  
35 the suspension or expulsion of pupils.

36           3. Develop procedures allowing teachers and principals to temporarily  
37 remove disruptive pupils from a class.

38           4. Delegate to the principal the authority to remove a disruptive  
39 pupil from the classroom.

40           E. If a pupil withdraws from school after receiving notice of possible  
41 action concerning discipline, expulsion or suspension, the governing board  
42 may continue with the action after the withdrawal and may record the results  
43 of such action in the pupil's permanent file.

44           F. In all action concerning the expulsion of a pupil, the governing  
45 board of a school district shall:

- 1           1. Be notified of the intended action.
- 2           2. Either:
- 3           (a) Decide, in executive session, whether to hold a hearing or to
- 4 designate one or more hearing officers to hold a hearing to hear the
- 5 evidence, prepare a record and bring a recommendation to the board for action
- 6 and whether the hearing shall be held in executive session.
- 7           (b) Provide by policy or vote at its annual organizational meeting
- 8 that all hearings concerning the expulsion of a pupil conducted pursuant to
- 9 this section will be conducted before a hearing officer selected from a list
- 10 of hearing officers approved by the governing board.
- 11           3. Give written notice, at least five working days before the hearing
- 12 by the governing board or the hearing officer or officers designated by the
- 13 governing board, to all pupils subject to expulsion and their parents or
- 14 guardians of the date, time and place of the hearing. If the governing board
- 15 decides that the hearing is to be held in executive session, the written
- 16 notice shall include a statement of the right of the parents or guardians or
- 17 an emancipated pupil who is subject to expulsion to object to the governing
- 18 board's decision to have the hearing held in executive session. Objections
- 19 shall be made in writing to the governing board.
- 20           G. If a parent or guardian or an emancipated pupil who is subject to
- 21 expulsion disagrees that the hearing should be held in executive session, it
- 22 shall be held in an open meeting unless:
- 23           1. If only one pupil is subject to expulsion and disagreement exists
- 24 between that pupil's parents or guardians, the governing board, after
- 25 consultations with the pupil's parents or guardians or the emancipated pupil,
- 26 shall decide in executive session whether the hearing will be in executive
- 27 session.
- 28           2. If more than one pupil is subject to expulsion and disagreement
- 29 exists between the parents or guardians of different pupils, separate
- 30 hearings shall be held subject to this section.
- 31           H. This section does not prevent the pupil who is subject to expulsion
- 32 or suspension, and the pupil's parents or guardians and legal counsel, from
- 33 attending any executive session pertaining to the proposed disciplinary
- 34 action, from having access to the minutes and testimony of the executive
- 35 session or from recording the session at the parent's or guardian's expense.
- 36           I. In schools employing a superintendent or a principal, the authority
- 37 to suspend a pupil from school is vested in the superintendent, principal or
- 38 other school officials granted this power by the governing board of the
- 39 school district.
- 40           J. In schools that do not have a superintendent or principal, a
- 41 teacher may suspend a pupil from school.
- 42           K. In all cases of suspension, it shall be for good cause and shall be
- 43 reported within five days to the governing board by the superintendent or the
- 44 person imposing the suspension.

1           L. RULES PERTAINING TO THE DISCIPLINE, SUSPENSION AND EXPULSION OF  
2 PUPILS SHALL NOT BE BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN OR  
3 ANCESTRY. IF THE DEPARTMENT OF EDUCATION, THE AUDITOR GENERAL OR THE  
4 ATTORNEY GENERAL DETERMINES THAT A SCHOOL DISTRICT IS SUBSTANTIALLY AND  
5 DELIBERATELY NOT IN COMPLIANCE WITH THIS SUBSECTION AND IF THE SCHOOL  
6 DISTRICT HAS FAILED TO CORRECT THE DEFICIENCY WITHIN NINETY DAYS AFTER  
7 RECEIVING NOTICE FROM THE DEPARTMENT OF EDUCATION, THE SUPERINTENDENT OF  
8 PUBLIC INSTRUCTION MAY WITHHOLD THE MONIES THE SCHOOL DISTRICT WOULD  
9 OTHERWISE BE ENTITLED TO RECEIVE FROM THE DATE OF THE DETERMINATION OF  
10 NONCOMPLIANCE UNTIL THE DEPARTMENT OF EDUCATION DETERMINES THAT THE SCHOOL  
11 DISTRICT IS IN COMPLIANCE WITH THIS SUBSECTION.

12           ~~L.~~ M. The principal of each school shall ensure that a copy of all  
13 rules pertaining to discipline, suspension and expulsion of pupils is  
14 distributed to the parents of each pupil at the time the pupil is enrolled in  
15 school.

16           ~~M.~~ N. The principal of each school shall ensure that all rules  
17 pertaining to the discipline, suspension and expulsion of pupils are  
18 communicated to students at the beginning of each school year, and to  
19 transfer students at the time of their enrollment in the school.





**Jesse Arreguín**  
Councilmember, District 4

CONSENT CALENDAR  
June 1, 2010

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Resolution Urging the Inclusion of the Uniting American Families Act in the Comprehensive Immigration Reform Bill

RECOMMENDATION:

Adopt a resolution urging the inclusion of the Uniting American Families Act in the Comprehensive Immigration Reform Bill.

BACKGROUND:

As immigration reform becomes front and center, particularly in the aftermath of SB 1070 in Arizona, it is important that any comprehensive immigration reform bill that is considered include the Uniting American Families Act (UAFAs).

