

CONSENT CALENDAR June 25, 2013

To: Honorable Mayor and Members of the City Council

From: (Christine Daniel, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Minutes for Approval

#### RECOMMENDATION

Approve the minutes for the Council meetings of May 7, 2013 (special, special closed and regular), May 14, 2013 (special closed), May 21, 2013 (special and regular) and May 28, 2013 (special closed and special).

#### CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

#### Attachments:

- 1. May 7, 2013-Special City Council Meeting
- 2. May 7, 2013-Special Closed City Council Meeting
- 3. May 7, 2013-Regular City Council Meeting
- 4. May 14, 2013-Special Closed City Council Meeting
- 5. May 21, 2013-Special City Council Meeting
- 6. May 21, 2013-Regular City Council Meeting
- 7. May 28, 2013-Special Closed City Council Meeting
- 8. May 28, 2013-Special City Council Meeting

#### MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, MAY 7, 2013

#### 5:30 P.M.

Council Chambers – 2134 Martin Luther King Jr. Way

TOM BATES, MAYOR Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

Roll Call: 5:31 p.m.

**Present:** Councilmembers Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington

and Wozniak.

**Absent:** Councilmember Anderson and Mayor Bates.

Mayor Bates present at 5:39 p.m.

Public Comment – Items on this agenda only – 3 speakers.

#### Worksession:

#### 1. Proposed FY 2014 and FY 2015 Budget

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

Action: Presentation made and discussion held.

#### **Adjournment**

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

Vote: Ayes - Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates;

Noes - None; Abstain - None; Absent - Anderson.

Adjourned at 6:04 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of May 7, 2013.

Mark Numainville, CMC, City Clerk

#### **Communications**

None

**Supplemental Communications and Reports 1** 

None

**Supplemental Communications and Reports 2** 

None

**Supplemental Communications and Reports 3** 

Item 1: Proposed FY 2014 and FY 2015 Budget

1. Presentation, submitted by City Manager's Office

# MINUTES BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, MAY 7, 2013 6:00 P.M.

Council Chambers – 2134 Martin Luther King Jr. Way

Tom Bates, Mayor

Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

**Roll Call:** 6:04 p.m.

**Present:** Councilmembers Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington,

Wozniak and Mayor Bates.

**Absent:** Councilmember Anderson.

Councilmember Anderson present at 7:00 p.m.

**Public Comment - Limited to items on this agenda only –** 0 speakers.

#### **CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

#### 1. CONFERENCE WITH LABOR NEGOTIATOR; GOVERNMENT CODE SECTION 54957.6:

**Negotiators:** Christine Daniel, City Manager, Margarita Zamora, Senior Human Resources Analyst, Sarah Reynoso, Assistant City Attorney, Gil Dong, Deputy Fire Chief, Eddie Kreisberg, Labor Negotiator.

**Employee Organizations**: Berkeley Fire Fighters Association.

Action: No reportable action taken.

#### **OPEN SESSION:**

Public Reports of actions taken pursuant to Government Code section 54957.1.

#### **Adjournment**

Action: M/S/C (Maio/Wengraf) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 7:02 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of March 18, 2013.
Mark Numainville, CMC, City Clerk

# MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, MAY 7, 2013

#### 7:00 P.M.

#### COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

**Roll Call:** 7:09 p.m.

**Present:** Councilmembers Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf,

Worthington, Wozniak and Mayor Bates.

Absent: None.

#### **Ceremonial Matters:**

1. Art Contest Winners

- 2. Cesar Chavez Essay Contest Winners
- 3. Armenian Genocide Commemoration
- 4. East Bay Affordable Housing Week
- 5. Berkeley Architectural Heritage Month

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 6 speakers.

Public Comment on Consent Calendar and Information Items Only: 4 speakers.

#### **Consent Calendar**

**Action:** M/S/C (Arreguin/Moore) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

#### Consent Calendar – Continued Business

A. Lease of Five City Parcels to Berkeley Housing Authority for the Disposition and Rehabilitation of Affordable Housing by Berkeley 75 Housing Partners L.P. (Continued from April 30, 2013)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,284–N.S. authorizing the City Manager to: a) Execute a ground lease for seventy years with an option to renew for twenty-nine years with the Berkeley Housing Authority (BHA) for the five

#### **Consent Calendar – Continued Business**

parcels of land at 2231 Eighth Street, 1605 Stuart Street, 1812 Fairview Street, 1519 Alcatraz Avenue, and 3016 Harper Street, to be assumed by Berkeley 75 Housing Partners L.P. (Berkeley 75) conditioned upon termination of the existing ground lease with the BHA and the close of Berkeley 75's construction financing for the rehabilitation of the units on the parcels; and b) Execute an Agreement Regarding Assumption of Ground Lease with the Berkeley Housing Authority and Berkeley 75 consenting to the termination of the existing ground lease with the BHA and the close of Berkeley 75's construction financing for the rehabilitation of the units on the parcels.

First Reading Vote: All Ayes.
Financial Implications: See report

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

**Action:** Adopted second reading of Ordinance No. 7,284-N.S.

#### **Consent Calendar**

1. Amendment: FY 2013 Annual Appropriations Ordinance

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance 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).

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

Action: Adopted first reading of Ordinance No. 7,285–N.S. Second reading

scheduled for May 21, 2013.

### 2. Formal Bid Solicitation and Request for Proposal Scheduled for Possible Issuance After Council Approval on May 7, 2013

From: City Manager

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Financial Implications: Various Funds - \$476,768

Contact: Robert Hicks, Finance, 981-7300

**Action:** Approved recommendation.

#### 3. Contract: Wells Fargo Bank for Banking Services

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a four-year contract with Wells Fargo Bank to provide a comprehensive range of banking services to the City for the period of June 1, 2013 through May 31, 2017, in an amount not to exceed \$4,142,000, with an option for two 3-year extensions for a total of ten (10) years contract amount not to exceed \$10,356,000.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Moved to Action Calendar. 2 speakers. M/S/C (Moore/Wozniak) to adopt Resolution No. 66,106–N.S. and to direct the City Manager to provide an annual report on the performance of Wells Fargo including social responsibility requirements.

