

CONSENT CALENDAR July 16, 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 June 4, 2013 (special closed, special and regular), June 10, 2013 (special closed), June 11, 2013 (special and regular) and June 25, 2013 (regular).

#### **CONTACT PERSON**

Mark Numainville, City Clerk, 981-6900

#### Attachments:

- 1. June 4, 2013–Special Closed City Council Meeting
- 2. June 4, 2013-Special City Council Meeting
- 3. June 4, 2013-Regular City Council Meeting
- 4. June 10, 2013-Special Closed City Council Meeting
- 5. June 11, 2013-Special City Council Meeting
- 6. June 11, 2013-Regular City Council Meeting
- 7. June 25, 2013–Regular City Council Meeting

# MINUTES BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, JUNE 4, 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:** 5:30 p.m.

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

Wozniak and Mayor Bates.

**Absent:** Councilmember Anderson.

Councilmember Anderson present at 5:43 p.m.

Public Comment - Limited to items on this agenda only - 1 speaker.

#### **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 – two cases

a. <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: Item held over to June 10, 2013 Closed Session meeting.

b. Successor Agency to the Redevelopment Agency of the City of Berkeley, City of Berkeley and Christine Daniel v. Ana J. Matosantos and Patrick J. O'Connell (Sacramento County Superior Court Case No. 34-2013-80001505)

**Action:** No reportable action taken.

## 2. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

a. Title of position to be filled: Fire Chief

**Action:** No reportable action taken.

### 3. PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

a. Title of position to be filled: Director of Parks, Recreation and Waterfront

**Action:** No reportable action taken.

#### **OPEN SESSION:**

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

#### **Adjournment**

Adjourned at 6:27 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of June 4, 2013.

Mark Numainville, CMC, City Clerk

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

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

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

#### MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, JUNE 4, 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:** 6:28 p.m.

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

Worthington, Wozniak and Mayor Bates.

Absent: None.

Public Comment – Items on this agenda only – 5 speakers.

#### Worksession:

1. Presentation: Ralph Cantor and Dr. Frank Lucido, Negative Impacts of Alcohol

and Marijuana Use on Adolescents From: Councilmember Capitelli

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Action: Presentation made and discussion held.

#### **Adjournment**

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

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

Noes - None; Abstain - None; Absent - Wengraf

Councilmember Wengraf absent 7:25 p.m. – 7:31 p.m.

Adjourned at 7:31 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of June 4, 2013 as approved by the Berkeley City Council.

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: Presentation: Ralph Cantor and Dr. Frank Lucido, Negative Impacts of Alcohol and Marijuana Use on Adolescents

- 1. Presentation and supplemental materials, submitted by Ralph Cantor and Dr. Frank Lucido
- 2. Barbara Gilbert

# MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, JUNE 4, 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 ARREGUÍN

DISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

Roll Call: 7:32 p.m.

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

Wozniak and Mayor Bates.

**Absent:** Councilmember Wengraf.

Councilmember Wengraf present at 7:37 p.m.

Recess 7:32 p.m. – 7:37 p.m.

#### **Ceremonial Matters:**

- 1. Juana Alicia Day June 4, 2013
- 2. Sundays on Telegraph June 9, 2013 11am 6pm
- 3. ACTC has indicated support for \$12.7 million for repairs and renovations in Downtown

City Manager Comments: None

Public Comment on Non-Agenda Matters: 3 speakers.

Public Comment on Consent Calendar and Information Items Only: 3 speakers.

#### **Consent Calendar**

**Action:** M/S/C (Arreguin/Bates) to accept revised material on Item 15 from Councilmember Arreguin.

Vote: All Ayes.

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

as indicated:

Vote: All Ayes.

## 1. Lease Agreement: Nia House Learning Center for 2234-2240 Ninth Street From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,286–N.S.:

- 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.

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. 7,286–N.S.

#### 2. City Council Rules of Procedure and Order

From: City Manager

**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify the procedures relating to Time Critical agenda items submitted for consideration by the Agenda Committee, and rescinding Resolution No. 66,016-N.S.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Moved to Action Calendar. 0 speakers. M/S/C (Bates/Wozniak) to adopt

Resolution No. 66,180–N.S.

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

Arreguin, Worthington.

#### 3. Assessment: Downtown Property and Business Improvement District

From: City Manager

**Recommendation:** Adopt a Resolution

- 1. Approving the Annual Report for the Downtown Property and Business Improvement District for Fiscal Year 2013 and proposed budget for 2014:
- 2. Declaring an intention to levy annual assessments in the District for Fiscal Year 2014; and
- 3. Setting a public hearing on the levy of assessments for July 16, 2013.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

**Action:** Adopted Resolution No. 66,181–N.S.

#### 4. Assessment: North Shattuck Business Improvement District

From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Approving the FY 2013 Annual Report of the North Shattuck Business Improvement District (NSBID):
- 2. Declaring Council's intention to levy an annual assessment for the NSBID for FY 2014; and
- 3. Scheduling a public hearing for July 16, 2013.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

Action: Adopted Resolution No. 66,182-N.S.

## 5. Assessment: Telegraph Property and Business Improvement District From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Approving the Annual Report for the Telegraph Property and Business Improvement District for FY 2013 and proposed budget for 2014;
- 2. Declaring an intention to levy annual assessments in the District for FY 2014; and
- 3. Setting a public hearing on the levy of assessments for July 16, 2013.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

**Action:** Moved to Action Calendar. 0 speakers. M/S/C (Bates/Wozniak) to call the previous question.

**Vote:** Ayes – Moore, Anderson, Capitelli, Wengraf, Worthington, Wozniak, Bates;

Noes – None; Abstain – None; Absent – Maio, Arreguin.

**Action:** M/S/C (Bates/Moore) to adopt Resolution No. 66,183–N.S.

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

Noes – None; Abstain – None; Absent – Maio, Arreguin.

Councilmember Arreguin absent 10:14 p.m. – 10:19 p.m.

Councilmember Maio absent 10:14 p.m. – 10:20 p.m.

## 6. \*\*Removed by City Manager\*\*Waiver of Annual Marina Berth and Storage Fees for Non-Profits

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

## 7. Agreement: East Bay Municipal Utility District for Sewer Service Billing and Collection

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source agreement and any necessary amendments with the East Bay Municipal Utility District for sewer service billing and collection for the period July 1, 2013 to June 30, 2023 for an amount not to exceed \$5.5 million.

Financial Implications: Sanitary Sewer Operation - \$5,500,000

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 66,184–N.S.

## 8. Contract: J. Howard Engineering, Inc. for Sanitary Sewer Rehabilitation Project on Hillcrest Road Domingo Avenue, Plaza Drive, The Uplands, and Parkside Drive

From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Approving plans and specifications for the Sanitary Sewer Project, 13-10728-C, located on Hillcrest Road, Domingo Avenue, Plaza Drive, The Uplands, and Parkside Drive; and
- 2. Accepting the bid of the lowest responsive and responsible bidder, J. Howard Engineering, 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 \$573,577.

Financial Implications: Sanitary Sewer Operation - \$573,577

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,185–N.S.

## 9. Contracts: On-Call Design Services for Storm Infrastructure and Watershed Management Plan Projects

From: City Manager

**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call design services for storm infrastructure and Watershed Management Plan projects for contract periods of June 5, 2013 through June 30, 2016 each:

- 1. AMEC Environmental and Infrastructure, Inc. for an amount not to exceed \$300,000; and
- 2. Pakpour Consulting Group, Inc. for an amount not to exceed \$300,000; and
- 3. Harrison Engineering, Inc., for an amount not to exceed \$300,000.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

**Action:** Adopted the following resolutions:

- 1. Resolution No. 66,186–N.S. (AMEC)
- 2. Resolution No. 66,187–N.S. (Pakpour)
- 3. Resolution No. 66,188–N.S. (Harrison)

## 10. License Agreement: City CarShare for Electric Vehicle Charging in City Parking Garages and Lots

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a license agreement with City CarShare for installation and operation of electric vehicle service equipment and plug-in electric vehicles in City parking garages and lots.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,189–N.S.

#### **Council Consent Items**

### 11. Official City Sponsor of Berkeley-East Bay Humane Society's "Bark Around The Block"

From: Councilmember Moore

Recommendation: Approve City sponsorship of Berkeley-East Bay Humane

Society's "Bark Around The Block". Financial Implications: None

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

**Action:** Approved recommendation.

#### **Council Consent Items**

#### 12. Access to Divisional Islands

From: Councilmember Arreguín

**Recommendation:** Direct the City Manager to provide a report to Council regarding

the possibility of limited and permitted access to Divisional Islands, and any

attendant issues.

Financial Implications: Staff time

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

**Action:** Approved recommendation.

#### 13. Positive Change Donation Box Program

From: Councilmember Arreguín

**Recommendation:** Direct the City Manager to coordinate with the Downtown Berkeley Association over the possible re-appropriation of unused police phone boxes within the Downtown Business Improvement District Area for the Positive Change donation box program.

Financial Implications: Unknown

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

**Action:** Approved recommendation.

## 14. The Victory Garden Foundation: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Arreguín

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 in total to the Victory Garden Foundation for the purpose of the Climate Challenges, Climate Solutions Internship Program at Berkeley High School. Funds shall be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Arreguín and any other Councilmembers who wish to contribute towards the total.

Financial Implications: Councilmember's Discretionary Fund - \$1,000

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

**Action:** Adopted Resolution No. 66,190–N.S. revised to include contributions from the following Councilmembers up to the amounts the listed: Councilmember Maio - \$100; Councilmember Anderson - \$100; Councilmember Wozniak - \$200; Councilmember Arreguin - \$200; Councilmember Wengraf - \$100.

## 15. North Shattuck Association Chocolate and Chalk Art Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds From: Councilmember Arreguín

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember to the North Shattuck Association with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguín, and any other Councilmembers who would like to contribute.

Financial Implications: Councilmember's Discretionary Fund - \$250

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

Action: Item held over to June 11, 2013.

