CONSENT CALENDAR
February 24, 2009

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

RECOMMENDATION
Approve the minutes for the Council meetings of February 2, 2009 (special closed); February 10, 2009 (special and regular).

CONTACT PERSON
Deanna Despain, Acting City Clerk, 981-6900

Attachments:
1. February 2, 2009–Special Closed City Council Meeting
2. February 10, 2009–Special City Council Meeting
3. February 10, 2009–Regular City Council Meeting
MINUTES
BERKELEY CITY COUNCIL SPECIAL MEETING
MONDAY, FEBRUARY 2, 2009
5:00 P.M.
2180 Milvia Street, 1st Floor, Cypress Room

Preliminary Matters

Roll Call: 5:04 p.m.
Present: Councilmembers Maio, Capitelli, Wengraf, Wozniak, and Mayor Bates.
Absent: Councilmembers Moore, Anderson, Arreguin, and Worthington.
Councilmember Anderson present: 5:11 p.m.
Councilmember Worthington present 5:21 p.m.

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

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

CONFERENCE WITH LEGAL COUNSEL

1. EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):
      (consolidated with Barton, Mary, et al. v. City of Berkeley ACSC No. RG 04172953)
      Action: No reportable action taken.
   b. Panoramic Hill Association v. Berkeley City Council and City of Berkeley; Bruce Kelley and Collette Kelley. Real Parties In Interest (ACSC No. RG 08413559)
      Action: No reportable action taken.

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

Adjournment: 5:24 p.m.
This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of February 2, 2009 as approved by the Berkeley City Council.

________________________________________
Deanna Despain, Acting City Clerk
MINUTES
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL
TUESDAY, FEBRUARY 10, 2009
5:00 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: 5:03 p.m.
Present: Councilmembers Capitelli, Maio, Wengraf, Wozniak, and Mayor Bates.
Absent: Councilmembers Anderson, Arreguin, Moore, and Worthington.
Councilmember Arreguin present at 5:06 p.m. Councilmember Moore present at 5:07 p.m. Councilmember Worthington present at 5:28 p.m. Councilmember Anderson present at 5:36 p.m.

Public Comment – Items on this agenda only – 0

Worksession:

1. Second Quarter Budget Update and FY 2010 & FY 2011 Budget Forecast
   From: City Manager
   Contact: Tracy Vesely, Budget Manager, 981-7000
   Action: Presentation made and discussion held.

2. Economic Development
   Action: Presentation made and discussion held.

Adjourned at 7:02 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of February, 10, 2009 as approved by the Berkeley City Council.

Deanna Despain, Acting City Clerk
Communications
None

Supplemental Communications and Reports 1

Item 1: Second Quarter Budget Update and FY 2010 & FY 2011 Budget Forecast
   1. PowerPoint Presentation, submitted by City Manager’s Office (see agenda item)

Item 2: Economic Development
   2. PowerPoint Presentation, submitted by Economic Development (see agenda item)
MINUTES
BERKELEY CITY COUNCIL MEETING
TUESDAY, FEBRUARY 10, 2009
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: 7:17 p.m.

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

Absent: None.

Ceremonial Matters:

1. February 11 is 211 Alameda County Day.
2. N.A.A.C.P. celebrating 100 years.

City Manager Comments:

1. Now accepting applications for Berkeley Summer Youth Program.

Public Comment on Non-Agenda Matters: 3

Public Comment on Consent Calendar and Information Items Only: 4

Consent Calendar

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

1. P&A Construction v. City of Berkeley
   From: City Manager
   Financial Implications: See report
   Contact: Zach Cowan, City Attorney’s Office, 981-6950
   Action: Adopted Resolution No. 64,348–N.S.
Council Consent Items

2. Minutes for Approval
   From: City Manager
   Recommendation: Approve the minutes for the Council meetings of January 27, 2009 (special and regular).
   Financial Implications: None
   Contact: Deanna Despain, City Clerk Department, 981-6900
   Action: Approved minutes as submitted.

