

CONSENT CALENDAR November 19, 2013

To: Honorable Mayor and Members of the City Council

From: (M) Christine Daniel, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of October 1, 2013 (special and regular), October 8, 2013 (special closed), October 15, 2013 (regular), October 22, 2013 (special closed) and October 29, 2013 (special and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

- 1. October 1, 2013–Special City Council Meeting
- 2. October 1, 2013-Regular City Council Meeting
- 3. October 8, 2013-Special Closed City Council Meeting
- 4. October 15, 2013-Regular City Council Meeting
- 5. October 22, 2013-Special Closed City Council Meeting
- 6. October 29, 2013-Special City Council Meeting
- 7. October 29, 2013-Regular City Council Meeting

MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, OCTOBER 1, 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: 5:34 p.m.

Present: Councilmembers Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak

and Mayor Bates.

Absent: Councilmember Anderson and Arreguin.

Councilmember Arreguin present at 5:52 p.m.

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

Worksession:

Measure M and 5-Year Street Plan

From: City Manager

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

Adjournment

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

Vote: Ayes - Maio, Moore, Arreguin, Wozniak, Bates; Noes - None; Abstain - None;

Absent – Anderson, Capitelli, Wengraf, Worthington.

Councilmember Worthington absent 6:05 p.m. – 6:39 p.m.

Councilmember Capitelli absent 6:37 p.m. – 6:39 p.m.

Councilmember Wengraf absent 6:37 p.m. – 6:39 p.m.

Adjourned at 6:39 p.m.

This is to certify that the foregoing is a truspecial meeting of October 1, 2013.	e and correct copy of the minutes of the
Mark Numainville, CMC, City Clerk	_

Communications

None

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

Item 1: Measure M and 5-Year Street Paving Plan

- 1. Sherie Reineman, on behalf of Grizzly Peak Cyclists
- 2. Michael Kelly, on behalf of the Panoramic Hill Association
- 3. Warren & Lorna Byrne

Supplemental Communications and Reports 3

Item 1: Measure M and 5-Year Street Paving Plan

4. Presentation, submitted by Public Works

MINUTES

BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 1, 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 Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak

and Mayor Bates.

Absent: Councilmember Anderson and Arreguin.

Councilmember Arreguin present at 7:03 p.m.

Ceremonial Matters:

- 1. Perry and Stier Day October 1, 2013.
- 2. Indigenous People's Day October 5, 2013.
- 3. Berkeley Half Marathon November 24, 2013.
- 4. Recognition of Zeke Gerwein.

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 2 speakers.

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

Consent Calendar

Action: M/S/C (Moore/Maio) to accept revised material on Item 7 from Councilmember Moore.

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

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

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

1. Grant: Maddie's Fund, Pet Rescue Foundation to the Animal Care Shelter From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a grant agreement and any amendments with Maddie's Fund, Pet Rescue Foundation to accept \$14,000 to support Berkeley Animal Care Services in its programs and services to homeless animals.

Financial Implications: Animal Shelter Fund - \$14,000 (revenue)

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

Action: Adopted Resolution No. 66,316-N.S.

2. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 1, 2013

From: City Manager

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

Financial Implications: Various Funds - \$3,378,000

Contact: Robert Hicks, Finance, 981-7300

Action: Approved recommendation.

3. Ground Lease: UACH, LP for 1450 University Avenue ("University Avenue Cooperative Housing")

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a 67-year Ground Lease with UACH, LP, a California limited partnership ("UACH"), in which a wholly controlled affiliate of Resources for Community Development ("RCD") is the general partner, for the purpose of rehabilitating and operating 47 units of affordable family rental housing and one commercial space at 1450 University Avenue, commonly known as "University Avenue Cooperative Housing".

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400 **Action:** Adopted first reading of Ordinance No. 7,310–N.S. Second reading scheduled for October 15, 2013.

4. Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation Project on Woolsey Street

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Sanitary Sewer Project, 13-10637-C-REBID, located on Woolsey Street; and 2. Accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and 3. Authorizing the execution of a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$1,088,489.

Financial Implications: Sanitary Sewer Operation - \$1,088,489

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,317–N.S.

5. Annual Report on Gifts Received in Excess of \$1,000 Aggregate Value

From: Board of Library Trustees

Recommendation: Adopt a Resolution accepting the Library's annual gift report.

Financial Implications: None

Contact: Donna Corbeil, Commission Secretary, 981-6100

Action: Adopted Resolution No. 66,318–N.S.

Council Consent Items

6. Public Discussion, Gun Violence in Berkeley

From: Councilmembers Maio and Moore

Recommendation: Request that the City Council hold a public discussion, at either a regular or special session, on Gun Violence in the City of Berkeley and to plan the event with several council members, including the Mayor, along with key community leaders who have some knowledge of the gun culture and how it manifests in our city.

Financial Implications: None

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

Action: Referred to the Agenda Committee with the request to schedule a

worksession in January 2014.

7. Closing the City of Berkeley's Domestic Partnership Registry and to Declare Marriage Equality Day

From: Councilmember Moore

Recommendation: Adopt a Resolution directing the City Manager to officially close the City of Berkeley's Domestic Partnership Registry on October 11, 2013 in celebration of its twenty-second anniversary, and marriage equality in the State of California that has made the registry unnecessary. October 11, 2013 shall also be declared Marriage Equality Day in the City of Berkeley.

Financial Implications: Unknown

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

Action: Adopted revised Resolution No. 66,319–N.S. Celebrating the 22nd

Anniversary of Berkeley's Domestic Partnership Registry and to Declare Marriage

Equality Day.

8. Proclamation in Honor of Transgender Law Center and its 11th Annual Celebration "SPARK!"

From: Councilmember Worthington

Recommendation: Adopt a proclamation honoring Transgender Law Center and its

11th Annual Celebration "SPARK!" **Financial Implications:** None

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

Action: Adopted proclamation.

Action Calendar – Old Business

9. City Manager Referral: Inform the Public of Updates and Modifications to Council Agenda After the Completion of the Consent Calendar (Continued from September 10, 2013)

From: Councilmember Worthington

Recommendation: City Manager Referral: That the Council inform the public of any updates or modifications to the Council agenda after the completion of the consent calendar.

Financial Implications: Minimal

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

Action: Held over to October 29, 2013.

