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

RECOMMENDATION
Approve the minutes for the Council meetings of March 8, 2011 (special and regular), and March 14, 2011 (special closed).

CONTACT PERSON
Deanna Despain, City Clerk, 981-6900

Attachments:
1. March 8, 2011–Special City Council Meeting
2. March 8, 2011–Regular City Council Meeting
3. March 14, 2011–Special Closed City Council Meeting
MINUTES
BERKELEY CITY COUNCIL
SPECIAL MEETING
TUESDAY, MARCH 8, 2011

5:30 P.M.
Council Chambers – 2134 Martin Luther King Jr. Way
Tom Bates, Mayor

Councilmembers:
DISTRICT 1 – LINDA MAIO  DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 2 – DARRYL MOORE  DISTRICT 6 – SUSAN WENGRAF
DISTRICT 3 – MAX ANDERSON  DISTRICT 7 – KRIS WORTHINGTON
DISTRICT 4 – JESSE ARREGUIN  DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call:  5:36 p.m.

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

Absent:  None.

Public Comment – Items on this agenda only: 18 speakers.

Worksession:

1.  Solid Waste Recycling Assessment Report
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Presentation made and discussion held.

Adjournment

Adjourned at 7:26 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of March 8, 2011 as approved by the Berkeley City Council.

_______________________________
Deanna Despain, CMC, City Clerk

Communications

None
Supplemental Communications and Reports 1

Item 1: Solid Waste Recycling Assessment Report
   1. Steven Sherman
   2. Meave O'Connor
   3. Rio Bauce
   4. Wendy Alfsen
   5. Joan Levinson
   6. Mary Ann Brewin
   7. Sally Nelson
   8. Sarah Syed, on behalf of the Sierra Club
   9. Soula Culver
  10. Sally Greenberg
  11. Patrick Sheahan
  12. Dana Scott

Supplemental Communications and Reports 2

Item 1: Solid Waste Recycling Assessment Report
   • Presentation, submitted by Public Works (see agenda item)
   13. Jeanne Thomas
   14. Demian Moreno
   15. Kira Pascoe
   16. Greg Jalbert
   17. West Berkeley Artisans & Industrial Companies (WEBAIIC)
   18. Lois Yuen
   19. Tom & Jane Kelly
   20. Daniel Knapp
   21. Mary Lou Van Deventer
   22. Richard Anthony, on behalf of the GrassRoo0ts Recycling Network
   23. Monica Wilson, on behalf of the Global Alliance for Incinerator Alternatives
   24. Martin Bourque, on behalf of the Ecology Center
   25. Sara MacKusick, on behalf of Community Conservation Centers
MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, MARCH 8, 2011
7:00 P.M.
COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR
Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN
DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRIS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:39 p.m.

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

Absent: Councilmembers Anderson and Moore.

Councilmember Moore present at 7:40 p.m. Councilmember Anderson present at 7:42 p.m.

Ceremonial Matters:

1. First Congregational Church
2. Berkeley Housing Authority
3. Women’s History Month

City Manager Comments: 2010 Census Data released.

Public Comment on Non-Agenda Matters: 1 speaker.

Public Comment on Consent Calendar and Information Items Only: 5 speakers.

Consent Calendar

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

1. Proposed Open Government Ordinance, Adding BMC Chapter 2.06
   From: City Manager
   Financial Implications: See report
   First Reading Vote: All Ayes
   Contact: Christine Daniel, Deputy City Manager, 981-7000
2. **Animal Shelter Donations: Stephen and Mary Birch Foundation, Chao Foundation and Raymond Family Foundation**

   **From:** City Manager  
   **Recommendation:** Adopt a Resolution approving donations to the Animal Shelter in the sum of $5,000 from the Stephen and Mary Birch Foundation, $5,000 from the Chao Foundation and $2,500 from the Raymond Family Foundation.  
   **Financial Implications:** Animal Shelter Donation Fund - $12,500  
   **Contact:** Phil Kamlarz, City Manager, 981-7000  
   **Action:** Adopted Resolution No. 65,183–N.S.

