

AGENDA



BERKELEY CITY COUNCIL MEETING

TUESDAY, OCTOBER 16, 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 WOZNAK

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, Acting City Clerk, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

1. Amendment to Affidavit of Residency Requirement for City Commissioners

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 2.04.145 to modify the enforcement procedure for non-filing of the Affidavit of Residency by City commissioners.

Financial Implications: See report

Contact: Mark Numainville, Acting City Clerk, 981-6900

2. City Council Rules of Procedure and Order

From: City Manager

Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to:

1. Amend the procedures relating to revised and supplemental reports concerning items on Council agendas, to coincide with new submission and distribution deadlines under Berkeley Municipal Code Chapter 2.06 on Open Government;
2. Amend the procedures relating to submission and distribution of supplemental written communications to Council to allow for increased opportunity for public review in advance of meetings; and
3. Rescind Resolution No. 65,823-N.S.

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

Consent Calendar

3. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of September 4, 2012 (special closed), September 11, 2012 (regular), September 17, 2012 (special closed) and September 18, 2012 (special and regular).

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

4. Change in Scopes for Community Facility Improvement Projects

From: City Manager

Recommendation: Adopt a Resolution authorizing the use of CDBG funds for alternate scopes of work, as described below; and for the City Manager to execute contracts based on revised scopes for Community Development Block Grant (CDBG) funded community facility improvement projects undertaken by the Aging Services Division of the Health, Housing and Community Services Department, and by the Parks, Recreation and Waterfront Department.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

5. Shifting Emergency Shelter Grant and Community Development Block Grant Funding Between Community Facility Improvement Projects

From: City Manager

Recommendation: Adopt a Resolution:

1. Rescinding the portion of Resolution No. 65,266–N.S. which allocated \$40,000 in Emergency Solutions Grant Funding (ESG) to Women’s Daytime Drop-In Center (WDDC); and
2. Rescinding the portion of Resolution No. 65,670–N.S. which allocated \$92,406 in Community Development Block Grant (CDBG) allocation to Berkeley Food and Housing Project (BFHP) for community facility improvements at 2140 Dwight Way;
3. Approving allocations of \$40,000 in ESG funding and \$52,406 in CDBG funding to BFHP for the facility improvement project at 2140 Dwight Way;
4. Approving an allocation of \$40,000 in CDBG funding to WDDC for facility improvements at 2218 Action Street; and
5. Authorizing the City Manager to execute any resulting contracts, amendments and agreements based on revised funding sources for Community Development Block Grant (CDBG) and Emergency Solutions Grant (ESG) funded community facility improvement projects undertaken by Women’s Daytime Drop-In Center and the Berkeley Food and Housing Project.

Financial Implications: No fiscal impact

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

6. Contract: Bananas Inc. for Child Care Subsidy Voucher Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Bananas, Inc. in an amount not to exceed \$188,579 for a three year contract beginning October 17, 2012 and ending October 16, 2015.

Financial Implications: Affordable Child Care Fund - \$188,579

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

Consent Calendar

- 7. License Agreement: Berkeley Partners for Parks - Santa Fe Right-of-Way - South Berkeley Bioremediation Garden Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a license agreement with Berkeley Partners for Parks beginning in October 2012 for a two to five year term to conduct the South Berkeley Bioremediation Garden Project on the Santa Fe Right-of-Way.
Financial Implications: No costs incurred
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 8. Contract No. 8389 Amendment: Recology Grover Environmental Products**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8389 with Recology Grover Environmental Products, exercising the first 2-year option extending the term to July 31, 2015 and increasing the contract by \$3,443,868 for an amended not-to-exceed (NTE) total of \$6,854,818.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
- 9. Approval of Two Additional Meetings for Waterfront Commission in Calendar Year 2012**
From: Waterfront Commission
Recommendation: Adopt a Resolution approving two additional meetings for the Waterfront Commission in calendar year 2012.
Financial Implications: Minimal staff time and resources.
Contact: John Mann, Commission Secretary, 981-6700

Council Consent Items

- 10. Co-Sponsorship for United Nations East Bay Day Celebration on October 21, 2012 and the Round Table Discussion on Trafficking on October 22, 2012**
From: Councilmember Maio
Recommendation: Adopt a Resolution co-sponsoring the United Nations East Bay Day Celebration on October 21, 2012 at UC Berkeley's International House and the Round Table Discussion on Trafficking on October 22, 2012, location to be determined.
Financial Implications: None
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 11. Establishing a Process to Meet Deadlines for State, County, and Local Bill Passage**
From: Councilmember Maio
Recommendation: Consider establishing a more time-sensitive timeline process for Council action on State, County, and Local bills to meet specific deadlines.
Financial Implications: None
Contact: Linda Maio, Councilmember, District 1, 981-7110

