ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 2, 2012
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 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 7:00 p.m. All present.

Ceremonial Matters:

1. Indigenous Peoples Day – October 13, 2012
2. First International Day of the Girl – October 11, 2012

City Manager Comments:

1. Successful Prescription Drug Take Back Day

Public Comment on Non-Agenda Matters: 2 speakers.

Public Comment on Consent Calendar and Information Items Only: 1 speaker.

Consent Calendar

Action: M/S/C (Arreguin/Wozniak) to accept revised material from Councilmember Arreguin for item 10 and supplemental material from Mayor Bates for item 10.

Vote: All Ayes.

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

Vote: All Ayes.

1. Zoning Ordinance Amendment: Chair Massage
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,258–N.S. amending Berkeley Municipal Code sections 23C.20.010 and 23F.04.010 to define Chair Massage and allow it as an exempted accessory use to retail uses.

Consent Calendar

First Reading Vote: Ayes – Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Absent – Maio.
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Adopted second reading of Ordinance No. 7,258–N.S.

2. Lease Agreement: Friends of the Berkeley Public Library for a Used Bookstore at 2431 and 2433 Channing Way
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,259–N.S. authorizing the City Manager to execute a lease agreement with Friends of the Berkeley Public Library for the purpose of operating a used bookstore at 2431 and 2433 Channing Way in the Telegraph Channing Garage shops.
First Reading Vote: Ayes – Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Absent – Maio.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted second reading of Ordinance No. 7,259–N.S.

3. Contract: Berkeley East Bay Humane Society for Veterinary Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with the Berkeley East Bay Humane Society (BEBHS) for an amount not to exceed $95,000 for in-house veterinary services for Berkeley Animal Care Services (BACS) for FY 2013 with an option to continue with the veterinary services for another two-year period. The extension of this contract will be for $95,000 per year for FY 2014 & FY 2015 for a total not to exceed $285,000 and subject to the city's annual appropriation process.
Financial Implications: General Fund - $95,000
Contact: Kate O'Connor, Animal Care Services, 981-6600
Action: Adopted Resolution No. 65,903–N.S.

4. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 2, 2012
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (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: General Fund - $265,000
Contact: Robert Hicks, Finance, 981-7300
Action: Approved recommendation.

Consent Calendar

5. Donation Solicitation to Support the City of Berkeley Senior Nutrition Programs
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to solicit donations from Berkeley residents and businesses through an annual appeal letter to support Meals on Wheels and congregate lunch program's unfunded costs.
Financial Implications: Fundraising Activities: Donation Solicitation
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 65,904–N.S.

6. Contract No. 7008 Amendment: Hanson Bridgett Marcus Vlahos Rudy LLP for Legal Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the existing Contract No. 7008 with Hanson Bridgett Marcus Vlahos Rudy LLP (hereinafter "Hanson Bridgett") by increasing expenditure authority in an amount not to exceed $40,000 for legal services pertaining to federal and state tax issues.
Financial Implications: General Fund - $40,000
Contact: David Hodgkins, Human Resources, 981-6800
Action: Adopted Resolution No. 65,905–N.S.

7. **Removed from Agenda by the City ManagerRecognized Obligation Payment Schedule: January 1 - June 30, 2013**
Contact: Eric Angstadt, Planning and Development, 981-7400

8. Contract: AJW Construction, Inc. for Alcatraz/Baker and Alcatraz/Idaho Valley Gutter
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Alcatraz/Baker and Alcatraz/Idaho Valley Gutter Project, Specification 13-10688-C; accepting the bid of AJW Construction, Inc. and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed $414,462.
Financial Implications: Various Funds - $414,462
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,906–N.S.

9. City Auditor's Annual Report Fiscal Year 2012
From: Auditor
Recommendation: Request the City Manager:
1. Make timely implementation of audit recommendations a high priority, particularly the recommendations regarding fraud prevention, such as the 1998 grants audit and the 2011 adjusting journal entries audit. These recommendations aim to increase the Finance Department’s oversight of practices in the departments.
2. Disclose internal control risks of recommended budget cuts in future budget reports.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750

Consent Calendar

Action: Moved to Action Calendar. 0 speakers. M/S/C (Wozniak/Capitelli) to approve the City Auditor's recommendation with the following revision to page 2 of the Annual Report:

"The Department of Public Works currently uses StreetSaver® when planning the Five-Year Streets Plan. We recommended they expand its current use to develop data-driven funding strategies for Council to use in establishing a specific pavement condition index goal and timeline."

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

Councilmember Arreguin absent 7:30 p.m. – 7:39 p.m.

