



Office of the Mayor

CONSENT CALENDAR
January 21, 2014

TO: Members of the City Council
FROM: Mayor Tom Bates
SUBJECT: Amending Berkeley City Council Procedure on Appeals

RECOMMENDATION:

Refer to the Planning Commission and Housing Advisory Commission amendments to the Berkeley Municipal Code to allow appeals from the Housing Advisory Commission, Landmark Preservation Commission, or the Zoning Adjustments Board be automatically set for public hearings before the City Council.

FISCAL IMPLICATIONS OF RECOMMENDATION:

Significant time savings and reduction in costs.

BACKGROUND:

The Housing Advisory Commission (HAC), Landmark Preservation Commission (LPC), and Zoning Adjustments Board (ZAB) are all quasi-judicial bodies whose decisions are appealable to the City Council.

Currently the City Council has three options when considering actions on appeal:

1. Affirm the decision of the adjudicatory body (HAC, LPC, ZAB),
2. Set the matter for a Public Hearing to be heard at a later date, or
3. Remand the project to the original adjudicatory body with specific direction.

When an appeal appears on a City Council agenda both parties to the appeal, the applicant and appellants, are allotted seven minutes each to give their positions on the project in question. The public is then given time to comment before Council begins debate and makes a decision.

With changes in the interpretation of the Brown Act a few years ago some appeal hearings have become de facto public hearings as interested members of the community have testified before the Council about the project in question. Then if the Council sets a matter for a formal public hearing this leads to delays in the process as hearing dates must be set and properly noticed. This in turn leads to frustration and inconvenience for all parties as projects are delayed and citizens must organize a second time to attend the public hearing. City staff are impacted as reports need to be

duplicated or modified. Other jurisdictions have appeals automatically set for public hearing without the preliminary appeal hearing.

This item would request the relevant commissions to consider amendments to the following sections of the Berkeley Municipal Code 19.44.090 (HAC), 3.24.300 (LPC), 23B.32.060 (ZAB) and any other related or cross referenced sections to automatically set public hearings on appeals to the City Council.

CONTACT PERSON:

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