

# AGENDA



## BERKELEY CITY COUNCIL MEETING

TUESDAY, JULY 16, 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.*

### **1. Commercial South Area (C-SA) "South Shattuck" Auto Sales Zoning Amendments, Amending BMC Chapter 23E.52**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,304-N.S. 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.

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

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

## Consent Calendar

- 2. Repeal and Reenact BMC Chapter 14.52 Parking Meters**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,305-N.S. 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.  
**First Reading Vote:** Ayes – Maio, Arreguin, Capitelli, Wengraf, Wozniak, Bates; Noes – None; Abstain – Anderson; Absent – Moore, Worthington.  
**Financial Implications:** See report  
Contact: Andrew Clough, Public Works, 981-6300
- 3. Contract: Downtown Berkeley YMCA for Fitness Center Memberships for City Employees**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$201,600 for fitness center memberships for City employees for the period July 1, 2013 through June 30, 2014.  
**Financial Implications:** Various Funds - \$201,600  
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
- 4. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of June 4, 2013 (special closed, special and regular), June 10, 2013 (special closed), June 11, 2013 (special and regular) and June 25, 2013 (regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900
- 5. Deferral of Development Fees for Priority Economic Development Projects**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reinstating the City Manager's authority to defer building permit fees for priority economic development projects until June 28, 2014.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
- 6. Contract: Easy Does It to Provide Measure B Wheelchair Paratransit Services to Berkeley Residents**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract with Easy Does It (EDI) to provide Wheelchair Paratransit Services to eligible Berkeley residents from July 1, 2013 through June 30, 2014 in an amount not to exceed \$50,000 with the option to extend for an additional two years contingent upon performance, for an annual contract amount not to exceed \$50,000.  
**Financial Implications:** General Fund - \$50,000  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

## Consent Calendar

**7. Alameda County Contracts to Support Programs in Aging Services Division in Fiscal Year 2014**

**From: City Manager**

**Recommendation:** Adopt five Resolutions authorizing the City Manager or her designee to submit contract agreements to Alameda County, and execute any resultant revenue agreements and amendments to provide congregate and home-delivered meals, family caregiver support, senior center activities and information and assistance services to seniors for the following revenue agreements for Fiscal Year 2014:

1. Congregate Meals in the amount of \$22,742.
2. Home Delivered Meals in the amount of \$31,195.
3. Family Caregiver Support Program in the amount of \$29,585.
4. Senior Center Activities in the amount of \$20,905.
5. Information and Assistance Services in the amount of \$41,048.

**Financial Implications:** See report

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

**8. Revenue Agreement: Alameda County Transition to Independence Program for Berkeley Mental Health**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revenue agreement with Alameda County Behavioral Health Care Services, and any amendments thereto, for outpatient mental health services to transition age youth in the amount of \$537,854 for the term July 1, 2013 through June 30, 2014, and approving the designations as listed on the Alameda County Health Care Services CBO Community Agency Contract Signature Authorization form.

**Financial Implications:** Alameda County TAY TIP - \$537,854

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

**9. Contract No. 8439D Amendment: Youth Engagement Advocacy Housing Transition Age Youth Support Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8439D with Youth Engagement Advocacy Housing for the provision of support services to homeless Transition Age Youth, in the amount of \$76,326 for a total amount not to exceed \$407,072 and to extend the expiration date to June 30, 2014.