#### **Council Consent Items**

#### 16. City Co-Sponsorship: Downtown Berkeley MusicFest

From: Councilmember Arreguín

**Recommendation:** Adopt a Resolution approving City of Berkeley co-sponsorship

of the Downtown Berkeley MusicFest to be held from August 1-4, 2013.

Financial Implications: None

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

Action: Adopted Resolution No. 66,191–N.S.

#### 17. City Manager Referral: Naming of Twain Path No. 68 in Honor of

**Councilmember Betty Olds** 

From: Councilmember Wengraf

**Recommendation:** In accordance with the City of Berkeley's naming policy, refer to the City Manager the naming of the new Twain Path No. 68 and request that this be sent to the appropriate commission for consideration and return to Council with a recommendation. The Berkeley Path Wanderers and the adjacent neighbors of Path No. 68 are in full support of naming this new path in honor of former Councilmember Betty Olds.

Financial Implications: See report

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

**Action:** Approved recommendation.

#### 18. Support Postal Service Protection Act of 2013

From: Councilmember Worthington and Mayor Bates

**Recommendation:** Support the Postal Service Protection Act of 2013 and send letters to Congresswoman Barbara Lee urging her to co-sponsor HR 630 and to Senators Barbara Boxer and Dianne Feinstein urging them to co-sponsor SB 316.

Financial Implications: None

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

**Action:** Letter to Congresswoman Lee revised to thank her for co-sponsoring HR 630. Councilmember Arreguin added as a co-sponsor. Approved recommendation.

#### 19. Support AB 10 (Alejo) to Increase California State Minimum Wage

From: Councilmember Worthington

Recommendation: Support AB 10 and send a letter to Senator Alejo expressing

support of AB 10.

Financial Implications: None

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

**Action:** Approved recommendation.

#### **Action Calendar - Appeals**

#### 20. Appeal of Proposed Special Assessment Lien - 1722 Ninth Street

From: City Manager

**Recommendation:** Conduct a hearing and upon conclusion, adopt a Resolution rejecting the property owner's objection to the cost of the administrative fines issued to him for his failure to comply with Council Resolution No. 65,749-N.S. and allowing the lien to be recorded as written and approved by the City Manager.

Financial Implications: See report

Contact: Gregory Daniel, Code Enforcement, 981-2482

#### **Action Calendar – Appeals**

**Action:** Hearing Held. 3 speakers. M/S/F (Arreguin/Anderson) to adopt the staff recommendation with a 90-day hold on further issuance of citations.

Vote: Ayes - Anderson, Arrequin; Noes - Maio, Wozniak, Bates; Abstain - Moore,

Capitelli, Wengraf; Absent – Worthington (Recused)

**Action:** M/S/C (Maio/Wozniak) to adopt Resolution No. 66,192–N.S. rejecting the property owner's objection to the cost of the administrative fines issued to him for his failure to comply with Council Resolution No. 65,749-N.S. and allowing the lien to be recorded as written and approved by the City Manager.

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

Councilmember Worthington absent (Recused) 8:07 p.m. – 8:47 p.m.

Recess 8:47 p.m. – 8:59 p.m.

#### **Action Calendar – Public Hearings**

21. Greenleaf Wellness Group - 1515 Dwight Way: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64 From: City Manager Recommendation:

- 1. Conduct a public hearing pursuant to Berkeley Municipal Code (BMC) Section 23B.64.030 and, upon conclusion, direct staff to return with a Resolution on June 11, 2013 determining that 1515 Dwight Way is in violation of: 1) BMC Chapter 12.26 The Patients Access to Medical Cannabis Act of 2008; 2) BMC Section 23A.12.010; 3) Health and Safety Code Section 11362.765(a); and 4) a Public Nuisance under BMC Section 23B.64.020 and order the use enjoined and terminated; and
- 2. Continue the Council's consideration to June 11, 2013 for adoption of the Resolution.

Financial Implications: None

Contact: Gregory Daniel, Code Enforcement, 981-2482

**Public Testimony:** The Mayor opened the public hearing. 9 speakers.

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

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

**Action:** M/S/C (Arreguin/Moore) to approve the City Manager's recommendation to:

- 1. Direct staff to return with a Resolution on June 11, 2013 determining that 1515 Dwight Way is in violation of: 1) BMC Chapter 12.26 The Patients Access to Medical Cannabis Act of 2008; 2) BMC Section 23A.12.010; 3) Health and Safety Code Section 11362.765(a); and 4) a Public Nuisance under BMC Section 23B.64.020 and order the use enjoined and terminated; and
- 2. Continue the Council's consideration to June 11, 2013 for adoption of the Resolution.

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

#### **Action Calendar - New Business**

#### 22. City Council Comments on FY 2014 & FY 2015 Budget

From: City Manager

**Recommendation:** Provide comments on the FY 2014 and FY 2015 City Budget.

Financial Implications: See report

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

**Action:** 0 speakers. Presentation made and discussion held regarding the FY 2014 and FY 2015 City Budget. Funding for the following programs to be considered in budget process: Bates – BUILD, BHS Bridge Program, Alive and Free, Vision 2020 support, Homeless Student Program, World Music Festival, Mime Troupe; Moore – CEID (\$10,000); Maio – Climate Action Group.

## 23. a. Fund the Spay/Neuter Your Pet Program from the General Fund in the Sum of \$50,000 Per Year

From: Animal Care Commission

**Recommendation:** Adopt a Resolution directing the City Manager to continue to fund the Spay/Neuter Your Pet program (SNYP) from the General Fund in the amount of \$50.000 per year.

Financial Implications: General Fund - \$50,000

Contact: Kate O'Connor, Commission Secretary, 981-6601

### b. Funding for the Spay Neuter Your Pet (SNYP) Program From: City Manager

From: City Manager

**Recommendation:** Take no action on the commission's recommendation and:

- 1. Provide on-site pre-adoption spay and neuter services at the Dona Spring Animal Shelter; and
- 2. Allocate \$10,000 to provide low-cost spay and neuter services at local veterinary offices for low-income Berkeley residents.

Financial Implications: None

Contact: Kate O'Connor, Animal Care Services, 981 6601

M/S/F (Bates/Wozniak) to call the previous question.

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

**Action:** M/S/C (Maio/Wengraf) to approve the City Manager's recommendation to take no action on the commission's recommendation, provide on-site pre-adoption spay and neuter services at the Dona Spring Animal Shelter, and allocate \$10,000 to provide low-cost spay and neuter services at local veterinary offices for low-income Berkeley residents. Additional funding for the SNYP program to be referred to the budget process.

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

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

## 24. Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls

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

**Action:** 10 speakers. M/S/C (Worthington/Arreguin) to accept supplemental or revised material from Councilmember Arreguin on Item 24.

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

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

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

**Action:** M/S/C (Worthington/Arreguin) to accept supplemental material from staff on Item 24.

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

**Action:** M/S/F (Worthington/Bates) to suspend the rules and extend the meeting to 11:45 p.m.

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

**Action:** M/S/F (Worthington/Bates) to call the previous question on the Main Motion by Mayor Bates to adopt the ordinance with the three-year option in Sections 23C.08.020.B., use 50% AMI in 23C.08.020.A.5.a., include the amendments submitted by Councilmember Arreguin in Section 23C.08.020.A.4., and change the language from "prevailing plaintiff" to "prevailing party" in 23C.08.035.

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

**Action:** M/S/F (Wozniak/Moore) to refer the proposed ordinance to the Planning Commission for consideration.

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

**Action:** M/S/C (Wengraf/Worthington) to hold the item over to June 11, 2013. **Vote:** Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None.

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

## 25. a. Budget Referral: Reduction in City Council Non-Personnel Office Budgets From: Councilmembers Arrequín and Wozniak

Recommendation: Refer the following to the FY 2014/2015 Budget Process: A

recurring reduction to City Council Non-Personnel Office Budgets.

Financial Implications: See report

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

## **b. Draft Mayor and Council Office Budget Donation Policy** (Continued from May 21, 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: Items 25a and 25b held over to June 11, 2013.

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

**26.** Assembly Bill 975: Charity Care (Continued from May 21, 2013)

From: Councilmember Arreguin

**Recommendation:** Adopt a Resolution supporting Assembly Bill (AB) 975 authored by Assemblymembers Bob Wieckowski and Rob Bonta. AB 975 would create uniform standards for transparency and accountability on charity care and community benefit for private, non-profit hospitals. Copies of the Resolution to be sent to Governor Jerry Brown, Senate President Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Perez, Assemblymembers Nancy Skinner, Bob Wieckowski, and Rob Bonta.

Financial Implications: None

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

Action: Item removed from Agenda by Councilmember Arreguin.

27. Berkeley Medical Marijuana Regulations (Continued from May 21, 2013)

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 removed from Agenda by Councilmember Moore.

#### **Information Reports**

28. Investment Report: Quarter Ended March 31, 2013

From: City Manager

Contact: Robert Hicks, Finance, 981-7300

Action: Received and filed.

#### **Information Reports**

#### 29. Parks Make Life Better! ® Campaign

From: City Manager

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

Action: Received and filed.

#### 30. Conversion to LED Street Lights

From: Public Works Commission

Contact: Jeff Egeberg, Commission Secretary, 981-6300

Action: Received and filed.

