

AGENDA

BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, MAY 21, 2002

Preliminary Matters

Roll Call: 7:00 p.m.

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 and/or action.*

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

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

Consent Calendar

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 held over to the next meeting unless the City Manager requests action due to priority.

1. **Downtown BART Station – Creation of Passenger Loading and Unloading Zone; and Taxi Stand Relocation** *(first reading 05/14/02 – unanimous)*
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending the Berkeley Municipal Code (BMC) to add Section 14.40.160 to create a no-double parking zone for commercial vehicles along the taxi zone on Center Street.
Contact: Grace Maguire, 981-7008, Rene Cardinaux, Public Works, 981-6300, Fran David, Finance, 981-7300

2. **Easement: 725 Potter Street**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to accept an easement for a fire hydrant and fire apparatus access between parcels at 725 Potter Street and 700 Heinz Street.
Contact: Reginald Garcia, Fire Chief, 981-3473

Consent Calendar

3. **Lockers for Homeless**
From: City Manager
Recommendation: Adopt a Resolution authorizing expenditures in an amount not to exceed \$39,000 to Shattuck Avenue Self-Storage to provide lockers for use by individuals experiencing homelessness for the period October 1, 2001 through September 30, 2002.
Contact: Fred Medrano, Health and Human Services, 981-5100

4. **Public Agency Retirement System (PARS)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend and restate the plan document under the Public Agency Retirement System (PARS), which provides an Alternate Retirement System to Social Security for hourly-paid temporary and seasonal employees, to incorporate new provisions required by the IRS to comply with federal legislation.
Contact: Ron Brown, Human Resources, 981-6800

5. **Purchase Agreement: 1242 Josephine Street/1811 Berryman Street**
From: City Manager
Recommendation: Adopt a Resolution nullifying the amended June 27, 2001 purchase agreement relating to the acquisition of 1242 Josephine Street and 1811 Berryman Street; and directing the City Manager to secure a return of all funds placed in escrow relating to this transaction.
Contact: Stephen Barton, Housing, 981-5400

6. **Contract: FY 2002 Spiral Sidewalk Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the FY2002 Spiral Sidewalk Project; accepting the bid of AJW Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments, in an amount not to exceed \$287,000 for the period May 21, 2002 to December 30, 2002.
Contact: Rene Cardinaux, Public Works, 981-6300

7. **Purchase Orders: Litter/Recycling Receptacles**
From: City Manager
Recommendation: Adopt a Resolution: 1) accepting bids from Forms and Surfaces, Inc. for up to 500 decorative litter receptacles and from Ecopop, Inc. for recycling containers; 2) authorizing the City Manager to authorize purchase orders over the next five years for a total amount not to exceed \$612,000; and 3) accepting a credit of 3% from Forms and Surfaces for every litter receptacle sold to other cities or businesses that is an exact match in size and part number to Forms and Surfaces.
Contact: Rene Cardinaux, Public Works, 981-6300

Consent Calendar

8. **Contract: Public Safety Building Tower Study**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with MACRO Corporation for the Public Safety Building (PSB) Communications Tower study, increasing the contract by \$43,296, for a total amount not to exceed \$93,296 for field strength tests of the possible tower replacement alternatives for the period May 15, 2002 through August 30, 2002.
Contact: Rene Cardinaux, Public Works, 981-6300; John Rosenbrock, Capital Projects, 981-6331

9. **Fee Waiver: San Francisco Mime Troupe**
From: Councilmembers Maio and Armstrong
Recommendation: Adopt a Resolution waiving all fees associated with the performances of the San Francisco Mime Troupe for their Summer 2002 schedule of performances.
Contact: Councilmember Linda Maio, District 1, 981-7110; Councilmember Polly Armstrong, District 8, 981-7180

10. **Affordable Housing Week**
From: Councilmember Maio
Recommendation: Adopt a Resolution declaring June 1, 2002 to June 9, 2002 “Affordable Housing Week” emphasizing the need for additional affordable housing and honoring the contributions of local housing organizations in working for affordable housing for all of Berkeley’s citizens.
Contact: Councilmember Linda Maio, District 1, 981-7110

11. **Humane Commission Funding Recommendations** *(to be delivered)*
From: Councilmember Spring
Recommendation: Approve the Commission’s funding recommendations for FY2003.
Contact: Councilmember Dona Spring, District 4, 981-7140