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

#### 4. Mental Health Services Act FY12 and FY13 Annual Update

From: City Manager

**Recommendation:** Adopt a Resolution to approve the Mental Health Services Act (MHSA) Fiscal Years 2012 and 2013 Annual Plan Update to fund local mental health programs and services through June 30, 2014 and authorize the City Manager to forward the update to appropriate state officials.

Financial Implications: See report

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

**Action:** Adopted Resolution No. 66,107–N.S.

# 5. Contract Amendments: Mental Health Services Act Community Services and Supports, Prevention and Early Intervention, and Innovations From: City Manager

**Recommendation:** Adopt fourteen Resolutions authorizing the City Manager to execute amendments totaling up to \$534,562 for the following contracts that are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS), Prevention and Early Intervention (PEI), and Innovations (INN) monies, increasing the contract amounts, expending the INN funds by June 30, 2013, extending the CSS contract through September 30, 2013, and extending the PEI and INN contracts through June 30, 2014.

- 1. Increasing CSS Contract No. 8439C with Youth Engagement Advocacy Housing (YEAH) by \$25,442 for a total contract amount not to exceed \$330,746.
- 2. Increasing PEI Contract No. 8573C with Albany Unified School District (AUSD) by \$53,040 for a total contract amount not to exceed \$212,160.
- 3. Increasing PEI Contract No. 8801B with Center for Independent Living (CIL) in the amount of \$26,520 for a total contract amount not to exceed \$79,560.
- 4. Increasing PEI Contract No. 8560C with G.O.A.L.S. For Women, Inc. in the amount of \$26,520 for a total amount not to exceed \$106,080.
- 5. Increasing PEI Contract No. 8516C with Pacific Center for Human Growth in the amount of \$26,520 for a total contract amount not to exceed \$106,080.
- 6. Increasing PEI Contract No. 8606C with Youth Engagement Advocacy Housing (YEAH), in the amount of \$26,520 for a total contract amount not to exceed \$106,080.
- 7. Increasing PEI Contract No. 8975A with Berkeley Unified School District (BUSD) in the amount of \$35,000 for a total contract amount not to exceed \$125,000.
- 8. Increasing INN Contract No. 9009 with Albany Senior Center in the amount of \$45,000 for a total contract amount not to exceed \$94,999.
- 9. Increasing INN Contract No. 9029 with Berkeley Food and Housing Project in the amount of \$45,000 for a total contract amount not to exceed \$94,999.
- 10. Increasing INN Contract No. 9008 with Community Health for Asian Americans (CHAA) in the amount of \$45,000 for a total contract amount not to exceed \$94,999.
- 11. Increasing INN Contract No. 9015 with McGee Avenue Baptist Church in the amount of \$45,000 for a total contract amount not to exceed \$94,750.
- 12. Increasing INN Contract No. 9016 with Niroga Institute in the amount of \$45,000 for a total contract amount not to exceed \$94,999.
- 13. Increasing INN Contract No. 9013 with Options Recovery Services in the amount of \$45,000 for a total contract amount not to exceed \$94,999.

14. Increasing INN Contract No. 9018 with Pacific Center for Human Growth in the amount of \$45,000 for a total contract amount not to exceed \$94,999.

Financial Implications: See report

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

**Action:** Adopted the following resolutions:

- 1. Resolution No. 66,108–N.S. (YEAH)
- 2. Resolution No. 66,109–N.S. (AUSD)
- 3. Resolution No. 66,110 –N.S. (CIL)
- 4. Resolution No. 66,111–N.S. (GOALS)
- 5. Resolution No. 66,112–N.S. (PEI)
- 6. Resolution No. 66,113–N.S. (YEAH)
- 7. Resolution No. 66,114–N.S. (BUSD)
- 8. Resolution No. 66,115–N.S. (INN)
- 9. Resolution No. 66,116–N.S. (INN)
- 10. Resolution No. 66.117-N.S. (CHAA)
- 11. Resolution No. 66,118–N.S. (INN)
- 12. Resolution No. 66,119–N.S. (INN)
- 13. Resolution No. 66,120–N.S. (INN)
- 14. Resolution No. 66,121–N.S. (INN)

#### 6. Classification: Manager of Housing and Community Services

From: City Manager

**Recommendation:** Adopt a Resolution amending Resolution No. 64,250-N.S., Classification and Salary Resolution for Public Employees Union Local One, to revise and re-title the Housing Services Manager to Manager of Housing and Community Services and reduce the monthly salary by 3% to \$9,091 - \$11,056 effective May 12, 2013; and abolishing the classification of Community Services & Administration Manager.

Financial Implications: See report

Contact: David Abel, Human Resources, 981-6800

**Action:** Adopted Resolution No. 66,122–N.S.

#### 7. Classification: Environmental Health Supervisor

From: City Manager

**Recommendation:** Adopt a Resolution amending Resolution No. 64,250-N.S., Classification and Salary Resolution for Public Employees Union Local One, to establish the classification of Environmental Health Supervisor with a monthly salary range of \$7,352 to \$8,543 effective May 12, 2013.

Financial Implications: See report

Contact: David Abel, Human Resources, 981-6800

Action: Adopted Resolution No. 66,123–N.S.

#### 8. Supplemental Military Leave Compensation Policy

From: City Manager

**Recommendation:** Adopt a Resolution amending Resolution No. 63,646-N.S. to extend the City's supplemental military leave compensation benefit to May 31, 2014 to provide additional wages to supplement an employee's military pay and allowances for a period not to exceed two years that must be taken within 36 months for employees called up to involuntary active military service.

**Financial Implications:** No fiscal impact at this time Contact: David Abel, Human Resources, 981-6800 **Action:** Adopted Resolution No. 66,124–N.S.