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

#### 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 June 4, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

#### **Communications**

## Item 21: Greenleaf Wellness Group - 1515 Dwight Way: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64

1. Alfred Antonini

#### **Berkeley Main Post Office**

2. Susan Cerny, on behalf of the Berkeley Architectural Heritage Association

#### Men's Locker Room Policy at the YMCA

3. Donald Carlson

#### **Eids TV**

4. M. Eid Abdallah

#### **Pedestrian Safety**

- 5. Tamar Raine
- 6. Judith Rogers
- 7. Peni Hall
- 8. Jeri Ovalle
- 9. Ardys DeLu
- 10. Blane Beckwith
- 11. Kaylene Cole-Daughdrill
- 12. Dominika Bednarska

#### **Parking Citation Processing Center**

13. Mary Ann Brewin (2) referred to City Manager by Councilmember Wengraf

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

None

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

## Item 17: City Manager Referral: Naming of Twain Path No. 68 in Honor of Councilmember Betty Olds

14. Keith Skinner, on behalf of the Berkeley Path Wanderers Association

## Item 20: Appeal of Proposed Special Assessment Lien - 1722 Ninth Street 15. Thomas Turman

## Item 21: Greenleaf Wellness Group - 1515 Dwight Way: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64

16. Kristina & Brian McVay

17. Gelso Investments, LLC

## Item 24: Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls

18. Brendan Darrow, on behalf of the East Bay Community Law Center

19. Judy Shelton

20. Julia Cato

21. John Selawsky

22. Berkeley Tenants Union

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

## Item 15: North Shattuck Association Chocolate and Chalk Art Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

23. Revised materials, submitted by Councilmember Arreguin

## Item 20: Appeal of Proposed Special Assessment Lien - 1722 Ninth Street 24. Roberto & Ramona Alcala

## Item 21: Greenleaf Wellness Group - 1515 Dwight Way: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64 25. James Anthony

## Item 23a: Fund the Spay/Neuter Your Pet Program from the General Fund in the Sum of \$50,000 Per Year

26. Jill Posener

## Item 24: Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls

27. Supplemental materials, submitted by Planning & Development

28. Jesse Arrequin, District 4

29. Jacob Waschak

30. Yuting Lam

31. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group

32. Barbara Gilbert

#### **Re-districting**

33. Unknown

**Eids TV** 

34. M. Eid Abdallah

#### MINUTES

## BERKELEY CITY COUNCIL SPECIAL MEETING MONDAY, JUNE 10, 2013

5:30 P.M.

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

TOM BATES, MAYOR Councilmembers:

DISTRICT 1 – LINDA MAIODISTRICT 5 – LAURIE CAPITELLIDISTRICT 2 – DARRYL MOOREDISTRICT 6 – SUSAN WENGRAFDISTRICT 3 – MAX ANDERSONDISTRICT 7 – KRISS WORTHINGTONDISTRICT 4 – JESSE ARREGUINDISTRICT 8 – GORDON WOZNIAK

#### **Preliminary Matters**

**Roll Call:** 5:30 p.m.

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

Wozniak and Mayor Bates.

**Absent:** Councilmember Worthington.

Councilmember Worthighton present at 5:32 p.m.

**Public Comment - Limited to items on this agenda only - 7** speakers.

#### **CLOSED SESSION:**

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

1. 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 file a claim and answer in the currently pending civil forfeiture proceeding concerning 2366 San Pablo Avenue (Berkeley Patients Group), titled *United States of America v. Real Property and Improvements Located at 2366 San Pablo Avenue, Berkeley, California* (USDC ND CA. No. CV 13 2027)

**Action:** M/S/C (Moore/Anderson) to file a claim and answer in the currently pending civil forfeiture proceeding concerning 2366 San Pablo Avenue, the location of Berkeley Patients Group. The action is: United States of America v. Real Property and Improvements Located at 2366 San Pablo Avenue, Berkeley, California (USDC ND CA. No. CV 13 2027)

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

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.

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

#### Pending litigation – one case

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

The Council discussed the potential methods and terms for an agreement with Kenneth Sarachan with regards to his properties on Telegraph Avenue.

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: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Wozniak, Bates;

Noes – None; Abstain – None; Absent – Worthington.

Councilmember Worthington absent 6:36 p.m. – 6:44 p.m.

Adjourned at 6:44 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of June 10, 2013.

Ma	ark	Nu	mair	rville,	CMC,	City	/ Clerk	(

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

Item 2: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

#### Pending litigation – one case

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

#### MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, JUNE 11, 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: 5:32 p.m.

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

Bates.

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

Councilmember Arreguin present at 5:41 p.m. Councilmember Worthington present at 5:50 p.m. Councilmember Anderson present at 5:52 p.m.

Public Comment – Items on this agenda only - 12 speakers.

#### Worksession:

1. goBerkeley Pilot Program - Parking Rate and Time Limit Options

From: City Manager

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Presentation made and discussion held.

#### **Adjournment**

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

**Vote:** Ayes – Moore, Anderson, Arreguin, Wozniak, Bates; Noes – None; Abstain – None;

Absent - Maio, Capitelli, Wengraf, Worthington

Councilmember Wengraf absent 6:58 p.m. – 7:10 p.m.

Councilmember Maio absent 7:06 p.m. – 7:10 p.m.

Councilmember Capitelli absent 7:07 p.m. – 7:10 p.m.

Councilmember Worthington absent 7:08 p.m. – 7:10 p.m.

Adjourned at 7:10 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of June 11, 2013.

Mark Numainville, CMC, City Clerk

#### **Communications**

None

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

#### Item 1: goBerkeley Pilot Program - Parking Rate and Time Limit Options

1. Supplemental materials, submitted by Public Works

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

#### Item 1: goBerkeley Pilot Program - Parking Rate and Time Limit Options

- 2. Michael Katz
- 3. Jacquelyn McCormick

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

#### Item 1: goBerkeley Pilot Program - Parking Rate and Time Limit Options

- 4. Presentation, submitted by Public Works
- 5. John Caner

# MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, JUNE 11, 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:** 7:22 p.m.

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

Worthington, Wozniak and Mayor Bates.

Absent: None.

#### **Ceremonial Matters:**

1. Berkeley World Music Festival

2. Amateur Radio Week, June 16-22

#### Announcement:

1. Berkeley Patients Group Forfeiture Action from Closed Session on June 10, 2013:

The City Council decided to file a claim and answer in the currently pending civil forfeiture proceeding concerning 2366 San Pablo Avenue, the location of Berkeley Patients Group. The action is: *United States of America v. Real Property and Improvements Located at 2366 San Pablo Avenue, Berkeley, California* (USDC ND CA. No. CV 13 2027)

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 (Worthington/Bates) to adopt the Consent Calendar in one motion except as

indicated: **Vote:** All Ayes.

1. Paperless Agenda Packet Program – Policy for Elected Officials

From: City Manager

**Recommendation:** Adopt a Resolution approving the Paperless Agenda Packet

Terms and Use Policy for Elected Officials.

**Financial Implications:** No direct fiscal impacts Contact: Mark Numainville, City Clerk, 981-6900

Action: Adopted Resolution No. 66,193-N.S.

## 2. Contract: Universal Building Services for Citywide Janitorial Services for Various Locations and Facilities

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year Citywide contract and any amendments with Universal Building Services (UBS) to provide Citywide janitorial services at 27 various City locations and facilities for the period July 1, 2013 to June 30, 2016, in an amount not to exceed \$1,830,000, with an option for two one-year extensions for a total five-year contract for an amount not to exceed \$3,137,000, subject to the City's annual budget appropriation process.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300 **Action:** Adopted Resolution No. 66,194–N.S.

## 3. FY 2014 Tax Rate: Fund Debt Service on Animal Shelter General Obligation Bonds (Measure I, November 2002 Election)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the debt service on the Animal Shelter General Obligation Bonds (Measure I, November 2002) at 0.0020%.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted first reading of Ordinance No. 7,287–N.S. Second reading

scheduled for June 25, 2013.

## 4. FY 2014 Tax Rate: Fund Debt Service on Fire Seismic General Obligation Bonds-Election of 1992 (Measure G, 2002 and 2007 General Obligation Refunding Bonds)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the debt service on the Fire Seismic General Obligation Bonds (Measure G, 2002 and 2007 General Obligation Refunding Bonds) at 0.0130%.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,288–N.S. Second reading

scheduled for June 25, 2013.

## 5. FY 2014 Tax Rate: Fund Debt Service on Measure S General Obligation Bonds, Election of 1996 (2007 Refunding Bonds)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the debt service on the Measure S General Obligation Bonds (Election of 1996, 2007 Refunding Bonds) at 0.020%.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,289–N.S. Second reading

scheduled for June 25, 2013.

## 6. FY 2014 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds-Election of November 2008 From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008) at 0.0115%.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,290–N.S. Second reading

scheduled for June 25, 2013.

#### 7. FY 2014 Tax Rate: Fund Disaster Fire Protection (Measure Q)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,291–N.S. Second reading

scheduled for June 25, 2013.

## 8. FY 2014 Tax Rate: Fund Emergency Services for the Severely Disabled From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the provision of emergency services for the disabled at \$0.01303 (1.303 cents) per square foot of improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,292-N.S. Second reading

scheduled for June 25, 2013.

## 9. FY 2014 Tax Rate: Fund the Maintenance of Parks, City Trees and Landscaping From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1222 (12.22 cents) per square foot of improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,293-N.S. Second reading

scheduled for June 25, 2013.

## 10. FY 2014 Tax Rate: Fund the Provision of Emergency Medical Services From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0327 (3.27 cents) per square foot of improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,294–N.S. Second reading scheduled for June 25, 2013.

#### 11. FY 2014 Special Tax Rate: Fund the Provision of Library Services

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the provision of Library Services in the City of Berkeley at \$0.1806 (18.06) cents) per square foot for dwelling units and \$0.2730 (27.30 cents) per square foot for industrial, commercial, and institutional buildings.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted first reading of Ordinance No. 7,295–N.S. Second reading

scheduled for June 25, 2013.

#### **12. Temporary Appropriations FY 2014**

From: City Manager

**Recommendation:** Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2013, until the effective date of the FY 2014 Annual Appropriations Ordinance.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300 Action: Adopted Resolution No. 66,195–N.S.

#### 13. **Notice of Appropriations Limit for Fiscal Year 2014**

From: City Manager

**Recommendation:** Adopt a Resolution providing notice that: 1) Council will adopt an appropriations limit for Fiscal Year 2014 at its meeting of June 25, 2013; and 2) the amount of the limit and the background material used in its calculation will be available for public review in the City Clerk's Office on or before June 10, 2013.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300 Action: Adopted Resolution No. 66,196–N.S.

#### 14. **Contract: Cigna Group Insurance for Life Insurance**

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Cigna Group Insurance (Cigna) to provide Basic Life and Accidental Death and Dismemberment (AD&D) Insurance at the reduced premium rate of \$0.09 per \$1,000 of coverage for eligible employees for Basic Life insurance and \$0.022 per \$1,000 of coverage for eligible employees for AD&D insurance, for a total contract amount not to exceed \$210,000 for three years, from July 1, 2013, through June 30, 2016.