Action Calendar – New Business

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

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 12.70 to make tobacco smoking, which exposes neighbors to secondhand smoke in all multi-unit residences in the City, subject to private right of action; to require that all new leases include a non-smoking clause; to require offering voluntary non-smoking lease addenda to all existing leases; and to permit any tenant who is involuntarily exposed to tobacco smoke to terminate his or her lease without penalty if the landlord fails to include or enforce the non-smoking clause. Proposed ordinance revisions also include routine cleanup language to aid enforcement in workplaces and to clarify that smoking is banned in all commercial zones.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400 **Action:** 10 speakers. M/S/C (Bates/Capitelli) to direct staff to draft an ordinance that bans smoking in all multi-unit housing effective March 1, 2014, to require landlords to notify tenants of the new regulations in January 2014, and to include a warning process and enforcement procedure similar to that used for barking dogs. **Vote:** Ayes – Maio, Moore, Capitelli, Wengraf, Wozniak, Bates; Noes – Arreguin; Abstain – None; Absent – Anderson, Worthington.

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Councilmember Worthington absent 7:48 p.m. – 9:46 p.m.

Action Calendar - New Business

11. Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way From: City Manager

Recommendation: Send a letter to the State Historic Preservation Officer (SHPO) commenting on the proposed United States Post Office finding of "No Adverse Effect" under Section 106 of the National Historic Preservation Act (NHPA) including comments on the proposed preservation covenant.

Financial Implications: None

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

Action: M/S/C (Bates/Arreguin) to accept supplemental material from staff for Item

11.

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

None; Abstain – None; Absent – Anderson, Worthington.

Action: 7 speakers. Item held over to October 15, 2013.

Recess 9:13 p.m. – 9:20 p.m.

Information Reports

12. Alameda County Mandatory Recycling Ordinance and Cost Impacts and New Household Hazardous Waste Fees

From: City Manager

Contact: Andrew Clough, Public Works, 981-6300

Action: Moved to Action Calendar and held over to October 15, 2013.

Public Comment – Including Items Not Listed on the Agenda – 2 speakers.

Adjournment

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

Vote: Ayes - Maio, Arreguin, Capitelli, Wengraf, Wozniak, Bates; Noes - None; Abstain -

None; Absent – Moore, Anderson, Worthington.

Councilmember Moore absent 9:28 p.m. – 9:46 p.m.

Adjourned at 9:46 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 1, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

Communications

Demolition Ordinance Petition

1. Nicola Bourne

Tuolumne Camp

2. Richard Thomason – referred to City Manager by Councilmember Wengraf

Eminent Domain

3. Laura Petracek

Downtown Santa Monica

4. Ted Edlin

Council of Neighborhood Associations Newsletter

5. Ted Edlin

Supplemental Communications and Reports 1

Item 3: Ground Lease: UACH, LP for 1450 University Avenue ("University Avenue Cooperative Housing")

6. Daniel Sawislak, on behalf of Resources for Community Development

Supplemental Communications and Reports 2

Item 7: Closing the City of Berkeley's Domestic Partnership Registry and to Declare Marriage Equality Day

7. Karen Anderson and Gwendolyn Booze

Item 10: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

- 8. Serena Chen, on behalf of the American Lung Association in California
- 9. Bruce Fiedler
- 10. Rent Stabilization Board
- 11. Tom & Jane Kelly

Item 11: Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way

- 12. Anthony Bruzzone, on behalf of Berkeley Design Advocates
- 13. Eric Panzer, on behalf of Livable Berkeley

Supplemental Communications and Reports 3

Item 7: Closing the City of Berkeley's Domestic Partnership Registry and to Declare Marriage Equality Day

- 14. Revised materials, submitted by Councilmember Moore
- 15. Lisa Stephens
- 16. Nancy Carleton

Supplemental Communications and Reports 3

Item 10: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

- 17. Presentation, submitted by Health, Housing & Community Services
- 18. Gordon Wozniak, District 8
- 19. Sasha Fultran
- 20. Liz Williams, on behalf of Americans for Nonsmokers' Rights

Item 11: Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way

- 21. Supplemental materials, submitted by Planning & Development
- 22. Tom Russell, on behalf of the United States Postal Service

Berkeley Half Marathon

23. Unknown

MINUTES BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, OCTOBER 8, 2013 5:00 P.M.

2180 Milvia Street, 1st Floor, Cypress Room Teleconference Location – 1901 Alcatraz Avenue, Berkeley, CA 94703

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: 5:04 p.m.

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

Wozniak and Mayor Bates.

Absent: Councilmembers Arreguin and Wengraf.

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

CLOSED SESSION:

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

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

Pending litigation – two cases

a. A. ALI ESLAMI v. CITY OF BERKELEY, et al. (ACSC Case No. RG12 628979)

Action: M/S/C (Bates/Wozniak) to approve a settlement agreement in Eslami v. City of Berkeley

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

Councilmember Worthington absent 5:14 p.m. – 6:40 p.m.

b. UNITED STATES OF AMERICA, et al. v. EAST BAY MUNICIPAL UTILITY DISTRICT; (Lead Case: USDC No. C-09-0186RS)
UNITED STATES OF AMERICA, et al. v. CITY OF ALAMEDA, CITY OF BERKELEY, CITY OF EMERYVILLE, CITY OF OAKLAND, CITY OF PIEDMONT, STEGE SANITARY DISTRICT (Consolidated Case: USDC C-09-5684RS)

Action: No reportable action taken.

OPEN SESSION:

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

Adjourned at 6:40 p.m.
Councilmember Moore absent 6:24 p.m. – 6:40 p.m.
This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of October 8, 2013.
Mark Numainville, City Clerk

Adjournment

MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 15, 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: 7:01 p.m.

Present: Councilmembers Anderson, Capitelli, Maio, Wengraf, Worthington and

Wozniak.

Absent: Councilmembers Moore, Arreguin and Mayor Bates.

Councilmember Arreguin present at 7:06 p.m. Mayor Bates present at 7:31 p.m.

Ceremonial Matters:

- 1. Chana Bloch Day
- 2. Freedom from Workplace Bullying Week

Report from Close Session:

On October 8, the City Council approved a settlement agreement in Eslami v. City of Berkeley under which it will agree to a writ of mandate ordering it to hold a public hearing to reconsider its decision to declare 2133 Parker Street a public nuisance, and to consider adoption of a modified resolution.