3. Donation: Raymond Family Foundation to the Animal Care Shelter
   From: City Manager
   Recommendation: Adopt a Resolution accepting a donation from the Raymond Family Foundation to the Animal Shelter in the sum of $5,000.
   Financial Implications: Animal Shelter Donation Fund - $5,000 (Donation)
   Contact: Phil Kamlarz, City Manager's Office, 981-7000
   Action: Adopted Resolution No. 64,349–N.S.

4. Annual Investment Report, Revisions to Investment Policies and Designation of Investment Authority
   From: City Manager
   Recommendation: Adopt a Resolution accepting the Annual Investment Report, accepting the change to the investment policies and renewing the delegation of authority to make investments to the Director of Finance.
   Financial Implications: None
   Contact: Robert Hicks, Finance, 981-7300

5. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days
   From: City Manager
   Recommendation: For informational purposes, approve the request for proposals (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
   Financial Implications: Traffic Congestion Relief Fund - $750,000
   Contact: Robert Hicks, Finance, 981-7300
   Action: Approved recommendation.

6. Amendments to Condominium Conversion Ordinance Mitigation Fee Policies (BMC Chapter 21.28, et seq.)
   From: City Manager
   Recommendation: 1) Adopt first reading of an Ordinance to amend Berkeley's Condominium Conversion Ordinance (CCO; BMC Chapter 21.28, et seq.) affordable housing mitigation fee policies.
   Financial Implications: See report
   Contact: Jane Micallef, Housing, 981-5400
   Action: Moved to Action Calendar. Adopted first reading of Ordinance No. 7,070–N.S. with Section 21.28.080 C amended to read as follows:
Council Consent Items

If the property contains three or more units, the affordable housing mitigation fee for a unit that is occupied by an owner as his or her principal place of residence for at least five consecutive years immediately prior to the date of sale, including as a tenant in that unit immediately prior to ownership, shall be reduced by 50 percent, but only if the owner owned and resided in the unit as of June 30, 2010.

Second reading scheduled for February 24, 2009.

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

7. Classification: Manager, Housing Finance and Administration
   From: City Manager
   Recommendation: Adopt a Resolution to amend Resolution No. 64,250–N.S., (Classification and Salary Resolution for Public Employees Union Local 1), to revise and re-title the Manager of Program Planning and Administration classification to Manager, Housing Finance and Administration, effective February 22, 2009.
   Financial Implications: None
   Contact: David Hodgkins, Human Resources, 981-6800
   Action: Adopted Resolution No. 64,351–N.S.

8. Contract: Ratcliff Architects for Phase II Architectural and Engineering Services for the Facilities Maintenance Building
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Ratcliff Architects to provide Phase II architectural and engineering services for the seismic retrofit of the Facilities Maintenance Building at the Corporation Yard in an amount not to exceed $668,000 for all services and reimbursable expenses for the period February 20, 2009 through June 30, 2011.
   Financial Implications: See report
   Contact: Claudette Ford, Public Works, 981-6300
   Action: Adopted Resolution No. 64,352–N.S.

Council Consent Items

9. Support Biotech Partners' 15th Anniversary Celebration in the Amount of $175
   From: Councilmember Moore
   Recommendation: Adopt a Resolution to approve the expenditure of up to $175 to support Biotech Partners' 15th Anniversary Celebration, with funds relinquished to the City's general fund for this purpose from Council member Moore's discretionary Council Office Budget.
   Financial Implications: No General Fund impact; $175 is available from Councilmember Moore's Office Budget discretionary account.
   Contact: Darryl Moore, Councilmember, District 2, 981-7120
   Action: Adopted Resolution No. 64,353–N.S.
Council Consent Items

10. **Support For National Freedom To Marry Week From February 8-14th**  
    **From:** Councilmembers Moore and Worthington  
    **Recommendation:** Adopt a Resolution supporting the National Freedom to Marry Week from February 8-14th.  
    **Financial Implications:** None  
    **Contact:** Darryl Moore, Councilmember, District 2, 981-7120;  
                Kriss Worthington, Councilmember, District 7, 981-7170  
    **Action:** Adopted Resolution No. 64,354–N.S.