Council Consent Items

- 12. Referral to City Manager: RPP Parking Beyond 72 Hour Parking Limit**
From: Councilmember Arreguín
Recommendation: Refer to the City Manager and the Transportation Commission to develop an ordinance amending BMC Section 14.36.050 to allow vehicles with RPP stickers to park in RPP restricted parking beyond the 72 hour parking limit.
Financial Implications: Unknown savings due to reduced need for enforcement and response to citizen complaints.
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 13. Residential Preferential Parking (RPP): Vehicle Registration Requirements**
From: Councilmember Arreguín
Recommendation: Refer to the City Manager and the Transportation Commission to evaluate and bring back for Council discussion alternatives to the requirement that vehicles must be registered at an address within an RPP area to qualify for a permit.
Financial Implications: Unknown; possible increased revenue from additional permits issued.
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 14. Letter to United States Postal Service Regarding Removal of Neighborhood Mail Collection Boxes**
From: Councilmember Wengraf
Recommendation: Request that the City Manager write a letter to the United States Postal Service, Office of Consumer Affairs asking for the following information:
 1. The noticing requirements before a box can be removed.
 2. The location of all the collection boxes in Berkeley that are being surveyed and audited for removal.
 3. The results of the survey.
 4. Requesting that the City be notified 2 weeks in advance of the removal of any USPS collection boxes.**Financial Implications:** None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 15. Letter to Homeland Security Regarding Permanent Residency for Temporary Protection Status Individuals**
From: Councilmember Worthington
Recommendation: Send a letter to Department of Homeland Security Secretary Janet Napolitano in favor of granting permanent residency to Temporary Protection Status individuals.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action Calendar - Appeals

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment.

16. ZAB Appeal: 2329 Grant Street

From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 10-10000041 to raise an existing single-family residence by 2 feet thereby vertically extending a non-conforming front yard setback (15 feet where 20 feet is required); to construct a 149-square-foot first story addition, a 135-square-foot second story addition, and a new 1,054-square-foot third story; and to establish a child care center on the first floor for up to 15 children a day, with hours of operation from 7:30 a.m. - 3:00 p.m. Monday through Friday.

Financial Implications: None

Contact: Eric Angstadt, Planning and Development, 981-7400

b. Communications

1. Demosthenes and Maria Bogdis
2. Karen Wilairat
3. Noriko Onitsuka
4. Kathleen O'Connell
5. Jaime Fukumae
6. Patricia Edwards for MSHHIG
7. Baird Barton
8. Ho Bong Chi
9. Misa Oyama
10. Deidre Marcum
11. Catarina Negrin (2)

Action Calendar – Public Hearing

Staff shall introduce the public hearing item and present their comments. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

17. **Policy to Specify Parking Rules on Streets Bordering the Various Residential Preferential Parking Program Permit Areas**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution establishing a Policy to Specify Parking Rules on streets bordering the various Residential Preferential Parking (RPP) Permit Program Areas, where both sides of the streets will be available for RPP permit holders to park as long as their permit corresponds to one of the two bordering RPP Areas.

Financial Implications: General Fund - \$10,222

Contact: Andrew Clough, Public Works, 981-6300

Action Calendar – Old Business

18. **Coro Center for Civic Leadership: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds** *(Continued from October 2, 2012)*

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 Calendar – New Business

19. **a. Affordable Housing Mitigation Fee**

From: Housing Advisory Commission

Recommendation: Adopt a Resolution setting the Housing Mitigation Fee for new residential rental projects developed in the City of Berkeley. Consider the Commission's recommendations on changes to the provisions of the Affordable Housing Mitigation Fee Ordinance.

Financial Implications: None

Contact: Kathryn Hoover, Commission Secretary, 981-5400

Action Calendar – New Business

b. From: City Manager

Recommendation:

1. Determine the appropriate amount for the Affordable Housing Mitigation Fee.
2. Adopt a Resolution setting the amount of the fee and other terms for its implementation.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Information Reports

- 20. Nexus Studies for Revision of Commercial Development Housing and Child Care Mitigation Fees**
From: City Manager
Contact: Michael Caplan, Economic Development, 981-7530
- 21. Investment Report: Quarter Ended June 30, 2012**
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
- 22. LPC-NOD: 2120-24 Dwight Way**
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
- 23. LPC-NOD: 2144 Shattuck Avenue**
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
- 24. Contract: Urban Ore**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
- 25. Status Report: City Fuel Operations Need Improvement**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300

Public Comment – Including Items Not Listed on the Agenda –

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply:*

- 1) *No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred.*
- 2) *In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6908 or clerk@cityofberkeley.info for further information.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.ci.berkeley.ca.us/video> and KPFB Radio 89.3. Archived indexed video streams are available at <http://www.ci.berkeley.ca.us/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.ci.berkeley.ca.us/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@ci.berkeley.ca.us

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue

North Branch – 1170 The Alameda

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 4, 2012.***

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, CMC, Acting City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Landslide at 1066 Grizzly Peak Blvd**

1. Clinton Johnson

### **Request for Investigation**

2. Stephen Stine

### **2840-B Sacramento Street**

3. Laura Menard

### **Nuclear Reactors**

4. devcalbear@\*\*\*.com

### **Berkeley Post Office Sale**

5. Margot Smith
6. Gray Brechin