ANNOTATED 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 WOZNIAK

Preliminary Matters

Roll Call: 7:02 p.m. All present.

Ceremonial Matters

1. National Chemistry Week – October 21 to October 27.
2. Vote-by-Mail information – required postage is $1.50; voters may drop off their ballot without postage at the City Clerk Dept. at 2180 Milvia Street, the Registrar of Voters office in Oakland, or any polling place on Election Day.

City Manager Comments:

1. Great Shakeout event on October 18 for Earthquake Preparedness.

Public Comment on Non-Agenda Matters: 5 speakers.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Consent Calendar

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

Vote: All Ayes.

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
Action: Adopted first reading of Ordinance No. 7,260–N.S. Second reading scheduled for October 30, 2012.

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:

Consent Calendar

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
Action: Adopted Resolution No. 65,910–N.S.

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
Action: Approved minutes as submitted.

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
Action: Adopted Resolution No. 65,911–N.S.

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

Consent Calendar

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
Action: Adopted Resolution No. 65,912–N.S.

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
Action: Adopted Resolution No. 65,913–N.S.

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
Action: Adopted Resolution No. 65,914–N.S.

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
Action: Adopted Resolution No. 65,915–N.S.

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
Action: Adopted Resolution No. 65,916–N.S.

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
Action: Adopted Resolution No. 65,917–N.S.

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
Action: Approved recommendation.

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
Action: Removed from agenda by Councilmember Arreguin.

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
Action: Held over to October 30, 2012.

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.

Council Consent Items

Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Approved recommendation.

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: Councilmember Arreguin added as a co-sponsor. Approved recommendation.

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

Action Calendar - Appeals

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 - Appeals

Action: M/S/C (Wozniak/Wengraf) to adopt Resolution No. 65,918 –N.S. 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.

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

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

Public Testimony: The Mayor opened the public hearing. 0 speakers.

Action: M/S/C (Wengraf/Worthington) to close the public hearing.

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

Councilmember Moore absent 8:17 p.m. – 8:19 p.m.

Action: M/S/C (Wengraf/Worthington) to adopt Resolution No. 65,919–N.S. 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.

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

Recess: 8:19 p.m. – 8:31 p.m.

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

Action Calendar – Old Business

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: Held over to October 30, 2012.

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

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
Action: 21speakers. M/S/C (Maio/Moore) to adopt the following:

b. The City Manager's recommendation to:

1. Set the amount for the Affordable Housing Mitigation Fee at $28,000.
2. Adopt Resolution No. 65,920–N.S. setting the amount of the fee and other terms for its implementation amended as follows:

- Include the fee amount of $28,000 in the third Whereas clause and paragraph 1 under Now Therefore Be It Resolved.

- Amend paragraph 2 to read "For purposes of this resolution, "new rental housing" includes group living accommodations, except for those categories that are currently exempt pursuant to BMC Section 23C.12.020(B), at an equivalency rate of one new rental unit per two bedrooms in a group living accommodation, such that one-half the fee adopted by this resolution shall be imposed on each bedroom."

- Paragraph 6 under Now Therefore Be It Resolved is deleted.

Action Calendar – New Business

3. Refer the following issues to the City Manager for a report back to Council.

- Develop criteria for fee exemptions based on factors such as nonprofit status, cooperative structure, and allocation of housing to a minimum percentage of low income.
- Establish a local density bonus program.
- Notify affected groups, such as sororities, fraternities, boarding houses, that they are not affected by the fee when the referrals come back on the agenda.
- Provide an information report to Council in one year regarding the impact fee program.
- Develop options for offering a discounted fee to developers if certain permit benchmarks are reached in the first two years of the impact fee program.

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

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
Action: Received and filed.

21. Investment Report: Quarter Ended June 30, 2012
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
Action: Received and filed.

22. LPC-NOD: 2120-24 Dwight Way
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

23. LPC-NOD: 2144 Shattuck Avenue
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

24. Contract: Urban Ore
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.

Information Reports

25. Status Report: City Fuel Operations Need Improvement
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.

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

Adjournment

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

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

Adjourned at 10:28 p.m.

Communications

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

Supplemental Communications and Reports 1

Item 12: Referral to City Manager: RPP Parking Beyond 72 Hour Parking Limit
7. Ann Slaby
8. Eric Friedman

Item 16: ZAB Appeal: 2329 Grant Street
9. Wendy Alfsen, on behalf of the McKinley Addison Allston Grant Neighborhood Association
10. Steven Buckley

Supplemental Communications and Reports 2

Item 12: Referral to City Manager: RPP Parking Beyond 72 Hour Parking Limit

Supplemental Communications and Reports 2

11. Joan Barnett, on behalf of the Dwight/Hillside Neighborhood Association
12. Beverly Doane, on behalf of the Claremont-Elmwood Neighborhood Association
13. Phil Bokovoy

Item 13: Residential Preferential Parking (RPP): Vehicle Registration Requirements

14. Michael Minasian

Item 16: ZAB Appeal: 2329 Grant Street

15. Kim Kruckel, on behalf of the Child Care Law Center
16. Ben Buettner
17. Margaret Norman and Geoff Holton
18. Marsha Siegel

Supplemental Communications and Reports 3

Item 16: ZAB Appeal: 2329 Grant Street

19. Jason Wilkinson
20. Margy Wilkinson
21. Deborah Lloyd

Item 19: Affordable Housing Mitigation Fee

- Presentation, submitted by Health, Housing & Community Services (see agenda item)

22. Peter Solar
23. Berkeley Student Cooperative

Opposition to Measure S

24. Multiple religious leaders / clergy