

# AGENDA

## BERKELEY CITY COUNCIL SPECIAL MEETING

TUESDAY, OCTOBER 24, 2000

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### Preliminary Matters

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**Roll Call:** 7:30 p.m.

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**Proclamations:** **Honoring Berkeley Partners for Parks for the Aquatic Park Childrens Playground Project and Zasa and Stephen Swanson for their leadership.**

**Proclamation:** **World Population Awareness**

**Proclamation:** **United Nations Day**

**Comments from the City Manager:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Comments from the Public:** *A total of thirty (30) minutes is scheduled. Each speaker is limited to a maximum of three (3) minutes.*

**Council Action:** *The City Council may take action related to any subject listed on the Agenda.*

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### Consent Calendar

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*The Council will consider removal and addition of items to the Consent Calendar prior to voting on the Consent Calendar. All items remaining on the Consent Calendar will be approved in one motion. Items removed from the Consent Calendar will be taken up after the "Action Calendar" unless the Council reorders the agenda.*

1. **Needle Exchange Emergency Distribution**

**From:** City Manager

**Recommendation:** Adopt a Resolution reviewing and confirming the continued existence of a local emergency with regard to HIV transmission from use of HIV-infected needles among injection drug users, and authorizing the Director of Public Health to take steps to enable the operation of needle exchange emergency distribution.

Contact: Sherry Kelly, City Clerk, 644-6480

## Consent Calendar

2. **Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for Council meetings of: a) October 10, 2000 (closed) and b) October 10, 2000 (regular).  
Contact: Sherry M. Kelly, City Clerk, 644-6480
3. **Regulation of Indoor Entertainment Events**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapter 9.44 regulating indoor entertainment events (Ordinance No. 3289-N.S. as amended) and adopting a new Chapter 13.46 regulating large indoor entertainment events.  
Contact: Manuela Albuquerque, City Attorney, 644-6380
4. **Street Rehabilitation FY2001 Phase 1**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Street Rehabilitation FY2001 Phase 1 Project, accepting bid of Gallagher & Burk, Inc.; and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$1,628,829, for a period of 120 calendar days.  
Contact: Rene Cardinaux, Public Works, 665-3460
5. **Contract: Vehicle Maintenance Building Roof Restoration**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the plans and specification for the Vehicle Maintenance Roof Restoration at the Solid Waste Management Center, accepting the bid of Pioneer Roofing, and authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$62,040.  
Contact: Rene Cardinaux, Public Works, 665-3460
6. **Communication Tower Study**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the procedures which include 1) citizen involvement in the establishment of the consultant's scope of work, the requests for qualification (RFQ) criteria, the selection of the consultant, and the review of the consultant's final report; 2) authorize the City Manager to proceed with the preparation of the RFQ; and 3) direct the City Manager report back to Council with the RFQ document prior to issuance.  
Contact: Rene Cardinaux, Public Works, 665-3460

7. **Civic Arts Coordinator**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution No. 59,883-N.S., classification and salary resolution for Local 535 employees, to increase the salary range for the Civic Arts Coordinator by 11.4% effective 8/8/99 and by a 4% COLA effective 6/25/00.  
Contact: Ron Brown, Human Resources, 665-7614
8. **Contract: 3% at Age 50 Retirement Formula for Fire Only**  
**From: City Manager**  
**Recommendation:** 1) Adopt a Resolution of Intention amending the City's contract with the California Public Employees' Retirement System (CalPERS) to provide the 3% at Age 50 Retirement Formula for local fire employees only; and 2) adopt first reading of an Ordinance amending the City's contract with CalPERS to provide the 3% at Age 50 Retirement Formula for local fire employees only.  
Contact: Ron Brown, Human Resources, 665-7614
9. **Contract: Health Systems Consultant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole-source contract and any amendments with George F. Timson for development and maintenance of medical health data management and billing software for the Department of Health and Human Services, in an amount not to exceed \$40,000 for the period July 1, 2000 through June 30, 2002.  
Contact: Fred Medrano, Health and Human Services, 665-6879
10. **Vendor Assisted Tobacco Sales**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 13.62, Sections 13.62.010 B, E and F, Section 13.62.020 G, adding 13.62.020 H, I, J, and K, amending 13.62.050 B, and adding Sections 13.62.035, 13.62.045 and 13.62.070 which would a) require all tobacco products be offered for sale exclusively by means of vendor assistance; b) prohibit the sale or display for sale of any tobacco products by means of self-service rack, counter-top or shelf display that allows self-service sales for any tobacco products; and c) amend title of BMC, Chapter 13.62 from "Tobacco Vending Machines and Free Sampling" to "Vendor Assisted Tobacco Sales, Vending Machines and Free Sampling."  
Contact: Fred Medrano, Health and Human Services, 665-6879
11. **Addison Street Poetry Panels Fundraising Campaign**  
**From: City Manager**  
**Recommendation:** Authorize the City Manager to initiate a short term fundraising campaign directed at private and public interested parties in support of completing the funding needs for the Poetry Panels Project in the Arts District on Addison Street.  
Contact: Bill Lambert, Economic Development, 705-8180