City Manager Comments:

- 1. goBerkeley Parking Program Launch October 15, 2013
- 2. I-80 Pike/Ped Bridge and Bay Trail Opening, October 25 at 1:00pm
- 3. Drug Take Back Program October 26 10am 2pm Oregon at Sacramento

Public Comment on Non-Agenda Matters: 3 speakers.

Public Comment on Consent Calendar and Information Items Only: 2 speakers.

Consent Calendar

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

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

1. Ground Lease: UACH, LP for 1450 University Avenue ("University Avenue Cooperative Housing")

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,310-N.S. authorizing the City Manager to execute a 67-year Ground Lease with UACH, LP, a California limited partnership ("UACH"), in which a wholly controlled affiliate of Resources for Community Development ("RCD") is the general partner, for the purpose of rehabilitating and operating 47 units of affordable family rental housing and one commercial space at 1450 University Avenue, commonly known as "University Avenue Cooperative Housing".

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

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400 **Action:** Moved to Action Calendar. 10 speakers. M/S/C (Arreguin/Wozniak) to adopt the second reading of Ordinance No. 7,310-N.S.

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

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of September 3, 2013 (special closed), September 10, 2013 (regular), September 16, 2013 (special closed) and September 17, 2013 (special and regular).

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Approved minutes as submitted.

3. Amendment to Berkeley Municipal Code Section 3.02.030 Regarding Appointments to the Design Review Commission

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 3.02.030 clarifying the rules for granting a leave of absence to a member of the Design Review Commission that was appointed by another commission.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Adopted first reading of Ordinance No. 7,311–N.S. Second reading

scheduled for October 29, 2013.

4. Analysis of United Student District Amendment Redistricting Plan

From: City Manager

Recommendation: Accept the analysis of the United Student District Amendment redistricting plan and direct staff to draft an ordinance for the plan that includes technical corrections as identified by City staff.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Approved recommendation.

5. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 15, 2013

From: City Manager

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

Financial Implications: Special Gas Tax Improvement Fund - \$880,617

Contact: Robert Hicks, Finance, 981-7300

Action: Approved recommendation.

6. Revenue Grant: California Family Health Council for Health Services, Education and Outreach Activities

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the California Family Health Council (CFHC) in the amount of \$155,014 for one calendar year, January 1, 2014 through December 31, 2014 to support clinical reproductive health services, as well as individual and community health education and outreach activities; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,320–N.S.

7. License Agreements: Veterans Memorial Building Located at 1931 Center Street

From: City Manager

Recommendation: Adopt six Resolutions authorizing the City Manager to execute license agreements and any amendments thereto with the following organizations that provide services at the Veterans Memorial Building at 1931 Center Street:

- 1. Berkeley Food and Housing Project;
- 2. Berkeley Historical Society;
- 3. Berkeley Place;
- 4. Building Opportunities for Self-Sufficiency;
- 5. Dorothy Day House; and
- Options Recovery Services.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,321–N.S. (BFHP); Resolution No. 66,322–N.S. (Historical Society); Resolution No. 66,323–N.S. (Berkeley Place); Resolution No. 66,324–N.S. (BOSS); Resolution No. 66,325–N.S. (Dorothy Day); and Resolution No. 66,326–N.S. (Options).

8. Contract No. 8150 Amendment: Quest Diagnostic Services to Perform Laboratory Tests Related to Clinical Public Health Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8150 with Quest Diagnostics to perform laboratory tests related to clinical public health services, increasing the not to exceed amount by \$17,000 for a total not to exceed amount of \$292,000 through December 31, 2013.

Financial Implications: Health (General) - \$17,000

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

Action: Adopted Resolution No. 66,327–N.S.

9. Classification and Salary: Assistant Building and Safety Manager, and Building Plans Engineer

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 64,250-N.S., Classification and Salary for Public Employees Union Local One, to establish the classifications of Assistant Building and Safety Manager with a monthly salary range of \$8,828 to \$10,838; and Building Plans Engineer with a monthly salary range of \$7,777 to \$9,548, effective October 16, 2013.

Financial Implications: Permit Service Center Fund - \$21,154

Contact: David Abel, Human Resources, 981-6800

Action: Adopted Resolution No. 66,328–N.S.

10. Contract No. 8216A Amendment: VeriPic, Inc. for Digital Evidence Management System

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8216A with VeriPic, Inc., increasing the amount by \$18,900, for a total amount not to exceed \$93,749 from December 21, 2009 through June 30, 2016.

Financial Implications: General Fund - \$18,900

Contact: Donna LaSala, Information Technology, 981-6500

Action: Adopted Resolution No. 66,329–N.S.

11. Contract No. 9461 Amendment: American Integrated Services, Inc. for Post-Fire Assessment and Site Stabilization at the Berkeley Tuolumne Camp From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9461 in an amount not to exceed \$500,000 for a total not-to-exceed amount of \$700,000 for post-fire site assessment and mitigation services at Berkeley Tuolumne Camp.

Financial Implications: Camps Fund - \$500,000

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

Action: Adopted Resolution No. 66,330–N.S.

12. Contract No. 9423 Amendment: Freitas Landscape and Maintenance for Landscaping At Police Substation, 841 Folger Street

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 9423 with Freitas Landscape and Maintenance, increasing the not to exceed amount to \$24,000, from \$7,375 for an increase of \$16,625.

Financial Implications: Parking Meter Fund - \$16,625

Contact: Michael Meehan, Police, 981-5900 **Action:** Adopted Resolution No. 66,331–N.S.

13. Contract: Precision Engineering, Inc. for Sanitary Sewer Rehabilitation Project on Santa Barbara Road, Northampton Avenue, Southampton Avenue, San Luis Road, Indian Rock Avenue, Oxford Street, San Diego Road, Laurel Lane, and Tunbridge Lane

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the Sanitary Sewer Project, 13-10691-C, located on Santa Barbara Road, Northampton Avenue, Southampton Avenue, San Luis Road, Indian Rock Avenue, Oxford Street, San Diego Road, Laurel Lane, and Tunbridge Lane; and 2. Accepting the bid of the lowest responsive and responsible bidder, Precision 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 \$1,664,717.

Financial Implications: Sanitary Sewer Operation - \$1,664,717

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 66,332–N.S.