9. Contracts: Technical Planning Services

From: City Manager

**Recommendation:** Adopt eight Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for technical planning services for a total contract period of three years:

- 1. JWC Urban Design in an amount not to exceed \$250,000; and
- 2. Architecture+History in an amount not to exceed \$250,000; and
- 3. Knapp Architects in an amount not to exceed \$250,000; and
- 4. Pacific Legacy, Inc. in an amount not to exceed \$250,000; and
- 5. Tim Kelley Consulting in an amount not to exceed \$250,000; and
- 6. RCC Consultants, Inc. in an amount not to exceed \$500,000; and
- 7. Cotton Shires & Associates, Inc. in an amount not to exceed \$500,000; and
- 8. Square One Productions in an amount not to exceed \$500,000.

Financial Implications: See report

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

**Action:** Adopted the following resolutions:

- 1. Resolution No. 66,125–N.S. (JWC)
- 2. Resolution No. 66,126–N.S. (Architecture + History)
- 3. Resolution No. 66,127–N.S. (Knapp)
- 4. Resolution No. 66,128–N.S. (Pacific Legacy)
- 5. Resolution No. 66,129–N.S. (Tim Kelley)
- 6. Resolution No. 66,130–N.S. (RCC)
- 7. Resolution No. 66,131–N.S. (Cotton Shires)
- 8. Resolution No. 66,132–N.S. (Square One)

# 10. Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation Project on Contra Costa Avenue, Capistrano Avenue, Solano Avenue, The Alameda, and Los Angeles Avenue

From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Approving the plans and specifications for the Sanitary Sewer Project, 13-10692-C, located on Contra Costa Avenue, Capistrano Avenue, Solano Avenue, The Alameda, and Los Angeles Avenue; and
- 2. Accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and
- 3. Authorizing the execution of a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$834,368 for the period of 150 calendar days from the date of the execution of the contract.

Financial Implications: Sanitary Sewer Operation - \$834,368

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,133–N.S.

#### 11. Contract: City CarShare for City of Berkeley Fleet Carshare Program

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with City CarShare to continue the City of Berkeley Fleet Carshare Program, for an amount not to exceed \$240,000 for the period July 1, 2013 through June 30, 2015.

Financial Implications: Equipment Replacement Fund - \$240,000

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,134–N.S.

#### 12. Support SB 391, the California Homes and Jobs Act

From: Housing Advisory Commission

**Recommendation:** Adopt a Resolution supporting Senate Bill 391, the California Homes and Jobs Act and send a copy of the resolution to State Senator Mark DeSaulnier.

Financial Implications: None

Contact: Kristen Lee, Commission Secretary, 981-5427

**Action:** Adopted Resolution No. 66,135–N.S.

**Vote:** Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington,

Bates; Noes - None; Abstain - Wozniak.

#### **Council Consent Items**

### 13. Supporting Senate Bill 603, Changes to State Security Deposit Law From: Councilmember Arreguin

**Recommendation:** Adopt a Resolution supporting Senate Bill (SB) 603, introduced by State Senator Mark Leno, which would change state Security Deposit law (Civil Code Section 1950.5) to require statewide the payment of interest on security deposits and mandates increased penalties for non-payment of security deposits, in addition to other changes. Copies of the Resolution to be sent to Governor Jerry Brown, Senate President Pro Tem Darrell Steinberg, Senator Loni Hancock, Senator Mark Leno, Assembly Speaker John A. Perez and Assemblymember Nancy Skinner.

Financial Implications: None

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

**Action:** Adopted Resolution No. 66,136–N.S. Councilmember Worthington added as a co-sponsor.

#### 14. Assembly Bill 975: Charity Care

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:** Item held over to May 21, 2013.

#### 15. Commission Term Limits

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

Action: Moved to Action Calendar. 4 speakers. Item not completed – held over to

May 21, 2013.

# 16. City Manager Referral: Amending Administrative Regulation 1.11: Half-mast to Include Firefighters, Peace Officers, and Any City of Berkeley Employee who Fall in the Line of Duty, and National Tragedies

From: Councilmember Worthington

**Recommendation:** Refer to the City Manager to amend Administrative Regulation 1.11: half-mast to include firefighters, peace officers, and any City of Berkeley employee who dies in the line of duty.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Approved recommendation.

#### 17. Proclamation in Honor of Mary Rudge

From: Councilmember Worthington

Recommendation: Adopt a proclamation honoring Mary Rudge to be presented at

the 11th Annual Berkeley Poetry Festival on May 11, 2013.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Approved proclamation.

#### 18. Support SB 52: California DISCLOSE Act

From: Councilmember Worthington

Recommendation: Support SB 52: California DISCLOSE Act.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Approved recommendation.

#### 19. Support HR 675-Part Time Worker Bill of Rights

From: Councilmember Worthington

Recommendation: Support HR 675- Part Time Worker Bill of Rights.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Approved recommendation.

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

#### **Council Consent Items**

#### 20. Support SB 240: Require Polling Places on Higher Education Campuses

From: Councilmember Worthington

Recommendation: Support SB 240: Require Polling Places on Higher Education

Campuses.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Approved recommendation.

#### **Action Calendar - Appeal**

#### 21. ZAB Appeal: 1152 Amador Avenue

From: City Manager

**Recommendation:** Adopt a Resolution to affirm the Zoning Adjustments Board's (ZAB) approval of Administrative Use Permit No. 11-20000034 to enlarge an existing single-family residence from 2,645 square feet to 3,944 square feet by expanding the ground floor and constructing a new third floor, increasing the average height from 22 feet to 28 feet, 9 inches, on a 5,472 square foot parcel, in the R-1 (H) District.

Financial Implications: None

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

#### a. Appeal

1. Colin McGuire

#### b. Communications

1. Colin McGuire

**Action:** M/S/F (Worthington/Arreguin) to remand appeal points 1 and 3 to the Zoning Adjustments Board.

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

**Action:** 10 speakers. M/S/C (Capitelli/Wozniak) to adopt Resolution No. 66,137—N.S. affirming the Zoning Adjustments Board's (ZAB) approval of Administrative Use Permit No. 11-20000034 to enlarge an existing single-family residence from 2,645 square feet to 3,944 square feet by expanding the ground floor and constructing a new third floor, increasing the average height from 22 feet to 28 feet, 9 inches, on a 5,472 square foot parcel, in the R-1 (H) District.