The UAFAs bill amends the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents. 22 other countries recognize same-sex couples under immigration law, such as France, Germany, Israel, and the United Kingdom among others and comprehensive immigration reform should include all immigrants, including lesbian and gay immigrants.

FINANCIAL IMPLICATIONS:

None

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4 981-7140

Attachments:

1. Resolution
2. Copy of Uniting American Families Act



**Attachment  
Not Received**

The attachment (s) to this report, has not yet been received from the submitting department.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
*<http://www.cityofberkeley.info>*



## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

### CONSENT CALENDAR

June 1, 2010

TO: Honorable Mayor and Members of the City Council  
FROM: Councilmember Kriss Worthington  
Councilmember Jesse Arreguin  
Councilmember Darryl Moore

SUBJECT: Relinquishment of Council Office Budgets for the Pacific Center

#### RECOMMENDATION

Adopt a resolution to approve the expenditure of \$1000 from Councilmember Worthington's D-13 account, up to \$250 from Councilmember Moore's and Councilmember Arreguin's D-13, as well as to invite other councilmembers to use discretionary Council Office Budget funds to be used for operations at the Berkeley Pacific Center.

#### BACKGROUND

The Berkeley Pacific Center is a community center serving the LGBTQ community in the Bay Area. The third-oldest center of its kind, it serves low-income and uninsured LGBTQ community members with mental health services, peer support groups, HIV counseling opportunities, and an unparalleled youth leadership program. A critical resource for the Bay Area community, the Center now stands to possibly lose their current lease on the building they've long occupied.

From the Center's website: "Pacific Center is a healthy, vibrant organization that has served the East Bay and Greater Bay Area LGBTQ community for more than 36 years – and we are currently in a planning process to make us even stronger. With our current lease expiring on July 31<sup>st</sup> 2010, and our landlord expressing a desire to sell the building, we are investigating all our options including buying the building and what a new location might provide - improved access, more appropriate accommodations and a wider range of services.

This campaign is being led by Pacific Center's board of directors and planning has just begun. Rarely do opportunities like this come along that allow organizations to truly evaluate their value to the community and plan for future growth and service. While this process will involve a lot of hard work –including fundraising– it also will provide a way for us to really pull together and truly take Pacific Center to a new, exciting level."

Fund allocation towards the Center would help ensure this vitally important resource center can continue serving the Bay Area community.

FINANCIAL IMPLICATIONS

None. Funds will come from Council D-13.

CONTACT PERSONS

Councilmember Kriss Worthington – (510) 981-7170

Councilmember Jesse Arreguin – (510) 981-7140

Councilmember Darryl Moore – (510) 981-7120





CONSENT CALENDAR

June 1<sup>st</sup>, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds to Berkeley Partners for Parks for the exclusive use to fund Berkeley Path Wanderers.

RECOMMENDATION

Adopt a Resolution to approve the expenditure of up to \$250 to the Berkeley Partners for Parks to sponsor Berkeley Path Wanderers with funds relinquished to the City's General Fund for this purpose from Councilmember Wengraf's discretionary Council Office Budget.

FINANCIAL IMPLICATIONS

No General Fund impact; \$250 is available from Councilmember Wengraf's Council Office Budget.

BACKGROUND

We are proposing that the City Council make a grant of \$250 to Berkeley Partners for Parks for the Berkeley Path Wanderers Association (BPWA). The Berkeley Path Wanderers Association is a grassroots volunteer group of community members who repair and reconstruct paths that have been neglected and have fallen into disrepair over time. These paths provide egress in the event of a catastrophe, such as a fire or earthquake and also provides car-free paths for pedestrians to enjoy as they walk in Berkeley.

CONTACT PERSON

Councilmember Susan Wengraf, Council District 6, 510-981-7160

RESOLUTION NO

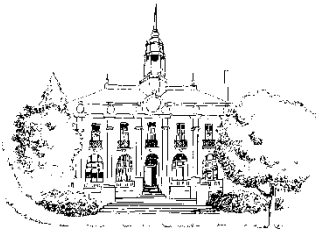
AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE COUNCIL OFFICE BUDGET OF COUNCILMEMBER WENGRAF, TO BERKELEY PARTNERS FOR PARKS, TO SPONSOR BERKELEY PATH WANDERERS ASSOCIATION

WHEREAS, Councilmember Wengraf has surplus funds in her council office budget (budget code 010-0262-410) and wishes to relinquish \$250 of these funds; and

WHEREAS, a California non-profit tax exempt corporation Berkeley Partners for Parks seeks funds in the amount of \$250 to provide The Berkeley Path Wanderers Association with these funds to enable them to continue their volunteer work by providing materials necessary to reconstruct and repair paths that have been neglected and obscured over time; and

WHEREAS, the provision of such services will provide safe egress in the event of a catastrophe such as fire or earthquake and also provide safe car-free paths for pedestrians who enjoy walking in Berkeley.

NOW THEREFORE, BE IT RESOLVED that funds relinquished by Councilmember Wengraf from her Council Office Budget in the amount of \$250 shall be granted to Partners for Parks for the exclusive use of the Berkeley Path Wanderers Association.



## Kriss Worthington

Councilmember, City of Berkeley, District 7

2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

# 4b.24

### CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington

Subject: Adopting a written moratorium on contract enforcement about vacations/sick time for small business owners at Telegraph/Channing Garage.

#### RECOMMENDATION

That the City Council adopt a written moratorium on contract enforcement that would only apply to vacations/sick time for small business owners at Telegraph/Channing Garage, until the City Manager puts forth permanent modifications to the lease agreements to address this unintended consequence.