14. Contracts: On-Call Architectural, Electrical, Mechanical and Structural Design and Engineering Services for Capital Improvement Projects
From: City Manager

Recommendation: Adopt five Resolutions authorizing the City Manager to execute contracts and any amendments, each for the period October 2, 2013 through October 2, 2016 with the following firms for on-call design and engineering services for architectural, structural, mechanical and electrical capital improvement projects:

- 1. ELS Architecture and Urban Design, for an amount not to exceed \$300,000.
- 2. Noll & Tam Architects, for an amount not to exceed \$300,000.
- 3. Interface Engineering, for an amount not to exceed \$100,000.
- 4. Kitchell/CEM, Inc., for an amount not to exceed \$100,000.
- 5. Ingraham DeJesse Associates, for an amount not to exceed \$100,000.

Financial Implications: Various Funds TBD - \$900,000

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 66,333–N.S. (ELS); Resolution No. 66,334–N.S. (Noll & Tam); Resolution No. 66,335–N.S. (Interface); Resolution No. 66,336–N.S. (Kitchell/CEM, Inc.); and Resolution No. 66,337–N.S. (Ingraham DeJesse).

15. Contract: Andes Construction, Inc. for Sanitary Sewer Manhole Rehabilitation FY 2014 Phase 1 Project

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Sanitary Sewer Project, 14-10777, located at various locations within the City; and 2. Accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and 3. Authorizing the execution of a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$244,826.

Financial Implications: Sanitary Sewer Operation - \$244,826

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,338–N.S.

16. Contract No. 7961C Amendment: Kitchell CEM, Inc. for the Provision of Construction / Project Management and LEED Commissioning Agent Services From: Board of Library Trustees

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 7961C with Kitchell CEM, Inc. for the provision of construction / project management and LEED commissioning agent services for the branch library bond program, Measure FF, by increasing the expenditure authority by \$50,000 to a revised contracted total amount not to exceed \$1,523,580.

Financial Implications: 2010 Measure FF Branch Renovations - \$50,000

Contact: Donna Corbeil, Commission Secretary, 981-6100

Action: Adopted Resolution No. 66,339-N.S.

17. Contract No. 8159 Amendment: Harley Ellis Devereaux Architects for the Provision of Architectural and Engineering Services

From: Board of Library Trustees

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8159 with Harley Ellis Devereaux Corporation for the provision of architectural and engineering services for the West Branch Library project as part of the branch library bond program, Measure FF, by increasing the expenditure authority \$50,000 to a revised total amount not to exceed \$838,194.

Financial Implications: 2010 Measure FF Branch Renovations - \$50,000

Contact: Donna Corbeil, Commission Secretary, 981-6100

Action: Adopted Resolution No. 66,340–N.S.

18. Renewal of the Solano Avenue BID for Calendar Year 2014 From: Solano Avenue BID Advisory Board

Recommendation: Adopt a Resolution approving the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the Annual Report and preliminary budget on proposed improvements in the District for calendar year 2014; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2014; and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 19, 2013.

Financial Implications: See report

Contact: David Fogarty, Commission Secretary, 981-7530

Action: Adopted Resolution No. 66,341–N.S.

Council Consent Items

19. Third Annual Martin Luther King Jr. Celebration: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds From: Mayor Bates and Councilmembers Anderson and Moore

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Bates to the Berkeley Chamber of Commerce Foundation, the fiscal sponsor of the 3rd Annual Martin Luther King Jr. celebration on January 20, 2014, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Bates and any other Councilmembers who would like to contribute.

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

Contact: Tom Bates, Mayor, 981-7100

Action: Adopted Resolution No. 66,342–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Arreguin - \$250; Councilmember Capitelli - \$250; Councilmember Maio - \$100.

20. Youth Engagement Advocacy Housing: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Maio

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$100 per Councilmember including \$100 from Councilmember Maio to Youth Engagement Advocacy Housing (YEAH!) with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Maio and any other Councilmember who would like to contribute. YEAH! held an event on September 28, 2013, to celebrate their work - with all proceeds benefitting YEAH!'s continuum of services for youth experiencing homelessness.

Financial Implications: Councilmember's Discretionary Fund - \$100

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

Action: Adopted Resolution No. 66,343–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Anderson - \$100.

Council Consent Items

21. Official City Sponsor of Walk with a Doc Berkeley

From: Councilmember Moore

Recommendation: Approve City sponsorship of Walk with a Doc Berkeley.

Financial Implications: Unknown

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

Action: Approved recommendation.

22. Expedited Permit Processing for Targeted Retail Segments

From: Councilmember Arreguin

Recommendation: Refer to the City Manager and Planning Commission changes to the Zoning Ordinance to expedite the permitting process by lowering the level of discretion from a Use Permit/Public Hearing to an Administrative Use Permit in commercial districts throughout the city, for the following targeted retail segments: a) 442 Furniture and home furnishings; b) 443 Electronics; c) 448 Clothing and accessories; d) 451 Sporting goods and bookstores; e) 452 Department stores; f) 4511 Grocery stores; g) 8412 Museums and Art Galleries. In addition, explore changes to the Zoning Ordinance to allow an AUP for these target retail segments to be appealed directly to Council, rather than ZAB and then Council. In the event there is an appeal this will help insure rapid resolution. Establish a square footage limit for an AUP for these target retail segments be capped at 15,000 square feet. That covers most of the existing retail spaces in the Downtown and other commercial districts, however would require an UP on large projects that may have significant community impact.

Financial Implications: See report

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

Action: Moved to Action Calendar. Discussion held. No action taken. Item held over

to October 29, 2013.

Action Calendar - Public Hearing

23. Approval of 2013 Mutual Aid MOU Compendium

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving agreements, letters and understandings existing or revised as of May 15, 2013 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies and private security organizations in order to maintain the current level of police resources and emergency services in the City of Berkeley.

Financial Implications: See report

Contact: Michael Meehan, Police, 981-5900

Public Testimony: The Mayor opened the public hearing. 15 speakers.

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

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

Worthington; Abstain – None; Absent – Moore.

Action Calendar – Old Business

Action: M/S/C (Bates/Capitelli) to adopt Resolution No. 66,344–N.S. approving agreements, letters and understandings existing or revised as of May 15, 2013 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies and private security organizations, except the agreements with the Northern California Regional Intelligence Center and Urban Area Security Initiative.

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

Action: M/S/C (Bates/Capitelli) to approve the agreements with the Northern California Regional Intelligence Center (NCRIC) and the Urban Area Security Initiative (UASI) included in the adopted Resolution No. 66,344–N.S. approving agreements, letters and understandings existing or revised as of May 15, 2013 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies and private security organizations, amended to add Resolution 65,901-N.S. and the Minutes of the September 18, 2012 Council meeting to the Compendium, and revise the cover sheets for UASI and NCRIC to include a statement confirming that the Police Department operates in accord with the applicable General Orders.