**Financial Implications:** Mental Health Service Act - \$76,326

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

## Consent Calendar

- 10. FY 2014 Funding for Resources for Community Development and Satellite Affordable Housing Associates**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions approving operating funding in the amount of \$28,638 each for FY 2014 for non-profit affordable housing developers, Resources for Community Development and Satellite Affordable Housing Associates.  
**Financial Implications:** See report  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
- 11. Contract: Bay Area Community Resources for Placement of AmeriCorps Interns**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with Bay Area Community Resources for the placement of AmeriCorps Interns in an amount not to exceed \$70,000 for the period July 1, 2013 through June 30, 2014.  
**Financial Implications:** Various Funds - \$70,000  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
- 12. Classification: Revenue Development 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 Revenue Development Supervisor with a monthly salary range of \$7,281 to \$8,681 effective July 17, 2013.  
**Financial Implications:** See report  
Contact: David Abel, Human Resources, 981-6800
- 13. Classification: Occupational Health and Safety Officer**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 65,376-N.S., Classification and Salary Resolution for Unrepresented Employees, to re-title the Occupational Health and Safety Coordinator classification to Occupational Health and Safety Officer effective July 17, 2013.  
**Financial Implications:** None  
Contact: David Abel, Human Resources, 981-6800
- 14. Contract No. 7759 Amendment: Gruber Power Supply for Uninterrupted Power Supply Spare Parts and Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7759 with Gruber Power Supply for Uninterrupted Power Supply (UPS) spare parts and maintenance, increasing the amount by \$11,485, for a total not to exceed \$83,559, from July 1, 2008 through June 30, 2014.  
**Financial Implications:** General Fund - \$11,485  
Contact: Donna LaSala, Information Technology, 981-6500

## Consent Calendar

- 15. Contract No. 7562B Amendment: Decade Software Company for Software Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7562B with Decade Software Company, increasing the amount by \$109,242, for a total not to exceed \$290,575 from February 21, 2008 to June 30, 2016.  
**Financial Implications:** Various Funds - \$109,242  
Contact: Donna LaSala, Information Technology, 981-6500
- 16. License Agreement: Bay Area Air Quality Management District – Air Monitoring Station Under the Pedestrian Bridge at Aquatic Park**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a license agreement with the Bay Area Air Quality Management District to install and operate an air monitoring station under the pedestrian bridge at Aquatic Park for five years with two five-year options to extend.  
**Financial Implications:** General Fund - \$134,592  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 17. Contracts: Plan Checking Services**  
**From: City Manager**  
**Recommendation:** Adopt three Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for plan checking services for a three year contract period:  
  1. Telesis Engineers, Inc., for an amount not to exceed \$500,000, and
  2. Interwest Consulting Group, for an amount not to exceed \$500,000, and
  3. West Coast Code Consultants, for an amount not to exceed \$500,000.**Financial Implications:** See report  
Contact: Eric Angstadt, Planning and Development, 981-7400
- 18. Contract No. 9180 Amendment: Chrisp Company for Roadway Thermoplastic Markings**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9180 with Chrisp Company for thermoplastic roadway markings, increasing the amount by \$250,000 for a revised total contract not to exceed \$1 million.  
**Financial Implications:** Caltrans Fund - \$250,000  
Contact: Andrew Clough, Public Works, 981-6300

## Consent Calendar

- 19. Contract: ERA Construction, Inc., for Transfer Station Drainage Improvement Project - Phase II**  
**From: Public Works**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Transfer Station Drainage Improvement Project - Phase II, Specification Number 12-10656-C; and 2. Accepting the bid of ERA Construction, Inc., and authorizing the City Manager to execute a contract and any extensions or change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$484,000.  
**Financial Implications:** Capital Improvement Fund - \$484,000  
Contact: Andrew Clough, Public Works, 981-6300
- 20. Contracts: CCTV Inspection, Manhole Inspection, and Condition Assessment for Sanitary Sewers**  
**From: City Manager**  
**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute 3 contracts, each for a 3-year term, and any amendments, extensions or other change orders for Closed Circuit TV inspection, manhole inspection, and condition assessment services, for a combined not-to-exceed total for all contracts of \$1.2 million, as follows:  
1. Empire Pipe Cleaning & Equipment, Inc. not to exceed \$600,000.  
2. Roto-Rooter not to exceed \$300,000.  
3. ABC Service not to exceed \$300,000.  
**Financial Implications:** Sanitary Sewer Operation - \$1.2 million  
Contact: Andrew Clough, Public Works, 981-6300
- 21. Contract: HF&H Consultants, LLC, for a Sustainable Refuse Services Rate Study**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with HF&H Consultants, LLC, for a sustainable refuse services rate study and notice process, for an amount not to exceed \$122,792 for the period July 17, 2013 through July 30, 2014.  
**Financial Implications:** Refuse Collect Disposal Fund - \$122,792  
Contact: Andrew Clough, Public Works, 981-6300
- 22. Purchase Order: Western Truck Parts & Equipment for Four 40-Yard Front Loading Refuse Trucks with Low Entry Cabs**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Western Truck Parts & Equipment for four 40-yard front loading refuse trucks with low entry cabs for an amount not to exceed \$1,428,000.  
**Financial Implications:** Equipment Replacement Fund - \$1,428,000  
Contact: Andrew Clough, Public Works, 981-6300