3. **Minutes for Approval**

   **From:** City Manager  
   **Recommendation:** Approve the minutes for the Council meetings of February 8, 2011 (regular), February 15, 2011 (special and regular) and February 22, 2011 (special).  
   **Financial Implications:** None  
   **Contact:** Deanna Despain, City Clerk, 981-6900  
   **Action:** Approved minutes as submitted.

4. **Removed from agenda per City Manager**

   **Formation of the Downtown Berkeley Property and Business Improvement District (DPBID)**

   **From:** City Manager  
   **Contact:** Michael Caplan, Economic Development, 981-7530

5. **Renewal of the North Shattuck Business Improvement District (NSBID)**

   **From:** City Manager  
   **Recommendation:**
   1. Adopt a Resolution establishing procedures and increasing benefit assessments on real property under Proposition 218.  
   2. Adopt a Resolution declaring intent to reestablish the NSBID for the ten-year period beginning July 1, 2011 and ending June 30, 2021.  
   3. Set a public hearing for May 3, 2011 on reestablishment of the District, and directing the City Clerk to conduct all necessary proceedings for reestablishment of the NSBID.  
   **Financial Implications:** See report  
   **Contact:** Michael Caplan, Economic Development, 981-7530  
   **Action:** Adopted Resolution No. 65,184–N.S., Resolution No. 65,185–N.S. and scheduled a public hearing for May 3, 2011 on reestablishment of the District.
6. **Contract No. 7594 Amendment: Caporicci & Larson, Inc., Certified Public Accountants**
   **From:** City Manager
   **Recommendation:** Adopt a Resolution amending Contract No. 7594 and authorizing the Mayor to extend the agreement with Caporicci & Larson, Inc. (the auditing firm selected by the Mayor, to audit the City's financial statements and perform compliance audits required by the Single Audit Act of 1984-as amended in 1996), by one year for the period of July 1, 2011 through June 30, 2012 (audit of FY 2011), in the amount of $188,625.
   **Financial Implications:** See report
   **Contact:** Robert Hicks, Finance, 981-7300
   **Action:** Adopted Resolution No. 65,186–N.S.

7. **Classification and Salary: Mental Health Clinical Supervisor**
   **From:** City Manager
   **Recommendation:** Adopt a Resolution amending Resolution No. 64,250-N.S., Classification and Salary for Public Employees Union Local One, to establish the classification of Mental Health Clinical Supervisor with a monthly salary range of $6,760 - $8,300, effective March 14, 2011.
   **Financial Implications:** See report
   **Contact:** David Hodgkins, Human Resources, 981-6800
   **Action:** Adopted Resolution No. 65,187–N.S.

8. **Grant Application: Caltrans Environmental Enhancement and Mitigation Program - Tree Planting Project in Berkeley**
   **From:** City Manager
   **Recommendation:** Adopt a Resolution authorizing the City Manager to submit a grant application to the Environmental Enhancement and Mitigation Caltrans Program (EEMP) for the Berkeley Urban Reforestation Project in the amount of $248,600; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
   **Financial Implications:** $248,600 (revenue)
   **Contact:** William Rogers, Parks, Recreation and Waterfront, 981-6700
   **Action:** Adopted Resolution No. 65,188–N.S.

9. **Contract No. 8475 Amendment: Precision Engineering, Inc. for Storm Drain Work on Euclid Avenue**
   **From:** City Manager
   **Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8475 with Precision Engineering, Inc. increasing the contract by $13,455 to include additional sidewalk, curb, and pavement replacement for the storm drainage work, for a total contract amount not to exceed $213,444 for all services.
   **Financial Implications:** See report
   **Contact:** Andrew Clough, Public Works, 981-6300
   **Action:** Adopted Resolution No. 65,189–N.S.
Consent Calendar

10. Major Encroachment Permit: DaVita Dialysis Clinic - 2920 Telegraph Avenue
From: City Manager
Recommendation: Adopt a Resolution authorizing the issuance of a major encroachment permit to DaVita Dialysis Clinic, located at 2920 Telegraph Avenue, for an Americans with Disabilities Act (ADA) compliant accessible ramp and landing, encroaching into the public right-of-way of Telegraph Avenue.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,190–N.S.