Council Consent Items

10. Proclamation Declaring October 2012 as Homelessness Awareness Month
From: Councilmember Arreguin
Recommendation: Approve the attached proclamation declaring October 2012 as Homelessness Awareness Month in the City of Berkeley.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Approved supplemental proclamation from Mayor Bates revised to include Whereas clauses 5, 6, and 7 from Councilmember Arreguin's revised item and to replace "county" with "count".

11. Referral to the Community Health Commission Regarding the Use of Anthropogenic Mercury Within the City of Berkeley
From: Councilmember Capitelli
Recommendation: Request that the Community Health Commission research major sources of anthropogenic mercury in the environment and strategies used by other municipalities to reduce its use; return to Council with a draft resolution regarding this pollutant and recommendations for reduction of use within the City of Berkeley.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Approved recommendation revised to include referral to the Community Environmental Advisory Commission and requesting that that these commissions consult with the dental community regarding mercury in dental amalgams.

12. Berkeley Community Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $75 per Councilmember to the Berkeley Community Fund with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Wengraf and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - $75
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 65,907–N.S.

Council Consent Items

13. Coro Center for Civic Leadership: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Worthington
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $1,000 per Councilmember, including an amount not to exceed $1,000 from Councilmember Worthington, to the Coro Center for Civic Leadership with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - $1,000
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Continued to October 16, 2012.

14. Letter in Support of Hyatt Hotel Workers and Housekeepers
From: Councilmember Worthington
Recommendation: Send the Hyatt Hotels Corporation a letter urging its leadership to take necessary precautions to protect its workers and housekeepers in the workplace.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
Vote: Ayes: Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates; Noes – None; Abstain – Maio, Wozniak.

15. Letter to California Department of Labor on Whistleblower Program Flaws
From: Councilmember Worthington
Recommendation: Send the Division of Labor Standards and Enforcements (DLSE) a letter urging the DLSE to conduct thorough investigations into retaliation complaints by "whistleblowers".
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
Vote: Ayes: Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates; Noes – None; Abstain – Maio, Wozniak.

16. Proclamation in Honor of the Center of Agroecology and Sustainable Food Systems (CASFS) City Day of Appreciation
From: Councilmember Worthington
Recommendation: Adopt a proclamation that October 7 is Center of Agroecology and Sustainable Food Systems (CASFS) City Day of Appreciation in Berkeley.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved proclamation.
Vote: Ayes: Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Bates; Noes – None; Abstain – Wozniak.

Council Consent Items

17. Proclamation Honoring Halcyon Neighborhood Association on the 20th Anniversary of its Creation
From: Councilmember Worthington
Recommendation: Adopt a proclamation honoring Halcyon Neighborhood Association on the 20th anniversary of its creation.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved proclamation.

Action Calendar – Old Business

18. a. Community Choice Aggregation *(Continued from September 11, 2012)*
From: Energy Commission
Recommendation: Request the East Bay Municipal Utility District (EBMUD) to address the issues identified in Attachment 1 as part of its examination of community choice aggregation (CCA).
Financial Implications: See report
Contact: Neal DeSnoo, Commission Secretary, 981-7400

b. Communication

1. Al Weinrub, on behalf of Community Choice Energy Working Group, Berkeley Climate Action Coalition

c. Amended Community Choice Energy Letter to East Bay Municipal Utility District
From: Councilmember Worthington
Recommendation: Amend the community choice energy letter to the East Bay Municipal Utility District (EBMUD).
Financial Implications: None.
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action: 3 speakers. M/S/C (Wengraf/Bates) to refer the item to the Energy Commission for the Commission to return with an item for the Council's consideration at the November 13, 2012 meeting.
Vote: Ayes: Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Abstain – Anderson.

19. a. D&FSC Comments on City Manager's Information Reports of May 1, 2012 *(Continued from September 11, 2012)*
From: Disaster and Fire Safety Commission
Recommendation: Review and consider the Commission's comments on the City Manager's Information Reports of May 1, 2012.
Financial Implications: See report
Contact: Gil Dong, Commission Secretary, 981-5501

Action Calendar – Old Business

b. Staff Response to DFSC Comments to the May 1, 2012 Report *(Continued from September 11, 2012)*
From: City Manager
Recommendation: Consider the staff update along with the Disaster Fire and Safety Commission's (DFSC) request that additional funds be allocated for disaster preparedness and community emergency response training (CERT) programs, and direct the City Manager to report back with budget recommendations in January 2013 as part of the FY 2014 budget process.
Financial Implications: See report
Contact: Debra Pryor, Fire, 981-3473
Action: Discussion held, see Item 21 for action.