#### BACKGROUND

Local small business owners who are Lessees of the City-owned Telegraph/Channing garage property who wish to establish summer plans for vacation time, are unable to do so due to worry over whether they will be found in violation of their lease agreements with the City. Currently it is legally technically prohibited for a small business owner to take vacation time of and even for time for the staff to take a lunch break or bathroom break or to make copies even in the same building.

Possible interpretations of the lease agreements stipulate that sufficient staff must be available to keep the businesses open to the public all hours that the lease agreements dictate. However, as many of these businesses are family-owned small businesses, to demand that they hire new staff to ensure the businesses stay open during the short breaks that the shopowners need to take for personal business—that cannot be ignored—is not reasonable.

Modifications to these lease agreements to a) give tenants up to six weeks per year off, time in which their businesses may remain close without citation repercussions, and b) time to daily close their operations for personal business to be accomplished by staffers, would allow personal freedoms for these small business staffers that are rightfully earned simply through the nature of being human beings. For the City Manager to take our lease agreement modifications into consideration would ensure personal liberties aren't trampled on any longer by overly stringent lease agreement terms.

#### FINANCIAL IMPLICATIONS

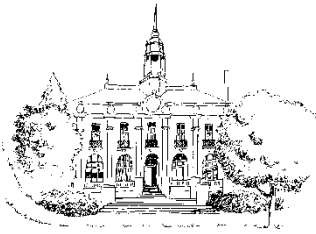
Minimal

#### CONTACT PERSON

Councilmember Kriss Worthington

510-981-7170





## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

### CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: Oppose Social Security and Medicare Solvency Commission Act (S. 276)

#### RECOMMENDATION

That the City Council send a letter urging Senator Feinstein to withdraw this damaging bill or amend it to benefit the important needs of our senior citizens and people with disabilities and to send letters to Senator Boxer and Congresswoman Lee asking them to please oppose S. 276.

#### BACKGROUND

The Social Security and Medicare Solvency Commission Act (S. 276) was introduced by Senator Feinstein. It will establish the National Commission on Entitlement Solvency to review and report to the President and Congress on the Social Security and Medicare programs.

According to the California Alliance for Retired Americans (CARA), "these commissions are more likely to propose benefit cuts for present or future recipients instead of needed improvements in benefit adequacy and financing."

Various communities will be severely impacted by S. 276. Statistics show that "more than one-third of all people 65 and older rely on Social Security for 90 percent of their income." (CARA) Many communities will be impacted by poverty upon the enactment of S. 276. Statistics presented by the CARA state that "women make up 60 percent of Social Security beneficiaries and they depend on it more than men do for retirement." Furthermore, "more than 75 percent of older Latinos and nearly 80 percent of African Americans rely on Social Security for most of their income." (CARA)

Social Security and Medicare are invaluable tools to our communities and we need to reject damaging threats such as S. 276.

#### FINANCIAL IMPLICATIONS

None.

#### CONTACT PERSON

Councilmember Kriss Worthington 510-981-7170

Senate Bill 276 may be found at: <http://www.govtrack.us/congress/billtext.xpd?bill=s111-276>

Dear Senator Feinstein,

We urge you to withdraw the Social Security and Medicare Solvency Commission Act (S. 276) or amend it to do something more beneficial for individuals with disabilities and senior citizens.

According to the California Alliance for Retired Americans, "Social Security is our country's most important and successful retirement insurance program, providing economic security to retired Americans and their families, persons with disabilities and surviving spouses and children of deceased workers for 70 years."

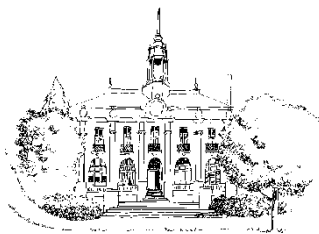
S. 276, would be a major setback for the economic well being of the American public especially to many vulnerable populations. According to CARA statistics, "Social Security has helped generations of American retire with dignity and Medicare has helped reduced senior poverty by two-thirds since it began in 1965." The bill also poses threats to minority communities including women and various ethnic groups who rely on insurance programs like Social Security and Medicare for survival.

We need to reject threats such as S. 276 and instead of undermining such invaluable tools to our communities we should consider other alternatives. CARA has presented other options to improve our nation's economy with relatively modest adjustments without cutting Social Security and Medicare benefits. These alternatives include:

- Raising the payroll tax cap on Social Security taxes for the wealthiest Americans
- Freezing the estate tax at 2009 levels and apply those revenues to Social Security
- Putting people back to work in sustainable American jobs
- Supporting legislation proposed by Senator Tom Harkin (D-IA) "The Wall Street Fair Share Act" (S. 2927) and Representative Peter DeFazio (D-OR) "Let Wall Street Pay for the Restoration of Main Street Act of 2009" (H.R. 4191). This legislation would place a modest tax on Wall Street financial speculation while leaving the vast majority of ordinary investors largely unaffected. All told, this modest tax of 0.25 percent would raise over \$75 billion a year.

We thank you for your time and consideration and urge you to reconsider the consequences S. 276 has on vulnerable communities including people with disabilities, senior citizens, and various ethnic groups and to withdraw or amend S. 276.

Respectfully,



## Kriss Worthington

Councilmember, City of Berkeley District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

### CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington

Subject: Seventh Annual Berkeley World Music Festival

#### RECOMMENDATION:

Adopt a Resolution proclaiming June 5<sup>th</sup>, 2009 as the Berkeley World Music Day.