## Consent Calendar

**23. Terminate the Elmwood Theater Business Improvement Area and Its Advisory Board (“Elmwood Advisory Board”) and Allocate Surplus Revenues**

**From: Elmwood Advisory Board**

**Recommendation:** Adopt a Resolution : 1) recognizing that assessments levied in the Elmwood Theater Business Improvement Area (hereafter, “the Area” or the “Elmwood BID”) have repaid a 20-year City loan and additional financing to the Elmwood Theater Foundation (hereafter, “the Foundation”), thereby fulfilling the exclusive purpose of the Area; 2) directing City staff to remove any liens held by the City against the Elmwood Theater property, 2966 College, that secured the loans; 3) allocating all surplus revenues collected in the Area to help repay additional City loans to the Foundation made in 2004-2005 for seismic improvements to the Theater; 4) terminating the Elmwood Theater Business Improvement Area established by Resolution No. 57,086-N.S. of July 20, 1993; 5) terminating the Advisory Board for the Elmwood Theater Business Improvement Area (hereafter “Elmwood Advisory Board” or “the Advisory Board”) established by Resolution No. 56,802-N.S. of January 12, 1993 that had advised on the Area and the levying of assessments within it, and 6) rescinding Resolution No. 57,086-N.S. and Resolution No. 56,802-N.S.

**Financial Implications:** See report

Contact: Dave Fogarty, Commission Secretary, 981-7534

**24. Support Maintaining HUD's Housing Choice Voucher Program at Pre-Sequestration Levels**

**From: Housing Advisory Commission**

**Recommendation:** Adopt a Resolution supporting the continuing of pre-sequestration levels of funding for the Housing Choice Voucher Program and send copies to Congresswoman Barbara Lee and Senators Dianne Feinstein and Barbara Boxer.

**Financial Implications:** None

Contact: Kristen Lee, Acting Commission Secretary, 981-5427

## Council Consent Items

**25. City Sponsorship of BrasArte's Brazilian Day Festival**

**From: Mayor Bates and Councilmember Arreguin**

**Recommendation:** Adopt a Resolution co-sponsoring "BrasArte's Brazilian Day Festival" to be held on September 1, 2013 in collaboration with the Capoeira Arts Foundation which is housed at Casa de Cultura, located at 1901 San Pablo Avenue in Berkeley.

**Financial Implications:** None

Contact: Tom Bates, Mayor, 981-7100



## Council Consent Items

- 26. BrasArte's Brazil Day Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Arreguin**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including up to \$250 from Councilmember Arreguin, to the BrasArte with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguin, and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$250  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 27. Codornices Creek Habitat Restoration and Creation of Public Access, at San Pablo & Kains**  
**From: Councilmember Maio**  
**Recommendation:**  
1. Direct the City Manager to submit the appropriate grant application(s), in coordination with the City of Albany and the interested creek advocacy groups, to acquire funds to rehabilitate and restore the portion of Codornices Creek between Kains and San Pablo Avenue; and  
2. Adopt a Resolution authorizing the City Manager to a) submit a grant application to the California Department of Water Resources for the Urban Streams Restoration Program to help mitigate flooding and erosion problems; b) accept the grant and execute any resultant agreements and amendments; and c) authorize the implementation of projects in compliance with the requirements of CEQA and allocate funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 28. Berkeley Electric Car Incentives**  
**From: Councilmember Moore**  
**Recommendation:** Refer to the City Manager to explore parking policies that would provide incentives for electric car ownership.  
**Financial Implications:** Unknown  
Contact: Darryl Moore, Councilmember, District 2, 981-7120
- 29. Update on the Status of Electric Vehicle Charging Infrastructure in Berkeley**  
**From: Councilmember Wengraf**  
**Recommendation:** Request that the City Manager return to Council with an updated and coordinated report from the various departments and commissions that have been evaluating the status of electric vehicle charging policy and infrastructure in the City of Berkeley. In addition, potential funding sources for grants and pilot programs and efforts to obtain such grants should be identified.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