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

#### 22. Public Hearing: FY 2014 Street Light Assessment

From: City Manager

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

1. Confirming the assessments in the Engineer's Report, dated January 2013, and

2. Authorizing the levying of FY 2014 Assessments for Berkeley Street Lighting Assessment District No. 1982-1.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

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

M/S/C (Moore/Arreguin) to close the public hearing.

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

Action: M/S/C (Worthington/Arreguin) to adopt Resolution No. 66,138–N.S.

1. Confirming the assessments in the Engineer's Report, dated January 2013, and

2. Authorizing the levying of FY 2014 Assessments for Berkeley Street Lighting Assessment District No. 1982-1.

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

Councilmember Wengraf absent 8:55 p.m. – 9:00 p.m.

Councilmember Capitelli absent 8:56 p.m. – 9:03 p.m.

Councilmember Maio absent 8:57 p.m. – 9:08 p.m.

Recess: 9:08 p.m. - 9:17 p.m.

#### 23. Public Hearing #1: City Council Redistricting Plan

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, evaluate plans submitted by the public, and provide direction to staff on the elements of a preferred plan to be considered and finalized at the second public hearing on July 2, 2013.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

**Public Testimony:** The Mayor opened the public hearing. 19 speakers. Public hearing continued to July 2, 2013.

**Action:** M/S/C (Wozniak/Moore) to focus consideration of redistricting proposals to the Berkeley Student District Campaign and Eric Panzer (Edge Simplicity) for the second public hearing on July 2, 2013.

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

**Action:** M/S/C (Maio/Capitelli) to suspend the rules and extend the meeting to 11:30 p.m.

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

#### **Action Calendar – Continued Business**

B. Extend Commercial Zoning on Fourth Street and Gilman Street (Continued from April 30, 2013)

From: Mayor Bates

**Recommendation:** Request the Planning Commission consider expanding Commercial West Berkeley (CW) zoning along: 1) Fourth Street to Virginia Street, 2) Gilman Street from Sixth Street to San Pablo Avenue (precise area indicated on map attached to Council report).

**Financial Implications:** Increased tax revenue and employment opportunities.

Contact: Tom Bates, Mayor, 981-7100

Action: 1 speaker. Item held over to May 28, 2013.

C. 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

**Action:** Item continued to May 21, 2013.

D. City Manager Referral: Solarizing & Energy Retrofitting Via a Joint Power Agreement (Continued from April 30, 2013)

From: Councilmember Worthington

**Recommendation:** Referral to City Manager to evaluate the feasibility of the City of Berkeley opting into a Joint Power Agreement (JPA) to add one more tool to increase solarizing and energy retrofitting.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** Moved to Consent Calendar. Approved Councilmember Worthington's recommendation to refer to the City Manager to evaluate the feasibility of the City of Berkeley opting into a Joint Power Agreement (JPA) to add one more tool to increase solarizing and energy retrofitting and include the Mayor's Memo in the referral.

#### **Action Calendar – Old Business**

**24. 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

Action: Item continued to May 21, 2013.

#### **Action Calendar – New Business**

#### 25. Paperless Agenda Packet Program

From: City Manager

**Recommendation:** Review and discuss the proposed Paperless Agenda Packet

Program scheduled to be implemented in Fiscal Year 2013 and 2014.

**Financial Implications:** Estimated savings of approximately \$44,000 over four years.

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Moved to Consent Calendar. Approved the City Manager's

recommendation to review and discuss the proposed Paperless Agenda Packet

Program scheduled to be implemented in Fiscal Year 2013 and 2014.

### 26. Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 12.70 to prohibit tobacco smoking which involuntarily exposes neighbors to secondhand smoke in all multi-unit housing in the City with enforcement through private right of action; to require that all new leases include a non-smoking clause; and to permit any tenant who is involuntarily exposed to tobacco smoke to terminate his or her lease without penalty if the landlord fails to include or enforce the non-smoking clause.

Financial Implications: None

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

**Action:** 2 speakers. Item held over to May 28, 2013.

#### 27. Berkeley Bike Sharing Program

From: Councilmember Moore

**Recommendation:** Direct the City Manager to develop a bike sharing program for

the City of Berkeley for Council adoption in 6 months.

Financial Implications: Unknown

Contact: Darryl Moore, Councilmember, District 2, 981-7120

**Action:** Moved to Consent Calendar. Approved Councilmember Moore's revised recommendation to refer the development of a bike sharing program to the City Manager for analysis. Councilmember Worthington added as a co-sponsor.

### 28. Referral to City Manager: Amendments to Affordable Housing Fee Ordinance 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 (BMC) 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

**Action:** Item held over to May 21, 2013.

#### **Information Reports**

#### 29. Lack of Support for Payroll Adjusting Journal Entries: Grant Revenue at Risk?

From: City Manager

Contact: Robert Hicks, Finance, 981-7300

Action: Received and filed.

#### 30. Draft Mayor and Council Office Budget Donation Policy

From: Councilmember Arreguin

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

**Action:** Received and filed.

#### Public Comment – Including Items Not Listed on the Agenda – 0 speakers.

#### **Adjournment**

Adjourned at 11:30 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of May 7, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

#### **Communications**

#### Item 23: Public Hearing #1: City Council Redistricting Plan

- 1. Curtis Manning
- 2. Jack Litewka

### Item 26: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

3. Housing Advisory Commission

#### **Cable Wake Park**

4. Jeremy Blanchard

#### **Claim Denials**

5. Richard Berkeley

#### CalPERS Changes

6. Barbara Gilbert

#### **Review of Eye Witness Testimony Policy**

7. Police Review Commission

#### **Supplemental Communications and Reports 1**

Item 21: ZAB Appeal: 1152 Amador Avenue

8. Colin McGuire

Item 23: Public Hearing #1: City Council Redistricting Plan

9. Alfred Twu

#### **Supplemental Communications and Reports 2**

### Item 26: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

- 10. Cynthia Hallett, on behalf of Americans for Nonsmokers' Rights (ANR)
- 11. Housing Advisory Commission
- 12. Berkeley Rent Stabilization Board and the Community Health Commission
- 13. Deb Jacklin
- 14. Igor Tregub

