REVISED AGENDA

(ADDED CONTINUED ITEMS FROM JUNE 25, 2013)

BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 2, 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 – Continued Business

A. Repeal BMC Section 9.08.090 Prohibiting Fliers on Windshields *(Continued from June 25, 2013)*
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,302-N.S. repealing Berkeley Municipal Code Section 9.08.090, which prohibits placing fliers on vehicle windshields.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Zach Cowan, City Attorney, 981-6950

B. FY 2014 Annual Appropriations Ordinance *(Continued from June 25, 2013)*
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,303-N.S. adopting the FY 2014 Annual Appropriations Ordinance (AAO) in the amount of $364,296,041 (gross appropriations) and $313,633,047 (net appropriations).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

Consent Calendar

1. **Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on July 2, 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 - $907,000
   Contact: Robert Hicks, Finance, 981-7300

2. **Annual Investment Report, Revisions to Investment Policies and Designation of Investment Authority**
   From: City Manager
   Recommendation: Adopt a Resolution accepting the Annual Investment Report, accepting the changes to the investment policies and renewing the delegation of authority to make investments to the Director of Finance for FY 2014, and retroactively approving the report for FY 2013 (which had no changes in policies).
   Financial Implications: See report
   Contact: Robert Hicks, Finance, 981-7300

3. **Contract No. 8460A Amendment: NextGen Healthcare Information Systems, Inc. for Electronic Health Records Implementation**
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8460A with NextGen Healthcare Information Systems, Inc., increasing the amount by $144,014, for a total not to exceed $468,211 from September 30, 2010 through June 30, 2016.
   Financial Implications: General Fund - $144,014
   Contact: Donna LaSala, Information Technology, 981-6500

4. **Contract No. 6096B Amendment: ESI Group for IBM Hardware and Software Lease**
   From: City Manager
   Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 6096B with ESI Group for leasing, maintenance, technical support, and consulting services for International Business Machines (IBM) hardware and software, increasing the current contract by $112,000, for a total not to exceed $1,240,000 from June 2, 2003 through June 30, 2014.
   Financial Implications: Various Funds - $112,000
   Contact: Donna LaSala, Information Technology, 981-6500

Consent Calendar

5. Commercial South Area (C-SA) "South Shattuck" Auto Sales Zoning Amendments, Amending BMC Chapter 23E.52
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 23E.52 (C-SA District) to allow new or relocated auto sales uses: a. with a Zoning Certificate (ZC) throughout the C-SA district when the business is conducted entirely indoors; b. with a Use Permit with Public Hearing (UPPH) in the Dealership Overlay Area if the business includes outdoor activities; c. subjecting all auto sales uses to specific development and performance standards that address neighborhood compatibility; and d. correcting typographical errors in the Chapter.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

6. Purchase Order: Folsom Lake Ford for 11 Police Patrol Vehicles
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order for 11 patrol vehicles with Folsom Lake Ford, in an amount not to exceed $290,000.
Financial Implications: Equipment Replacement Fund - $290,000
Contact: Andrew Clough, Public Works, 981-6300

7. Donation: Public Art for the Berkeley Animal Shelter
From: Civic Arts Commission
Recommendation: Approve the Hewlett Packard Company's $1,500 in-kind donation of photo processing and framing and the matching donated time and materials of professional photographer Daniel McPartlan for Public Art at the Berkeley Animal Shelter.
Financial Implications: See report
Contact: Mary Ann Merker, Commission Secretary, 981-7000

8. Appointment of Jean Marie "Herve" Michel to the Mental Health Commission
From: Mental Health Commission
Recommendation: Adopt a Resolution approving the appointment of Jean Marie "Herve" Michel to the Mental Health Commission, as a representative of the Special Public Interest Category, for a three year term beginning July 3, 2013 and ending July 2, 2016.
Financial Implications: See report
Contact: Carol Patterson, Commission Secretary, 981-5100

Council Consent Items

9. Support of Assembly Bill 551, Urban Agriculture Incentive Zones (UAIZ)
From: Councilmember Arreguin
Recommendation: Adopt a Resolution supporting Assembly Bill (AB) 551, authored by Assemblymember Phil Ting, which would allow a county or a city to establish by ordinance an Urban Agriculture Incentive Zone for the purpose of supporting urban agriculture. Copies of the resolution to be sent to Senator Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Pérez, and Assemblymembers Nancy Skinner and Phil Ting.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

10. Transverse Rumble Strips
From: Councilmembers Arreguin and Wozniak
Recommendation: Refer to the Public Works, Transportation and Disability Commissions for study the possible application and impacts of transverse rumble strips as a traffic calming measure on select non-residential streets that experience high-volume pedestrian crossing.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

11. Marijuana Smoking, Tobacco Smoking and Alcohol Consumption by Minors, Particularly in the Environs of Civic Center Park
From: Councilmembers Capitelli and Arreguin
Recommendation: Request that the City Manager and Berkeley Police Department work with BUSD and the Berkeley Unified School District Board to: a. Create policies and procedures to more actively discourage marijuana smoking, tobacco smoking and alcohol consumption by minors, particularly in the environs of Civic Center Park. b. When there is opportunity for discretion, emphasize intervention and recovery, rather than enforcement and discipline. c. Research best youth diversion programs, for discussion of possible implementation in Berkeley. d. Ensure that effective interventions are available to assist students who use marijuana, tobacco, alcohol or other drugs. e. Report back to City Council at September 17 meeting with outline of recommendations and associated costs.
Financial Implications: Unknown
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

12. Oppose H.R. 1797 Banning Abortions After 20-Weeks of Pregnancy
From: Councilmember Worthington
Recommendation: Send a letter to Congresswoman Barbara Lee, Senator Barbara Boxer, and Senator Dianne Feinstein expressing our opposition to H.R .1797.
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 – Public Hearing

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.