## Council Consent Items

- 30. Official City Sponsor of Berkeley High School All-Class Reunion and Its Charity Fun Run**  
**From: Councilmember Moore**  
**Recommendation:** Approve City sponsorship of the Berkeley High School All-Class Reunion and the associated Charity Fun Run.  
**Financial Implications:** Unknown  
Contact: Darryl Moore, Councilmember, District 2, 981-7120
- 31. Downtown Berkeley Association: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Arreguin**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 from Councilmember Arreguin, to the Downtown Berkeley Association to help support the costs of the Downtown Berkeley Musicfest, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$1,000  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 32. Public Calendars**  
**From: Councilmember Arreguin**  
**Recommendation:** Refer to the City Manager and the Open Government Commission (OGC) for study the concept, as well as the feasibility, of requiring the calendars of City Councilmembers to be made public insofar that they relate to business, and request that the City Manager and OGC return to Council with a recommendation.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 33. Polling for Community Priorities and Possible Funding Sources for November 2014 Election**  
**From: Councilmembers Capitelli and Maio**  
**Recommendation:** Request that the City Manager conduct a telephone poll in the next 3 months to: 1) Assess community support for possible programs and projects relating to: a) Access to quality childcare, healthcare and preschool for Berkeley youth under five years of age b) Youth nutrition and gardening education; and 2) Assess community support for a range of possible funding mechanisms for priority projects and programs.  
**Financial Implications:** \$15,000-\$20,000 (approx)  
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
- 34. Proclamation in Honor of Kris Perry and Sandy Stier**  
**From: Councilmembers Worthington, Moore, Anderson, and Arreguin**  
**Recommendation:** Adopt a proclamation honoring Kris Perry and Sandy Stier and recognize July 16th as Kris Perry and Sandy Stier Day.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Council Consent Items

35. **Refer Cannabis Commission September Presentation to Agenda Committee**  
**From: Councilmember Worthington**  
**Recommendation:** Request to reschedule Medical Cannabis Commission presentation to September agenda.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
36. **Berkeley Pride: 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 an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 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 is able to come together to celebrate the local LGBT community and reflect on the issues they are facing and for costs of Berkeley Pride from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$1,000  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
37. **Recognizing the Businesspeople and Professionals Whose Volunteer Activism Restored the Elmwood Movie Theater, 2966 College Avenue**  
**From: Councilmember Wozniak**  
**Recommendation:** Adopt a Resolution recognizing Burl Willes, who initiated the campaign to save the Elmwood movie theater, 2966 College Avenue, as well as the merchants and professionals who, for 20 years, have served as volunteers on the Elmwood Theater Foundation and the Elmwood Advisory Board to purchase and restore this historic neighborhood movie theater.  
**Financial Implications:** None  
Contact: Gordon Wozniak, Councilmember, District 8, 981-7180

## 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.*

- 38. Assessments: Telegraph Property and Business Improvement District**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, if no majority protests exists, adopt a Resolution confirming the Annual Report on the Telegraph Property and Business Improvement District (hereafter, the TBID or "the District") for FY 2013 and levying assessments in the District for FY 2014.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
- 39. Assessments: North Shattuck Business Improvement District**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, if no majority protests exist, adopt two Resolutions:  
1. Confirming the Annual Report for the North Shattuck Business Improvement District (NSBID) for FY 2013 and levying assessments in the area for FY 2014.  
2. Authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association to implement the Management District Plan for the NSBID.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530
- 40. Assessments: Downtown Property and Business Improvement District**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, if no majority protests exist, adopt two Resolutions:  
1. Confirming the Annual Report for the Downtown Property and Business Improvement District (DPBID) for FY 2013 and levying assessments in the area for FY 2014.  
2. Authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) to implement the Management District Plan for the DPBID.  
**Financial Implications:** See report  
Contact: Michael Caplan, Economic Development, 981-7530