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

Recess 9:30 p.m. – 9:40 p.m.

24. Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way (Continued from October 1, 2013)

From: City Manager

Recommendation: Send a letter to the State Historic Preservation Officer (SHPO) commenting on the proposed United States Post Office finding of "No Adverse Effect" under Section 106 of the National Historic Preservation Act (NHPA) including comments on the proposed preservation covenant.

Financial Implications: None

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

Action: 12 speakers. M/S/C (Arreguin/Capitelli) to adopt the staff recommendation with revisions to make technical corrections to the letter and clarify the language in section 5.e. of the letter regarding retaining public access to the entire building.

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

25. Alameda County Mandatory Recycling Ordinance and Cost Impacts and New Household Hazardous Waste Fees (Continued from October 1, 2013)

From: City Manager

Contact: Andrew Clough, Public Works, 981-6300

Action: 0 speakers. Discussion held.

Action Calendar – Old Business

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

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

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

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

Councilmember Anderson absent 10:45 p.m. – 11:26 p.m.

26. Referral to City Manager: Changes to the Municipal Code Regarding
Affordable Housing Requirement Implementation (Continued from September 10, 2013)

From: Councilmembers Arreguin and Capitelli

Recommendation: Refer to the City Manager and Housing Advisory Commission:

1. The proposed changes to Berkeley Municipal Code (B.M.C.) Section 22.20.065, relating to affordability requirements and implementation of the Affordable Housing Mitigation Fee. Request that the City Manager and HAC review these concepts and provide a recommendation to the City Council on possible changes to the ordinance.

2. Requesting a report from the City Manager about how staff implement the provision allowing for reductions or waiver of fees, B.M.C. Section 22.20.080, including: a. What information is requested of the applicant to provide "satisfactory factual proof" that the waiver/reduction is a "hardship"? b. What process does city staff go through to determine how fee requirements make a project "infeasible"? What standard does the city use to determine "infeasiblity"? The report should also explore requiring that the applicant pay for a third party to evaluate financial information to determine how the fees affect financial feasibility. The City of San Carlos requires the applicant to pay for a third party to evaluate their pro forma to

Financial Implications: Unknown

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

determine whether the fee would make the project infeasible.

Action: M/S/C (Bates/Capitelli) to hold over Items 26, 27, and 28 to November 19, 2013.

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

27. Update on Monitoring Inclusionary Housing Rental Units (Continued from September 10, 2013)

From: City Manager

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

Action: See Item 26. Item held over to November 19, 2013.

Action Calendar – New Business

28. Housing Advisory Commission Recommendation Regarding Affordable Housing Impact Fee

a. From: Housing Advisory Commission

Recommendation: Accept the proposed changes to the Affordable Housing Mitigation Fee provisions of Berkeley Municipal Code Section 22.20.065, as submitted to Council on July 16, 2013, with certain exceptions regarding 1) the process for determining affordability levels for in-lieu units; 2) correction of certain language included in Paragraph 2.a; 3) the deadline by which applicant developers must pay the Mitigation Fee; 4) the appropriate index for annual adjustments to the Mitigation Fee; and 5-6) actions related to creating a City-maintained waiting list for below-market rate units built pursuant to the Mitigation Fee Ordinance.

Financial Implications: Unknown

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

b. From: City Manager

Recommendation: Accept the Housing Advisory Commission's recommendation numbers 2 (correcting a minor wording error) and 4 (indexing the fee); and accept staff's recommendations numbers 1 (option to provide a range of affordability levels for in-lieu units), 3 (payment of fee required prior to Certificate of Occupancy); 5 and 6 (enhanced access and outreach for marketing of affordable units).

Financial Implications: Unknown

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

Action: See Item 26. Item held over to November 19, 2013.

29. Resolution of Intention to Establish an Elmwood Business Improvement District

From: City Manager

Recommendation: Adopt a Resolution of Intention to Establish an Elmwood Business Improvement District (hereafter "the Elmwood BID" or "the District") as authorized by the Parking and Business Improvement Area Law of 1989 (Streets and Highways Code, para. 36500-36551), including setting a public hearing on possible establishment of the District for November 19, 2013. Government Code, Section 54954.6 requires the Council to "conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed...new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact ...the assessment." Accordingly, the Resolution also gives notice of a public meeting before the Council on November 12, 2013, regarding the proposed Elmwood BID and its assessment.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

Action: Moved to Consent Calendar. Adopted Resolution No. 66,345–N.S.

Information Reports

30. Building Permit Fee Deferral: Strawberry Creek Lodge, 1320 Addison

From: City Manager

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

Action: Received and filed.

31. Status Report: Activities of Public Library for Fiscal Year 2012-2013

From: Board of Library Trustees

Contact: Donna Corbeil, Commission Secretary, 981-6100

Action: Received and filed.

32. Status Report on City Manager Evaluation

From: Councilmembers Maio, Capitelli, and Wengraf Contact: Linda Maio, Councilmember, District 1, 981-7110

Action: Moved to Action Calendar. 5 speakers.

Action: M/S/C (Bates/Maio) to accept revised material from Councilmember Maio on Item 32.

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

Action: M/S/C (Bates/Maio) to accept the report establishing the evaluation process with the amendment that the process will be reviewed after the initial evaluation is completed.

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

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

Adjournment

Adjourned in Memory of Muriel Paley

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

Vote: Ayes – Maio, Arreguin, Worthington, Wozniak, Bates; Noes – None; Abstain – None;

Absent - Moore, Anderson, Capitelli, Wengraf.

