

# City Council Approves Soft-Story Ordinance, Discusses City's Role in State Omnibus Bill

Riya Bhattacharjee, Berkeley Daily Planet, 1-21-10

The Berkeley City Council Tuesday approved stricter enforcement of its existing soft-story ordinance, approved a public hearing for a special property tax ballot measure to fund pools improvement, and discussed a report on the city's involvement in the Omnibus Bill

## Soft-story ordinance enforcement

Berkeley landlords holding deeds to soft-story buildings will have to be more careful from now on. Although the city's soft-story ordinance already requires property owners to put up signs warning tenants about the seismically unsafe structure, the city will start citing violators starting April 1.

Soft-story buildings are usually more vulnerable during earthquakes.

Berkeley has approximately 400 soft-story buildings, of which the 320 wood frame structures are especially susceptible in earthquakes. Thirty-one have been retrofitted as of last spring.

A report by the city's Disaster and Fire Safety Commission says that the majority of soft-story building owners in Berkeley are violating the ordinance by not posting warning signs about the structures.

A survey of the city's list of "Potentially Hazardous Story Buildings" in the Willard neighborhood found that just two of the 15 buildings had warning signs posted, and one of those was a flimsy paper sign.

"A major earthquake will have a tremendous impact on soft-story buildings," Berkeley Disaster and Fire Safety Commission Chair Matthew Mitchell told the council. "It won't be like Haiti, it will probably be like Kobe, Japan, where they had 6,000 dead."

Mitchell urged the council to hire enforcement personnel, which it currently lacks.

The City Council's vote mandates that all city departments and agencies check for warning signs on soft-story buildings and levy fines on landlords who continue to disregard the law.

Building owners will also have to notify prospective tenants about the earthquake risks through flyers and web postings.

The amended ordinance would also require tenants, before signing a lease, to sign a disclosure form acknowledging they are aware of the seismic hazards.

The council also approved a recommendation made by council members Laurie Capitelli and Jesse Arreguin, which asks the city to send a final warning letter to landlords notifying them they are in violation of the law if they continue not to put signs up, giving them the April deadline.

## Pools ballot measure

The council voted to set a public hearing on Feb. 23, at which point they will decide whether to include a Mello

Roos special property tax on the June 2010 ballot to fund pool improvements.

The city has created a Citywide Pools Master plan to improve and upgrade the King, Willard and West Campus swimming pools and build a new warm water pool to replace the one at Berkeley High School.

A survey carried out by the city showed that the majority of the 400 Berkeley voters polled leaned toward supporting a \$19 million bond initiative instead of the \$30 million.

The margin of error for the poll was 4.9 percent, which Bates and some council members thought was a bit high.

### **Omnibus Bill**

Councilmember Jesse Arreguin withdrew his request to ask the city manager about the city's involvement in SB 113, also known as the Local Government Omnibus Act of 2009, which was signed by Gov. Schwarzenegger Oct. 11, 2009.

An amendment to SB 113, proposed by the UC Regents, exempts Memorial Stadium on the Berkeley campus and other state historic structures from legal restrictions on building across earthquake faults.

The Omnibus Bill traditionally contains only non-controversial provisions.

Arreguin said he wanted to know how the city had signed off on something that had created a lot of controversy, including a pending lawsuit by the Panoramic Hill Association, a neighborhood group that has sued the university for proposing to build on the Hayward Fault.

Opponents claim that the amendment poses a threat to the safety of Berkeley residents and are furious that it was passed in the face of pending litigation against the proposed projects at Memorial Stadium.

The UC Regents approved the Memorial Stadium project this week.

The university contends that SB 113 would only apply to retrofitting existing structures and not to new construction.

The adjoining Student High Performance Athletic Center, which is being built on the former site of the stadium's oak grove, does not benefit from the amendment because it would not straddle an active fault and does not connect to the stadium.

Arreguin said that City Manager Phil Kamlarz had already provided him with a report last week, which was why it wasn't necessary to have his request on the agenda anymore.

Although the council voted in December to continue Arreguin's request to Jan. 19 due to a lack of time, the Council Agenda Committee voted to take it off the action calendar at their Jan. 11 agenda committee meeting.

However, City Attorney Zach Cowan intervened saying the committee wasn't legally allowed to do so and Arreguin put the item back on the agenda.

Kamlarz's report says the city's lobbyist in Sacramento, Lynn Suter, had received no comment on the legislation when she contacted the city manager's office.

“The language of SB 113 is compatible with council’s priorities, including making ‘seismically unsafe structures safe’ and ‘preserving and rehabilitating historic structures,’” Kamlarz’s report said. “Throughout the debate on the athletic facility, councilmembers expressed concern about the seismic risks posed by the Memorial Stadium, and in many cases demanded that the university retrofit the stadium ‘before construction of the sports training facility.’”

Kamlarz said that once the council decided not to appeal the sports training facility, “there was no indication that the council did not want to make Memorial Stadium safe.”

Bates said that although the city had said they were not opposed to the stadium retrofit, they didn’t play any role in the actual drafting of the language.

Councilmember Linda Maio said she was “very disturbed about the way the item was put together,” she said.

Maio said it reminded her “a little bit of a witch hunt.”

“I object to the way the item was written, it reeks of McCarthyism,” said Gordon Wozniak, a remark Councilmember Kriss Worthington said was a bit extreme for merely asking the city manager for information.

“[Arreguin] was concerned, he asked some questions—the city manager provided the report before we voted on it,” Worthington said. “There’s nothing McCarthyesque about it.”