Financial Implications: Payroll Deduction Trust Fund - \$210,000

Contact: David Abel, Human Resources, 981-6800

**Action:** Adopted Resolution No. 66,197–N.S.

#### 15. **Contract: Cigna Group Insurance for Long-Term Disability Insurance**

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Cigna Group Insurance (Cigna) to provide Long-Term Disability (LTD) Insurance at the reduced premium rate of \$0.270 for every \$100 of active Supplementary Retirement and Income Plan II (SRIP II) participants' covered salaries, for a total contract amount not to exceed \$624,000 for three (3) years, from July 1, 2013, through June 30, 2016.

Financial Implications: Payroll Deduction Trust Fund - \$624,000

Contact: David Abel, Human Resources, 981-6800 **Action:** Adopted Resolution No. 66,198–N.S.

## 16. Contract: Cigna Group Insurance for Third Party Administrative Services for the Supplementary Retirement and Income Plan I Disability Benefit From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Cigna Group Insurance (Cigna) to provide third party administrative services for the Supplementary Retirement and Income Plan I (SRIP I) disability benefit for a total contract amount not to exceed \$183,000 for three years, from July 1, 2013, through June 30, 2016.

Financial Implications: Payroll Deduction Trust Fund - \$183,000

Contact: David Abel, Human Resources, 981-6800

**Action:** Adopted Resolution No. 66,199–N.S.

#### 17. Contracts: Police Department Towing Services

From: City Manager

**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute two (2), three-year contracts and any amendments with the following vendors for towing services:

- 1. East Bay Tow, Inc. for an amount not to exceed \$82,000 for the term July 1, 2013 to June 30, 2016 with an option to renew for two, two-year terms;
- 2. Hustead's Towing Inc. for an amount not to exceed \$88,000 for the term July 1, 2013 to June 30, 2016 with an option to renew for two, two-year terms.

Financial Implications: See report

Contact: Michael Meehan, Police, 981-5900

Action: Adopted Resolution No. 66,200–N.S. (East Bay) and Resolution No.

66,201-N.S. (Hustead's).

## 18. Increase Purchase Order No. 91571 with Alameda County Criminalist Laboratory for Evidence Testing

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to increase FY 2013 Purchase Order No. 91571 to Alameda County Criminalist Laboratory by \$30,000 to remit payment for FY 2013 invoices submitted to the Police Department by County of Alameda Treasurer for the Alameda County Criminalist Laboratory for evidence testing and analysis services provided in FY 2013 as expenditures exceed the purchase limit currently authorized.

Financial Implications: Various Funds - \$30,000

Contact: Michael Meehan, Police, 981-5900 **Action:** Adopted Resolution No. 66,202–N.S.

## 19. Contract: A-Z Bus Sales, Inc. for Diesel Engine Emission Retrofit Devices From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with A-Z Bus Sales, Inc. for diesel engine emission retrofit devices, in an amount not to exceed \$141,000.

Financial Implications: Equipment Replacement Fund - \$141,000

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,203–N.S.

## 20. Contract No. 9125 Amendment: Gold Wing Engineering for Sanitary Sewer Project Panoramic Way Area (Phase I)

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9125 with Gold Wing Engineering for urgent sanitary sewer rehabilitation in the Panoramic Way area, increasing the amount by \$168,000 for a total amount not to exceed \$571,043.

Financial Implications: Sanitary Sewer Operation - \$168,000

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,204–N.S.

## 21. Residential and Commercial Refuse Collection Fees: FY 2014 Annual Inflator From: City Manager

**Recommendation:** Adopt a Resolution: 1) Increasing rates and fees for residential and commercial refuse collection by the Bay Area Consumer Price Index of 2.381%; 2) Adjusting temporary roll-off container rates to reflect current market rates; and 3) Rescinding Resolution No. 65,798-N.S. effective July 1, 2013.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,205–N.S.

#### 22. HERO Property Assessed Clean Energy Program

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 De Snoo, Commission Secretary, 981-7439

**Action:** Moved to Action Calendar. Item held over to July 16, 2013.

#### 23. Municipal Participation in Proposition 39 Funded Programs

From: Energy Commission

**Recommendation:** Adopt a Resolution asking the California Legislature to allow municipal and other local government jurisdictions and agencies to be eligible for project funding under Proposition 39.

Financial Implications: See report

Contact: Neal DeSnoo, Commission Secretary, 981-7400

**Action:** Adopted Resolution No. 66,206–N.S.

#### 24. Product Stewardship and Extended Producer Responsibility

**From: Zero Waste Commission** 

Recommendation: Adopt a Resolution: 1) Approving an Extended Producer Responsibility Policy; 2) Directing staff to provide written notice of Berkeley's policy to various agencies to encourage state and county legislation requiring those who design, manufacture, and sell products to take responsibility for minimizing environmental impacts through all stages of the product's life cycle, including appropriate disposal using reuse; recycling; anaerobic or aerobic composting; or wasting for unrecyclable residuals; and 3) Authorizing a contribution of \$1,000 to the California Product Stewardship Council from the Import Mitigation Grant in the Alameda County Recycling Board Fund.

Financial Implications: See report

Contact: Andy Schneider, Commission Secretary, 981-6357

**Action:** Adopted Resolution No. 66,207–N.S.

#### **Council Consent Items**

## 25. Support CA State Senator Steinberg's Proposal for Mental Health Care Improvements

From: Councilmembers Maio and Arrequín

Recommendation: Support Senator Steinberg's proposal for Mental Health Care

improvements.

Financial Implications: None

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

**Action:** Approved recommendation.

#### 26. Protecting Berkeley's Medical Cannabis Dispensaries

From: Councilmember Moore

**Recommendation:** Authorize and direct the City Manager and City Attorney to take all necessary and appropriate actions to timely join in or initiate and file a lawsuit opposing the complaint seeking forfeiture of 2366 San Pablo Avenue, Berkeley, the site of Berkeley Patients Group, filed on May 2, 2013, in the United States District Court for the Northern District of California.

Financial Implications: Unknown

Contact: Councilmember Darryl Moore, District 2, 981-7120 **Action:** Item removed from agenda by Councilmember Moore.

#### 27. Assembly Bill 60: Driver's Licenses Eligibility

From: Councilmember Arrequín

**Recommendation:** Adopt a Resolution supporting Assembly Bill (AB) 60, authored by Assemblymember Luis Alejo, which would require the DMV to issue driver's licenses to persons ineligible for a Social Security Number (SSN) who provide alternative specified documentation. Copies of the Resolution to be sent to

#### **Council Consent Items**

Governor Jerry Brown, Senate President Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Perez, Assemblymember Nancy Skinner and Assemblymember Luis Alejo.

Financial Implications: None

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

Action: Adopted Resolution No. 66,208–N.S.

#### 28. Support Bank on Student Loan Fairness Act

From: Councilmember Worthington

**Recommendation:** Support the Bank on Student Loan Fairness Act by US Senator Elizabeth Warren and send letters to Congresswoman Barbara Lee, Senator Dianne

Feinstein, and Senator Barbara Boxer.

Financial Implications: None

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

**Action:** Approved recommendation.

#### 29. Tenth Annual Berkeley World Music Festival

From: Councilmember Worthington

Recommendation: Adopt a Proclamation Designating June 22, 2013 as the

Berkeley World Music Day. Financial Implications: None

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

**Action:** Approved proclamation.

## 30. Support CARA's Campaign to Protect Social Security, Medicare, and Medicaid From: Councilmember Worthington

**Recommendation:** Support the California Alliance for Retired Americans (CARA) Campaign to Protect Social Security, Medicare, and Medicaid as reflected in

Assembly Joint Resolution 7 (Bonta) and to send letters to our federal representatives.

Financial Implications: None

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

**Action:** Approved recommendation.

## 31. Refer to the Budget Process: Community Choice Working Group – Berkeley Climate Action Coalition

From: Councilmember Worthington

**Recommendation:** Refer to the budget process: Community Choice Working Group

Berkelev Climate Action Coalition.

Financial Implications: \$10,000 for FY 2013-2014

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

**Action:** Approved recommendation.

#### **Action Calendar - Appeals**

#### 32. ZAB Appeal: 2433 Martin Luther King, Jr. Way

From: City Manager

**Recommendation:** Adopt a Resolution to affirm the Zoning Adjustments Board's (ZAB) approval of Use Permit No. 11-10000010 to construct two dwellings in a new two-story, 1,552 square foot building to the rear of an existing one-story, 1,064

#### **Action Calendar – Appeals**

square foot, single-family residence, on a 5,200 square foot parcel in the R-3 District. **Financial Implications:** None

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

#### a. Appellant

1. Matthew O'Brien

#### b. Communications

- 1. Matthew O'Brien
- 2. Minxi Liu

**Action**: 0 speakers. M/S/C (Capitelli/Moore) to adopt Resolution No. 66,209–N.S. affirming the Zoning Adjustments Board's (ZAB) approval of Use Permit No. 11-10000010 to construct two dwellings in a new two-story, 1,552 square foot building to the rear of an existing one-story, 1,064 square foot, single-family residence, on a 5,200 square foot parcel in the R-3 District, with revised language in the following clauses:

WHEREAS, on March 15, 2011, Minxi Liu, on the behalf of the property owner, filed an application for Use Permit No. 11-10000010, to construct two dwellings within a two-story, 1,665 square foot building to the rear of an existing one-story, 1,064 square foot, single-family residence, on a 5,200 square foot parcel in the R-3 District; and

WHEREAS, on June 25, 2011 and August 18, 2011, the application was revised to reduce the overall floor area and to move the proposed second floor away from the property to the north; and

WHEREAS, on January 10, 2013, new shadow studies depicting shadow impacts on March 21 and September 21 were submitted; and

WHEREAS, on February 14, 2013, the ZAB held a public hearing, received testimony from four speakers, and approved the application by a 7-0-1-1 vote (Yes: Allen, Alvarez Cohen, Donaldson, Mathews, Tregub, Williams; Abstain: Hahn; Absent: Groves); and

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

#### **Action Calendar – Public Hearings**

#### 33. Amendments to the Berkeley Election Reform Act

#### a. Electronic Filing

From: Fair Campaign Practices Commission

**Recommendation:** Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to provide for the electronic filing of campaign statements and reports and to designate the electronic filing as the filing of record.