#### **Supplemental Communications and Reports 3**

#### Item 14: Assembly Bill 975: Charity Care

15. Rebecca Rozen, on behalf of the Hospital Council

16. Angelica Gonzalez, on behalf of Kaiser Permanente

#### Item 21: ZAB Appeal: 1152 Amador Avenue

17. Colin McGuire

18. Todd Forbush and Hillary Metz

#### **Eids TV**

19. M. Eid Abdallah

#### MINUTES

#### BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, MAY 14, 2013

5:30 P.M.

#### 2180 Milvia Street, 1st Floor, Cypress Room

Tom Bates, Mayor Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

**Roll Call:** 5:32 p.m.

**Present:** Councilmembers Capitelli, Maio, Moore, Wengraf, Wozniak and Mayor

Bates.

**Absent:** Councilmembers Anderson, Arreguin and Worthington.

Councilmember Anderson present at 5:34 p.m. Councilmember Arreguin present at 5:34 p.m. Councilmember Worthington present at 5:45 p.m.

Public Comment - Limited to items on this agenda only - 0 speakers.

#### **CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

### 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

#### Pending litigation – three cases

- a. Rollie French v. Arntz Builders, City of Berkeley, et al. (Alameda County Superior Court Case No.2002-043461) consolidated with:
  - i. Helix Electric v. Arntz Builders, et al. (Alameda County Superior Court Case No. 2002-061480);
  - ii. Thyssenkrupp Elevator Corp. v. Arntz Builders, et al. (Alameda County Superior Court Case No.2002-071479);
  - iii. F.W. Spencer & Son, Inc. v. Arntz Builders, et al. (Alameda County Superior Court Case No. RG03082302);
  - iv. Bay Systems Integrators, Inc. v. Helix Electric, Inc., et al. (Alameda County Superior Court Case No. RG03089440); and
  - v. Arntz Builders, Inc. v. City of Berkeley, et al. (Alameda County Superior Court Case No. RG 03095394).)

**Action:** No reportable action taken.

<u>Buffy Plante v. City of Berkeley, et al.</u>
 (Alameda County Superior Court Case No. RG 12 615967)

**Action:** M/S/C (Moore/Wozniak) to authorize the City Attorney to settle the public liability lawsuit of Buffy Plante v. City Of Berkeley, Alameda County Superior Court Action No. RG 12 615967. Adopted Resolution No. 66,139–N.S.

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

c. <u>City of Berkeley v. Kenneth Sarachan and Laurie Brown</u>, and related cross-action (Alameda County Superior Court Case No. RG RG12 614265)

Action: No reportable action taken.

### 2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4):

#### Initiation of litigation – two cases

a. The City Council will consider whether to initiate a lawsuit against the County of Alameda to recover excess property tax administration fees (PTAF) for the years 2006-07 to date, plus interest.

Action: No reportable action taken.

b. The City Council will consider whether to initiate administrative proceedings and/or a lawsuit against the United States Postal Service concerning the sale of the Main Berkeley Post Office and the relocation of services from it.

Action: No reportable action taken.

#### OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

#### Adjournment

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

Vote: All Ayes.

Adjourned at 7:05 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of May 14, 2013.

Mark Numainville, CMC, City Clerk

#### MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, MAY 21, 2013

#### 5:30 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:** 5:30 p.m.

Present: Councilmembers Capitelli, Maio, Moore, Wengraf, Wozniak and Mayor

Bates.

**Absent:** Councilmembers Anderson, Arreguin and Worthington.

Councilmember Anderson present at 5:33 p.m. Councilmember Arreguin present at 6:02 p.m. Councilmember Worthington present at 6:15 p.m.

Public Comment – Items on this agenda only: 0 speakers.

#### Worksession:

#### 1. Economic Development Worksession

From: City Manager

Contact: Michael Caplan, Economic Development, 981-7530

**Action:** Presentation made and discussion held.

#### 2. FY 2014 Policy Planning Workplan

From: City Manager

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

Action: Presentation made and discussion held.

#### **Adjournment**

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

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

None; Abstain - None; Absent - Maio.

Councilmember Maio absent 6:55 p.m. – 6:58 p.m.

Adjourned at 6:58 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of May 21, 2013.

Mark Numainville, CMC, City Clerk

#### **Communications**

None

#### **Supplemental Communications and Reports 1**

None

#### **Supplemental Communications and Reports 2**

None

#### **Supplemental Communications and Reports 3**

#### **Item 1: Economic Development Worksession**

- 1. Presentation, submitted by Economic Development
- 2. Barbara Gilbert
- 3. Elizabeth Scherer
- 4. Dorothy Berndt

# MINUTES 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 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

**Roll Call:** 7:13 p.m.

**Present:** Councilmembers Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf,

Worthington, Wozniak and Mayor Bates.

Absent: None.

#### **Ceremonial Matters:**

1. Kevin Nierman and Kids n' Clay Day - May 21, 2013

City Manager Comments: None

Public Comment on Non-Agenda Matters: 4 speakers.

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

#### **Consent Calendar**

Action: M/S/C (Capitelli/Worthington) to adopt the Consent Calendar in one motion except

as indicated: **Vote:** All Ayes.

#### **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 **Action:** Adopted second reading of Ordinance No. 7,285–N.S.

#### 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

**Action:** Approved minutes as submitted.

### 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 **Action:** Adopted Resolution No. 66,140–N.S.

#### 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

**Action:** Approved recommendation.

# 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

**Action:** Adopted Resolution No. 66,141–N.S.

### 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

Action: Adopted Resolution No. 66,142–N.S.