#### BACKGROUND:

The free Berkeley World Music Festival has been the Telegraph Avenue neighborhood's premiere community and cultural event. This year, the seventh annual festival will be held Saturday, June 5, 2009, Noon – 9 p.m. Continuous musical performances will be held, primarily in cafes and street corners, as well as a featured concert in People's Park.

The festival celebrates both the rich Bay Area world music scene and the diversity of the district's residents, students, workers and over 200 merchants. Founded several years ago by Telegraph Avenue residents, business leaders, and community members, the World Music has become a living legacy of the area and has successfully drawn countless fans and observers to the area each year.

Berkeley World Music Festival sponsors along, with the City of Berkeley, include: Amoeba Music, Ashkenaz Music and Dance Community Center, Berkeley Art Museum and Pacific Film Archive, East Bay Express, KPFA, Pagan Alliance, San Francisco Bay Guardian, Telegraph Business Improvement District, UC Office of Community Relations, Whole Foods Market, and Telegraph Area businesses join with the City of Berkeley in providing the fiscal and media sponsorship for bringing Berkeley World Music to the people of Berkeley.

#### FINANCIAL IMPLICATIONS:

None.

#### CONTACT PERSON:

Councilmember Kriss Worthington 981-7170

## 7<sup>th</sup> ANNUAL BERKELEY WORLD MUSIC FESTIVAL

**WHEREAS,** Berkeley World Music Festival is Berkeley's Telegraph Avenue neighborhood's premiere community and cultural event.

**WHEREAS,** Berkeley World Music Festival enriches local culture by offering free to the public a superb program of world music performances representing a broad range of world music traditions.

**WHEREAS,** Berkeley World Music Festival musical performances, presented in Telegraph area cafés, book and music stores, and at People's Park, provide the model for the inclusion of arts to stimulate the health of local business and neighborhoods.

**WHEREAS,** Berkeley World Music Festival is a living legacy of the Telegraph Avenue District as it was founded by Telegraph Avenue community members to celebrate ethnic diversity including the multicultural backgrounds of over 200 Telegraph Avenue merchants.

**WHEREAS,** Berkeley World Music Festival's celebration of world music traditions encourages respect for peoples of diverse cultures, which promotes peace and tolerance between peoples of diverse backgrounds.

**WHEREAS,** Berkeley World Music Festival provides a platform for the local artist. 2010 performing artists include **Afrofunk Experience, Ancient Future's Mathew Monfort** (Celtic-Raga), **Belly Dance Bazaar, Grupo Falso Baiano** (Brazilian Choro), **Dynamo & Gramophone** (Greek Rebetika-Balkan), **Gamelan Gender Weyang, Hamudeen with Yassir Chadly, Khi Darag!** (World Fusion-Cambodian Pop), (Gaelic & Jazz), **Michael Masley** (Cymbolam Bowhammer,) **Quijeremá** (Latin American Folk & Jazz) **Sekou Senegal** (African Manding Music & Dance) Tara with **Melanie O'Reilly** and **Zydeco Flames**.

**WHEREAS,** Berkeley World Music Festival furthers the recognition of the Bay Area as a regional center of World Music.

**WHEREAS,** Berkeley World Music Festival sponsors: Amoeba Music, Ashkenaz Music and Dance Community Center, Berkeley Art Museum and Pacific Film Archive, East Bay Express, KPFA, Pagan Alliance, San Francisco Bay Guardian, Telegraph Business Improvement District, UC Office of Community Relations, Whole Foods Market, and Telegraph Area businesses join with the City of Berkeley in providing the fiscal and media sponsorship for bringing Berkeley World Music to the people of Berkeley.

**THEREFORE BE IT RESOLVED,** that I, Mayor Tom Bates, do hereby recognize and proclaim

June 5, 2010 as Berkeley World Music Day

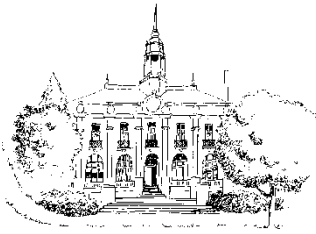
in the City of Berkeley and invite all citizens of Berkeley to support our City's tradition by visiting the free 7<sup>th</sup> Annual Berkeley World Music Festival, coming to Telegraph Avenue, June 5<sup>th</sup>, Noon to 9 p.m.

---

Tom Bates  
Mayor

June 2010





## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

### CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: Support Americans with Disabilities Act Campaign

#### RECOMMENDATION

The Berkeley City Council acknowledges the spirit of the Americans with Disabilities Act by signing on to the ADA Campaign.

#### BACKGROUND

The American Association of People with Disabilities (AAPD) was founded in 1995 to help unite the diverse communities of people with disabilities, including their family, friends, and supporters, and to be a national voice for change in implementing the goals of the Americans with Disabilities Act (ADA). The AAPD is the largest cross-disability membership organization that organizes the disabled communities to enact political, economic, and social change.

In recognition of the upcoming 20<sup>th</sup> anniversary of the signing of the landmark Americans with Disabilities Act (ADA), the cross-disability community is working together to realize the promise of the ADA by continuing efforts to advance a policy agenda that will safeguard human rights and respect human dignity, enhance self-determination, and make technology work for everyone. The following agenda was developed by the Justice for All Action Network (JFAAN) which is a coalition led by 13 national organizations run by people with disabilities who identify with grassroots constituencies around the country. The ADA Campaign agenda consists of:

- I. Safeguard Human Rights and Respect Human Dignity
- II. Enhance Self-Determination
- III. Make Technology Work for Everyone

#### FINANCIAL IMPLICATIONS

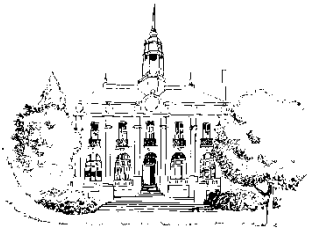
None.