Adjourned at 11:26 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 15, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

Communications

Zoning Designation for Homeless Shelter

1. John Caner, on behalf of the Downtown Berkeley Association

Mercury Dental Amalgam

2. Anita Tibau

2500 Milvia Street

3. Guy Guarige – referred to the City Manager by Councilmembers Wozniak and Worthington

40 Acres

4. Carol Denney – referred to the City Manager by Councilmembers Wozniak and Maio

Turkish Republic Day

5. Oner Bicakci, on behalf of the Turkish American Association of California

Collective Dispensary Issues

6. Charles Pappas

Supplemental Communications and Reports 1

Item 23: Approval of 2013 Mutual Aid MOU Compendium

7. Police Review Commission

Item 24: Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way

8. Revised materials, submitted by Planning & Development

Supplemental Communications and Reports 2

Item 23: Approval of 2013 Mutual Aid MOU Compendium

9. Jane Welford, on behalf of Berkeleyans Organizing for Liberty Defense

10. Diana Bohn, on behalf of the Coalition for a Safe Berkeley

Supplemental Communications and Reports 3

Item 24: Section 106 Consultation: Berkeley Main Post Office, 2000 Allston Way

11. Sally Nelson

12. Unknown

Item 26: Referral to City Manager: Changes to the Municipal Code Regarding Affordable Housing Requirement Implementation

13. Olempia Castillo

Item 32: Status Report on City Manager Evaluation

14. Revised materials, submitted by Councilmember Maio

Business Owner's Concerns

15. M. Eid Abdallah

Berkeley Bay Trail Extension

16. Unknown

MINUTES

BERKELEY CITY COUNCIL SPECIAL MEETING TUESDAY, OCTOBER 22, 2013

5:00 P.M.

2180 Milvia Street, 1st Floor, Cypress Room

Tom Bates, Mayor Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – LAURIE CAPITELLI

DISTRICT 2 – DARRYL MOORE

DISTRICT 3 – MAX ANDERSON

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – JESSE ARREGUIN

DISTRICT 8 – GORDON WOZNIAK

Preliminary Matters

Roll Call: 5:01 p.m.

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

Bates.

Absent: Councilmembers Anderson, Worthington and Wozniak.

Councilmember Worthington present at 5:12 p.m. Councilmember Wozniak present at 5:14 p.m.

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

CLOSED SESSION:

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

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

Pending litigation – 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)

Action: City Attorney Zach Cowan presented the details of a proposed settlement in the above named case. M/S/C (Worthington/Wengraf) to approve the settlement terms.

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

2. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(c):

a. One case.

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/Bates) to adjourn the meeting.

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

None; Abstain – None; Absent – Anderson.

Adjourned at 5:30 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the special closed meeting of October 22, 2013.

Mark Numainville, CMC, City Clerk

MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL TUESDAY, OCTOBER 29, 2013

5:00 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: 5:04 p.m.

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

Absent: Councilmembers Anderson, Arreguin, Worthington and Mayor Bates.

Councilmember Worthington present at 5:42 p.m. Councilmember Arreguin present at 5:52 p.m.

Public Comment - Items on this agenda only: 1 speaker.

Worksession:

1. Berkeley Health Status Report 2013

From: City Manager

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

Action: Presentation made and discussion held.

2. IRS Non-Profit Hospitals and Community Benefits

From: City Manager

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

Action: Presentation made and discussion held.

Information Reports

3. 2013 Time Magazine Article: "Bitter Pill: Why Medical Bills Are Killing Us"

From: Councilmember Capitelli

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

Action: Received and filed.

Adjournment

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

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

None; Abstain – None; Absent – Anderson, Bates.

Adjourned	at 6:	:52 p	.m.
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This is to certify that the foregoing is a true and correct copy of the minutes of the special meeting of October 29, 2013.

Mark Numainville, CMC, City Clerk

Communications

None

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

None

Supplemental Communications and Reports 3

Item 1: Berkeley Health Status Report 2013

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

Item 2: IRS Non-Profit Hospitals and Community Benefits

- 2. Presentation, submitted by Health, Housing & Community Services
- 3. Presentation, submitted by the Public Health Institute

MINUTES BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 29, 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: 7:06 p.m.

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

Worthington and Wozniak.

Absent: Councilmember Anderson and Mayor Bates.

Report from Closed Session:

On October 22, 2013, the City Council approved a proposed settlement in the case of City of Berkeley v. Kenneth Sarachan and Laurie Brown, Alameda County Superior Court Case #RG12614265, in which the City had sought to foreclose on a deed of trust and lien against the property at 2501 Haste Street. The settlement calls for waiver of the amounts owing if Mr. Sarachan complies with specified conditions concerning development of the property.

Ceremonial Matters:

- 1. Rosa Parks Elementary Mock Trial.
- 2. National Coming Out Day.

City Manager Comments:

- 1. Drug Take Back Day accepted 250 pounds of prescription drugs.
- 2. Volunteer All-Storm Day, November 2, 9am-12pm, King School Park.

Public Comment on Non-Agenda Matters: 5 speakers.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Consent Calendar

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

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

1. Amendment to Berkeley Municipal Code Section 3.02.030 Regarding Appointments to the Design Review Commission

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,311-N.S. amending Berkeley Municipal Code Section 3.02.030 clarifying the rules for granting a leave of absence to a member of the Design Review Commission that was appointed by another commission.

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

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Adopted second reading of Ordinance No. 7,311-N.S.

2. Amendment: FY 2014 Annual Appropriations Ordinance

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending the FY 2014 Annual Appropriations Ordinance No. 7,303–N.S. for fiscal year 2014 based upon recommended re-appropriation of committed FY 2014 funding and other adjustments authorized since July 1, 2013, in the amount of \$42,956,138 (gross) and \$36,004,163 (net).

Financial Implications: See report

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

Action: Adopted first reading of Ordinance No. 7,312–N.S. Second reading

scheduled for November 12, 2013.

3. Revised Conflict of Interest Code

From: City Manager

Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code

for the City of Berkeley and rescinding Resolution No. 65,921-N.S.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900 **Action:** Adopted Resolution No. 66,346–N.S.

4. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 29, 2013

From: City Manager

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

Financial Implications: Various Funds - \$1,150,000

Contact: Robert Hicks, Finance, 981-7300

Action: Approved recommendation.

5. Contract No. 7050E Amendment: Berkeley Food & Housing Project From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7050E with the Berkeley Food & Housing Project for operating costs for the Russell Street Residence supportive housing facility and to provide third party administration of Mental Health client funding supports and assistance to increase the amount by \$53,000 for a total contract amount not to exceed \$540,500 through June 30, 2014.

Financial Implications: Various Funds - \$53,000

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

Action: Adopted Resolution No. 66,347–N.S.

6. Contract: Berkeley Unified School District for Nutrition Education at Qualifying Schools and Afterschool Programs

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Berkeley Unified School District for nutrition education at qualifying schools and afterschool programs in an amount not to exceed \$100,000 for the period October 1, 2013 through September 30, 2014.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,348–N.S.