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 **Action:** Adopted first reading of Ordinance No. 7,286–N.S. Second reading scheduled for June 4, 2013.

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

**Action:** Adopted Resolution No. 66,143–N.S.

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.
- 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

**Action:** Adopted the following six resolutions:

- 1. Resolution No. 66,144–N.S. (Public Health Infrastructure)
- 2. Resolution No. 66,145–N.S. (Foster Care Program)
- 3. Resolution No. 66,146 –N.S. (Lead Poisoning Prevention)
- 4. Resolution No. 66,147–N.S. (Berkeley High School Health Center)
- 5. Resolution No. 66,148–N.S. (School Linked Health)
- 6. Resolution No. 66,149 N.S. (Tobacco Prevention Program)

## 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.
- 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 **Action:** Adopted the following nine resolutions:

- 1. Resolution No. 66,150–N.S. (CHDP Program)
- 2. Resolution No. 66,151–N.S. (MCAH and BIH)
- 3. Resolution No. 66,152–N.S. (Public Health Preparedness)
- 4. Resolution No. 66,153–N.S. (510 Free From Tobacco)
- 5. Resolution No. 66,154–N.S. (Tobacco Trust Fund)
- 6. Resolution No. 66,155–N.S. (HIV Surveillance)
- 7. Resolution No. 66,156–N.S. (Immunization Program)
- 8. Resolution No. 66,157–N.S. (Tuberculosis Control Program)
- 9. Resolution No. 66,158–N.S. (MAA)

### 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

**Action:** Adopted Resolution No. 66,159–N.S.

### 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

**Action:** Adopted Resolution No. 66,160–N.S.

### 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

Action: Adopted Resolution No. 66,161–N.S.

### 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

Action: Adopted Resolution No. 66,162–N.S.

### 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

Action: Adopted Resolution No. 66,163–N.S.

### 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 **Action:** Adopted Resolution No. 66,164–N.S.

### 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 **Action:** Adopted Resolution No. 66,165–N.S.

### 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 **Action:** Adopted Resolution No. 66,166–N.S.

### 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 **Action:** Adopted Resolution No. 66,167–N.S.

### 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 **Action:** Adopted Resolution No. 66,168–N.S.

#### **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

**Action:** Adopted Resolution No. 66,169–N.S. revised to include contributions from the following Councilmembers up to the amount listed: Councilmember Anderson - \$500. Councilmember Anderson added as a co-sponsor.

### 22. Opposing US Attorney's Forfeiture Action Against Berkeley Patients Group 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

**Action:** Adopted Resolution No. 66,170–N.S. Councilmember Anderson added as a co-sponsor.

#### 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

**Action:** Adopted Resolution No. 66,171–N.S.

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

#### 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

Action: Adopted Resolution No. 66,172–N.S.

#### **Council Consent Items**

### 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

Action: Approved recommendation. Councilmembers Capitelli, Moore, and

Wozniak added as co-sponsors.

### 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

**Action:** Adopted Resolution No. 66,173–N.S. revised to include contributions from the following Councilmembers up to the amount listed: Councilmember Anderson - \$500. Councilmember Anderson added as a co-sponsor.

# 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: Approved proclamation. Councilmembers Moore, Anderson, and Arreguin

added as co-sponsors.

#### **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**: 17 speakers. M/S/C (Anderson/Arreguin) to set the matter for a public hearing before the City Council. Request that staff provide information on the current uses of existing business that fall under the food service quota categories. **Vote:** Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – Bates.

Recess: 8:42 p.m. - 8:54 p.m.

#### 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

Public Testimony: None.

**Action:** M/S/C (Maio/Wengraf) to refer the item to the Agenda Committee for scheduling at a future date.

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

### 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

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

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

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

**Action:** Discussion held regarding the FY 2014 and FY 2015 proposed budget. Referred the following allocations to the budget process: Additional traffic calming funding - \$55,000 (Moore); Women's Daytime Drop-In Center - \$20,000 (Maio); New Bridge Foundation - \$50,000 (Wengraf); Youth Spirit Artworks - \$50,000 (Anderson); Multicultural Institute - \$18,000 (Arreguin).

#### 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

**b. Action**: 0 speakers. Discussion held regarding comments from Council on the FY 2014 Citywide Work Plan.

#### 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

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

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

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

**Action:** M/S/C (Capitelli/Maio) to adopt Resolution No. 66,174–N.S. 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.

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

#### 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

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

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

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

**Action:** M/S/C (Maio/Wozniak) to adopt Resolution No. 66,175–N.S.

- 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.

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

#### 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

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

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

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington,

Wozniak, Bates; Noes - None.

Action: M/S/C (Maio/More) to adopt Resolution No. 66,176-N.S.

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.

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

### 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

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

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

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

**Action:** M/S/C (Moore/Wozniak) to adopt Resolution No. 66,177–N.S. approving new fees for development-related services provided by the Planning and Development Department, and rescinding Resolution No. 65,721-N.S.

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

#### 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

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

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

**Vote:** Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington,

Wozniak, Bates; Noes - None.

**Action:** M/S/C (Worthington/Arreguin) to adopt Resolution No. 66,178–N.S. 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. The Transportation Commission and any other commissions with direct purview will have an advisory role in project expenditure planning.

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

Recess: 10:21 p.m. - 10:26 p.m.

#### **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

Action: Item held over to June 4, 2013.

### 34. Berkeley City Councilmembers Jointly Sign the CREDO Action Keystone XL Pledge of Resistance (Continued from April 30, 2013)

From: Councilmembers Worthington, Anderson and Arreguín

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

#### **Action Calendar – Old Business**

**Action:** 0 speakers. M/S/C (Worthington/Arreguin) to approve Councilmembers Worthington, Anderson and Arreguín's revised recommendation for the Berkeley City Council members voting in favor of item to go on the record individually to sign the CREDO Action Keystone XL Pledge of Resistance.

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

#### 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

**Action:** Item held over to June 11, 2013.

#### 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

Action: Item held over to June 11, 2013.