#### CONTACT PERSON

Councilmember Kriss Worthington 510-981-7170

Details for each ADA Campaign agenda item are as follows:

- I. Safeguard Human Rights and Respect Human Dignity
  - a. Pass a national health care reform bill that eliminates exclusions due to preexisting medical conditions, challenging institutional bias in Medicaid program by passing the Community First Choice Option, advocating benefits covering habilitative and rehabilitative services, and providing people with disabilities medical equipment and technological devices that enable them to participate in their communities
  - b. Pass the Hearing Aid Tax Credit Bill (HR 1646/S 1019) enacting coverage for hearing aids and related services for children and adults, passing Early Hearing Detection and Intervention Act (HR 1246), and to amend the Public Health Service Act regarding detection, diagnosis, and treatment of hearing loss
  - c. Pass the Community Choice Act (S 683/HR 1670) and working with the Obama Administration to enforce the Olmstead v. L.C. Supreme Court decision
  - d. Pass the Preventing Harmful Restraint and Seclusion in Schools Act (H.R. 4247/S. 2860) to eliminate the use of aversives, seclusion and restraints in schools
  - e. Phase out (and ultimately eliminate) Section 14(c) of the Fair Labor Standards Act, which permits the payment subminimum wage to workers with disabilities, and implement a multifaceted approach to achieve the goal of creating new competitive employment opportunities for workers earning subminimum wage.
  - f. Create a bipartisan Congressional Task Force on Human Genetic Technologies and Disability Rights
- II. Enhance Self-Determination
  - a. Amend the Developmental Disabilities Assistance and Bill of Rights Act to establish and fund self advocated peer support and advocacy organizations in every state
  - b. Engage with the Substance Abuse and Mental Health Services Administration (SAMHSA) to ensure that 20% of the states Mental Health Block Grant money will be devoted to allowing the consumer's voices in mental health planning and policy formation
  - c. Engage with Secretaries Sebelius, Shinseki, and Duncan, and Commissioner Astrue to ensure that advisory groups to the following agencies are required to include at least two persons with disabilities from each major disability areas to represent their communities.
  - d. Reauthorize the Workforce Investment Act with changes to include provisions improving employment services for underserved population.
- III. Make Technology Work for Everyone
  - a. Pass the Pedestrian Safety Enhancement Act of 2009 (HR 734/S. 841).
  - b. Pass the 21<sup>st</sup> Century Communications and Video Accessibility Act (HR 3101)
  - c. Protect and enforce accessibility requirements in the Help America Vote Act so that every American can vote privately and independently



## Kriss Worthington

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### CONSENT CALENDAR

June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington

Subject: Referral to the City Manager: City Response to Smart Meter Problems and Preparation of a Letter to the California Public Utilities Commission

#### RECOMMENDATION

That the Council refer to the City Manager a city response to Smart Meter problems and preparation of a letter to the California Public Utilities Commission, including an investigation of the PG&E Smart Meter program, requirement of PG&E to submit a characterization study of the system planned to the City, requirement of PG&E to allow customers to 'opt out' of the program without repercussions, as well as an immediate moratorium on the disposal, recycling, or permanent alteration of old PG&E meters and a call for consideration of a moratorium on the further installation of PG&E Smart Meters.

#### BACKGROUND

The Pacific Gas & Electric Corporation (PG&E) has been installing Smart Meters in Berkeley and statewide in recent months. The vice-president of PG&E, Helen Burt, recently admitted to the San Francisco Chronicle that 43,000 Smart Meters have had at least one type of problem. In light of this, cities like Sebastopol have called for a complete halt on Smart Meter installation and removal, and the California Public Utilities Commission (CPUC) recently required PG&E to open their complaint records to the public. The records contain a staggering number of complaints, ranging from issues regarding overbilling to concerns over improper data transferrals.

The aforementioned recommended steps would help gain attention to and potentially alleviate our constituent's concerns over the Smart Meter problems. While it is frequently beneficial and desirable to innovate with new technologies, it is also important to address the multiple problems that can occur with these innovations.

#### FINANCIAL IMPLICATIONS

None.

#### CONTACT PERSON

Councilmember Kriss Worthington

510-981-7170





## Kriss Worthington

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2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

CONSENT CALENDAR  
June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Councilmember Jesse Arreguin  
Councilmember Darryl Moore

Subject: Proclamation to Honor June as Lesbian Gay Bisexual Transgender and Questioning Pride Month and Authorize City Manager to Fly the Rainbow Flag for the Rest of June.

### RECOMMENDATION

Adopt a proclamation to honor June as Lesbian Gay Bisexual Transgender and Questioning Pride Month in the city of Berkeley and authorize City Manager to fly the rainbow flag for the rest of June.

### BACKGROUND

Berkeley has been committed to representing and supporting all members of the community in favor of tolerance, respect, and celebration.

Berkeley not only honors special days and months such as National Freedom to Marry Day and LGBT Mental Health Awareness Month, but also has the first city council in the nation to endorse marriage equality.

Let's honor June as a symbolic month in which lesbians, gay men, bisexual and transgendered people and supporters come together and affirm their various forms of freedom and pride.

### FINANCIAL IMPLICATIONS

None.