12. **Waive The Council Rules to Allow Action on Commission Items**
From: Councilmember Spring
Recommendation: Waive Council rules and take action on the Peace and Justice Commission’s recommendation on oxidation-incineration and the Citizen’s Humane Commission’s funding allocations on tonight’s agenda because they are time dated.
Contact: Councilmember Dona Spring, District 4, 981-7140

13. **Peace and Justice Resolution Calling for an Injunction to Stop Oxidation Incineration**
From: Councilmembers Spring, Worthington
Recommendation: Approve the recommendations of the Commission and adopt a Resolution authorizing funds in the amount of \$15,000 to support a lawsuit, and an injunction to stop the oxidation-incineration of all radioactive mixed waste at the National Tritium Labeling Facility (NTLF), to be filed by the Committee to Minimize Toxic Waste, (CMTW) against the State of California Department of Toxic Substance Control for failure to require Lawrence Berkeley National Laboratory (LBNL) to do an Environmental Impact Report (EIR) under CEQA and an Environmental Impact Statement (EIS) under NEPA.
Contact: Councilmember Dona Spring, District 4, 981-7140; Kriss Worthington, District 7, 981-7170
14. **Fee Waiver: Seventh Annual Watershed Environmental Poetry**
From: Councilmember Worthington
Recommendation: Adopt a Resolution related to the 7th Annual Watershed Environmental Poetry Event to be held in the Martin Luther King Jr. Civic Center Park on Saturday, September 7, 2002: 1) extending the sound permit from 11-5 p.m.; 2) waiving all fees to secure the use of the Veterans Memorial Building for bathroom access for the public and the auditorium in the occurrence of rain; 3) waiving Berkeley Municipal Code (BMC) Section 20.24.040 to allow a Watershed Environmental Poetry banner in the downtown area (across Shattuck, 8/23-9/7), a stage banner above the Peace Wall; 4) waiving permits and providing staff assistance and necessary equipment associated with hanging the banners; and 5) allowing access to the kiosk (8/23-9/7) located outside of downtown Berkeley BART station on Center Street to display a poster and any information relating to the Watershed Environmental Poetry Event.
Contact: Councilmember Kriss Worthington, District 7, 981-7170
15. **Support Calpirg's Statement of Principles to Keep the Clean Air Act Intact**
From: Councilmember Worthington
Recommendation: 1) Support Calpirg's statement of principles to keep Clean Air Act intact; 2) send letters to President Bush, Environmental Protection Agency (EPA) Administrator Christine Todd Whitman opposing the EPA removing a provision of the Clean Air Act called the New Source Review; and 3) send letters to our congressional representatives in support of legislation H.R. 1256 (Waxman) and S.556 (Jeffords)
Contact: Councilmember Kriss Worthington, District 7, 981-7170

16. **Traffic Calming Emergency Response for the Most Dangerous Residential Streets**
From: Councilmember Spring
Recommendation: Request the City Manger take action to respond to the pedestrian death on Addison Street by convening a meeting to discuss temporary traffic calming measures on Addison, Allston and Jefferson Streets, the most dangerous residential streets for pedestrians; for the purposes of informing and taking public input from the affected residents regarding the long-awaited implementation of the first phase of four traffic calming measures on these streets as prepared by former traffic engineer, Jeff Knowles.
Contact: Councilmember Dona Spring , District 4, 981-7140
17. **Urge BART to Charge for Parking to Meet its Budget Deficit**
From: Councilmember Hawley
Recommendation: Ask the City Manager to inform the General Manager of BART and its Board of Directors that the Council opposes an increase in BART fares and cuts in the quality and amount of service as a way of balancing its budget, and urges the BART District to charge for parking at BART stations as an equitable and environmentally sound alternative. Since the BART Board of Directors will meet on May 23 to discuss this matter, this letter should be sent as quickly as possible.
Contact: Councilmember Mim Hawley, District 5, 981-7150
18. **Support BART Parking Fee Increases**
From: Councilmember Worthington
Recommendation: Support Resolution proposed by transit, labor, environmental, and consumer groups calling for BART parking fees instead of fare hikes, layoffs, and service cuts.
Contact: Councilmember Kriss Worthington, District 7, 981-7170
19. **Opposing Racial Privacy Initiative**
From: Councilmembers Worthington, Breland, Maio
Recommendation: Adopt a Resolution opposing the Racial Privacy Initiative (RPI) submitted by Ward Connerly for the November 2002 Election that would prohibit state and local governments, public universities and school districts from collecting or using information about race, ethnicity, color or national origin. Also send letters of opposition to Governor Davis, State Assemblywoman Aroner and State Senator Perata.
Contact: Councilmember Worthington, District 7, 981-7170; Councilmember Breland, District 2, 981-7120; Councilmember Maio, District 1, 981-7110

