AGENDA

BERKELEY CITY COUNCIL MEETING

TUESDAY, MAY 21, 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 WOZNIAK

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, 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.

Consent Calendar

1. Amendment: FY 2013 Annual Appropriations Ordinance
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,285–N.S. amending the FY 2013 Annual Appropriations Ordinance No. 7,261-N.S. for fiscal year 2013 based upon other adjustments in the amount of $9,218,905 (gross) and $4,085,858 (net).
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

2. Minutes for Approval
From: City Manager
Recommendation: Approve the minutes for the Council meetings of April 2, 2013 (special and regular) and April 30, 2013 (regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900

Consent Calendar

3. Contract: Badawi & Associates, Certified Public Accountants for Professional Auditing Services
From: City Manager
Recommendation: Adopt a Resolution ratifying the Mayor's decision to select Badawi & Associates as the auditing firm to perform annual financial audits of the City's financial statements and perform annual compliance audits required by the Single Audit Act of 1984 (as amended in 1996), for the period of May 22, 2013 through June 30, 2016, in the amount of $432,263; and to authorize the execution of a three-year agreement with Badawi & Associates, with an option to extend the contract for two additional years.
Financial Implications: See report
Contact: Robert Hicks, Finance, 981-7300

4. Affordable Housing Mitigation Fee
From: City Manager
Recommendation: Maintain the Affordable Housing Mitigation Fee as adopted in Ordinance 7,192-N.S. and Resolution 65,920-N.S. and amended by Resolution 66,015-N.S., with no additional exemptions.
Financial Implications: None
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

5. Expenditure Contract: Alameda County Public Health Department, Office of Dental Health to Provide Dental Services to the Berkeley Unified School District
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a single-source contract and any amendments or extensions with Alameda County in an amount not to exceed $150,000 to provide dental services in Berkeley Unified School District for the period of July 1, 2013 through June 30, 2016.
Financial Implications: General Fund - $150,000
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

6. Expenditure Contract: Needle Exchange Emergency Distribution
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments or extensions with Needle Exchange Emergency Distribution (NEED) in an amount not to exceed $150,000 for the period July 1, 2013 through June 30, 2016.
Financial Implications: General Fund - $150,000
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

7. Lease Agreement: Nia House Learning Center for 2234-2240 Ninth Street
From: City Manager
Recommendation: Adopt first reading of an Ordinance:
1. Rescinding Ordinance No. 7,114-N.S. for the sale of 2240 Ninth Street; and
2. Authorizing the City Manager to (1) execute a lease agreement and any amendments to the lease agreement with Nia House Learning Center (Nia House) for three City-owned parcels located at 2234-2240 Ninth Street for the purpose of operating a child care center and (2) give Nia House permission to seek a merger of the three parcels to facilitate its expansion.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Consent Calendar

8. Revenue Grant: California Family Health Council for Health Services, Education and Outreach Activities
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the California Family Health Council (CFHC) in the amount of $155,014 for one calendar year, January 1, 2013 through December 31, 2013 to support clinical reproductive health services, as well as individual and community health education and outreach activities; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

9. Revenue Grant Agreements: Funding Support from Alameda County to Conduct Public Health Promotion, Protection, and Prevention Services
From: City Manager
Recommendation: Adopt six Resolutions authorizing the City Manager to submit grant agreements to Alameda County, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following revenue agreements for Fiscal Year 2014:
1. Public Health Infrastructure Program in the projected amount of $32,080.
2. Foster Care Program in the projected amount of $85,395.
3. Lead Poisoning Prevention Program in the projected amount of $30,000.
4. Berkeley High School Health Center Program in the projected amount of $155,000.
5. School Linked Health Services Program (Measure A Funding) in the projected amount of $168,000.
6. Tobacco Prevention Program in the projected amount of $69,000.

Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

10. Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Promotion, Protection, and Prevention Services
From: City Manager
Recommendation: Adopt nine Resolutions authorizing the City Manager to submit grant agreements to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following revenue agreements:
1. Child Health and Disability Prevention (CHDP) Program in the projected amount of $430,000 for Fiscal Year 2014.
2. Maternal, Child and Adolescent Health (MCAH) and Black infant health (BIH) Program, in the projected amount of $307,000 for FY 2014.
3. Public Health Preparedness Program in the projected amount of $236,754 for FY 2014.
4. 510 Free From Tobacco Program in the projected amount of $141,600 per year for two years for a total of $283,200 for Fiscal Years 2014 and 2015.
5. Tobacco Trust Fund in the projected amount of $150,000 for FY 2014.
6. HIV Surveillance Program in the projected amount of $32,927 per year for three years for a total of $98,781 for Fiscal Years 2014, 2015 and 2016.

Consent Calendar

7. Immunization Program in the projected amount of $41,438 per year for five years, for a total of $207,190, Fiscal years 2014 through 2018.
8. Tuberculosis Control Program in the projected amount of $30,806 for FY 2014.
9. Medi-Cal Administrative Activities (MAA) Program in the projected amount of $175,000 per year for three years, Fiscal Years 2014 through 2016.

Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

11. U.S. Department of Housing and Urban Development for Shelter Plus Care Program Renewal Grants
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the U.S. Department of Housing and Urban Development renewal of the following four Shelter Plus Care grants: 1) $1,979,793 for tenant-based rental assistance for the period May 24, 2013 through May 23, 2014; 2) $125,074 for sponsor-based rental assistance for the Supportive Housing Network for the period of May 28, 2013 through May 27, 2014, with Resources for Community Development as the project sponsor; 3) $121,761 for sponsor-based rental assistance for the Pathways Project for the period June 1, 2013 through May 31, 2014, with Bonita House, Inc. as the project sponsor; and 4) $451,681 in tenant-based rental assistance for the COACH Project grant for the period of December 14, 2013 through December 13, 2014.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

12. Contract No. 7258B Amendment: KANA Community Relationship Management Software
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7258B with KANA Software (formerly Lagan Technologies, Inc.) for licensing, maintenance, and services, increasing the amount by $120,374, for a total not to exceed $713,647 from March23, 2007 through June 30, 2015.
Financial Implications: Various Funds - $120,374
Contact: Donna LaSala, Information Technology, 981-6500

13. Contract No. 7651A Amendment: BUSD Bus Transportation for Recreation Programs
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7651A with the Berkeley Unified School District for bus transportation services for various camps and recreation programs by extending the contract through October 31, 2013 and adding $35,000 to the current contract authority for a total not-to-exceed amount of $370,000.
Financial Implications: Various Funds - $35,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

Consent Calendar

14. Contract No. 9169 Amendment: Townsend Management, Inc. for Additional Construction Support Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9169 with Townsend Management, Inc. (TMI) to provide additional construction support services for the Bay Trail Extension project and other parks improvement projects in an amount not to exceed $83,596 for a total contract amount not to exceed $131,096 and extending the term through June 30, 2014.
Financial Implications: Various Funds - $83,596
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

15. Contract: AJW Construction for the 2013 Safe Routes to School Project
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving the plans and specifications for the 2013 Safe Routes to School Project, Specification No. 13-10713-C;
2. Accepting the bid of AJW Construction, the lowest responsive and responsible bidder; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with AJW Construction until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed $739,332 which includes a contingency for unforeseen circumstances.
Financial Implications: Various Funds - $739,332
Contact: Andrew Clough, Public Works, 981-6300

16. Contract: RMC Water and Environment for Sanitary Sewer System Regulatory Compliance On-Call Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with RMC Water and Environment for on-call consultant services for the City's Sanitary Sewer System regulatory compliance, in an amount not to exceed $350,000 for the period July 1, 2013 through June 30, 2016.
Financial Implications: Sanitary Sewer Operation - $350,000
Contact: Andrew Clough, Public Works, 981-6300