### CONTACT PERSONS:

|                                 |              |
|---------------------------------|--------------|
| Councilmember Kriss Worthington | 510-981-7170 |
| Councilmember Darryl Moore      | 510-981-7120 |
| Councilmember Jesse Arreguin    | 510-981-7140 |

## **HONOR JUNE AS LGBTQ PRIDE MONTH**

**WHEREAS**, Berkeley has a committed history of being at the forefront of supporting equity for people within this community. Therefore, it is the first city in the nation to establish a Domestic Partner registration system that includes same-gender couples. Berkeley is the first city to establish a LGBTQ Sensitivity Training with the LGBTQ Liaison for all members of the Police Department, and also has the first City Council in the nation to endorse marriage equality. Berkeley honors special days and months such as National Freedom to Marry Day and LGBTQ Mental Health Awareness Month. Our fair city also supports the annual community LGBTQ Labor Day Brunch, begun the much needed funding and support for planning a LGBTQ Community Center for Berkeley, and continues to strive in increasing the diversity of our city boards and commissions; and

**WHEREAS**, this year, on March 10, the BUSD adopted the Welcoming Schools curriculum; and

**WHEREAS**, many of the residents, students, city employees, and business owners within the City of Berkeley who contribute to the enrichment of our City are a part of the lesbian, gay, bisexual, transgender, and questioning community; and

**WHEREAS**, various advancements have been made with respect to equitable treatment of lesbians, gay men, bisexual, transgendered, and questioning persons throughout the nation, there continues to be strong opposition against people from this community around the world making it imperative for Berkeley to stand up and show support for our citizens who are affected; and

**WHEREAS**, June has become a symbolic month in which lesbians, gay men, bisexual people, transgender, and supporters come together in various celebrations of pride; and

**THEREFORE BE IT RESOLVED**, that the City of Berkeley hereby declares the month of June 2010 to be:

### **LGBTQ PRIDE MONTH**

We invite everyone to reflect on ways we all can live and work together with a commitment to mutual respect and understanding.



**4b.33a**

**Jesse Arreguín**  
Councilmember, District 4

CONSENT CALENDAR  
June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Jesse Arreguín, Gordon Wozniak, Darryl Moore and Max Anderson  
Subject: Budget Referral: \$44,000 to the FY 2010/2011 Budget Process for Options' Recovery Services to Hire a Case Manager/Housing and Benefits Coordinator

**RECOMMENDATION:**

Refer \$44,000 to the FY 2010/2011 budget process for Options' Recovery Services to hire a Case Manager/Housing and Benefits Coordinator.

**BACKGROUND:**

For background of Options Recovery Services, please see attachment.

Options Recovery Services is in dire need of a case manager/housing and benefits coordinator to help ensure the long-term success of their graduates. The case manager would work with Shelter Plus Care, the Oakland Housing Authority and other agencies to keep current on where the housing opportunities are and how to apply for them. The case manager would help clients to find and apply for benefits and housing opportunities and the associated identification and documentation that they need. The case manager would also work with clients while they are in Options' Clean and Sober Housing (C&S) Housing to learn to pay their rent on time, to manage their finances, to inquire about and apply for permanent housing upon their completion of the Day Treatment Program, and to make the successful transition to independence. The primary goal of this service is to help formerly-homeless clients keep the hard-fought gains they have made in recovery by helping them to stay housed, which directly impacts their ability to stay clean and sober and in recovery from their mental illness. If clients leave treatment without having identified housing, their chances of returning to homelessness, addiction, out-of-control mental illness and crime are substantially increased. Through this position, Options aims to provide all of the services necessary to make and keep clients self-sufficient and stable to minimize the possibility of relapse.

**FINANCIAL IMPLICATIONS:**

\$44,000

**CONTACT PERSON:**

Jesse Arreguín, Councilmember, District 4      981-7140

**Attachments:**

1. "The problem of addiction affects all of us"

## **The problem of addiction affects all of us.**

**CRIME:** According to Berkeley police, an addict will commit 3 to 5 crimes a day. Jail time isn't stopping crime: 87% of all inmates released will be re-incarcerated within 3 years (Alameda County Probation Office). 75% of current inmates have a history of substance abuse (Bureau of Justice Statistics 2004) but less than 10% get in-jail treatment.

**THE COST:** Addiction is a disease that requires specialized re-education, skills training, and therapeutic treatment. A year of incarceration costs taxpayers over \$40,000 per inmate (California Prison News). A year of Options treatment costs less than \$3,000. Every dollar spent on addiction treatment is up to \$9 saved in the cost of crime and government services (Washington Post, August 19<sup>th</sup> 2006 and UCLA Integrated Substance Abuse Programs study, March 13, 2006). The direct cost to our communities includes police time, emergency medical response time, and social services.

**THE SOLUTION:** Options served over 2000 people this year. Half of those -- most of them young people -- were in our one day drug education class for the Berkeley and Oakland courts. The other half came in to take advantage of our 15 month recovery curriculum. 515 arrived homeless, and every one who needed it was placed in a clean and sober bed. Off site housing is provided to those who stay sober. A requirement of graduation is working or going back to school.

**SUCCESS:** Enrollment in the Options' Recovery Curriculum makes a difference: historically, 80% of Options' graduates have remained clear of crime and the courts (in a study done of graduates three years after graduation). Our success rate is among the best in the country. Most substance abuse treatment centers turn people away for lack of funds or space -- and charge over \$10,000 a month. Options is free and immediately accessible. Our strategy is to offer everyone who comes to our door immediate access to help -- people must be put in a treatment center right away if an intervention is going to be successful. Many are court ordered to go to treatment, but don't have the money to pay. Without us, these people would be back on the street using or back in jail.