#### 37. Assembly Bill 975: Charity Care (Continued from May 7, 2013)

From: Councilmember Arrequin

**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: M/S/C (Arreguin/Bates) to accept supplemental material from

Councilmember Arreguin on Item 37.

**Vote:** Ayes - Maio, Moore, Anderson, Arrequin, Capitelli, Wengraf, Worthington,

Wozniak, Bates; Noes - None.

**Action:** 0 speakers. Item held over to June 4, 2013.

#### **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

**Action:** 0 speakers. M/S/C (Capitelli/Arreguin) to continue the item to the July 16, 2013 meeting and request that staff prepare a report on the current process for monitoring affordable housing units and enforcing regulatory requirements.

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

**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

Action: Item held over to July 2, 2013.

#### **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

**Action:** Item held over to June 4, 2013.

#### **Information Reports**

#### 41. July 4th Celebration at the Berkeley Marina

From: City Manager

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

**Action**: Received and filed.

#### 42. Annual Report - Open Government Commission

From: Open Government Commission

Contact: Kristy van Herick, Commission Secretary, 981-6986

Action: Received and filed.

#### Public Comment - Including Items Not Listed on the Agenda -

#### Adjournment in memory of:

1. Barbara Oliver, Actress and Director of the Aurora Theater Company

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

Adjourned at 10:48 p.m.

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

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of May 21, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

#### Communications

#### 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

#### **Supplemental Communications and Reports 1**

#### Item 28: ZAB Appeal: 2401 Telegraph Avenue

- 7. Kenneth Sarachan
- 8. Jeffrey Leon
- 9. Roland Peterson, on behalf of the Telegraph Business Improvement District

#### Item 29: LPC Appeal: 2517 Regent Street

- 10. Revised materials, submitted by Planning & Development
- 11. Susan Cerny, on behalf of the Berkeley Architectural Heritage Association

#### **Supplemental Communications and Reports 2**

#### Item 28: ZAB Appeal: 2401 Telegraph Avenue

- 12. Sasha Duchin
- 13. Megan Porter
- 14. Sarah Pinner
- 15. Brita Priest
- 16. Sirin Ozturk

#### Item 29: LPC Appeal: 2517 Regent Street

- 17. Christina Dikas
- 18. Anthony Bruce, on behalf of the Berkeley Architectural Heritage Association
- 19. Robert Kehlmann
- 20. Stephanie Manning
- 21. Daniella Thompson
- 22. Michael Katz

#### Item 30a: Fiscal Year 2014 and Fiscal Year 2015 Proposed Budget Public Hearing #1

- 23. Transportation Commission Referred to budget process by Councilmember Moore.
- 24. Barbara Gilbert (2)
- 25. Witt Monts

#### **Item 39: Commission Term Limits**

26. Gene Poschman

#### **Supplemental Communications and Reports 3**

### Item 25: Refer AB 321 to the Transportation Commission to Consider Implementation of a 15 mph Limit in All Elementary School Zones in Berkeley

27. Lara Hornbeck

28. Joel Gerwein

29. Karen Parolek

30. lan Moore

31. Nova Blazei

32. Anna Bellomo

#### Item 28: ZAB Appeal: 2401 Telegraph Avenue

33. Gus Shamieh

#### **Supplemental Communications and Reports 3**

Item 29: LPC Appeal: 2517 Regent Street

34. Richard Schwartz

Item 30a: Fiscal Year 2014 and Fiscal Year 2015 Proposed Budget Public Hearing #1

35. Sherry Keith and Robert Girling

36. Silvia Bustamonte

Item 30b: City Council Comments on FY 2014 Work Plan

37. John Caner

Item 37: Assembly Bill 975: Charity Care

38. Revised materials, submitted by Councilmember Arreguin

Item 40: Berkeley Medical Marijuana Regulations

39. Charles Pappas

40. Dan Rush

**Landlord Concerns** 

41. M. Eid Abdallah

#### MINUTES

### BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, MAY 28, 2013

5:30 P.M.

Council Chambers – 2134 Martin Luther King, Jr. Way

#### **Preliminary Matters**

Roll Call: 5:30 p.m.

Present: Councilmembers Maio, Moore, Arreguin, Capitelli, Wengraf, Wozniak and

Mayor Bates.

**Absent:** Councilmembers Anderson and Worthington.

Councilmember Anderson present at 5:37 p.m. Councilmember Worthington present at 5:52 p.m.

Public Comment - Limited to items on this agenda only - 4 speakers.

#### **CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

#### 1. CONFERENCE WITH LABOR NEGOTIATOR; GOVERNMENT CODE SECTION 54957.6:

**Negotiators:** Christine Daniel, City Manager, William Rogers, Deputy City Manager, Teresa Berkeley-Simmons, Budget Manager, Margarita Zamora, Acting Employee Relations Manager, Sarah Reynoso, Assistant City Attorney, Mark Zembsch, Deputy City Attorney, Gil Dong, Acting Fire Chief, Eddie Kreisberg, Labor Negotiator, Margaret Edwards, Associate Human Resources Analyst, Jane Micallef, Director of Health, Housing and Community Services.

**Employee Organizations**: SEIU Local 1021, Community Services and Part-Time Recreation Leaders Association, Berkeley Fire Fighters Association, Public Employees Union, Local One.

**Action:** No reportable action taken.

#### **OPEN SESSION:**

Public Reports of actions taken pursuant to Government Code section 54957.1.

#### **Adjournment**

Adjourned at 6:59 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of May 28, 2013.

Rose Thomsen, Deputy City Clerk

#### MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, MAY 28, 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

#### **Preliminary Matters**

**Roll Call:** 7:03 p.m.

**Present:** Councilmembers Anderson, Arrequin, Capitelli, Maio, Moore, Wengraf,

Worthington, Wozniak and Mayor Bates.

Absent: None.