17. Donation for Pedestrian Beacons on Shattuck Avenue between Cedar and Vine Streets
From: City Manager
Recommendation: Adopt a Resolution:
1. Accepting a donation in the amount of $47,000 from The Taubman Foundation for the purchase and installation of pedestrian activated rectangular rapid flashing beacons for the mid-block crosswalk on Shattuck Avenue between Cedar and Vine Streets.
2. Authorizing the City Manager to enter into agreements necessary for the purchase and installation of pedestrian activated rectangular rapid flashing beacons for the mid-block crosswalk on Shattuck Avenue between Cedar and Vine Streets.
Financial Implications: $47,000 (donation)
Contact: Andrew Clough, Public Works, 981-6300

Consent Calendar

18. Purchase Order Amendment: Western States Oil for Fuel for City Vehicles and Equipment
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the purchase order with Western States Oil for the purchase of fuel for City vehicles to increase the amount by $3,762,000 for a total amount not to exceed $12,357,809, and to extend the term for two (2) years through June 30, 2015.
Financial Implications: Equipment Maintenance Fund - $3,762,000
Contact: Andrew Clough, Public Works, 981-6300

19. Revised Fund Allocation: FY 2013 Transportation Development Act Article 3
From: City Manager
Recommendation: Adopt a Resolution:
1. Authorizing the City Manager to: submit a revised allocation request to the Metropolitan Transportation Commission (MTC) for $258,906 from the Transportation Development Act (TDA) Article 3 funds in FY 2013 for the Berkeley Bicycle Plan Update; accept the funds; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the funds; and
2. Declaring: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Exhibit B to the Resolution, or that might impair the ability of the City of Berkeley to carry out the project; the City of Berkeley attests to the accuracy of and approves the statements in Exhibit A to this Resolution; and that a certified copy of this Resolution and its Exhibits, and any accompanying supporting materials, shall be forwarded to the Alameda County Transportation Commission for submission to MTC as part of the Countywide coordinated TDA Article 3 claim.
Financial Implications: MTC Fund - $258,906
Contact: Andrew Clough, Public Works, 981-6300

20. Contract No. 7961B Amendment: Kitchell CEM, Inc. for Project Management for Branch Library Renovation
From: Board of Library Trustees
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7961B with Kitchell CEM, Inc. for the provision of construction/project management and LEED commissioning agent services for the branch library bond program, Measure FF, by increasing the expenditure authority $100,000 for a revised contracted total amount not to exceed $1,473,580.
Financial Implications: Measure FF Fund - $100,000
Contact: Donna Corbeil, Library, 981-6100

Council Consent Items

21. Youth Spirit Artworks: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Maio
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $500 per Councilmember including $500 from Councilmember Maio to Youth Spirit Artworks with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Maio and any other Councilmember who would like to make a contribution.
Financial Implications: Councilmember's Discretionary Fund - $500
Contact: Linda Maio, Councilmember, District 1, 981-7110

22. Opposing US Attorney's Forfeiture Action Against Berkeley Patients
From: Councilmembers Moore, Capitelli and Maio
Recommendation: Adopt a Resolution opposing the United States Attorney's forfeiture action against Berkeley Patients Group. Send a copy of adopted resolution to President Obama, US Attorney General Holder, US Attorney Melinda Haag and Congresswoman Barbara Lee stating the City Council's position.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120

23. Oppose Assembly Bill 162 (Holden)
From: Councilmember Wengraf
Recommendation: Adopt a Resolution strongly opposing Assembly Bill 162 (Holden) which would add Section 65964.5 to the Government Code, relating to telecommunication facilities. Send a copy of the adopted resolution to Assemblywoman Nancy Skinner indicating that the City of Berkeley strongly opposes AB 162.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

24. Oppose Assembly Bill 227
From: Councilmember Wengraf
Recommendation: Adopt a Resolution opposing AB 227, amending section 25249.7 of the Health and Safety Code, relating to toxic substances. Send copy of the adopted resolution to Judiciary Committee Chair, Assemblyman Bob Wieckowski and Assemblywoman Nancy Skinner indicating that the City of Berkeley opposes AB 227.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