7. Contracts: On-Call Landscape Architecture and Project Development Services From: City Manager

Recommendation: Adopt six Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architecture services, each for a contract period from November 4, 2013 through November 1, 2016:

- 1. Carducci & Associates, Inc. for an amount not to exceed \$100,000
- 2. Dillingham Associates for an amount not to exceed \$100,000
- 3. Hansen & McArdle for an amount not to exceed \$100,000
- 4. Harris Design for an amount not to exceed \$100,000
- 5. The Planning Center/DC&E for an amount not to exceed \$100,000
- 6. RHAA Landscape Architecture + Planning for an amount not to exceed \$100,000 **Financial Implications:** See report

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

Action: Adopted Resolution No. 66,349–N.S. (Carducci); Resolution No. 66,350–N.S. (Dillingham); Resolution No. 66,351–N.S. (Hansen); Resolution No. 66,352–N.S. (Harris Design); Resolution No. 66,353–N.S. (The Planning Center); and Resolution No. 66,354–N.S. (RHAA).

8. Donation: Memorial Bench at Codornices Park

From: City Manager

Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 from the family of Deena Glass for a memorial bench to be placed in

Codornices Park.

Financial Implications: \$3,400 (donation)

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

Action: Adopted Resolution No. 66,355–N.S.

9. California Energy Commission Loan for Citywide LED Street Light Replacement

From: City Manager

Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to enter into a loan agreement with the California Energy Commission for up to \$3.5 million, at a 1% interest rate for a 15 year term beginning approximately January 1, 2014 for replacement of high pressure sodium and metal halide street lights with light emitting diode (LED) fixtures; and 2. Finding that the proposed project is categorically exempt from the California Environmental Quality Act under Section 15301.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300 **Action:** Adopted Resolution No. 66,356–N.S.

10. Enable Off-Street Parking Rate Changes in goBerkeley Pilot Program From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 66,245-N.S. authorizing the City Manager to set hourly parking rates at City parking garages and lots in amounts up to \$4 per hour to enable "First Hour Free" programs where justified within demand-responsive off-street parking in the goBerkeley Pilot Project Areas.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 66,357–N.S. Requested staff to consider a

discount rate in City garages on Sundays.

11. Additional 2013 Meeting for the Commission on the Status of Women From: Commission on the Status of Women

Recommendation: Approve an additional meeting in calendar year 2013 for the

Commission on the Status of Women.

Financial Implications: General Fund - \$220

Contact: Eric Brenman, Commission Secretary, 981-5114

Action: Approved recommendation.

Council Consent Items

12. Berkeley Public Library Foundation: 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 to the Berkeley Public Library Foundation with funds relinquished to the City's General Fund for this purpose from the Discretionary Council Office Budgets of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.

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

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

Action: Adopted Resolution No. 66,358–N.S. amended to include expenditures from the following Councilmembers up to the amounts listed: Councilmember Maio - \$100.

13. City Sponsorship: "A Night in Berkeleywood"

From: Councilmember Wengraf

Recommendation: Adopt a Resolution sponsoring the first annual "A Night in Berkeleywood" event to be held March 2, 2014 at the Freight and Salvage Coffeehouse in collaboration with the Berkeley Downtown Association as a benefit for the Berkeley Film Foundation.

Financial Implications: None

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

Action: Adopted Resolution No. 66,359–N.S.

14. Update on Customer Service Improvement Initiative

From: Councilmember Wengraf

Recommendation: Request that the City Manager return to the Council with an updated evaluation of the Customer Service Improvement Initiative established in 2009.

Financial Implications: Staff time

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

Action: Approved recommendation.

15. City Manager Referral: Evaluate Implementation of Clean Water Program on the Euclid Avenue between Cedar Street and Hearst Avenue

From: Councilmembers Worthington and Wengraf

Recommendation: Refer to the City Manager implementing the Clean Water Program, which includes regular street sweeping on the blocks of Euclid Avenue between Cedar Street and Hearst Avenue.

Financial Implications: Unknown

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

Action: Approved recommendation.

Council Consent Items

16. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmembers Worthington and Wengraf

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$400 per Councilmember to the Holocaust Remembrance Day Event with funds relinquished to the City's general fund for this purpose from Councilmember Kriss Worthington's and Councilmember Susan Wengraf's discretionary Council Office Budgets and any other Councilmembers who would like to contribute.

Financial Implications: Councilmembers' Discretionary Funds - \$400

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

Action: Adopted Resolution No. 66,360–N.S. amended to include expenditures from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$200; Councilmember Capitelli - \$100; Councilmember Arreguin - \$100.

Action Calendar – Appeal

17. ZAB Appeal: 2227 Dwight Way

From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 13-10000018 to rebuild a fire-damaged, legal non-conforming six-unit apartment building to the same size, extent and configuration as previously existed.

Financial Implications: None

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

- a. Appeal
 - 1. Luis Amezcua
- **b.** Communications
 - 1. Andrew Cohn

Action: 12 speakers. M/S/C (Arreguin/Worthington) to adopt Resolution No. 66,361–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 13-10000018 to rebuild a fire-damaged, legal non-conforming six-unit apartment building to the same size, extent and configuration as previously existed. In addition, the City Manager will make available the Rental Housing Safety Reports for the subject property for the past five years to the Council and the tenants, and staff will contact the owner of the property regarding his obligations under the Relocation Ordinance.

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

Action Calendar - Public Hearing

18. General Plan Re-designation and Re-zone 1000 - 1010 Gilman From: City Manager

Recommendation: Conduct a Public Hearing for the purpose of considering an amendment to the General Plan re-designating a portion of a parcel, within the building at 1000 – 1010 Gilman (APN 060-235200100) from light industrial to commercial, and upon conclusion:

Consider the re-designation and re-zone of the portion of the parcel identified for the Public Hearing.

- 1. Adopt a Resolution amending the Berkeley General Plan to re-designate a portion of the parcel with APN 060-235200100 from light industrial to commercial.
- 2. Adopt first reading of an Ordinance amending Berkeley Municipal Code Title 23 (zoning), official zoning map, to rezone a portion of a parcel in west Berkeley from MU-LI to C-W.

Financial Implications: See report

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

Public Testimony: The Vice-Mayor opened the public hearing. 0 speakers. M/S/C (Capitelli/Moore) to close the public hearing.

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

Action: M/S/C (Wengraf/Capitelli) to:

- 1. Adopt Resolution No. 66,362-N.S.
- 2. Adopt first reading of Ordinance No.7,313–N.S. Second reading scheduled for November 12, 2013.