Financial Implications: See report

Contact: Kristy van Herick, Commission Secretary, 981-6998

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

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

Vote: All Ayes.

#### **Action Calendar – Appeals**

**Action:** M/S/C (Bates/Moore) to continue the item to September 10, 2013 and request that staff provide additional information on options for uploading data to create campaign statements.

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

#### b. Technical Changes and Clean Up

From: Fair Campaign Practices Commission

**Recommendation:** Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to bring the Act into compliance with state law, make technical changes to outdated provisions, and remove obsolete sections.

Financial Implications: None

Contact: Kristy van Herick, Commission Secretary, 981-6998

**Action:** M/S/C (Maio/Capitelli) to adopt the first reading of Ordinance No. 7,296–N.S. amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to bring the Act into compliance with state law, make technical changes to outdated provisions, and remove obsolete sections. Second reading scheduled for June 25, 2013.

Vote: All Ayes.

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

A. Zoning Amendments to BMC Chapter 23C.08 - Demolition and Dwelling Unit Controls (Continued from June 4, 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

**Action:** 7 speakers. M/S/C (Bates/Wengraf) to direct staff to return with alternative language for 23C.08.020A.4. and 23C.08.020A.5. to provide two options:

- 1) Pay an in-lieu fee for each demolished unit vacant at the time of demolition equal to the Affordable Housing Mitigation Fee, currently set at \$20,000 per unit, or
- 2) Provide a deed restricted replacement unit whose initial rent shall be the last known rent of the unit prior to demolition, or if the rent is unknown, or if the unit was vacant for more than five years prior to demolition, the initial rent shall be set at a level affordable to a tenant at 50% AMI and will be rented to a tenant who meets such income qualifications. After the initial tenancy, vacancy decontrol shall apply pursuant to the Costa –Hawkins Rental Housing Act.

Sitting tenants will be protected as described in Section 23C.08.020 C.

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

All replacement units, whether vacant or occupied at the time of demolition, will be deed restricted such that rents for those units may only increase by the same amount as the annual general adjustment published by the Berkeley Rent Stabilization Board each year.

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

B. Greenleaf Wellness Group - 1515 Dwight Way: Determination Regarding a Public Nuisance under BMC Section 23B.64 (Continued from June 4, 2013) From: City Manager

**Recommendation:** Adopt a Resolution reflecting the City Council's June 4, 2013 action determining that 1515 Dwight Way, operating as Greenleaf Wellness Group is: 1) In violation of: a. BMC Chapter 12.26 The Patients Access to Medical Cannabis Act of 2008; b. BMC Section 23A.12.010; c. Health and Safety Code Section 11362.765(a); and 2) A Public Nuisance under BMC Section 23B.64.020 and ordering the use enjoined and terminated.

Financial Implications: None

Contact: Gregory Daniel, Code Enforcement, 981-2482

**Action:** Moved to Consent Calendar. Adopted Resolution No. 66,210–N.S. reflecting the City Council's June 4, 2013 action determining that 1515 Dwight Way, operating as Greenleaf Wellness Group is: 1) In violation of: a. BMC Chapter 12.26 The Patients Access to Medical Cannabis Act of 2008; b. BMC Section 23A.12.010; c. Health and Safety Code Section 11362.765(a); and 2) A Public Nuisance under BMC Section 23B.64.020 and ordering the use enjoined and terminated.

C. a. Budget Referral: Reduction in City Council Non-Personnel Office Budgets (Continued from June 4, 2013)

From: Councilmembers Arreguín and Wozniak

**Recommendation:** Refer the following to the FY 2014/2015 Budget Process: A recurring reduction to City Council Non-Personnel Office Budgets.

Financial Implications: See report

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

**Action:** 0 speakers. M/S/F (Bates/Worthington) to include a 2% reduction in the City Council Non-Personnel Office Budgets in the FY 2014 – 2015 Budget.

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

**Action:** M/S/F (Bates/Worthington) to adopt Councilmembers Arreguín and Wozniak's recommendation to refer the following to the FY 2014/2015 Budget Process: A recurring reduction to City Council Non-Personnel Office Budgets.

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

**Action:** M/S/C (Bates/Worthington) to suspend the rules and extend the meeting to 11:15 p.m.

Vote: All Ayes.

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

**b. Draft Mayor and Council Office Budget Donation Policy** (Continued from June 4, 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:** 0 speakers. M/S/C (Maio/Arreguin) to approve the draft Mayor and Councilmember Office Budget Donation policy amended to require a majority vote for approval of relinquishments that do not attain pre-approval.

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

D. North Shattuck Association Chocolate and Chalk Art Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds (Continued from June 4, 2013)

From: Councilmember Arreguín

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember to the North Shattuck Association with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguín, and any other Councilmembers who would like to contribute.

Financial Implications: Councilmember's Discretionary Fund - \$250

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 66,211–N.S. as originally printed in the June 4, 2013 agenda packet approving the expenditure of an amount not to exceed \$250 per Councilmember to the North Shattuck Association with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguín, and any other Councilmembers who would like to contribute.

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

34. Authorizing the Issuance of Up To \$15,000,000 in General Obligation Bonds for the Measure M - Street and Integrated Watershed Improvements

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the issuance of up to \$15,000,000 aggregate principal amount of general obligation bonds (Measure M - Street and Integrated Watershed Improvements), and authorizing actions related hereto.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Moved to Consent Calendar. Adopt Resolution No. 66,212–N.S. authorizing the issuance of up to \$15,000,000 aggregate principal amount of general obligation bonds (Measure M - Street and Integrated Watershed Improvements), and authorizing actions related hereto.

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

## 35. FY 2014 Tax Rate: Fund Debt Service on Streets and Watershed General Obligation Bonds-Election of November 2012

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding the debt service on the Streets and Watershed General Obligation Bonds (Measure M, November 2012) that are expected to be issued in January 2014 at 0.0070%.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Moved to Consent Calendar. Adopted first reading of Ordinance No. 7,297–N.S. setting the FY 2014 tax rate for funding the debt service on the Streets and Watershed General Obligation Bonds (Measure M, November 2012) that are expected to be issued in January 2014 at 0.0070%. Second reading scheduled for June 25, 2013.

## 36. Borrowing of Funds and the Sale and Issuance of FY 2014 Tax and Revenue Anticipation Notes

From: City Manager

**Recommendation:** Adopt a Resolution approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2014 Tax and Revenue Anticipation Notes.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Moved to Consent Calendar. Adopted Resolution No. 66,213–N.S. approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2014 Tax and Revenue Anticipation Notes.

#### 37. a. Annual Adjustment of Measure GG Tax Rate

From: Disaster & Fire Safety Commission

**Recommendation:** The Disaster & Fire Safety Commission recommends that there be no increase in the rate of tax imposed under Measure GG in Fiscal Year 2014.

Financial Implications: See report

Contact: Aaron Lee, Commission Secretary, 981-5502

## b. FY 2014 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance setting the FY 2014 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at \$0.04659 (4.659 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.07051 (7.051 cents) per square foot of improvements.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** 0 speakers. M/S/C (Wozniak/Moore) to adopt the first reading of Ordinance No. 7,298–N.S. setting the FY 2014 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at \$0.04659 (4.659 cents) per square foot of improvements for dwelling units and setting the rate for all

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

other property at \$0.07051 (7.051 cents) per square foot of improvements. Second reading scheduled for June 25, 2013.

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

Councilmember Arreguin absent 10:33 p.m. - 10:41 p.m.

Councilmember Worthington absent 10:33 p.m. – 10:42 p.m.

#### 38. Medical Cannabis Ordinance Revisions and Dispensary Selection Process

## a. From: Medical Cannabis Commission Recommendation:

- 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 12.26.030;
- 2. Adopt first reading of an Ordinance adding BMC by creating a new Chapter 12.27, including the Medical Cannabis Commission's recommendations (Alternative A);
- 3. Adopt a Resolution establishing a ranking process for the selection of additional medical cannabis dispensaries in Berkeley; and
- 4. Refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six.

Financial Implications: See report

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

## b. From: City Manager Recommendation:

- 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 12.26.030;
- 2. Adopt first reading of an Ordinance adding BMC Chapter 12.27, including the staff recommendations (Alternative B);
- 3. Adopt a Resolution establishing a ranking process for the selection of additional medical cannabis dispensaries in Berkeley; and
- 4. Refer to the Planning Commission an amendment to BMC Section 23E.16.070 to increase the number of dispensaries permitted from four to six.

Financial Implications: See report

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

**Action:** 0 speakers. M/S/C (Moore/Bates) to table the item to October 1, 2013.

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

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

## 39. Amending Berkeley Municipal Code Chapters 9.48, Chapter 14.48 and Chapter 16.18 to Establish a Two Year Pilot Program Authorizing Sidewalk Displays by Fixed Location Merchants on Telegraph Avenue

From: City Manager

**Recommendation:** Adopt first reading of three Ordinances:

- 1. Amending BMC Chapter 9.48 regarding regulation of sidewalk vending on Telegraph Avenue; and
- 2. Amending BMC Chapter 14.48 regarding regulation of miscellaneous use of sidewalk, and
- 3. Amending BMC Chapter 16.18 regarding regulation of right of way encroachments.

Financial Implications: See report

Contact: William Rogers, City Manager's Office, 981-7000

**Action:** Moved to Consent Calendar. Adopted first reading of the following ordinances:

- 1. Ordinance No. 7,299 –N.S. amending BMC Chapter 9.48 regarding regulation of sidewalk vending on Telegraph Avenue. Second reading scheduled for June 25, 2013.
- 2. Ordinance No. 7,300–N.S. amending BMC Chapter 14.48 regarding regulation of miscellaneous use of sidewalk. Second reading scheduled for June 25, 2013.
- 3. Ordinance No. 7,301–N.S. amending BMC Chapter 16.18 regarding regulation of right of way encroachments. Second reading scheduled for June 25, 2013.