12.    **Contract: Portable Toilet Rental and Service**  
      **From: City Manager**  
      **Recommendation:** Adopt a Resolution 1) approving plans and specifications for the rental and service of portable toilet units in City parks; 2) accepting the bid of Redwood Sanitary Service; and 3) authorizing the City Manager to execute a contract and any amendments, in an amount not to exceed \$72,000, for a 12-month period with an option to renew for two additional 12-month periods.  
      Contact: Lisa Caronna, Parks and Waterfront, 644-6943 x222
13.    **Underhill Master Plan**  
      **From: Councilmember Worthington**  
      **Recommendation:** Request the Regents of the University of California postpone the discussion of the Underhill Master Plan for the Regents meeting in Los Angeles in November until they meet again in San Francisco in January.  
      Contact: Kriss Worthington, Councilmember District 7, 644-6398
14.    **Waiver of Fees: 16<sup>th</sup> Annual Telegraph Avenue Holiday Street Fair**  
      **From: Councilmembers Worthington and Maio**  
      **Recommendation:** Adopt a Resolution 1) Waiving event, sound and insurance fees associated with the Fair and allow an exemption to Berkeley Municipal Code (BMC) Section 20.24.040 to allow a banner to be hung across Telegraph Avenue and vertical banners on light poles advertising the event and that Telegraph Avenue from Dwight to Bancroft be closed allowing only cross traffic; 2) approve the City's provision of the following in-kind services: 4 portable toilets provided by Public Works, dumpster and Solid Waste services, traffic signage and traffic engineering services, and assistance from Public Works in hanging the banners; contribution of \$10,000 to the Holiday Fair and Seasonal Marketing Campaign.  
      Contact: Kriss Worthington, Councilmember District 7, 644-6398; Linda Maio, Councilmember District 1, 644-6359

15. **City Response to Telegraph Riot**  
**From: Councilmember Worthington**  
**Recommendation:** Request a thorough investigation of the circumstances on the UC campus which caused a riot in the Telegraph area on October 14, 2000 as follows: 1) What time the University Police Department officially notified the Berkeley Police Department about the problem; 2) What point was a decision made to remove the approximately 800 participants in the event and move them outside onto the street into a group of people which the UC Police Department had described as an unruly crowd; 3) What direction the crowd was given to disperse them from the event, whether they were pushed further onto campus or into the business and residential areas; 4) Are there significant differences in crowd control protocols between Berkeley Police Department and University Police Department? Are there better ways to coordinate policies between the two departments? 5) Were there policies not followed? Are there modifications to policies needed based on what happened? and 6) Has it been determined in the investigation who pulled the fire alarm?  
Contact: Kriss Worthington, Councilmember District 7, 644-6398
  
16. **Support Benign Brain Tumor Cancer Registries Amendment Act (HR5204)**  
**From: Councilmember Maio**  
**Recommendation:** Support passage of the Act, approve letter to Assemblymembers and Senators, and direct the City Manager to send the letter to the House and Senate.  
Contact: Linda Maio, Councilmember District 1, 644-6359
  