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

19. Expedited Permit Processing for Targeted Retail Segments (Continued from October 15, 2013)

From: Councilmember Arreguin

Recommendation: Refer to the City Manager and Planning Commission changes to the Zoning Ordinance to expedite the permitting process by lowering the level of discretion from a Use Permit/Public Hearing to an Administrative Use Permit in commercial districts throughout the city, for the following targeted retail segments: a) 442 Furniture and home furnishings; b) 443 Electronics; c) 448 Clothing and accessories; d) 451 Sporting goods and bookstores; e) 452 Department stores; f) 4511 Grocery stores; g) 8412 Museums and Art Galleries. In addition, explore changes to the Zoning Ordinance to allow an AUP for these target retail segments to be appealed directly to Council, rather than ZAB and then Council. In the event there is an appeal this will help insure rapid resolution. Establish a square footage limit for an AUP for these target retail segments be capped at 15,000 square feet. That covers most of the existing retail spaces in the Downtown and other commercial districts, however would require an UP on large projects that may have significant community impact.

Financial Implications: See report

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140 **Action:** Removed from Agenda by Councilmember Arreguin.

Action Calendar – Old Business

20. City Manager Referral: Inform the Public of Updates and Modifications to Council Agenda After the Completion of the Consent Calendar (Continued from October 1, 2013)

From: Councilmember Worthington

Recommendation: City Manager Referral: That the Council inform the public of any updates or modifications to the Council agenda after the completion of the consent calendar.

Financial Implications: Minimal

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

Action: 0 speakers. M/S/C (Worthington/Capitelli) to refer to the City Manager an evaluation of potential solutions for notifying the public of changes to the agenda. **Vote:** Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak:

Noes – None; Abstain – None; Absent – Anderson, Bates.

Action Calendar - New Business

21. a. Homeless Commission Site Visit Plan

From: Homeless Commission

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

Financial Implications: Minimal costs

Contact: Andrew Wicker, Commission Secretary, 981-5418

21. b. Commission Visits to Community Agencies

From: City Manager

Recommendation: Adopt a Resolution authorizing the Homeless, Human Welfare and Community Action, Housing Advisory and Children Youth and Recreation Commissions to make two half-day visits to three community agencies applying for services funding, for a maximum of one hour each, every six months in the period between issuing Requests for Proposals.

Financial Implications: See report

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

Action: 0 speakers. M/S/Failed (Worthington/Arreguin) to adopt Item 21.b. amended to allow for all commissioners to attend the site visits instead of a subcommittee.

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

Action: 0 speakers. M/S/C (Moore/Wozniak) to adopt Resolution No. 66,363–N.S. authorizing the Homeless, Human Welfare and Community Action, Housing Advisory and Children Youth and Recreation Commissions to make two half-day visits to three community agencies applying for services funding, for a maximum of one hour each, every six months in the period between issuing Requests for Proposals.

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

Action Calendar – Appeal

Council Action Items

22. City Manager Referral: Add Procedural Due Process to Appeal a Warning for the Second Response Ordinance

From: Councilmember Worthington

Recommendation: Refer to the City Manager that the Second Response Ordinance (BMC Chapter 13.48) be amended to include procedural due process to appeal a warning consistent with the Fifth and the Fourteenth Amendment.

Financial Implications: Minimal

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

Action: Item held over to November 12, 2013.

23. Establish an Annual City Manager Evaluation Policy

From: Councilmember Worthington

Recommendation: Establish a policy to conduct an annual performance evaluation

of the City Manager in order to ensure efficient city operations.

Financial Implications: Minimal

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

Action: Moved to Consent Calendar. Referred to the ad hoc Council Subcommittee

on City Manager Evaluation.

24. Investment Report: Quarter Ended June 30, 2013

From: City Manager

Contact: Robert Hicks, Finance, 981-7300

Action: Received and filed.

25. LPC-NOD: 2959 College Avenue

From: City Manager

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

Action: Received and filed.

26. LPC-NOD: 2201-05 Blake Street

From: City Manager

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

Action: Received and filed.

27. goBerkeley Pilot Program Parking Garage Rate Changes Effective

December 2, 2013 From: City Manager

Contact: Andrew Clough, Public Works, 981-6300

Action: Moved to Action Calendar. M/S/C (Arreguin/Capitelli) to direct the City Manager to set the maximum rate for the Center Street and Oxford parking garages at \$17, and to refer consideration of a Sunday discount rate for all garages as well as the possible elimination of the early bird rate to the City Manager.

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

Councilmember Worthington absent 8:47 p.m. – 9:08 p.m.

Information Reports

28. Rebuilding Berkeley Tuolumne Camp

From: Parks and Waterfront Commission

Contact: Roger Miller, Commission Secretary, 981-6704

Action: Received and filed.

29. **Berkeley Small Businesses**

From: Councilmember Arreguin

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

Action: Received and filed.

Public Comment - Including Items Not Listed on the Agenda - 1 speakers.

Adjournment

Adjourned in Memory of:

1. Muriel Paley

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

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

Adjourned at 9:08 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 29, 2013 as approved by the Berkeley City Council.

Mark Numainville, CMC, City Clerk

Communications

Mercury Dental Amalgam

1. Jenny Guy

Secondhand Smoke Regulations

2. Carol Denney

Medical Cannabis Ordinance Revisions

3. Chris Horgan

Garden Village Project

4. Beverly Potter

Kayla Moore

5. Berkeley Copwatch

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

Item 17: ZAB Appeal: 2227 Dwight Way

- 6. Diana Bohn
- 7. Ben Mahrer
- 8. Fred Dodsworth
- 9. Joanne Sultar
- 10. Nina Sprecher
- 11. Phoebe Sorgen
- 12. Gary Hicks
- 13. Bill Bogert
- 14. Nancy Lieblich
- 15. John Selawsky

Supplemental Communications and Reports 3

Item 17: ZAB Appeal: 2227 Dwight Way

16. Luis Amezcua

Item 21a: Homeless Commission Site Visit Plan

17. Homeless Commission

Item 27: goBerkeley Pilot Program Parking Garage Rate Changes Effective December 2, 2013

18. Barbara Gilbert

Post Office Sales

19. Margot Smith (48-page booklet available for viewing in the City Clerk's Office)

U.S. Economy

20. M. Eid Abdallah