### **Council Action Items**

### 40. Discussion and Direction on City Council Budget Referrals

From: Mayor Bates

**Recommendation:** Discuss and provide direction to the City Manager regarding City Council budget referrals for the FY 2014 and FY 2015 budget process.

Financial Implications: See report Contact: Tom Bates, Mayor, 981-7100

Action: 8 speakers. M/S/C (Capitelli/Arreguin) to accept supplemental material from

Mayor Bates on Item 40.

Vote: All Ayes.

**Action:** M/S/C (Bates/Maio) to include the organizations and amounts listed in the supplemental material in the FY 2014 and FY 2015 City Budget and request that the Children, Youth, and Recreation Commission and the Homeless Commission develop a suggested proposal for the City Council's consideration to address possible services for homeless youth and it would be the intent of the City Council, after receiving that proposal, to seek funding and to do an RFP for community-based organizations to allow them to provide those services.

Vote: All Ayes.

### **Information Reports**

### 41. Settlement of Koolish v. City of Berkeley, ACSC No. RG 12 619373

From: City Manager

Contact: Zach Cowan, City Attorney, 981-6950

Action: Received and filed.

### 42. Community Agency Funding Budget Referrals

From: City Manager

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

Action: Received and filed.

### Public Comment – Including Items Not Listed on the Agenda – 3 speakers.

### Adjournment in memory of:

1. Patti Dacey, former Planning Commissioner

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

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

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

Councilmember Anderson absent 11:04 p.m. – 11:10 p.m.

Adjourned at 11:10 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of June 11, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

### **Communications**

### **Item 26: Protecting Berkeley's Medical Cannabis Dispensaries**

1. Joe Elford

### **Parking Regulations**

2. Vaughn Sills

### **FEMA and Fire Risk Reduction**

3. Sally Nelson

### **Tenant Complaint**

4. W.B.C

### **Communications**

### **Pedestrian Safety Petition**

5. Dan McMullan

**Bruce Douglas Reeves** 

Graham Freeman

L. Karlene Gullone

Franziska Marks

Erik Schmitt

Felipe Fernandez

John Iversen

Judith Grether

Karen Bennett

Alyse Jacobson

Karina Garbesi

Inda Luciano

Gae Henry

Martin Edwards

Ann & John Kadyk

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

None

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

### Item 29: Tenth Annual Berkeley World Music Festival

6. Gianna Ranuzzi

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

- 7. Brendan Darrow, on behalf of the East Bay Community Law Center
- 8. Shirley Dean
- 9. Joshua Pfeffer
- 10. Phoebe Sorgen
- 11. David Keenan
- 12. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group
- 13. Katherine Harr

## Item B: Greenleaf Wellness Group - 1515 Dwight Way: Determination Regarding a Public Nuisance under BMC Section 23B.64

14. Charles Pappas

## Item 38: Medical Cannabis Ordinance Revisions and Dispensary Selection Process 15. Sean Luse, on behalf of Berkeley Patients Group

### Item 40: Discussion and Direction on City Council Budget Referrals

16. Ryan Sin, on behalf of the Berkeley Project

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

Item 25: Support CA State Senator Steinberg's Proposal for Mental Health Care Improvements

17. Shirley Dean

Item 32: ZAB Appeal: 2433 Martin Luther King, Jr. Way

18. Revised materials, submitted by Planning & Development

Item 33 a: Amendments to the Berkeley Election Reform Act - Electronic Filing 19. Mark Berger

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

20. Brendan Darrow, on behalf of the East Bay Community Law Center

Item C a: Budget Referral: Reduction in City Council Non-Personnel Office Budgets 21. Tim Wallace

**Item 38: Medical Cannabis Ordinance Revisions and Dispensary Selection Process** 22. Dan Rush

Item 39: Amending Berkeley Municipal Code Chapters 9.48, Chapter 14.48 and Chapter 16.18 to Establish a Two Year Pilot Program Authorizing Sidewalk Displays by Fixed Location Merchants on Telegraph Avenue 23. Carol Denney

Item 40: Discussion and Direction on City Council Budget Referrals

24. Supplemental materials, submitted by Mayor Bates

25. Angela Porter

**Pedestrian Safety** 

26. Dan McMullan

**Eids TV** 

27. M. Eid Abdallah

# MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, JUNE 25, 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: 7:00 p.m.

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

Worthington, Wozniak and Mayor Bates.

Absent: None.

### **Ceremonial Matters:**

1. Elena Penderhughes, Presidential Scholar for the Arts

- 2. United Nations Victims of Torture Day, June 26, 2013
- 3. Recognition of Minh Deng, Human Trafficking Activist

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 5 speakers.

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

### **Consent Calendar**

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

Vote: All Ayes.

1. FY 2014 Tax Rate: Fund Debt Service on Animal Shelter General Obligation Bonds (Measure I, November 2002 Election)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,287-N.S. setting the

FY 2014 tax rate for funding the debt service on the Animal Shelter General

Obligation Bonds (Measure I, November 2002) at 0.0020%.

First Reading Vote: All Ayes

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,287–N.S.

2. FY 2014 Tax Rate: Fund Debt Service on Fire Seismic General Obligation Bonds-Election of 1992 (Measure G, 2002 and 2007 General Obligation Refunding Bonds)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,288-N.S. setting the FY 2014 tax rate for funding the debt service on the Fire Seismic General Obligation Bonds (Measure G, 2002 and 2007 General Obligation Refunding Bonds) at 0.0130%.

First Reading Vote: All Ayes Financial Implications: See report Contact: Robert Hicks. Finance. 981-7300

**Action:** Adopted second reading of Ordinance No. 7,288–N.S.

3. FY 2014 Tax Rate: Fund Debt Service on Measure S General Obligation Bonds, Election of 1996 (2007 Refunding Bonds)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,289-N.S. setting the FY 2014 tax rate for funding the debt service on the Measure S General Obligation

Bonds (Election of 1996, 2007 Refunding Bonds) at 0.020%.

First Reading Vote: All Ayes Financial Implications: See report Contact: Robert Hicks, Finance, 981-7300

Action: Adopted second reading of Ordinance No. 7,289–N.S.

4. FY 2014 Tax Rate: Fund Debt Service on Neighborhood Branch Library Improvements Project General Obligation Bonds-Election of November 2008 From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,290-N.S. setting the FY 2014 tax rate for funding the debt service on the Neighborhood Branch Library Improvements Project General Obligation Bonds (Measure FF, November 2008) at 0.0115%.

First Reading Vote: All Ayes
Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,290–N.S.

5. FY 2014 Tax Rate: Fund Disaster Fire Protection (Measure Q)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,291-N.S. setting the FY 2014 tax rate for funding the procurement of disaster fire equipment at \$0.0125 (1.25 cents) per square foot of improvements.

First Reading Vote: All Ayes

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,291–N.S.

## 6. FY 2014 Tax Rate: Fund Emergency Services for the Severely Disabled From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,292-N.S. setting the

**Recommendation:** Adopt second reading of Ordinance No. 7,292-N.S. setting the FY 2014 tax rate for funding the provision of emergency services for the disabled at \$0.01303 (1.303 cents) per square foot of improvements.

First Reading Vote: All Ayes
Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,292–N.S.

### 7. FY 2014 Tax Rate: Fund the Maintenance of Parks, City Trees and

Landscaping

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,293-N.S. setting the FY 2014 tax rate for funding all improvements for the maintenance of parks, City trees, and landscaping in the City of Berkeley at \$0.1222 (12.22 cents) per square foot of improvements.

First Reading Vote: All Ayes

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,293–N.S.

### 8. FY 2014 Tax Rate: Fund the Provision of Emergency Medical Services

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,294-N.S. setting the

FY 2014 tax rate for funding the provision of emergency medical services to Berkeley residents at \$0.0327 (3.27 cents) per square foot of improvements.

First Reading Vote: All Ayes
Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted second reading of Ordinance No. 7,294–N.S.

### 9. FY 2014 Special Tax Rate: Fund the Provision of Library Services

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,295-N.S. setting the FY 2014 tax rate for funding the provision of Library Services in the City of Berkeley at \$0.1806 (18.06 cents) per square foot for dwelling units and \$0.2730 (27.30 cents) per square foot for industrial, commercial, and institutional buildings.

First Reading Vote: All Ayes

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,295–N.S.

### 10. Amendments to the Berkeley Election Reform Act - Technical Changes and Clean Up

From: Fair Campaign Practices Commission

**Recommendation:** Adopt second reading of Ordinance No. 7,296-N.S. amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to bring the Act into compliance with state law, make technical changes to outdated provisions, and remove obsolete sections.

First Reading Vote: All Ayes Financial Implications: None

Contact: Kristy van Herick, Commission Secretary, 981-6998 **Action:** Adopted second reading of Ordinance No. 7,296–N.S.

## 11. FY 2014 Tax Rate: Fund Debt Service on Streets and Watershed General Obligation Bonds-Election of November 2012

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,297-N.S. setting the FY 2014 tax rate for funding the debt service on the Streets and Watershed General Obligation Bonds (Measure M, November 2012) that are expected to be issued in January 2014 at 0.0070%.

First Reading Vote: All Ayes
Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

**Action:** Adopted second reading of Ordinance No. 7,297–N.S.

## 12. FY 2014 Tax Rate: Fund Fire Protection and Emergency Response and Preparedness (Measure GG)

From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,298-N.S. setting the FY 2014 tax rate for funding Fire Protection and Emergency Response and Preparedness in the City of Berkeley at \$0.04659 (4.659 cents) per square foot of improvements for dwelling units and setting the rate for all other property at \$0.07051 (7.051 cents) per square foot of improvements.

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

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300

Action: Adopted second reading of Ordinance No. 7,298–N.S.