17. **Waive Fees: Food Not Bombs Memorial Service**  
**From: Councilmember Maio**  
**Recommendation:** Adopt a Resolution waiving fees for the Veteran's Memorial Building Auditorium for the Food Not Bombs Memorial Service on October 29, 2000.  
Contact: Linda Maio, Councilmember District 1, 644-6359
  
18. **Health Disparity Issue in South and West Berkeley**  
**From: Councilmember Breland**  
**Recommendation:** Schedule a 20-minute presentation at a future Council meeting for Community Capacity Building, a model that the Berkeley Community Action Team has identified as one of the approaches to address the racial and health disparity issue in South and West Berkeley.  
Contact: Margaret Breland, Councilmember District 2, 644-6400

## Consent Calendar

19. **Memorial Stadium Lighting**  
**From: Planning Commission**  
**Recommendation:** Direct the City Manager to write a letter to the Athletic Department of the University of California at Berkeley and Fox Sports Network identifying the City's concern regarding the potential environmental significance of night games at Memorial Stadium, and requesting specific information regarding the proposed materials, usage and potential environmental impact of the Memorial Stadium Lighting Project.  
Contact: Karen Haney-Owens, Secretary, 705-8137
- a. City Manager Report**  
**Recommendation:** Concurs with the content and recommendations of the Commission.  
Contact: Wendy Cosin, Planning and Development, 705-8108

## Action Calendar

### Appeals:

20. **Zoning Appeal of Use Permit to allow a substantial change in character of an existing, non-conforming use at 2022 Grant Street**
- a. Appeal filed by Wendy L. Alfsen, 1800 Allston Way, of the Zoning Adjustments Board decision of July 27, 2000, which approved Use Permit 00-10000067 with findings and conditions.**
- b. City Manager Report (to be delivered)**  
**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board.  
Contact: Wendy Cosin, Planning and Development, 705-8108
- c. Communications**
1. Anne Steiner; Sean Kley; Sean Reilley, Maria DeLuca.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ.Proc. §1094.6(b)) or approve (Gov.Code §65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

**Old Business:**

21. **Decision Regarding Residential Permit Parking** (*public hearing held on October 17*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Sections 25M and 25N of Resolution No. 56,508-N.S., by adding subsections to extend residential permit parking on Emerson Street between Tremont Street and Shattuck Avenue, on all of Keoncrest Drive, and on all of Catherine Drive.  
Contact: Rene Cardinaux, Public Works, 665-3460
  
22. **Increase City Manager Bid and Expenditure Authority** (*removed from Consent Calendar by Councilmember Spring and held over from October 17*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution increasing the expenditure authority for the City Manager by \$1,000,000 to a total amount not to exceed \$21,000,000 for the design and construction of the physical improvements and any incidental equipment and services related to the seismic upgrade and renovation of the Martin Luther King Jr. Civic Center Building.  
Contact: Rene Cardinaux, Public Works, 665-3460
  
23. **New Building Codes** (*removed from Consent Calendar by Mayor Dean and held over from October 17*)  
**From: City Manager**  
**Recommendation:** Adopt the following: 1) first reading of an Ordinance repealing the Berkeley Building, Electrical, Mechanical and Plumbing Codes and related procedural provisions in BMC Chapters 19.28, 19.30, 19.32 and 19.36 (Ordinance No. 6312-N.S.) and adopting new BMC Chapters 19.28, 19.30, 19.32 and 19.36 and procedural provisions; 2) first reading of two Ordinances enacting new BMC Chapter 19.76, Regulating the Moving of Buildings, and Chapter 19.80, Minimum Security in the City of Berkeley; and 3) a Resolution setting forth findings of local conditions that require more stringent regulations than those provided by the 1998 California Building Code.  
Contact: Wendy Cosin, Planning and Development, 705-8108