#### **City Manager Comments:**

 The City Manager acknowledged a proclamation presented by Councilmember Maio for the Women's Daytime Drop-In Center 25<sup>th</sup> Anniversary – June 2, 2013, 2 - 6 p.m. at the Ed Roberts Campus

#### **Consent Calendar**

#### Public Comment – Items on this agenda only: None

Action: M/S/C (Bates/Moore) to adopt the Consent Calendar in one motion except

as indicated: **Vote:** All Ayes.

1. Women's Daytime Drop-In Center: 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 the Women's Daytime Drop-In Center 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 contribute.

Financial Implications: Councilmember's Discretionary Fund - \$500

Contact: Linda Maio, Councilmember, District 1, 981-7110

**Action:** Adopted Resolution No. 66,179–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$500; Councilmember Anderson - \$150.

2. Fiscal Year 2014 and Fiscal Year 2015 Proposed Biennial Budget Public Hearing #2

From: City Manager

Recommendation: Conduct a second public hearing on the FY 2014 and FY 2015

proposed biennial budget.

**Financial Implications:** See Proposed FY 2014 and FY 2015 Budget Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000 **Public Testimony:** The Mayor opened the public hearing. 6 speakers.

M/S/C (Moore/Maio) to close the public hearing.

Vote: All Ayes.

Action: Presentation made and discussion held.

#### **Action Calendar – Old Business**

3. Extend Commercial Zoning on Fourth Street and Gilman Street (Continued from May 7, 2013)

From: Mayor Bates

**Recommendation:** Request the Planning Commission consider expanding Commercial West Berkeley (CW) zoning along: 1) Fourth Street to Virginia Street, 2) Gilman Street from Sixth Street to San Pablo Avenue (precise area indicated on map attached to Council report).

Financial Implications: Increased tax revenue and employment opportunities.

Contact: Tom Bates, Mayor, 981-7100

**Action:** M/S/C (Maio/Moore) to accept revised material from Mayor Bates.

Vote: All Ayes.

**Action:** 11 speakers. M/S/C (Maio/Moore) to approve the Mayor's recommendation as revised to:

- Request the Planning Commission consider expanding Commercial West Berkeley (CW) zoning along the area indicated on the revised map attached to Council report.
- 2. Revise the boundary line to include Fitness Evolved and Phoenix Gym within the area for consideration.
- 3. Refer to the Planning Commission to:
  - a. Study the area south of Gilman Street between Sixth Street and Seventh Street, consult with Berkeley Unified School District as appropriate, and return to Council with a recommendation for possible future action.
  - b. Evaluate alternatives to drawing zoning boundaries through buildings.
  - c. Consider the possibility of overlay zoning to remove the residential component.

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

Councilmember Worthington absent 8:33 p.m. – 9:11 p.m.

#### Action Calendar - Old Business

**4.** Temporarily Relax Quota System on Telegraph Avenue (Continued from April 30, 2013)

**From: Mayor Bates** 

**Recommendation:** Request the Planning Commission consider zoning changes on Telegraph Avenue in the Southside area to allow a temporary relaxation of the quota system for three years.

Financial Implications: Increased sales tax revenue and employment

opportunities.

Contact: Tom Bates, Mayor, 981-7100

**Action:** 3 speakers.

M/S/F (Worthington/Arreguin) to table the issue of temporarily relaxing the quota system on Telegraph Avenue until such time that the Planning Department provides a report to Council containing data on how many food uses and how many of the different categories currently exist within the area.

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

M/S/C (Bates/Maio) to refer the issue of quotas on Telegraph Avenue to the Planning Commission to study. The Commission is to determine what is currently in the quotas and the current effects of the quotas, based on an analysis of what is currently happening on the Avenue.

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

5. Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70 (Continued from May 7, 2013)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 12.70 to prohibit tobacco smoking which involuntarily exposes neighbors to secondhand smoke in all multi-unit housing in the City with enforcement through private right of action; to require that all new leases include a non-smoking clause; and to permit any tenant who is involuntarily exposed to tobacco smoke to terminate his or her lease without penalty if the landlord fails to include or enforce the non-smoking clause.

Financial Implications: None

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

**Action:** 14 speakers. M/S/C (Bates/Maio) to refer the item to the City Manager to return with a revised Ordinance that incorporates the following recommendations from Council:

- 1. Encourage, but don't require, mediation;
- 2. Provide a limit of \$1,500 for all liability of each smoking tenant in a one year period.
- 3. Add "initial" before lease in the first sentence of Section 12.70.037.
- 4. Require tenancy applications to include information about which units do not have prohibitions in the lease regarding smoking.
- 5. Add a provision for voluntary lease addendums prohibiting smoking in the unit.

#### **Action Calendar – Old Business**

- 6. Require disclosure in condominium sales regarding the Smoke Free Ordinance.
- 7. Require signage in common areas regarding the ordinance, and add disclosure language that landlords would be required to provide to tenants at time of application.
- 8. Provide for outreach and smoking cessation classes.

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

#### **Adjournment**

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

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

Councilmember Worthington absent 10:19 p.m. – 10:57 p.m.

Adjourned at 10:57 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of May 28, 2013.

Mark Numainville, CMC, City Clerk

#### Communications

### Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

- 1. Housing Advisory Commission
- 2. Carol Denney

#### **Supplemental Communications and Reports 1**

None

#### **Supplemental Communications and Reports 2**

### Item 2: Fiscal Year 2014 and Fiscal Year 2015 Proposed Biennial Budget Public Hearing #2

- 3. Ann Krooth
- 4. Carol Rooney

### Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

- 5. Cynthia Hallett, on behalf of Americans for Nonsmokers' Rights
- 6. Tirien Steinbach, on behalf of the East Bay Community Law Center
- 7. Jay Kelekian
- 8. Serena Chen, on behalf of the American Lung Association in California

#### **Supplemental Communications and Reports 3**

#### Item 3: Extend Commercial Zoning on Fourth Street and Gilman Street

9. Revised materials, submitted by Mayor Bates 10. Unknown

#### Item 4: Temporarily Relax Quota System on Telegraph Avenue

11. M. Eid Abdallah

### Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

12. Presentation, submitted by Health, Housing & Community Services

13. Bruce Fiedler