## 13. Amending Berkeley Municipal Code Chapters 9.48, Chapter 14.48 and Chapter 16.18 to Establish a Two Year Pilot Program Authorizing Sidewalk Displays by Fixed Location Merchants on Telegraph Avenue

From: City Manager

**Recommendation:** Adopt second reading of:

- 1. Ordinance No. 7,299-N.S. amending BMC Chapter 9.48 regarding regulation of sidewalk vending on Telegraph Avenue; and
- 2. Ordinance No. 7,300-N.S. amending BMC Chapter 14.48 regarding regulation of miscellaneous use of sidewalk, and
- 3. Ordinance No. 7,301-N.S. amending BMC Chapter 16.18 regarding regulation of right of way encroachments.

First Reading Vote: All Ayes

Financial Implications: See report

Contact: William Rogers, City Manager's Office, 981-7000

**Action:** Adopted second reading of Ordinance No. 7,299–N.S.; Ordinance No.

7,300-N.S.; Ordinance No. 7,301-N.S.

### 14. Repeal BMC Section 9.08.090 Prohibiting Fliers on Windshields

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance repealing Berkeley Municipal

Code Section 9.08.090, which prohibits placing fliers on vehicle windshields.

Financial Implications: None

Contact: Zach Cowan, City Attorney, 981-6950

Action: Adopted first reading of Ordinance No. 7,302–N.S. Second reading

scheduled for July 2, 2013.

### 15. Minutes for Approval

From: City Manager

**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).

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Approved minutes as submitted.

### 16. Appointment of Fire Chief

From: City Manager

**Recommendation:** Adopt a Resolution confirming the appointment of Gil Dong as

the Fire Chief to be effective July 7, 2013.

Financial Implications: See report

Contact: Christine Daniel, City Manager, 981-7000

Action: Adopted Resolution No. 66,214–N.S.

### 17. Appointment of Director of Parks, Recreation & Waterfront

From: City Manager

**Recommendation:** Adopt a Resolution confirming the appointment of Scott Ferris as the Director of the Parks, Recreation & Waterfront Department to be effective July 7. 2013.

Financial Implications: See report

Contact: Christine Daniel, City Manager, 981-7000 **Action:** Adopted Resolution No. 66,215–N.S.

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

### 18. Appropriations Limit for FY 2014

From: City Manager

**Recommendation:** Adopt a Resolution establishing the appropriations limit at \$210,837,211 for FY 2014 pursuant to Article XIIIB of the Constitution of the State of California based on the calculations for the appropriations limit.

Financial Implications: See report

Contact: Robert Hicks, Finance, 981-7300 **Action:** Adopted Resolution No. 66,216–N.S.

## 19. Purchase Order Agreements: Aramark Uniform Rental and Laundry Service From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into annual Purchase Order agreements with Aramark Uniform Services to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments as needed for a period covering July 1, 2013 through June 30, 2016 for \$149,800 annually, and a total not to exceed \$449,400 for three (3) years, subject to the City's annual budget appropriation process.

Financial Implications: Various Funds - \$149,800 (annually)

Contact: Robert Hicks, Finance, 981-7300 **Action:** Adopted Resolution No. 66,217–N.S.

## 20. Revenue Grant: FEMA Port Security Grant Program to Fund Acquisition of a Public Safety Response Boat

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to apply for and accept a grant, and any amendments, from the Federal Emergency Management Agency's (FEMA) Port Security Grant Program (PSGP) in the amount of \$690,000 and authorizing the use of \$230,000 in local matching funds to purchase a public safety response boat for public safety, emergency response and environmental protection.

**Financial Implications:** See report Contact: Gil Dong, Fire, 981-3473

**Action:** Adopted Resolution No. 66,218–N.S.

## 21. Amendment of Senior and Disabled Rehabilitation Loan Program Guidelines From: City Manager

**Recommendation:** Amend the guidelines for the Senior and Disabled Rehabilitation Loan Program (Program) to increase the total loan amount from \$70,000 to \$80,000 per project, increase the allowable CalHOME portion of the loan by \$20,000 to \$60,000, and expand income eligibility for the program to align with CalHOME and CDBG regulations which allow the program to serve households with up to 80% of Area Median Income.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,219–N.S.

### 22. Contract: Easy Does It to Provide Emergency Services to Berkeley Residents with Severe Disabilities

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract with Easy Does It Emergency Services (EDI) to provide emergency services to Berkeley residents with severe disabilities for the period of July 1, 2013 to June 30, 2014 for a total contract amount not to exceed \$1,004,192; and approve an option authorizing the City Manager to extend the term of the contract annually up to two additional years contingent upon a satisfactory annual performance.

Financial Implications: Measure E Special Tax Fund - \$1,004,192

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

Action: Adopted Resolution No. 66,220–N.S.

### 23. Contract No. 8593 Amendment: Berkeley Youth Alternatives to Counter Pro-Tobacco Influences and Promote Tobacco Cessation

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend and extend Contract No. 8593 with Berkeley Youth Alternatives to reduce tobacco litter and reduce tobacco marketing to youth, increasing the amount by \$141,600 for a total not to exceed amount of \$354,100 through June 30, 2015.

Financial Implications: Health (General) - \$141,600

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

**Action:** Adopted Resolution No. 66,221–N.S.

## 24. Revenue Grant Agreements: Funding Support from the Partner Organizations to Conduct Public Health Promotion, Protection, and Prevention Services From: City Manager

**Recommendation:** Adopt three Resolutions authorizing the City Manager to submit grant agreements to First 5 Alameda County, YMCA of the Central Bay Area and Berkeley Development Group, 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. First 5 Alameda County, in the projected amount of \$69,431 for FY 2014 and \$45,709 for FY 2015 for a total of \$115,140 for Fiscal Years 2014 and 2015.
- 2. YMCA of the Central Bay Area, in the projected amount of \$10,000 for FY 2014.
- 3. Berkeley Development Group, in the projected amount of \$15,000 for FY 2014. **Financial Implications:** See report

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

**Action:** Adopted Resolution No. 66,222–N.S. (First 5 Alameda County); Resolution No. 66,223–N.S. (YMCA of the Central Bay Area); and Resolution No. 66,224–N.S. (Berkeley Development Group).

## 25. Contract No. 7911 Amendment: The Lipman Company, Inc. for Retiree Health Premium Assistance Plan Third-Party Administrator

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7911 with The Lipman Company, Inc. (TLC) for administration of the Retiree Health Premium Assistance Plan for non-sworn retirees and other retiree medical programs for sworn Fire and Police; to increase the amount of funding by \$74,000 for Calendar Year 2013, for a total not to exceed amount of \$474,000 for the period January 1, 2013 to December 31, 2013; and extend the term of the contract with TLC for two (2) years, covering the period January 1, 2014 through December 31, 2015, and increasing the contract amount by an additional \$234,000, for a total contract amount not to exceed \$708,000.

Financial Implications: See report

Contact: David Abel, Human Resources, 981-6800 **Action:** Adopted Resolution No. 66,225–N.S.

## 26. Contract No. 7167D Amendment: SunGard Public Sector for Software Maintenance From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7167D with SunGard Public Sector for maintenance and support of the City's FUND\$ system, increasing the contract amount by \$145,000 for a total not to exceed \$1,095,000 from July 1, 2006 through June 30, 2014.

Financial Implications: General Fund - \$145,000

Contact: Donna LaSala, Information Technology, 981-6500

**Action:** Adopted Resolution No. 66,226–N.S.

## 27. Contract No. 7539C Amendment: Rocket Software, Inc. for Change Management Software

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7539C with Rocket Software, Inc. (formerly Aldon, Inc.) for change management software licensing, maintenance, and technical support, increasing the contract amount by \$10,000 for a total not to exceed \$57,996 from February 28, 2008 through June 30, 2015.

Financial Implications: General Fund - \$10,000

Contact: Donna LaSala, Information Technology, 981-6500

Action: Adopted Resolution No. 66,227–N.S.

## 28. Waiver of Annual Marina Berth and Storage Fees for Non-Profits From: City Manager

**Recommendation:** Adopt a Resolution: 1) Affirming the determination by City staff and the Waterfront Commission that three non-profit organizations at the Berkeley Marina (Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project) are in full compliance with all aspects of Resolution No. 58,859-N.S.; and 2) Approving the annual waiver of berth fees for the three groups for FY 2014.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,228-N.S.

## 29. Reject Bid and Authorize City Manager to Negotiate in the Open Market – Civic Center Building and Public Safety Building Data Center Upgrades From: City Manager

**Recommendation:** Adopt a Resolution: 1) Rejecting the one bid submitted to the City of Berkeley for Specification No. 13-10730-C, Civic Center Building and Public Safety Building Data Center Upgrades Project; and 2) Authorizing the City Manager to negotiate in the open market in accordance with Article XI, Public Works and Supplies, Section 67(a.) of the City Charter.

**Financial Implications:** There are no fiscal impacts until a contract will be negotiated.

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,229–N.S.

## 30. Grant Funding Agreement for MTC One Bay Area Grant Program From: City Manager

**Recommendation:** Adopt a Resolution: 1) Authorizing the City to execute and file a funding application to the Metropolitan Transportation Commission (MTC) for \$4,932,702 in Federal funds for the Shattuck Reconfiguration and Pedestrian Safety Improvements and the Hearst Avenue Complete Street Project (Projects), as recommended by the Alameda County Transportation Commission through the FY 2012/13 Coordinated Funding Program; 2) Committing any necessary matching funds; and 3) Stating the City's assurance as to its ability and intent to complete the project.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,230–N.S.

### 31. MOU: EBCSAC Agencies to Share Consultant Services Cost

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Memorandum of Understanding among the East Bay Collection System Advisory Committee agencies regarding cost sharing of consultant services and appropriating funds not to exceed a total of \$250,000 from the Sewer Fund during the 5 year period FY 2014 – FY 2018.

Financial Implications: Sanitary Sewer Operation - \$250,000

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,231–N.S.

### 32. Naming Berkeley's Public Health Clinic for Ann Chandler

From: Public Works Commission

Recommendation: Adopt a Resolution renaming the Public Health Clinic as the

Ann Chandler Public Health Center effective November 18, 2013.