## Action Calendar

24. **Civic Center Parking** *(removed from the Consent Calendar by Councilmember Worthington and held over from October 17)*  
**From: Mayor Dean**  
**Recommendation:** Immediately take the following actions: 1) formally recognize that a daytime Civic Center parking problem exists; 2) direct the City Manager regard this as a priority matter and move expeditiously to solve this problem; 3) involve as partners in resolving the problem: City employees (Police, Fire, Locals 1, 525 and 790 and unrepresented), Berkeley Unified School District, Court, Downtown Business Association, and Vista College; 4) quantify the needs of all the partners, but recognize that parking for City employees is our priority, and survey all existing spaces that can be in place when the move back to 2180 is completed; 5) actively and immediately pursue whether the current opportunity represented by development proposals involving ground floor retail, parking and offices for the property adjacent to Center Street Garage is a viable option and recognize that any parking must take into account employees that work late night shifts; 6) evaluate the provision of City employee parking at Center Street Garage and what the impact would be on the Downtown from the reduction of available daytime parking spaces and recognize that any parking must take into account employees that work late night shifts; 7) determine whether a joint City/BUSD/Courts/Vista College satellite parking vacility with frequent shuttle service is a viable option and recognize that any parking must take into account employees that work late night shifts; and 8) report back to the Council on a regular basis until a plan is developed.  
Contact: Shirley Dean, Mayor, 644-6484
25. **Civic Center Parking**  
**From: Councilmembers Maio, Spring and Worthington**  
**Recommendation:** 1) Await the presentation of the Traffic Demand Southside/ Downtown Transportation Demand Management Study (TDMS). which is imminent and will include extensive analysis and recommendations related to parking and transportation modes, before referring a large number of deliverables on parking and transit to the staff; and 2) direct the City Manager to develop a strategy for filling the high number of vacancies in the Planning Department so that the Council's priorities in managing traffic and parking impacts can be accomplished.  
Contact: Linda Maio, Councilmember District 1, 644-6359; Dona Spring, Councilmember District 4, 644-6266; Kriss Worthington, Councilmember District 7, 644-6398.

## Action Calendar

26. **Pedestrian Crossing at Hearst and Martin Luther King Jr. Way** *(removed from the Consent Calendar by Councilmember Spring and held over from October 17)*  
**From: Mayor Dean**  
**Recommendation:** The City Manager, in consultation with the Transportation Commission, evaluate and report back to the Council within 45 days regarding the pedestrian crossing situation adjacent to the North Berkeley Senior Center (Hearst and Martin Luther King Jr. Way), to determine if there is ample time allowed for the elderly residents who patronize this facility to safely cross this busy intersection; and to consider not only the timing of these traffic signals but also the installation of countdown pedestrian crossing signals at this intersection and at intersections adjacent to the West Berkeley and South Berkeley Senior Centers.  
Contact: Shirley Dean, Mayor, 644-6484.
27. **Final Scoping Report on LBNL's Radioactive Emissions and Environmental Data** *(removed from the Consent Calendar by Councilmember Armstrong and held over from October 17)*  
**From: Councilmembers Worthington and Spring**  
**Recommendation:** Request the contractor, IFEU (Institute für Energie - und Unweldforschung Heidelberg GmbH) to make a presentation of its Draft Final Scoping Report on LBNL's past and present radioactive emissions and environmental data at a community workshop sponsored by the City at the North Berkeley Senior Center, three to six weeks from submission of IFEU's Draft Final Scoping Report and adopt a Resolution amending the contract to include a new timeline.  
Contact: Kriss Worthington, Councilmember District 7, 644-6398; Dona Spring, Councilmember District 4, 644-6266
28. **Support Measure E – Peralta Community College District Bond Measure** *(removed from the Consent Calendar by Councilmember Shirek and held over from September 19, September 26, October 10 and October 17)*  
**From: Councilmembers Worthington and Spring**  
**Recommendation:** Support Measure E which is on the November ballot contingent upon Peralta Community College District enforceable written commitment to the City of Berkeley to insure completion of a permanent Vista Community College campus.  
Contacts: Kriss Worthington, Councilmember District 7, 644-6398; Dona Spring, Councilmember District 4, 644-6266

## Action Calendar

29. **Referrals of Misconduct Issues to the PRC** (*held over from July 25*)  
**From: Police Review Commission**  
**Recommendation:** Refer reports of incidents that indicate alleged police misconduct to the PRC for possible investigation, and that Council direct commissions that receive reports of incidents that indicate possible police misconduct to refer them to the PRC and, finally, that Council direct the City Manager to direct all City departments that receive reports of incidents that indicate possible police misconduct to refer them to the PRC.  
Contact: Barbara Attard, Police Review Commission Officer, 644-6716
- a. City Manager Report**  
**Recommendation:** Refer the matter to the City Manager for the development of a brochure advising citizens of the various City resources, where citizens can receive assistance and where citizens can receive assistance and where citizens may lodge complaints they may have against any City staff.  
Contact: Weldon Rucker, Acting City Manager, 644-6580