Consent Calendar

20. **Support for April 9th Protesters**
From: Councilmember Worthington
Recommendation: Adopt a Resolution that requests University of California Chancellor Berdahl to not take away students' opportunity for education and drop the suspensions for the April 9th protest. Also, request the District Attorney drop the charges for participating in the demonstration and protest rally.
Contact: Kriss Worthington, District 7, 981-7170
21. **Commendation: Energy Officer**
From: Berkeley Energy Commission
Recommendation: Adopt a Resolution honoring and thanking Neal De Snoo for his excellent service to the City and the residents of Berkeley during the many years he has served as the Berkeley Energy Officer, and particularly for his outstanding service during the recent California energy crisis.
Contact: Steven Barton, Housing, 981-5401
- a. City Manager Report**
Recommendation: Concurs with the content and recommendation of the Commission.
Contact: Stephen Barton, Housing, 981-5400

Public Hearings on Land Appeals

22. **2517 Sacramento Street-** *(Continued only for limited purposes of taking comment on any new proposal or modification of proposals to the project as a result of mediation)*
- a. Appeal filed by Marie Bowman, appellant,** of the Zoning Adjustments Boards decision to approve a Mitigated Negative Declaration and Use Permit 01-10000085 to:
- a) demolish an existing commercial structure; and b) construct a four-story 40,171 square foot mixed-use building with 40 dwelling units above 3,620 square feet of retail space at 2517 Sacramento Street in the C-SA (South Area Commercial) Zoning District.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. City Manager Supplemental Report** *(to be delivered)*
Contact: Carol Barrett, Planning and Development, 705-8102
- c. City Manager Report** *(see agenda packet of May 7, 2002)*
Recommendation: Adopt a Resolution adopting a mitigated negative declaration and approving Use Permit 01-10000085 to: a) demolish an existing commercial structure, b) construct a four-story 40,171 square foot mixed-use building with 40 dwelling units above 3,620 square feet of retail space at 2517 Sacramento Street in the C-SA (South Area Commercial) Zoning District, and c) dismissing the appeal.
Contact: Carol Barrett, Planning and Development, 705-8102
- d. Communications** *(see agenda packet of May 7, 2002)*
1. Honor Thompson
 2. Shari Huebner
 3. Rachel Rupert, Berkeley Chamber of Commerce
 4. Nancy Bickel, Lois Brubeck, Jean Safir, League of Women Voters
 5. Rachel Peterson, Urban Ecology

Public Hearings on Land Appeals

e. Communications (*see agenda packet of March 19, 2002*)

6. Howie Muir
7. Nancy Pearlman
8. Lisa and Paul Gerrard
9. Leeyo
10. Richard Entenman
11. Cara Eisenberg
12. Marie Bowman
13. Bill Gutierrez
14. Donald Martin
15. Rena Rickles
16. Karl Golden
17. Helene Hunter
18. Rosemary Hunter
19. Kevin Zwick

f. Communications (*May 21, 2002*)

20. Kevin Zwick
21. Helen Rippier Wheeler
22. Howie Muir

Contact: Sherry M. Kelly, City Clerk, 981-6900

23. **1102 Tenth Street**

a. Appeal filed by Carl Brodsky and Susan Nabeta-Brodsky, property owner of the Landmarks Preservation Commission decision of February 4, 2002, which designated Thomas Jones House and Property, 1102 Tenth Street, as a Structure of Merit.

Contact: Sherry M. Kelly, City Clerk, 981-6900

b. City Manager Report (*See agenda packet of April 23, 2002*)

Recommendation: Conduct a Public Hearing and upon conclusion, remand the designation as a Structure of Merit to the Landmarks Preservation Commission to consider the issues raised in the appeal.