Council Consent Items

11. City of Berkeley’s Official Sponsorship of the Hemophilia Foundation of Northern California’s Hemophilia Walk
From: Councilmember Maio
Recommendation: Adopt a Resolution establishing that the City of Berkeley officially sponsor the Hemophilia Foundation of Northern California’s (HFNC) Hemophilia Walk on Saturday, April 16, 2011 in Cesar Chavez Park. The HFNC is not seeing monetary sponsorship, just the ability to use City logo in event materials.
Financial Implications: None
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Adopted Resolution No. 65,191–N.S.

12. Commemoration of the 100th Anniversary of the Triangle Shirtwaist Factory Fire
From: Councilmember Arreguín
Recommendation: Adopt a Resolution commemorating the 100th anniversary of the Triangle Shirtwaist Factory Fire.
Financial Implications: None
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 65,192–N.S.

13. Oppose H.R.3, (Smith) “No Taxpayer Funding for Abortion Act”
From: Councilmember Wengraf
Recommendation: Adopt a Resolution opposing HR3 (Smith) “No Taxpayer Funding for Abortion Act.” Request that the City Clerk send copies of the adopted resolution to the House Energy and Commerce Committee’s subcommittee on Health, Members of the House Judiciary Committee, Rep. Barbara Lee, and Senators Boxer and Feinstein.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 65,193–N.S.
Council Consent Items

14. Oppose H.R.358, (Pitts) “Protect Life Act”  
   From: Councilmember Wengraf  
   Recommendation: Adopt a Resolution opposing HR358 (Pitts) “Protect Life Act.”  
   Request that the City Clerk send copies of the adopted resolution to the House  
   Energy and Commerce Committee’s subcommittee on Health, Members of the  
   Financial Implications: None  
   Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
   Action: Adopted Resolution No. 65,194–N.S.

15. Pedestrian Lighting on Telegraph Avenue  
   From: Councilmember Worthington  
   Recommendation: Refer to the City Manager addition to the Work Plan of seeking  
   external funding for the installation of pedestrian lighting on Telegraph Avenue.  
   Financial Implications: Potential grants to the City  
   Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
   Action: Approved recommendation.

16. Support the Declaration of April 24, 2011 as Armenian Genocide  
   Commemoration Day in Berkeley  
   From: Councilmember Worthington  
   Recommendation: Adopt a proclamation declaring April 24, 2011 Armenian  
   Genocide Commemoration Day in Berkeley.  
   Financial Implications: None  
   Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
   Action: Approved proclamation.

17. Support Wisconsin State and Local Government Employees  
   From: Councilmembers Worthington, Anderson, Moore and Arreguín  
   Recommendation: Send a letter to Wisconsin Governor Scott Walker supporting  
   the state’s public employees right to collectively bargain.  
   Financial Implications: Unknown  
   Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
   Action: Approved recommendation with revisions to the letter.

18. Creation of a Regular "Walk the Beat" Program on Telegraph Avenue  
   From: Councilmember Worthington  
   Recommendation: Refer to the City Manager and Police Chief the creation a  
   permanent "walk the beat" program on Telegraph Avenue.  
   Financial Implications: Unknown  
   Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
   Action: Approved recommendation.
Council Consent Items

19. Establishment of a Public Safety Commission
From: Councilmembers Worthington and Wozniak
Recommendation: Refer to the City Manager and Police Chief the feasibility of creating a Public Safety Commission to function in an advisory role to the City Council on matters relating to public safety in Berkeley.
Financial Implications: Staff time
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation revised to include directing the City Manager to explore the possibility of expanding an existing commission’s duties to include this new advisory role.

