

RESOLUTION NO. 62,711A–N.S.

ESTABLISHING A TEMPORARY CREEKS TASK FORCE

WHEREAS, the City Council is united in its desire to move forward quickly to review the creeks ordinance and other issues regarding our creeks; and

WHEREAS, there are differences of opinion on the Council and in the community about what type of community process will best help the City wade through the issues raised; and

WHEREAS, the City Council will soon have new members and they should be given an opportunity to weigh in on this issue, direct policy, and determine budget priorities, and

WHEREAS, we will not know the status of the City's discretionary budget and therefore its ability to fund the necessary research, analysis, and community process until a mid-year budget review is conducted after the election in November.

NOW THEREFORE, BE IT RESOLVED that the City Council establishes a temporary Creeks Task Force.

BE IT FURTHER RESOLVED, that the membership of the Task Force will be as follows: a representative appointed by each Member of the City Council and one member appointed by the Planning Commission, Public Works Commission, Community Environmental Advisory Commission, the Parks and Recreation Commission, the Neighbors on Urban Creeks, and the Creeks Organizations. Total membership will include 15 people. Appointments will be made in December, following the seating of the new Councilmembers.

BE IT FURTHER RESOLVED, that the Mayor will name the Chair to the Task Force from the appointed membership.

BE IT FURTHER RESOLVED, that the Task Force will be staffed as directed by the City Manager.

BE IT FURTHER RESOLVED, that the Task Force meetings will be held in accordance with the Brown Act requirements for noticing and accessibility and that at least one public hearing will be held.

BE IT FURTHER RESOLVED, that all Task Force reports, recommendations, and ordinance changes will be submitted to the Planning Commission for their comments prior to coming to the City Council for its consideration, to enable public input into the task force recommendations, and to make a recommendation to Council.

BE IT FURTHER RESOLVED, that the Task Force will be directed to recommend a scope, work plan, and budget to be submitted to the Planning Commission by April 1, 2005.

BE IT FURTHER RESOLVED, that the Task Force's scope of work will include review and modification of the definition of a creek, protection for creeks and the rights of property owners, setback standards, regulations for culverts, rules and funding for identifying creeks on private property, and criteria for daylighting creeks on public property.

BE IT FURTHER RESOLVED, that the Task Force will be prohibited from making recommendations on the issue of liability for repairing culverts on private property to avoid a conflict with pending litigation.

BE IT FURTHER RESOLVED, that the Planning Commission's review and recommendations must reach the Council in time for the Council's fiscal year 2006 budget process. The Council will then provide the Task Force with instructions based on those recommendations, available budget, and their priorities.

BE IT FURTHER RESOLVED, that the Council will set a deadline of May 2006 for revisions to the Creeks Ordinance.

BE IT FURTHER RESOLVED, that the City Council directs the City Manager to return to the Council with an ordinance that will implement this proposal with the provision that if the Task Force recommendations are still not forthcoming by the deliverable date, the current culvert protections in the Creeks Ordinance will be indefinitely suspended on May 1, 2006 until such a time a new ordinance is adopted by Council; and

The foregoing Resolution was adopted by the Berkeley City Council on November 9, 2004 by the following vote:

Ayes: Councilmembers Breland, Hawley, Maio, Olds, Shirek, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

Attest: Sherry M. Kelly
Sherry M. Kelly, City Clerk

Tom Bates
Tom Bates, Mayor