## Action Calendar – Old Business

41. **Referral to City Manager: Changes to Municipal Code Regarding Affordable Housing Requirement Implementation** *(Continued from May 21, 2013)*  
**From: Councilmembers Arreguin and Capitelli**  
**Recommendation:** Refer to the City Manager and Housing Advisory Commission:  
1. The proposed changes to Berkeley Municipal Code (B.M.C.) Section 22.20.065, relating to affordability requirements and implementation of the Affordable Housing Mitigation Fee. Request that the City Manager and HAC review these concepts and provide a recommendation to the City Council on possible changes to the ordinance.  
2. Requesting a report from the City Manager about how staff implement the provision allowing for reductions or waiver of fees, B.M.C. Section 22.20.080, including: a. What information is requested of the applicant to provide “satisfactory factual proof” that the waiver/reduction is a “hardship”? b. What process does city staff go through to determine how fee requirements make a project “infeasible”? What standard does the city use to determine “infeasibility”?  
The report should also explore requiring that the applicant pay for a third party to evaluate financial information to determine how the fees affect financial feasibility. The City of San Carlos requires the applicant to pay for a third party to evaluate their pro forma to determine whether the fee would make the project infeasible.  
**Financial Implications:** Unknown  
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
42. **HERO Property Assessed Clean Energy Program** *(Continued from June 11, 2013)*  
**From: Energy Commission**  
**Recommendation:** Postpone a decision regarding participation in the Home Energy Renovation Opportunity (HERO) program until federal regulations on residential Property Assessed Clean Energy (PACE) loans are clarified and send a letter to the Federal Housing Finance Agency (FHFA) urging the Agency to establish federal rulemaking procedures in connection with residential PACE financing and to rescind directives to Fannie Mae and Freddie Mac that threaten the viability of residential PACE programs throughout the nation.  
**Financial Implications:** None  
Contact: Neal DeSnoo, Commission Secretary, 981-7439

## Action Calendar – New Business

43. **Tax Exempt Status for Alta Bates Hospital**  
**a. From: Community Health Commission**  
**Recommendation:**  
1. Adopt a Resolution requiring that Alta Bates Summit Medical Center (ABSMC) provide an Annual Report to City Council to include specific detail on the qualified charity care reported as part of community benefits on tax returns; and  
2. Direct the City Manager to designate two hours a week of Finance staff time to work with the Community Health Commission Alta Bates subcommittee to gather current data regarding ABSMC-Berkeley campuses' tax exempt status.  
**Financial Implications:** See report  
Contact: Janet Berreman, Commission Secretary, 981-5301

## Action Calendar – New Business

### 43. b. From: City Manager

#### **Recommendation:**

1. Adopt a Resolution, as recommended by the Community Health Commission, requiring that Alta Bates Summit Medical Center (ABSMC) provide an annual report to City Council to include specific detail on the qualified charity care and community benefits reported on tax returns and the value of the charity care and community benefits provided to Berkeley residents; and
2. Schedule a City Council work session to provide information to Council and the community about ABSMC's tax exempt status and to include a presentation by Alta Bates Summit Medical Center (ABSMC) regarding the community benefits and charity care provided to Berkeley residents.

**Financial Implications:** See report

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

### 44. a. Reducing Exposure to Anthropogenic Mercury

#### **From: Community Environmental Advisory Commission**

**Recommendation:** Adopt a Resolution: 1. Strongly supporting local, national, and worldwide efforts to reduce exposure to anthropogenic mercury; 2. Encouraging dentists practicing in Berkeley to limit use of mercury dental amalgam; 3. Requesting DBC to remind dentists that they have a legal obligation to provide fact sheet to new patients and to patients on their initial amalgam application; 4. Requiring dental offices to: a. Post standard Proposition 65 labels or posters regardless of the number of employees; b. Require all dentists to provide the Dental Board of California's Dental Materials Fact Sheet at each dental amalgam application; 5. Directing staff to write a letter to the Dental Board of California to update Dental Material Fact Sheet; 6. Supporting continued education and advisories for Berkeley residents about potential risks associated with consuming fish caught in the Berkeley Marina and exposure to mercury from other sources; 7. Directing staff to provide copies of this resolution to the city's state and federal representatives and to the other cities in Alameda County with a request that they use their authority to take the necessary steps to phase-down the use of mercury in dentistry; 8. Writing to FDA and National Institute of Health (NIH) evaluate the knowledge gaps in risks of dental amalgam; 9. Supporting the United Nations efforts on use of mercury products; 10. Writing to the World Health Organization (WHO) to pledge support for the phase down of use of dental mercury; and 11. Directing staff to continue educating the community on dental amalgam and other products containing mercury.