**AWARDS:** Options was the sole recipient of the award for "Organizational Achievement", from the National Association of Addiction Professionals, 2006. The Berkeley Community Fund's Benjamin Ide Wheeler Medal for a lifetime of community service went to Dr. Davida Coady in 2005. The Downtown Berkeley Association's Excellence in Community Service Award was received in 2005.

**LASTING SOLUTIONS:** While many of Berkeley's agencies feed or serve the homeless, our requirement that people **intensely examine the root causes within themselves, learn the tools to change self destructive or dysfunctional behaviors,** and access the resources available to them, means that they are supported through the stages of change -- resulting in true transformation and rehabilitation.





Gordon Wozniak  
Councilmember District 8

CONSENT CALENDAR  
June 1, 2010

To: Honorable Mayor and Members of the City Council  
From: Councilmember Gordon Wozniak  
Subject: Budget Referral: Berkeley Student Cooperative

RECOMMENDATION

Refer the following budget request to the budget process: A one-time request for \$30,000 to: a) energy retrofit a 2<sup>nd</sup> Berkeley Student Coop residence or b) do a deeper energy retrofit of Kingman House so that it would meet Berkeley's Measure G goals of reducing its Greenhouse Gas emissions by 80%.

FISCAL IMPLICATIONS

\$30,000.

BACKGROUND

A major challenge of the 21<sup>st</sup> Century is global warming and its impact on our world. In 2006, the citizens of Berkeley voted overwhelmingly to reduce their greenhouse gas emissions (GHG) by 80% over the next 40 years. In the three years following the passage of Measure G, the City of Berkeley analyzed the major sources of GHG and developed a Climate Action Plan for their reduction.

One of the major contributors to GHG emissions is the energy-use associated with residential structures. In Berkeley, almost 60% of our residents are housed in multi-unit structures. To meet Berkeley's Measure G goals, the energy efficiency of multi-unit buildings needs to be substantially improved since they make up the majority of the City's housing stock. In addition, due the split-incentive problem (property owners put up the capital for improvements, but do not reap the benefits since tenants typically pay the utility bills), multi-unit buildings are typically more difficult to retrofit than single-family residences.

The Berkeley Student Cooperative (BSC) operates twenty multi-unit residential buildings in Berkeley, which house about 1,200 students. All of these buildings were constructed before the existence of energy-efficiency building standards. Because the tenants of a co-op cooperatively own their residence, there is no split incentive barrier to making capital improvements, although lack of sufficient funds is a major barrier. Since a single entity (BSC) manages all twenty buildings, decision-making is centralized which simplifies policy-making.

BSC residents are very environmentally concerned and have an outstanding waste management & recycling program. In the 2008/09 academic year, the BSC decided to create a comprehensive program to decrease its carbon footprint by reducing its energy use. To oversee this program, it created the position of Sustainability Coordinator.

To determine the current energy use and potential energy savings, the BSC and the City of Berkeley jointly funded a program to conduct comprehensive energy audits for all BSC properties. The Sustainability Coordinator oversaw the completion of the energy audits for all of the BSC properties and compiled a database of the needed energy retrofits. To determine the intensity of energy-use for each BSC property and the energy-use per resident, the Sustainability Coordinator did a detailed analysis of the total energy-use of each building.

Based on the energy-intensity analysis, the Coops selected Kingman House, which houses 60 students, to undergo the first major energy retrofit. The bid to energy retrofit Kingman totaled \$34,000. The retrofit will: a) replace the HVAC system with new high efficiency furnaces; b) install ceiling, wall and floor insulation, c) retrofit the windows in the common area and d) install thermostat controlled showerheads.

Although these retrofits will substantially reduce Kingman's energy bills and their GHG emissions, they will not achieve the 80% reduction mandated by Measure G. Furthermore, if the Coops can only afford to finance the energy retrofitting of one building a year, it will take them twenty years to retrofit all 20 buildings.