11. **Letter Supporting the Release of Efren Paredes, Jr.**  
    **From:** Councilmember Arreguin  
    **Recommendation:** Send the attached letter to Michigan Governor Jennifer Granholm in support of the immediate release of Efren Paredes, Jr., condemning his sentence, juvenile life in prison without parole, as a human rights violation in contravention of various treaties.  
    **Financial Implications:** None  
    **Contact:** Jesse Arreguin, Councilmember, District 4, 981-7140  
    **Action:** Approved recommendation. Abstain–Capitelli, Wengraf and Wozniak.

Action Calendar – Public Hearings

12. **ZAB Appeal: 2516 Ellsworth**  
    **From:** City Manager  
    **Recommendation:** Conduct a public hearing, and upon conclusion, approve the project as approved by the Zoning Adjustments Board.  
    **Financial Implications:** See report  
    **Contact:** Dan Marks, Planning and Development, 981-7400  

b. Communications  
    1. George Beir  
    2. Bob Viener

**Public Testimony:** The Mayor opened the public hearing. 8 speakers. M/S/C (Maio/Wozniak) to close the public hearing.  
**Action:** M/S/C (Wozniak/Anderson) to direct staff to return to Council on February 24, 2009 with findings and a resolution denying the project.

Vote: Ayes–Maio, Moore, Anderson, Capitelli, Wengraf, Worthington, Wozniak, Bates; Absent–Arreguin.  
Councilmember Arreguin absent: 8:39 p.m. – 9:14 p.m.
13. **Single Space Parking Meter Expansion Program**  
*From: City Manager*

**Recommendation:** Conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance amending Berkeley Municipal Code Section 14.52.010 (Ordinance No. 3,262–N.S.) to add parking meters as follows:

- Adeline Street, both sides from Stuart Street to Ashby Avenue;
- Camelia Street, both sides from Ninth Street to Tenth Street;
- Gilman Street, both sides from San Pablo Avenue to Second Street;
- Ninth Street, east side from Gilman Street to Camelia Street;
- Ninth Street, west side from 100 feet south of Gilman Street to Gilman Street;
- Page Street, north side from San Pablo Avenue to Tenth Street;
- San Pablo Avenue, both sides from Delaware Street to Hearst Avenue;
- San Pablo Avenue, east side from Bancroft Way to Russell Street;
- San Pablo Avenue, west side from Bancroft Way to Ashby Avenue;
- Shattuck Avenue, east side from Stuart Street to Oregon Street;
- Shattuck Avenue, east side from Russell Street to Ashby Avenue;
- Shattuck Avenue, west side from Ward Street to Ashby Avenue;
- Tenth Street, both sides from Gilman Street to Camelia Street.
- Stuart Street included in public hearing notice but not recommended

**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300

**Public Testimony:** The Mayor opened the public hearing. 19 speakers. M/S/C (Anderson/Moore) to close the public hearing.

**Action:** M/S/C (Wengraf/Moore) to continue matter to a date to be determined at an Agenda Committee meeting.

Vote: All Ayes.

Councilmember Arreguin absent: 10:28 p.m. – 10:30 p.m.

### Action Calendar – Old Business

14. **ZAB Appeal: 1540 Shattuck Avenue** *(continued from January 27, 2009)*  
*From: City Manager*

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 03-10000048 for a new wireless telecommunications facility (with ten antennas and related equipment) for Verizon Wireless Communications at 1540 Shattuck Avenue, and dismiss the appeal of this decision.

**Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400

**Action:** No action taken. Affirmed the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 03-10000048 for a new wireless telecommunications facility (with ten antennas and related equipment) for Verizon Wireless Communications at 1540 Shattuck Avenue, and dismissed the appeal of this decision by operation of law pursuant to B.M.C. § 23B.32.060. Absent–Arreguin.
Councilmember Anderson exited meeting: 10:31 p.m.

Councilmember Worthington exited meeting: 10:38 p.m.

**Action Calendar – New Business**

15. **Modify Major Encroachment Permit for 161 Panoramic Way**
   **From:** City Manager
   **Recommendation:** Adopt a Resolution amending Resolution No. 64,133–N.S. to modify the existing encroachment permit to allow construction of the proposed pullout within the public right-of-way on the south side of Panoramic Way starting at the approved driveway location for 161 Panoramic Way and extending west for a distance of 50 feet as shown in Attachment 1.
   **Financial Implications:** None at this time
   **Contact:** Claudette Ford, Public Works, 981-6300
   **Action:** M/S/C (Capitelli/Moore) to adopt Resolution No. 64,355–N.S. amending Resolution No. 64,133–N.S. to modify the existing encroachment permit to allow construction of the proposed pullout within the public right-of-way and extending west for a distance of 50 feet.

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

16. **City Auditor's Budget Discussion**
   **From:** City Auditor
   **Recommendation:** Discuss the City Auditor's proposals regarding budgets for Fiscal Years 2010, 2011, and future years. Upon conclusion, request additional information and future Council reports or audits as Council may deem appropriate.
   **Financial Implications:** See report
   **Contact:** Ann-Marie Hogan, Auditor, 981-6750
   **Action:** Presentation made and discussion held.

**Information Reports**

17. **Investment Report: Quarter Ended December 31, 2008**
   **From:** City Manager
   **Contact:** Robert Hicks, Finance, 981-7300
   **Action:** Received and filed.

**Public Comment – Including Items Not Listed on the Agenda – 0**

**Adjournment – 11:00 p.m. in honor of Karen Moore.**

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of February 10, 2009 as approved by the Berkeley City Council.

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Deanna Despain, Acting City Clerk
Communications

Item 13: Single Space Parking Meter Expansion Program
1. Helen Goldsmith and Paul Heller
2. Rick Davis
3. Cate Leger
4. Martin Schoell
5. Marin Fischer

Eviction
6. Diana Sewell
7. Douglas Hambleton, Berkeley Police

Homelessness on Telegraph
8. Nick

Child Hit on Ashby/Ellis
9. Rachel Knudson

July 4th Fireworks at the Marina
10. Lisa Bullwinkel

Free Community Workshops for Low-Income Tenants
11. East Bay Community Law Center

Supplemental Communications and Reports 1

Item 6: Amendments to Condominium Conversion Ordinance Mitigation Fee Policies (BMC Chapter 21.28, et seq.)
12. Sarah Schoeneman

Item 11: Letter Supporting the Release of Efren Paredes, Jr.
13. Gordon Wozniak, Councilmember, District 8

Item 12: ZAB Appeal: 2516 Ellsworth
14. Michael Walensky
15. Gordon Wozniak, Councilmember, District 8

Item 13: Single Space Parking Meter Expansion Program
16. Lou
17. Dennis Foster
18. Amy Glick
19. Donna Jaffe
20. Chater Camera Inc.
21. Naomi Kamiya – Referred to City Manager
22. Jill Finn
23. Karl Reeh
24. Jimmy Cosenza
25. Gordon Wozniak, Councilmember, District 8

Item 15: Modify Major Encroachment Permit for 161 Panoramic Way
27. Ann Slaby
Supplemental Communications and Reports 2

Item 12: ZAB Appeal: 2516 Ellsworth
28. Unknown
29. Planning and Development (Oversized maps available for viewing in the City Clerk’s Office)

Item 13: Single Space Parking Meter Expansion Program
30. Public Works (Oversized colored maps available for viewing in the City Clerk’s Office)

Item 15: Modify Major Encroachment Permit for 161 Panoramic Way
31. Unknown

211 Day