**Financial Implications:** Minimal fiscal impact

Contact: Nabil Al-Hadithy, Commission Secretary, 981-7461

### b. Reducing Exposure to Mercury in Dental Amalgam by Informed Consent

#### **From: Community Health Commission**

**Recommendation:** Adopt a Resolution requiring dentists practicing in Berkeley to: 1. Avoid or limit use of mercury dental amalgam, 2. Obtain documented informed consent from the patient before placement of each dental amalgam, and 3. Follow applicable regulations regarding dental amalgam practices and separators preventing mercury from reaching the environment.

**Financial Implications:** See report

Contact: Janet Berreman, Commission Secretary, 981-5301

## Action Calendar – New Business

### 44. c. Reducing Exposure to Anthropogenic Mercury

**From: City Manager**

**Recommendation:** Adopt a Resolution recommending that dentists in Berkeley take specific actions to reduce the use of dental amalgam and educate the public on its risks and benefits; continue education on reducing the exposure dental amalgam and other sources of anthropogenic mercury within the City; distribute the Resolution to the City's state and federal representatives and other cities in Alameda County and write letters to the U.S. Food and Drug Administration, the National Institute of Health, and the World Health Organization regarding the need for more research on dental amalgam and support for phasing down its use whenever possible.

**Financial Implications:** Minimal

Contact: Eric Angstadt, Planning and Development, 981-7400; Jane Micallef, Health, Housing and Community Services, 981-5400

### 45. Homeless Commission Site Visit Plan

**a. From: Homeless Commission**

**Recommendation:** Adopt a Resolution allowing the Homeless Commission to conduct 18 visits to City-funded homeless services provider sites during calendar year 2014, in addition to the Commission's regular meetings, and pursuant to the site visit plan submitted as part of this report.

**Financial Implications:** Minimal costs

Contact: Andrew Wicker, Acting Commission Secretary, 981-5418

**b. From: City Manager**

**Recommendation:** Take no action on the Homeless Commission's recommendation until September 2013, when all review Commissions have had a chance to review the proposed Site Visit Plan recommended by Staff.

**Financial Implications:** See report

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

### 46. Regulate the Addition of Bedrooms in Certain Residential Districts to Reduce the Likelihood of Creating Mini-Dorms; Amending BMC Sub-Title 23D

**a. From: Planning Commission**

**Recommendation:**

1. Adopt first reading of an Ordinance amending the Zoning Ordinance to control the addition of bedrooms to existing parcels in the R-1, R-1A, R-2, R-2A, R-3. The ordinance increases the levels of discretion required to add a bedroom to a parcel in the noted districts, and adds "Bedroom" as a "Use" in each of the Use Tables for each of the noted districts.

2. Refer to the Planning Commission a request to develop an ordinance for regulating Mini-Dorms, which would replace Section 13.42 of the Berkeley Municipal Code. The proposed ordinance would become part of the Zoning Ordinance, rather than the Municipal Code.

**Financial Implications:** See report

Contact: Alex Amoroso, Commission Secretary, 981-7520

## Action Calendar – New Business

### 46. b. From: City Manager

#### Recommendation:

1. Adopt first reading of an Ordinance amending the Zoning ordinance to control the addition of bedrooms to existing parcels in the R-1, R-1A, R-2 and R-2A districts.
2. Refer to the City Manager modification of Chapter 13.42 (Mini-Dorms) of the Berkeley Municipal Code. The modifications should include a clarification of the definition of Mini-Dorm, and potentially additional operating standards and enforcement mechanisms.