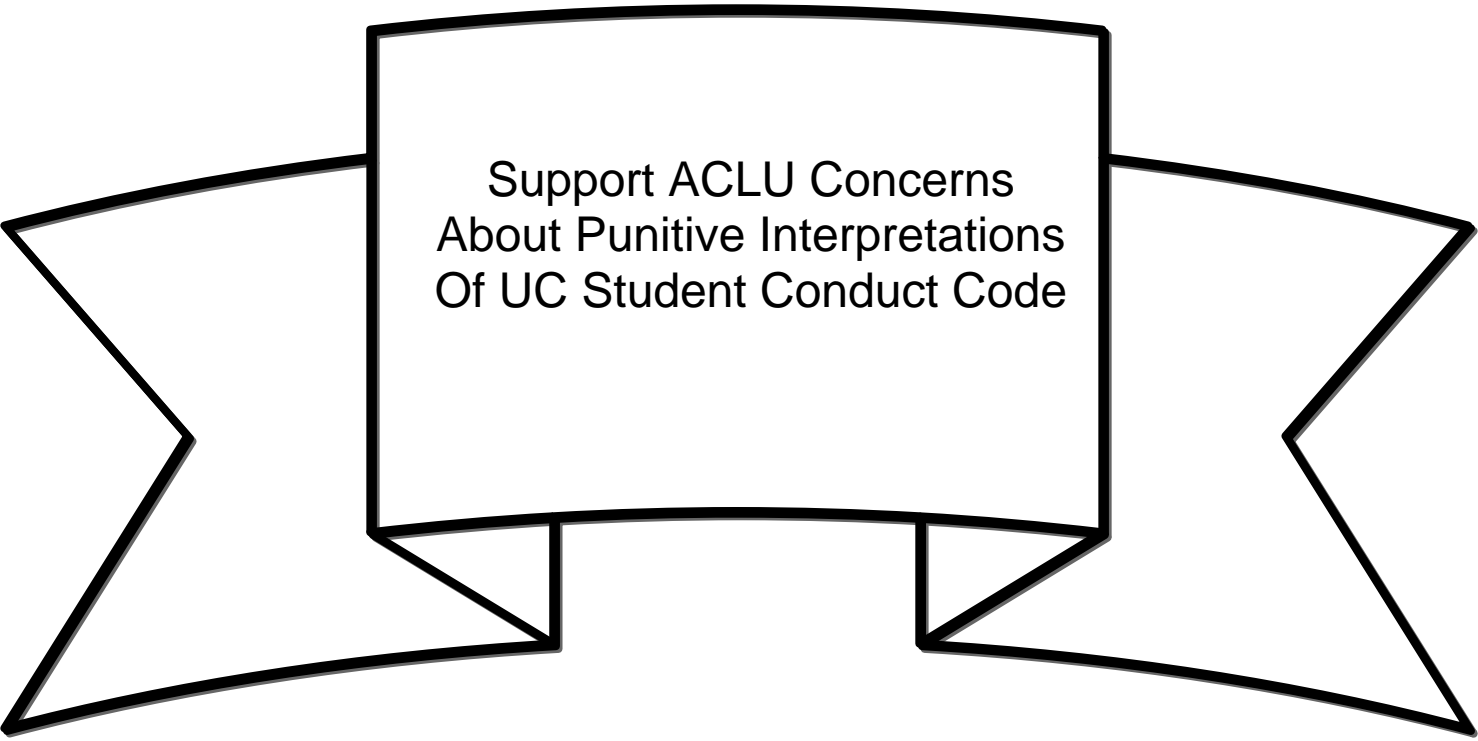
To help the Coops achieve the City Climate Action goals in a more timely fashion, the City Council is asked to approve \$30,000 to energy retrofit a second Coop residence or to do a deeper energy retrofit of Kingman so that it can achieve a 80% reduction of its current GHG emissions and be the first multi-unit building to meet the City's Measure G goal!

CONTACT PERSON

Councilmember Gordon Wozniak

Council District 8

981-7180



Support ACLU Concerns  
About Punitive Interpretations  
Of UC Student Conduct Code

Please refer to item #19 in the May 4, 2010 Agenda Packet for report materials.

This report is also on file and available for review at the City Clerk Department, or can be accessed from the City Council Website.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
*<http://www.cityofberkeley.info>*



| Upcoming Workshops           |                                                                  |  |
|------------------------------|------------------------------------------------------------------|--|
| Recommended dates            |                                                                  |  |
|                              |                                                                  |  |
| Spring 2010                  | Community Choice Aggregation                                     |  |
|                              |                                                                  |  |
| Upcoming Budget Action Items |                                                                  |  |
|                              |                                                                  |  |
| June 1, 2010                 | Budget Public Hearing #2                                         |  |
| June 1, 2010                 | Final Council direction on budget                                |  |
| June 22, 2010                | Adopt FY 2011 revised budget and Annual Appropriations Ordinance |  |

**CITY CLERK'S DEPARTMENT  
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE  
CITY COUNCIL**

| Address                          | Board/<br>Commission | Appeal<br>Period<br>Ends | Council Date for<br>Determination on<br>Appeal Submitted | *(1) Appeals<br>submitted - date<br>listed is placeholder<br>for possible public<br>hearing. (2) Public<br>Hearings Scheduled<br>are dates for a<br>public hearing as<br>directed by the City<br>Council. | Meeting<br>Management -<br>Estimated Time<br>Needed | <u>Notification</u> (1) Appeal Receipt Letter<br>(2) Public Hearing Scheduled Letter |
|----------------------------------|----------------------|--------------------------|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>NOD – Notices of Decision</b> |                      |                          |                                                          |                                                                                                                                                                                                           |                                                     |                                                                                      |
| 2244 Dwight Way                  | ZAB                  | 5/20/2010                |                                                          |                                                                                                                                                                                                           |                                                     |                                                                                      |

|                              |     |           |          |  |  |  |
|------------------------------|-----|-----------|----------|--|--|--|
| <b>Appeals Submitted (1)</b> |     |           |          |  |  |  |
| 3022 Harper St               | ZAB | 3/16/2010 | 6/1/2010 |  |  |  |
| 2598-2600 Shattuck Ave       | ZAB | 5/20/2010 |          |  |  |  |

|                                      |     |  |           |           |                                            |  |
|--------------------------------------|-----|--|-----------|-----------|--------------------------------------------|--|
| <b>Public Hearings Scheduled (2)</b> |     |  |           |           |                                            |  |
| 2421 Ninth St.                       | ZAB |  | 1/19/2010 | 7/13/2010 | Continued to 6 months or less from 5/18/10 |  |
| Iceland - 2727 Milvia St             | LPC |  | 1/19/2010 |           | Last updated 5/20/10                       |  |

\*(1) Dates are listed under placeholder for potential public hearings are simply "placeholders" for the management of Council meetings in the event that following the initial review of the appeal, Council directs that a hearing be scheduled. This in no way infers that a hearing will in fact be set.