

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, JANUARY 29, 2013
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

Preliminary Matters

Roll Call: 7:11 p.m. All present.

Ceremonial Matters:

1. Recognition of Shira Leeder, Miss Wheelchair California
2. Zakhary Mallett, BART Board Director

City Manager Comments:

1. Ceremony for the Opening of the New Animal Shelter, Feb. 2 at 12:00 p.m.

Public Comment on Non-Agenda Matters: 0 speakers.

Public Comment on Consent Calendar and Information Items Only: 6 speakers.

Consent Calendar

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

Vote: All Ayes.

1. **Cleanup Amendment to Taxi Ordinance (BMC Chapter 9.52)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 9.52.050.B.1.f to correct an inadvertent omission.
Financial Implications: None
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted first reading of Ordinance No. 7,277–N.S. Second reading scheduled for February 19, 2013.

Consent Calendar

- 2. Enact Chapter 13.79, Automatically Renewing Leases**
From: City Manager
Recommendation: Adopt first reading of an Ordinance enacting Berkeley Municipal Code Chapter 13.79 Automatically Renewing Leases Ordinance.
Financial Implications: Unknown
Contact: Zach Cowan, City Attorney, 981-6950
Action: Adopted first reading of Ordinance No. 7,278–N.S. as amended. Section 13.79.030B amended to change “10 days” to “20 days”. Second reading scheduled for February 19, 2013.
- 3. Contract No. 8460A Amendment: NextGen Healthcare Information Systems Inc. for an Electronic Records System and Related Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8460A with NextGen Healthcare Information Systems, Inc. increasing the amount by \$105,897, for a total amount not to exceed \$430,094, and extending the term to September 30, 2010 through June 30, 2016.
Financial Implications: General Fund - \$105,897
Contact: Donna LaSala, Information Technology, 981-6500
Action: Adopted Resolution No. 65,992–N.S.
- 4. Amending Waste Management Authority Joint Powers Agreement**
From: City Manager
Recommendation: Adopt a Resolution approving an amendment to the Alameda County Waste Management Authority Joint Powers Agreement to clarify rules in case of member agency rule conflict.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,993–N.S.
- 5. Designate the Alameda County Source Reduction and Recycling Board as the Local Task Force**
From: City Manager
Recommendation: Adopt a Resolution approving designation of the Alameda County Source Reduction and Recycling Board as the Local Task Force to comment on possible County Integrated Waste Management Plan amendments, and to otherwise provide non-binding guidance with respect to integrated solid waste planning.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,994–N.S.
- 6. Additional 2013 Meeting for the Commission on the Status of Women**
From: Commission on the Status of Women
Recommendation: Approve an additional meeting in calendar year 2013 for the Commission on the Status of Women in preparation for the 22nd Bi-Annual Outstanding Women of Berkeley Awards.
Financial Implications: General Fund - \$225
Contact: Eric Brenman, Commission Secretary, 981-5114
Action: Approved recommendation.

Consent Calendar

7. **Oppose the Trans-Pacific Partnership Trade Agreement and Support the 21st Century Trade Agreement and Market Access Act**

From: Peace and Justice Commission

Recommendation: Adopt a Resolution:

1. Opposing the Trans-Pacific Partnership Trade Agreement and supporting the 21st Century Trade Agreement and Market Access Act;
2. Directing the City Clerk to send a letter to Senators Barbara Boxer and Dianne Feinstein urging them to support S.3347, The 21st Century Trade Agreements and Market Access Act, as it is currently worded, sponsored by Senator Sherrod Brown (OH) (introduced 6/27/2012); and
3. Directing the City Clerk to send a copy of the resolution to Congresswoman Barbara Lee, Senators Feinstein and Boxer and President Obama.

Financial Implications: None

Contact: Eric Brenman, Commission Secretary, 981-5114

Action: Adopted Resolution No. 65,995–N.S.

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

8. **Opposition to "Secure Communities" and Urging Alameda County Board of Supervisor Keith Carson to Affirm the Separation Between County and Federal Agencies**

From: Peace and Justice Commission

Recommendation: Adopt a Resolution reaffirming opposition to "Secure Communities" and urging Alameda County Board of Supervisor Keith Carson to affirm the separation of county and federal agencies.