25. Refer AB 321 to the Transportation Commission to Consider Implementation of a 15 mph Limit in All Elementary School Zones in Berkeley
From: Councilmember Wengraf
Recommendation: Refer AB 321 to the Transportation Commission and request that they return to the City Council with a recommendation on implementation of 15 mph speed zones within 500 feet of all elementary schools in Berkeley, if they qualify.
Financial Implications: Unknown
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Council Consent Items

26. San Francisco LGBT Pride Parade: 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 up to $500 from Councilmember Worthington, to support the Pacific Center with funds relinquished to the City's general fund for this purpose that the City of Berkeley be represented at the SF LGBT Pride Parade and for costs of having a contingent in the parade from Councilmember Worthington's discretionary Council Office Budget and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - $500
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

27. Support a Proclamation to Honor June as Lesbian Gay Bisexual Transgender Queer Questioning and Intersex Pride Month and Authorize City Manager to Fly the Rainbow Flag for the Month of June
From: Councilmember Worthington
Recommendation: Adopt a proclamation to honor June as Lesbian Gay Bisexual Transgender Queer Questioning and Intersex Pride Month in the city of Berkeley and authorize the City Manager to fly the rainbow flag for all of June.
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. After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal.

Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Written reports shall be available for public review in the office of the City Clerk.

Action Calendar - Appeals

28. ZAB Appeal: 2401 Telegraph Avenue
From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to uphold the Zoning Officer's decision to approve Administrative Use Permit No. 12-20000089 to establish a carry out food service establishment with a take-out window within an existing retail use.
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400

a. Appeal

1. Gus Shamieh

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. 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.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

29. LPC Appeal: 2517 Regent Street
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution affirming in part the decision of the Landmarks Preservation Commission to approve Landmark Application LM No.12-40000013 designating the Mary J. Berg House (2517 Regent Street) a Landmark, Structure of Merit and affirming all of the findings for designation while modifying the "Features to be preserved."
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400

30. a. Fiscal Year 2014 and Fiscal Year 2015 Proposed Budget Public Hearing #1
From: City Manager
Recommendation: Conduct a public hearing regarding the FY 2014 and FY 2015 proposed budget.
Financial Implications: See Proposed FY 2014 and FY 2015 Budget
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

b. City Council Comments on FY 2014 Work Plan
From: City Manager
Recommendation: Discuss comments from Council on the FY 2014 Citywide Work Plan.
Financial Implications: See Work Plan
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

Action Calendar – Public Hearings

31. Fee Hearings – Fiscal Year 2014

a. Animal Care Shelter and Licensing Fees
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing dog and cat board fees, adoption and redemption fees, licensing fees, and rescinding Resolution Nos. 63,776-N.S, 62,538-N.S, 62,058-N.S, 60,564-N.S.
Financial Implications: See report
Contact: William Rogers, City Manager's Office, 981-7000

b. Environmental Health Division Fee Schedule
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution:
1. Approving existing Environmental Health permit and inspection fees, adding fees for the new Cottage Food program, and modifying select Body Art program fees effective July 1, 2013 and
2. Rescinding Resolution No. 65,718-N.S. effective July 1, 2013.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

c. Marina Fee Increases
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution:
1. Approving fees for goods and services at the Berkeley Marina that; a) establish a new rate schedule increasing Marina berth rent by 6%, and b) increase Parking fees for special events by 50%; and
2. Rescinding Resolution No. 65,285-N.S.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

d. Development-Related Services Provided by Planning and Development
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees for development-related services provided by the Planning and Development Department, and rescinding Resolution No. 65,721-N.S.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

32. Parking In-Lieu Fee
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution setting the Parking In-Lieu Fee for the Downtown Plan Area in a graduated range from $15,000 to $30,000 per space, with spaces 1-5 costing $15,000 per space, spaces 6-15 costing $20,000 per space, spaces 16-25 costing $25,000 per space and spaces 26 and up costing $30,000 per space.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