**Financial Implications:** Nominal cost to revise signage Contact: Jeffrey Egeberg, Commission Secretary, 981-6406

**Action:** Adopted Resolution No. 66,232–N.S.

### **Council Consent Items**

### 33. Senate Bill 467: Email Privacy

From: Councilmember Arreguin

**Recommendation:** Adopt a Resolution supporting Senate Bill (SB) 467, authored by Senator Mark Leno, which would require a search warrant when a governmental agency is seeking the contents of certain electronic communications, such as email. Copies of the Resolution to be sent to Governor Jerry Brown, Senate President Pro Tem Darrell Steinberg, Senators Mark Leno and Loni Hancock, Assembly Speaker John A. Perez, and Assemblymember Nancy Skinner.

Financial Implications: None

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

**Action:** Adopted Resolution No. 66,233–N.S.

## 34. Berkeley Historical Plaque Project: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Wengraf

**Recommendation**: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including up to \$500 from Councilmember Wengraf, to the Berkeley Historical Plaque Project with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Wengraf and any other Councilmembers who would like to contribute.

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

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Action: Adopted Resolution No. 66,234–N.S.

### **Action Calendar - Appeals**

### 35. ZAB Appeal: 2024 Durant Avenue/2025 Channing Way

From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 12-10000017 to demolish a church and construct a six-story, 78-unit, apartment building with a mix of one, two, and three bedroom units and basement level parking with 34 parking spaces.

Financial Implications: None

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

### a. Appeal

1. Stephen Stine

#### b. Communication

1. Avram Gur Arye

### **Action Calendar – Appeals**

**Action:** 21 speakers. M/S/C (Wozniak/Capitelli) to adopt Resolution No. 66,235—N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 12-10000017 to demolish a church and construct a six-story, 78-unit, apartment building with a mix of one, two, and three bedroom units and basement level parking with 34 parking spaces.

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

Recess: 9:37 p.m. - 9:48 p.m.

### 36. ZAB Appeal: 2360 Telegraph Avenue

From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 12-10000037 to establish a Quick Service Restaurant (QSR) exceeding the C-T District's limitations on the number and size of such restaurants, with incidental beer and wine service and hours of operation until 2 a.m.

Financial Implications: None

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

a. Appeal

1. Alex Popov

### b. Communication

None

**Action:** 0 speakers. M/S/C (Capitelli/Maio) to adopt Resolution No. 66,236–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 12-10000037 to establish a Quick Service Restaurant (QSR) exceeding the C-T District's limitations on the number and size of such restaurants, with incidental beer and wine service and hours of operation until 2 a.m.

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

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

### 37. City Manager Referral: Allow Video Screen with Advertisements Inside

Taxicabs (Continued from May 21, 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:** Moved to Consent Calendar. Approved the recommendation as amended to request that staff consider a mandatory on/off switch for the video screen.

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

Bates; Noes – Wengraf.

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

38. 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 May 21, 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:** Item held over to July 2, 2013.

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

### 39. FY 2014 & FY 2015 Biennial Budget Adoption

From: City Manager Recommendation:

1. Adopt a Resolution: a) Adopting the FY 2014 & FY 2015 Biennial Budget as contained in the City Manager's FY 2014 & FY 2015 Proposed Biennial Budget that includes the Proposed Capital Budget, presented on May 7, 2013, and as amended by subsequent Council action and accepting the FY 2014 City Wide Work plan presented to Council on May 21, 2013. b) Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2014, as reflected in Attachment 1, and as amended by subsequent Council action. 2. Approve a one-time \$614,857 loan from the Workers' Compensation Fund to the Refuse Fund in FY 2015 to cover the projected deficit in that year, should a rate increase (effective July 2014) fail to be approved.

Financial Implications: See report

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

**Action:** Moved to Consent Calendar.

1. Adopted Resolution No. 66,237–N.S. a) Adopting the FY 2014 & FY 2015 Biennial Budget as contained in the City Manager's FY 2014 & FY 2015 Proposed Biennial Budget that includes the Proposed Capital Budget, presented on May 7, 2013, and as amended by subsequent Council action and accepting the FY 2014 City Wide Work plan presented to Council on May 21, 2013 with an amendment to allocate CDBG funds, not to exceed the increase in the Public Services Cap, to cover the shortfall in the ESG Entitlement Amount. b) Authorizing the City Manager to provide applicable advances to selected community agencies receiving City funds in FY 2014, as reflected in Attachment 1, and as amended by subsequent Council action. 2. Approved a one-time \$614,857 loan from the Workers' Compensation Fund to the Refuse Fund in FY 2015 to cover the projected deficit in that year, should a rate increase (effective July 2014) fail to be approved.

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

### 40. FY 2014 Annual Appropriations Ordinance

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance adopting the FY 2014 Annual Appropriations Ordinance (AAO) in the amount of \$364,296,041 (gross appropriations) and \$313,633,047 (net appropriations).

Financial Implications: See report

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

**Action:** Moved to Consent Calendar. Adopted first reading of Ordinance No. 7,303–N.S. Second reading scheduled for July 2, 2013.

41. a. Referral of Alameda County FRALS Reimbursements to City Auditor From: Disaster and Fire Safety Commission

**Recommendation:** Refer to the City Auditor reimbursements from Alameda County to the City of Berkeley under the Emergency Medical Services First Responder Advanced Life Support Services Agreement dated February 1, 2012, and prior agreements approved by the City Council on May 31, 2011 (Resolution No. 65,296-NS) and July 19, 2011 (Resolution No. 65,393-N.S.) to confirm that those FRALS reimbursements should be returned to Measure GG funds and not diverted to the General Fund.

Financial Implications: See report

Contact: Aaron Lee, Commission Secretary, 981-3473

## b. Referral of Alameda County FRALS Reimbursements to City Auditor From: City Manager

**Recommendation:** Continue to account for the Alameda County First Responder Advanced Life Support (FRALS) Reimbursements in a separate fund in accordance with Resolution No. 65.493–N.S.

**Financial Implications:** None Contact: Gil Dong, Fire, 981-3473

**Action:** M/S/C (Moore/Worthington) Continue to account for the Alameda County First Responder Advanced Life Support (FRALS) Reimbursements in a separate fund in accordance with Resolution No. 65,493–N.S.

Vote: All Ayes.

### 42. FY 2014 and FY 2015 Measure GG Budget

From: City Manager

**Recommendation:** Approve additional expenditures for FY 2014 and FY 2015 from Measure GG tax proceeds to include two additional full-time career staff positions, additional disaster readiness classes, enhanced community outreach efforts, disaster caches, roll-off dumpster program, automatic gas shut off valve program, and a reserve fund.

**Financial Implications:** See report Contact: Gil Dong, Fire, 981-3473

**Action:** Moved to Consent Calendar. Recommendation approved.

### **Information Reports**

### 43. Voluntary Time Off Program For FY 2014

From: City Manager

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

Action: Received and filed.

### 44. Transmission of Annual Management Letter from Outside Auditors

From: Mayor Bates

Contact: Tom Bates, Mayor, 981-7100

Action: Received and filed.

### Public Comment – Including Items Not Listed on the Agenda – 1 speaker.

### **Adjournments in Memory of:**

1. Patti Dacey, former Planning Commissioner

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

Vote: Ayes – Maio, Moore, Anderson, Capitelli, Wengraf, Worthington, Wozniak, Bates;

Noes – None; Abstain – None; Absent – Arreguin.

Councilmember Arreguin absent 10:17 p.m. – 10:19 p.m.

Adjourned at 10:19 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of June 25, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

### **Communications**

### **Taser Usage**

1. Nigel Renton

### **Pedestrian Safety Petition**

2. Dan McMullan – Referred to City Manager by Councilmember Arreguin

#### **Detained Teens**

3. Moni Law – Referred to City Manager by Councilmembers Arreguin and Maio

### **FEMA/UC Berkeley Tree Clear-Cutting and Toxins**

- 4. Sally Nelson
- 5. Celeste McLean

### East Bay Regional Park District & AFSCME Local 2428

6. Jane & Tom Kelly

### **Tobacco Free Multi-Unit Housing Ordinance**

- 7. Cynthia Hallett, on behalf of Americans for Nonsmokers' Rights Referred to City Manager by Councilmember Wozniak
- 8. Susan Sawyer
- 9. Carol Denney

### **Drugs & Youth**

10. Renate

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

### Item 35: ZAB Appeal: 2024 Durant Avenue/2025 Channing Way

- 11. Avram Gur Arye
- 12. Stephen Stine
- 13. Ronald Rhodes
- 14. Tim Soto
- 15. Stephen Wollmer
- 16. Shela Ray

### Item 36: ZAB Appeal: 2360 Telegraph Avenue

17. Kenneth Sarachan

### Item 37: City Manager Referral: Allow Video Screen with Advertisements Inside Taxicabs

18. Revised materials, submitted by Councilmember Worthington

### Item 44: Transmission of Annual Management Letter from Outside Auditors

19. Supplemental materials, submitted by Mayor Bates

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

## Item 11: FY 2014 Tax Rate: Fund Debt Service on Streets and Watershed General Obligation Bonds-Election of November 2012

20. Parks & Recreation Commission and Waterfront Commission

### Item 35: ZAB Appeal: 2024 Durant Avenue/2025 Channing Way

- 21. Bonnie Powers
- 22. Siddika Angle
- 23. Stephen Stine (7)

### Item 39: FY 2014 & FY 2015 Biennial Budget Adoption

- 24. Rick Lewis, on behalf of Bay Area Community Land Trust
- 25. Mel Martynn, on behalf of Savo Island Cooperative Homes
- 26. James Lacv

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

### Item 32: Naming Berkeley's Public Health Clinic for Ann Chandler

27. Nancy Skinner

### Item 35: ZAB Appeal: 2024 Durant Avenue/2025 Channing Way

28. William Schrader

29. Olga Bolotina, on behalf of the Sierra Club Northern Alameda County Group

30. Neal Parish, on behalf of Durant Berkeley Partners

31. Max Anderson, District 3

32. Avram Gur Arye

33. Unknown

Item 36: ZAB Appeal: 2360 Telegraph Avenue

34. Ken Sarachan

Item 41: Referral of Alameda County FRALS Reimbursements to City Auditor

35. Supplemental materials, submitted by Disaster & Fire Safety Commission

Eid's TV

36. M. Eid Abdallah

Government

37. Avram Gur Arye