Financial Implications: None

Contact: Eric Brenman, Commission Secretary, 981-5114

Action: Moved to Action Calendar. 0 speakers. M/S/C (Arreguin/Maio) to adopt Resolution No. 65,996–N.S. with the amended clauses to read as follows:

BE IT FURTHER RESOLVED that the Council urges County Supervisor Keith Carson, the full Board of Supervisors, and the County Sheriff to take a leadership role in affirming the Separation between County and Federal Agencies by insuring that Alameda County does not honor ICE detainees.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley directs the City Clerk to send a copy of this resolution to Supervisor Keith Carson, the Alameda County Board of Supervisors, and Sheriff Gregory Ahern.

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

Councilmember Worthington absent 7:43 p.m. – 7:49 p.m.

Consent Calendar

9. **Support the Residents of the Jeju Islands off the Coast of Korea to Stop Construction of the Jeju Naval Base**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution
1. Supporting the residents of the Jeju Islands off the coast of Korea to stop construction of the Jeju Naval Base;
 2. Sending a letter to President Lee Myung Bak; and
 3. Calling on the congressional delegation to write and co-sponsor a bill restricting U.S. funds from use in the construction of a military base on Jeju Island.
- Financial Implications:** None
Contact: Eric Brenman, Commission Secretary, 981-5114
Action: Item held over to February 5, 2013.
10. **Solid Waste Management Division Name Change to Zero Waste Division**
From: Zero Waste Commission
Recommendation: Adopt a Resolution changing the name of the City of Berkeley Public Works Department Solid Waste Management Division to the City of Berkeley Public Works Department Zero Waste Division.
Financial Implications: Alameda Co. Recycling - \$1,000
Contact: Andy Schneider, Commission Secretary, 981-6357
Action: Adopted Resolution No. 65,997–N.S.
11. **Zero Waste Week in Berkeley**
From: Zero Waste Commission
Recommendation: Adopt a Resolution declaring March 17-23, 2013 to be Zero Waste Week in Berkeley.
Financial Implications: Staff time
Contact: Andy Schneider, Commission Secretary, 981-6357
Action: Adopted Resolution No. 65,998–N.S.

Council Consent Items

12. **Support of AB 48 Which Will Regulate the Sale of Ammunition in the State of California**
From: Mayor Bates and Councilmembers Arreguin and Moore
Recommendation: Adopt a Resolution supporting Assembly Bill (AB) 48, which will regulate the sale of ammunition in the State of California.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 65,999–N.S.

Action Calendar – Continued Business

A. **Compassionate Sidewalks Plan** *(Continued from January 22, 2013)*

From: Councilmember Arreguin

Recommendation: Direct the City Manager to convene a working group of representatives of City staff, the Homeless, Housing Advisory, Human Welfare & Community Action, and Police Review Commissions, the Police Department, and other stakeholders, including but not limited to business owners, homeless persons, service providers, students, and academic experts to develop a Compassionate Sidewalks Plan over a series of workshops. The working group should focus but is not limited to the following topics: 1) The demographics and causes of homelessness 2) A survey of existing homeless services 3) An assessment of potential funding needs and sources 4) Existing laws and enforcement 5) Best Practices.

Financial Implications: Staff time

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: M/S/C (Arreguin/Maio) to accept revised material from Councilmember Arreguin on Item A.

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

Action: 20 speakers. M/S/C (Arreguin/Anderson) to:

1. Approve item (1) from the recommendation of the revised report with the provision that the City Manager will provide the requested information “to the extent possible” and with the removal of item 4) from list.
2. Replace item (2) from the revised recommendation with the stated commitment of the City Council to an open process and dialogue on the issue of homelessness with further details to be examined at the April 2, 2013 meeting.
3. State that there will be an Action item on the regular agenda of April 2, 2013 to be submitted by the Mayor and/or Council.

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

Recess: 8:51 p.m. – 9:00 p.m.