Action Calendar – Old Business

20. The PEOPLE’S (Preventing Early Obituaries by Proposing Logical Economic Solutions) Budget Alternative (continued from February 15, 2011)
From: Councilmembers Worthington, Anderson and Arreguin
Recommendation: Adopt the following recommendations responding to the proposed state budget cuts.
Suggested Alternatives:
1. Cuts to the California Department of Corrections and Rehabilitation:
   a. Cut $2 billion from the prison budget. The California State Senate had previously voted to cut $900 million;
   b. Early release of elderly inmates and inmates incarcerated due to possession of marijuana. Since marijuana is an infraction, it is reasonable to release anyone currently incarcerated from marijuana possession and are non-violent.
   c. Eliminate marijuana use as a condition to release for probation or parole.
2. Reform state long-term care to decrease institutionalization in nursing facilities.
3. Reduce the contracting out of consulting and engineering contracts which could easily save $500 million.
4. Reduce cuts to Medi-Cal
   a. Modify the state’s existing Medicaid Home and Community-Based Services waiver so more people can avoid expensive and unnecessary institutional placement.
   b. Draw down new federal Medicaid funds for some AB 3632 mental health services for special education students.
5. Reduce cuts to CalWORKs
6. Reduce cuts to University of California and California State University Systems:
   a. In light of tuition hikes, for both the UC and CSU systems, reduce the proposed cuts.
7. Cuts to Developmental Services:
   a. Implement the closure plan for Lanterman Development Center, and develop a plan for closing two other Developmental Centers, resulting in lower cost for higher quality services.
   b. Consolidate state licensing/quality assurance functions for the developmental disabilities system in DDS, saving revenue.
8. Cuts to In-Home Support Services:
   a. Eliminate the IHSS consumer fingerprinting and timesheet requirements, estimated by the Department of Social Services to require spending $41 million dollars over several years to photograph and fingerprint IHSS consumers.
Action Calendar – Old Business

Financial Implications: See report
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Continued to March 22, 2011.

From: City Manager
Contact: Dan Marks, Planning and Development, 981-7400
Action: 2 speakers. Moved to Action Calendar. M/S/C (Arreguin/Wozniak) to refer the issue of initiating Residential Parking Permit restrictions to the City Manager and Planning Commission.

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

Action Calendar – New Business

22. Waiver of Living Wage Ordinance for Acre Café at the Ed Roberts Campus
From: City Manager
Recommendation: Consider waiving the requirements of the Living Wage Ordinance (BMC Chapter 13.27) with respect to Acre Café based on a finding and determination that such a waiver is in the best interest of the City because doing so would support the establishment of a new business at the Ed Roberts Campus, the success of which is important to the City both because of its role as a center for disability services and because of the City’s significant financial investment in it. Should Council wish to waive the living wage requirements, adopt the resolution attached to this report.
Financial Implications: See report.
Contact: Jane Micallef, Housing and Community Services, 981-5400
Action: 1 speaker. M/S/C (Anderson/Capitelli) to authorize the City Manager to negotiate an alternative to a waiver of the requirements of the Living Wage Ordinance (BMC Chapter 13.27) with respect to Acre Café.
Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Wozniak, Bates; Noes – None; Absent – Worthington.

Absent: Councilmember Worthington: 8:24 p.m. – 8:33 p.m.

23. Amending Berkeley Municipal Code Section 9.32.020 to Permit Chair Massages as an Incidental Service
From: Councilmember Arreguin
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (B.M.C.) Section 9.32.020 to permit chair massages as an incidental service.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Moved to Consent Calendar. Refer to the City Manager and Planning Commission, an ordinance amending Berkeley Municipal Code (B.M.C) Section 9.32.020 to permit chair massages as an incidental service.
Action Calendar – Council Reports

24. Starting Public Hearings at a Set Time  
From: Councilmembers Worthington and Arreguín  
Recommendation: Establish a 6 month trial period scheduling council public hearing at 8 p.m. This would include public hearings and items heard on appeal to decide whether or not to have a public hearing.  
Financial Implications: Unknown  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
Action: 0 speakers. M/S/C (Bates/Maio) to establish a 6 month trial period scheduling council public hearings no sooner than 8 p.m.  
Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes – None.

25. Increase Public Accessibility to Campaign Finance Reports by Requiring Electronic Submission  
From: Councilmember Worthington  
Recommendation: Refer to the City Manager and the Fair Campaign Practices Commission the recommendation that all campaign finance reports be filed electronically. Change Berkeley regulations to eliminate the requirement to file a paper copy as soon as the Secretary of State allows electronic filing to replace submission of a hard copy.  
Financial Implications: None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
Action: Moved to Consent Calendar. Refer to the City Manager and the Fair Campaign Practices Commission the recommendation that all campaign finance reports be filed electronically.