### New Business:

30. **Tree Preservation Ordinance**  
**From: City Manager**  
**Recommendation:** Direct staff and the Parks and Recreation Commission to return in three months with a Tree Preservation Ordinance that protects Oak trees over six (6) inches in diameter citywide and also protects all trees over twelve (12) inches in diameter on multi-unit buildings, and is based upon the "Neighbor to Neighbor" approach outlined by staff.  
Contact: Lisa Caronna, Parks and Waterfront, 644-6943 x222
31. **Aquatic Park Sound Barrier**  
**From: City Manager**  
**Recommendation:** 1) Accept the basic design concepts as presented by The Crosby Group, Structural Engineers, for the Aquatic Park Sound Barrier as developed through the cooperative effort between the City of Berkeley, Caltrans, and the Alameda County Congestion Management Authority (CMA); 2) request the CMA Board recommend to the California Transportation Commission (CTC) reprogramming \$3.5 million back into the Alameda County share of the State Transportation Improvement Program (STIP) for the construction of the noise barrier at Aquatic Park in the 2002 STIP.  
Contact: Lisa Caronna Parks and Waterfront, 644-6943 ext 222 and Rene Cardinaux, Public Works, 665-3460

## Action Calendar

32. **Excused Absence for Religious Holiday**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution amending Resolution No. 60,683-N.S. to allow excused absences for religious holidays for commissioners when it is requested in advance of the commission meeting.  
Contact: Marianne E. Graham, Secretary, 665-3475
- a. **City Manager Report**  
**Recommendation:** Refer this matter to the Council subcommittee considering commission holidays.  
Contact: Stephen Barton, Housing, 665-3481
33. **Measure B Paratransit Allotment Formula**  
**From: Commission on Aging**  
**Recommendation:** Direct the City Manager to seek a change in the Measure B allotment formula to more accurately reflect Berkeley's senior population by using Alameda County Needs Assessment Oversight Committee statistics.  
Contact: Suzanne Ryan, Secretary, 644-6107
- a. **City Manager Report**  
**Recommendation:** Take no action on the recommendation of the Commission to seek a change in the formula for distributing Measure B funds among County of Alameda cities.  
Contact: Stephen Barton, Housing, 665-3481

## Information Reports

34. **Appointments to the Commission on Aging**  
**From: Commission on Aging**  
Contact: Suzanne Ryan, Secretary, 644-6107
35. **Parking for Civic Center Building and Public Safety Building and Other Related Civic Center Area Parking** *(to be delivered)*  
**From: City Manager**  
Contact: Grace Maguire, City Manager's Office, 644-6580
36. **Bicycle Boulevard Signage and Pavement Stencils**  
**From: City Manager**  
Contact: Wendy Cosin, Planning and Development, 705-8108
37. **Status of Transportation Demand Management (TDM) Study**  
**From: City Manager**  
Contact: Wendy Cosin, Planning and Development, 705-8108
38. **Audit Activities for First Quarter of FY2001**  
**From: City Auditor**  
Contact: Ann-Marie Hogan, Auditor, 644-6440

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## Information Reports

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39. **Implementation of Business License Tax Penalty/Interest Amnesty for Small Property Owners (CR #215-00)**

**From: City Manager**

Contact: Fran David, Finance, 665-7401

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## Communications

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*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations.*

Page No.

- 1) Howie & Connie Muir, re: Proposal for 2700 San Pablo Ave.
- 2) Anne Marselis, re: Car vandalism on College Ave.
- 3) Rhiannon, Oceanview Tenants Association, re: Toxics management
- 4) S. C. Miller, III, Captain, U.S. Navy, Head, Undersea Surveillance, re: response to letter Surveillance Towed Array Sensor System Low Frequency Active Sonar — impact on marine animals and humans

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## Adjournment

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