Action Calendar – New Business

13. **Downtown Streets and Open Space Improvement Plan (SOSIP)**

From: City Manager

Recommendation: Adopt a Resolution determining that the Certified Downtown Area Plan EIR may be relied upon for approval of the SOSIP, and approving the SOSIP.

Financial Implications: See report

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

Action: M/S/C (Arreguin/Capitelli) to adopt Resolution No. 66,000–N.S. determining that the Certified Downtown Area Plan EIR may be relied upon for approval of the SOSIP, and approving the SOSIP.

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

Action Calendar – Public Hearing

14. Downtown Streets and Open Space Improvement Plan (SOSIP) Impact Fee From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution:

1. Approving the Nexus Study for the Downtown Streets and Open Space Improvement Plan (SOSIP) Impact Fee; and
2. Setting the SOSIP Impact Fee at the maximum justifiable level of: \$2.23 per square foot of new residential use; \$1.68 per square foot of new commercial use; \$1.12 per square foot of new institutional use.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 3 speakers.

Action: M/S/C (Moore/Capitelli) to close the public hearing.

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

Action: M/S/C (Moore/Wengraf) to adopt Resolution No. 66,001–N.S. as amended,

1. Approving the Nexus Study for the Downtown Streets and Open Space Improvement Plan (SOSIP) Impact Fee; and
2. Setting the SOSIP Impact Fee at the maximum justifiable level of: \$2.23 per square foot of new residential use; \$1.68 per square foot of new commercial use; \$1.12 per square foot of new institutional use, with the amended clauses to read as follows:

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby approves an exemption from the SOSIP Impact Fees for projects less than 1,000 square feet of new development and for projects that neither require a use permit nor a building permit.

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

Action Calendar – Council Items

15. Support of Assembly Bill 5, The Homeless Bill of Rights and Fairness Act From: Councilmember Arreguín

Recommendation: Adopt a Resolution supporting Assembly Bill (AB) 5, authored by Assemblymember Tom Ammiano, which would amend the Jesse Unruh Civil Rights Act to include “housing status” as an impermissible basis for discrimination and reaffirms other civil rights. Copies of the resolution shall be sent to Senator Pro Tem Darrell Steinberg, Senators Loni Hancock, Assembly Speaker John A. Pérez, and Assemblymembers Nancy Skinner and Tom Ammiano.

Financial Implications: None

Contact: Jesse Arreguín, Councilmember, District 4, 981-7140

Action: Moved to Consent Calendar. Revised recommendation to remove adoption of a resolution and insert a referral of the item to the City Manager for analysis.

Information Reports

16. **Residential Preferential Parking: Adding Saturday Permit Requirement Near Commercial Areas and Extending Football Day Fines**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Moved to Consent Calendar. Item held over to February 5, 2013.
17. **Status Report: Follow-up Audit of Public Works Construction Contracts**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.
18. **Status Report: Utilization of Public Works Sewer Staff Can Be Improved**
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/Wozniak) to adjourn the meeting.

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

Adjourned at 9:36 p.m.

Communications

Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Response to “No Drone Zone” Agenda Item

1. Gregory Ahern

Open Letter to Mayor

2. James Smith

Supplemental Communications and Reports 1

-None

Supplemental Communications and Reports 2

Item 2: Enact Chapter 13.79, Automatically Renewing Leases

3. Rent Stabilization Board

Supplemental Communications and Reports 3

Item 2: Enact Chapter 13.79, Automatically Renewing Leases

4. Shahryar Abbasi

Item 9: Support the Residents of the Jeju Islands off the Coast of Korea to Stop Construction of the Jeju Naval Base

5. Linda Maio, District 1

Item A: Compassionate Sidewalks Plan

- Revised materials, submitted by Councilmember Arreguin (see agenda item)

6. Michael Diehl

7. Dan McMullan

Item 13: Downtown Streets and Open Space Improvement Plan (SOSIP)

- Presentation, submitted by Planning & Development Department (see agenda item)

8. Kent Lewandowski, on behalf of the Sierra Club Northern Alameda Group

BART Board Director

9. Zakhary Mallett