Information Reports

26. Unrepresented Temporary Employee  
From: City Manager  
Contact: David Hodgkins, Human Resources, 981-6800  
Action: Received and filed.

27. Zoning Changes to Encourage Economic Development  
From: City Manager  
Contact: Dan Marks, Planning and Development, 981-7400  
Action: Moved to Action Calendar. Discussion held and report received and filed.

From: City Manager  
Contact: Andrew Clough, Public Works, 981-6300  
Action: Received and filed.

29. Residential Recycling Cart Program Overview  
From: City Manager  
Contact: Andrew Clough, Public Works, 981-6300  
Action: Received and filed.
Public Comment – Including Items Not Listed on the Agenda –

Adjournment

Adjourned at 8:59 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of March 8, 2011 as approved by the Berkeley City Council.

_______________________________
Deanna Despain, CMC, City Clerk

Communications

South and West Berkeley Branch Libraries
2. Daniella Thompson, on behalf of the Berkeley Architectural Heritage Association (BAHA) - Referred to City Manager by Councilmembers Arreguin and Moore.

Lawrence Berkeley National Laboratory Second Campus
3. Polly Armstrong, on behalf of the Berkeley Chamber of Commerce

Acheson Commons and Measure R
4. Eric Panzer, on behalf of Livable Berkeley

Bay Area Community Land Trust / Co-op Training
5. Mel Martynn, on behalf of the Savo Island Cooperative Homes Board of Directors

2133 Parker
6. Karl Reeh, on behalf of the LeConte Neighborhood Association - Referred to City Manager by Councilmember Arreguin.

Safety in South Berkeley
7. Robin Wright

Ohlone Dog Park
8. Bruce Feldmann

Guantánamo Detainees
9. Pierre St. Amour

Corporate Personhood
10. Angela Mary Fitzgerald

KPFA
11. Margy Wilkinson
12. Virginia Browning
13. Mary Jane Sepulveda
14. Barrie Mason
MINUTES  
BERKELEY CITY COUNCIL AND BOARD OF LIBRARY TRUSTEES SPECIAL MEETING

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

MONDAY, MARCH 14, 2011  
5:30 P.M.  
2180 Milvia Street, 1st Floor, Cypress Room

AGENDA

Preliminary Matters

Roll Call:  5:30 p.m.

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

Absent:  Councilmembers Maio, Arreguin, Worthington and Wozniak.

Councilmember Arreguin present at 5:41 p.m. Councilmember Worthington present at 5:34 p.m., exited at 5:58 p.m. Councilmember Anderson exited at 5:58 p.m.

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

CLOSED SESSION:

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

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

Concerned Library Users (CLU) v. City of Berkeley, City Council of the City of Berkeley  
ACSC RG10 533979

Action: No reportable action taken.

Berkeley Hillside Preservation, an unincorporated association, and Susan Nunes Fadley v. City of Berkeley and City Council; RPII: Donn Logan, Mitchell D. Kapor, Freada Kapor-Klein  
ACSC RG10 517314

Action: No reportable action taken.

Northern California Land Trust, Chapter 11 Petition  
U.S. Northern District of California, Bankruptcy Court No. 10-43343

Action: No reportable action taken.

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

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

Action: No reportable action taken.
OPEN SESSION:

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

Adjournment: 6:53 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of March 14, 2011.

________________________________________
Deanna Despain, CMC, City Clerk
Supplemental Communications and Reports 1

Item 1: Proposed Open Government Ordinance, Adding BMC Chapter 2.06
15. Doug Buckwald

Item 23: Amending Berkeley Municipal Code Section 9.32.020 to Permit Chair Massages as an Incidental Service
16. Nancy Carleton

Supplemental Communications and Reports 2

Item 12: Commemoration of the 100th Anniversary of the Triangle Shirtwaist Factory Fire
17. Unknown