13. ZAB Appeal: 2401 Telegraph Avenue
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution approving Administrative Use Permit No. 12-20000089 to establish an incidental carry out food service establishment with take-out window within an existing retail use.
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400

a. Appeal
1. Gus Shamieh

b. Communications
None

14. Public Hearing #2: City Council Redistricting Plan
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion direct staff to draft an ordinance to reflect the preferred redistricting plan.
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900

Action Calendar – Public Hearing

15. Repeal and Reenact BMC Chapter 14.52 Parking Meters, Establish New Parking Rates for Off-Street Facilities for Implementation of the goBerkeley Pilot Project, and Re-enact the Disabled Persons Parking Placard Program for City Garages
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion:
1. Adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code Chapter 14.52 Parking Meters to enable demand-responsive on street parking policies and rates in the goBerkeley Pilot Project Areas for the duration of the pilot project; and
2. Adopt a Resolution establishing new off-street parking policies and rates to enable demand-responsive off-street parking within the goBerkeley Pilot Project Areas; and
3. Adopt a Resolution re-enacting the Disabled Persons Parking Placard Program for City Garages; and
4. Rescind Resolutions 66,068-N.S. (Parking Garages) and 64,545-N.S. (Berkeley Way Lot).
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300

16. Amend BMC Section 14.52.120– Parking Meters: Establishing Policies and Rates for Credit Card Enabled Single-Space Meter
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance amending Berkeley Municipal Code Section 14.52.120 – Parking Meters to establish a 12-minute minimum transaction parking rate at credit card-enabled single-space meters.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300

Action Calendar – Continued Business

C. Request the Occupational Safety and Health Administration (OSHA) to Move Forward with the Adoption of Draft Proposed Rule to Reduce Exposure to Life-Threatening Silica Dust *(Continued from June 25, 2013)*
From: Councilmember Worthington
Recommendation: Adopt a Resolution requesting OSHA move forward with the adoption of the 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 Calendar – Old Business

17. Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls *(Continued from June 11, 2013)*
From: City Manager
Recommendation: Adopt first reading of an Ordinance repealing and reenacting Berkeley Municipal Code Sections 23C.08.020 and 23C.08.030, and adding Section 23C.08.035 to modify and clarify the conditions under which dwelling units may be demolished.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

18. Commission Term Limits *(Continued from May 21, 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 Calendar – New Business

19. Voting Delegates - League of California Cities Annual Conference
From: City Manager
Recommendation: Designate, by motion, a voting delegate and alternate for the business meeting of the Annual League of California Cities meeting to be held on Friday, September 20, 2013, at the Sacramento Convention Center.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, 981-6900

20. Parklets Pilot Program
From: City Manager
Recommendation: Affirm by motion the recommendation of the Transportation Commission to move forward with a three year pilot program allowing up to ten parklets in the commercial districts of the City of Berkeley subject to the procedures and conditions attached to the staff report.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

Council Action Items

21. Referral to City Manager: Conduct an Investigation or Review of the Telegraph Food Truck Vendors' Concerns
From: Councilmember Worthington
Recommendation: Request that the City Manager provide clarification by doing an investigation or review of the Telegraph food truck vendors' belief that they would be allowed to return to their initial location at Telegraph and Bancroft and to clarify the agreements set forth during meetings between City staff and the vendors.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Information Reports

22. Settlement of Potential Lawsuit Concerning Refund of Property Tax Administration Fees
From: City Manager
Contact: Zach Cowan, City Attorney, 981-6950

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.*

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via internet accessible video stream at http://www.cityofberkeley.info/video and KPFB Radio 89.3.
Archived indexed video streams are available at http://www.cityofberkeley.info/citycouncil.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Agendas and agenda reports may be accessed via the Internet at
http://www.cityofberkeley.info/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.

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I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 27, 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.

Item 17: Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls

1. Miles Imwalle

Pedestrian Safety Petition

2. Dan McMullan

Homeless Concerns

3. James Armstrong

Tobacco Free Multi-Unit Housing Ordinance

4. Carol Denney

FEMA/UC Berkeley Tree Clear-Cutting and Toxins

5. Sally Nelson

Commission Commentary

6. Avram Gur Arye

Bike Lanes on Tunnel Road

7. Tom Gandesbery

Commercial Lease at 2444 Durant Avenue

8. M. Eid Abdallah