**Financial Implications:** See report

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

## Council Action Items

### 47. Establishing a Task Force to Improve Services to People Experiencing Mental Health Crises

**From: Councilmember Arreguin**

**Recommendation:** Direct the City Manager to establish a Task Force to address police response and services for people experiencing mental health crises, including individuals who have a history of non-compliance with treatment, have been unable to reach and engage in ongoing treatment, or have displayed aggressive behavior that is potentially harmful to themselves or to others. This task force should be comprised of representatives of the Mental Health Commission, Mental Health Division staff, Police Department staff, consumers, families, service providers, consumer advocates, County representatives and other stakeholders, with the goal of developing a set of recommendations for improving police response and the delivery of services to this population.

**Financial Implications:** Staff time

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

### 48. Referral to Planning Commission: Civic Center District Zoning Overlay

**From: Councilmember Arreguin**

**Recommendation:** Refer to the Planning Commission amending B.M.C. Chapter 23D.36 (R-3 District) and B.M.C. Chapter 23E.68 to establish a zoning overlay for properties designated as part of the Civic Center Historic District, restricting uses permitted to only the use categories listed below: Other Professionals and Government, Institutions, Utilities; Group Class Instruction for Business, Vocational or Other Purposes; Gyms and Health Clubs; Dance, Exercise, Martial Arts and Music Studios; Theaters, including Motion Pictures and Stage Performance Live Entertainment; Community Centers; Parks and Playgrounds; Public Safety and Emergency Services; Schools, Public or Private. The Planning Commission should make its recommendation to the City Council by September 2013.

**Financial Implications:** Staff time

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



## Council Action Items

49. **City Manager Referral to Rent Out Vacant City-owned Storefronts**  
**From: Councilmember Worthington**  
**Recommendation:** That the City Manager report back on September 10th to the City Council on the possible solutions to rent space in city-owned vacant storefronts at Telegraph/Channing Parking Garage.  
**Financial Implications:** See report  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Information Reports

50. **Update on Monitoring Inclusionary Housing Rental Units**  
**From: City Manager**  
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
51. **Letter of Interest: Priority Conservation Area Grant Program for the Bay Trail Extension Staging Area, Restroom, and Parking Lot Project**  
**From: City Manager**  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
52. **LPC-NOD: 2425 Atherton Street**  
**From: City Manager**  
Contact: Eric Angstadt, Planning and Development, 981-7400
53. **LPC-NOD: 1542-1544 La Loma Avenue**  
**From: City Manager**  
Contact: Eric Angstadt, Planning and Development, 981-7400
54. **Update of Traffic Impacts Study for West Campus/Old Adult School Site**  
**From: City Manager**  
Contact: Andrew Clough, Public Works, 981-6300
55. **Audit Plan for Fiscal Year 2014**  
**From: Auditor**  
Contact: Ann-Marie Hogan, Auditor, 981-6750
56. **Update on Addressing Sex Trafficking**  
**From: Councilmember Maio**  
Contact: Linda Maio, Councilmember, District 1, 981-7110

## 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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***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 July 5, 2013.***

A handwritten signature in black ink, appearing to read 'Mark Numainville'.

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 35: Refer Cannabis Commission September Presentation to Agenda Committee**

1. Dan Rush

### **Item 43: Tax Exempt Status for Alta Bates Hospital**

2. Pilar Schiavo, on behalf of the California Nurses Association

### **Pedestrian Safety Follow-Up**

3. Daniel McMullan (2)

### **Increasing Minimum Wage**

4. Terrence Regan

### **Eid's TV**

5. M. Eid Abdallah

### **Tree Removal**

6. Jerry Landis

### **Cannabis Collectives**

7. Jenny Collins

### **Seismic Day of Action**

8. Housing Advisory Commission

### **CNA Newsletter**

9. Ted Edlin

### **Community Centers**

10. Jessica Arroyo

### **3001 Telegraph Avenue**

11. Nancy Carleton
12. Fred Krieger

### **Jaywalking Incident**

13. Moni Law

### **Procedural Matters**

14. Judith Scherr

### **Youth Spirit Artworks**

15. Ann Johnson