Action Calendar – Old Business

33. Draft Mayor and Council Office Budget Donation Policy *(Continued from April 2, 2013)*
From: City Manager
Recommendation: Provide comments on a draft Mayor and Councilmember Office Budget Donation policy and, if appropriate, provide direction to the City Manager to return with a draft Resolution modifying the policy for the City Council's consideration.
Financial Implications: No direct fiscal impacts
Contact: Christine Daniel, City Manager, 981-7000

34. Berkeley City Councilmembers Jointly Sign the CREDO Action Keystone XL Pledge of Resistance *(Continued from April 30, 2013)*
From: Councilmembers Worthington, Anderson and Arreguin
Recommendation: For the Berkeley City Council members to jointly sign the CREDO Action Keystone XL Pledge of Resistance.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

35. City Manager Referral: Allow Video Screen with Advertisements Inside Taxicabs *(Continued from April 30, 2013)*
From: Councilmember Worthington
Recommendation: Refer to the City Manager a change in the Berkeley Municipal Code, to allow for video screen advertisements to be posted inside taxicabs.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

36. Supporting Enforcement of Draft Proposed Rule to Reduce Exposure to Life-Threatening Silica Dust by the Federal Occupational Safety and Health Administration (OSHA) *(Continued from April 30, 2013)*
From: Councilmember Worthington
Recommendation: Adopt a Resolution supporting the enforcement of a draft proposed rule to reduce exposure to life-threatening silica dust and send a letter to the White House Office of Management and Budget.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

37. Assembly Bill 975: Charity Care *(Continued from May 7, 2013)*
From: Councilmember Arreguin
Recommendation: Adopt a Resolution supporting Assembly Bill (AB) 975 authored by Assemblymembers Bob Wieckowski and Rob Bonta. AB 975 would create uniform standards for transparency and accountability on charity care and community benefit for private, non-profit hospitals. Copies of the Resolution to be sent to Governor Jerry Brown, Senate President Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Perez, Assemblymembers Nancy Skinner, Bob Wieckowski, and Rob Bonta.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action Calendar – Old Business

38. Referral to City Manager: Amendments to Affordable Housing Fee Ordinance *(Continued from May 7, 2013)*
From: Councilmember Arreguin
Recommendation: Refer to the City Manager and Housing Advisory Commission:
1. The proposed changes below to Berkeley Municipal Code (B.M.C.) Section 22.20.065 (Affordable Housing Fee Ordinance) for review and recommendation, and to develop an ordinance for Council discussion and action.
2. Amendments to Berkeley Municipal Code (B.M.C.) Section 22.20.080 (Hardship waiver) to establish more specific criteria for determining whether the fee requirements make a project infeasible and therefore make it eligible for a fee reduction. Is there a baseline standard that staff uses? A specific rate of return on the project? Additionally, explore removing language allowing fees to be waived entirely.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

39. Commission Term Limits *(Continued from May 7, 2013)*
From: Councilmembers Capitelli and Wengraf
Recommendation: Refer to the City Manager an amendment to BMC 3.02.040 that imposes an eight-cumulative-year (in any ten year period) term limit for all commissioners now subject to an eight-year consecutive term limit and whose service commenced on or after December 1, 2004.
Financial Implications: Staff time
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Council Action Items

40. Berkeley Medical Marijuana Regulations
From: Councilmember Moore
Recommendation: Postpone taking action on adopting any local medical cannabis regulations in light of several proposals currently being considered by the state legislature.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120

Information Reports

41. July 4th Celebration at the Berkeley Marina
From: City Manager
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

42. Annual Report - Open Government Commission
From: Open Government Commission
Contact: Kristy van Herick, Commission Secretary, 981-6986

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.*

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. 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@cityofberkely.info for further information.

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.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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.

~~~~~~
~~~~~~

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 May 9, 2013.

Mark Numainville, 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.

3001 Telegraph Avenue

1. Nancy Carleton, on behalf of the Halcyon Neighborhood Association

Berkeley Main Post Office

2. Arthur Stopes
3. Save the Berkeley Post Office

2790 Buena Vista

4. Law Offices of Rena Rickles

CNA Newsletter

5. Ted Edlin

Mercury Dental Amalgam

6. Kristin Homme