Action Calendar – New Business

20. Refunding of 1999 Lease Revenue Bonds and 2003 Certificates of Participation
From: City Manager
Recommendation:
1. Adopt a Resolution approving and authorizing execution of a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority and the Amended and Restated Joint Exercise of Powers Agreement for the JPFA and execution by the City of both agreements.
2. Adopt a Resolution approving documents and actions relating to the refinancing of 1999 Lease Revenue Bonds and 2003 Certificates of Participation.
Financial Implications: See report
Contact: Robert Hicks, Finance, 981-7300
Action: M/S/C (Wozniak/Worthington) to adopt

1. Resolution No. 65,908–N.S. approving and authorizing execution of a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority and the Amended and Restated Joint Exercise of Powers Agreement for the JPFA and execution by the City of both agreements.

2. Resolution No. 65,909–N.S. approving documents and actions relating to the refinancing of 1999 Lease Revenue Bonds and 2003 Certificates of Participation.

Section 1 of The Amended and Restated Joint Exercise of Powers Agreement is revised to state: ""Authority Auditor" means the then current or acting Director of Finance of the City."

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

21. Recommendations for Disaster Preparation for Vulnerable and Underserved Populations

a. From: Disaster and Fire Safety Commission
Recommendation: Adopt a Resolution directing the City Manager to commit, out of Measure GG funds, a total of $300,983 to fund the following recommended personnel and services:

Action Calendar – New Business

1. Fund a position in the Public Health Division dedicated solely to disaster preparedness in the vulnerable and underserved populations of the City, with emphasis on South and West Berkeley.
2. Fund a position in the Office of Emergency Services to report to and assist the CERT Program Manager in developing workable options to increase disaster preparedness for the target populations and implement them.
3. Dedicate and set aside a specific amount that would cover the costs of additional emergency preparedness classes, both those already in existence and those that may be developed under Recommendation Two.

Financial Implications: See report
Contact: Gil Dong, Commission Secretary, 981-5501

b. Staff Response to DFSC Recommendations for Disaster Preparation for Vulnerable and Underserved Populations
From: City Manager
Recommendation: Refer the Disaster and Fire Safety Commission's recommendations to staff for additional comment and include the Commission's recommendations as part of the FY 2014 budget process.
Financial Implications: See report
Contact: Debra Pryor, Fire, 981-3473

Action: 5 speakers. M/S/C (Capitelli/Bates) to refer the following funding priorities to the City Manager to return to Council in January 2013:

1. Funding for two full time employees.
2. $70,000 for disaster preparedness training.
3. $25,000 for an automatic gas shutoff valves program including a provision to provide the program for free to low income residents.
4. $25,000 for the debris box program.
5. Funding to utilize the Community Action Teams to engage in community outreach.
6. Funding to establish a $300,000 fund reserve over a period of 24 months.
7. $50,000 for caches and a plan for distribution throughout the City.

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

Information Reports

22. Tentative Map Tract No. 8107: 1337 Henry Street
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

23. Status Report: Activities of Public Library
From: Board of Library Trustees
Contact: Donna Corbeil, Library, 981-6100
Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda – 1 speaker.

Adjournment

Action: M/S/C (Moore/Capitelli) to adjourn the meeting.

Adjourned at 10:14 p.m.

Communications

Pit Bull Ban
1. Madeline Prichason

Citation Matter
2. Gayle Cepparo

Response to Foreclosure Item
3. Gregory Ahern

Aggressive Deer
4. Bill McIntyre – Referred to City Manager by Councilmembers Capitelli and Wengraf.

Bay Trail / Ridge Trail
5. Mike Vandeman

Rent Board
6. Dorothea Dorenz – Referred to City Manager by Councilmember Moore.

Exemption for Replacement Housing
7. Craig Becker – Referred to City Manager by Councilmember Capitelli.

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item 18: Community Choice Aggregation
8. Tom Kelly and Al Weinrub, on behalf of BCAC Community Choice Energy Working Group

Supplemental Communications and Reports 3

Item 10: Proclamation Declaring October 2012 as Homelessness Awareness Month
- Revised materials, submitted by Councilmember Arreguin (see agenda item)

9. Tom Bates, Mayor

Item 21b: Staff Response to DFSC Recommendations for Disaster Preparation for Vulnerable and Underserved Populations
- Presentation, submitted by staff (see agenda item)

Indigenous Peoples Day Celebration
10. Unknown