Contact: Carol Barrett, Planning and Development, 705-8102

c. Communications: (*See agenda packet of April 23, 2002*)

1. Daniel F. Reidy

Contact: Sherry M. Kelly, City Clerk, 981-6900

Public Hearing – Assessment Districts

24. **Street Lighting Assessment District No. 1982-1 and Street Light Upgrading Assessment District No. 1999-1**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution confirming diagrams and assessments and levying assessments for Fiscal Year 2003 in the Berkeley Street Lighting Assessment District No. 1982-1 and the Berkeley Street Light Upgrading Assessment District No. 1999-1
Contact: Rene Cardinaux, Public Works, 981-6300

Public Hearings on City Fees

25. **Sidewalk Food Vending Continued Public Hearing (CF 178-01)**
a. City Manager Report (*to be delivered*)
Recommendation: Continue the public hearing from April 16, 2002, and upon conclusion, adopt first reading of an Ordinance repealing and reenacting Chapter 9.49 of the Berkeley Municipal Code regulating Food Vending on Sidewalks and Rights-of-Way; and adopt a Resolution establishing food vending licensing fees, effective concurrently with the effective date of the ordinance.
Contact: Fran David, Finance, 981-7300
b. City Manager Report (*dated April 16, 2002*)
Recommendation: Conduct a public hearing on establishing food vending fees, and waive the rules in order to take action on the same night; and adopt first reading of an Ordinance repealing and reenacting Chapter 9.49 of the Berkeley Municipal Code regulating Food Vending on Sidewalks and Rights-of-Way; and adopt a Resolution establishing food vending licensing fees, effective concurrently with the effective date of the ordinance.
Contact: Fran David, Finance, 981-7300
26. **Environmental Health Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt two Resolutions establishing fees for regulations and inspections, and development services for FY 2003 as required by Berkeley Municipal Code Title 12, and rescinding Resolutions Nos. 60,602–N.S. and 60,603–N.S.
Contact: Fred Medrano, Health and Human Services, 981-5100
27. **Senior Center Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing fees for the rental of senior center facilities and rescinding Resolution No. 57,507–N.S.
Contact: Fred Medrano, Health and Human Services, 981-5100

Public Hearings on City Fees

28. **Marina Berthing and Nature Center Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution authorizing: 1) an increase to the base berth rates by 3% beginning July 1, 2002; 2) an increase in fees for specific recreation programs at the Marina; 3) elimination of credit for dock boxes; and 4) rescinding Resolution No. 61,106-N.S.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700
29. **Collection of Refuse and Commercial Compostable Materials and Transfer Station Services Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution setting rates for the collection of refuse and commercial organics, special services, and transfer station disposal; reconfirming existing refuse collection districts; and rescinding Resolution No. 61,083-N.S., and all amending resolutions, effective July 1, 2002.
Contact: Rene Cardinaux, Public Works, 981-6300
30. **Sewer Service Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, 1) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 17.04.010 and 17.04.015, sewer service charges, imposition of liens, and appeals; and 2) adopt a Resolution increasing sewer service charges for residential and non-residential categories for FY 2003.
Contact: Rene Cardinaux, Public Works, 981-6300
31. **Planning and Community Development and Toxics Management Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution: 1) establishing the fee schedule for the Permit Service Center Fund for development related services; 2) establishing the fee schedule for the Certified Unified Program Fund for hazardous substance management services; 3) Readopting Council's policy of limiting future unfunded fee waivers to seismic strengthening and granting other waivers only when there is substitute funding authorized by Council; and 4) rescinding Resolution No. 60,601-N.S.
Contact: Carol Barrett, Planning and Development, 705-8102
32. **Housing Code Inspection and Rental Housing Safety Program Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing fees for housing code inspections, establishing a certification fee for the Rental Housing Safety Program, and rescinding Resolution No. 61,180-N.S.
Contact: Stephen Barton, Housing, 981-5400

Public Hearings on City Fees

33. **Police Department Administrative Fingerprinting Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 2.64.150 increasing the administrative fingerprinting fee from \$10 to \$20.
Contact: Dash Butler, Police Chief, 981-5700
34. **Police Department Jail Administrative Booking and Daily Maintenance Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution increasing individual booking fees and daily housing rates for the City Jail from \$75 to \$125 per individual; and rescinding Resolution No. 55,943-N.S.
Contact: Dash Butler, Police Chief, 981-5700
35. **Animal Care Shelter Fees**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adding and increasing fees charged at the Animal Care Shelter and rescinding Resolution No. 55,893-N.S.
Contact: Weldon Rucker, City Manager, 981-7000

Public Hearings on FY 2003 Budget

36. **Fiscal Year 2003 Biennial Budget** (*adoption of the FY2003 Budget Amendments are scheduled for the meeting of June 25, 2002*)
- a. City Manager Report** (*to be delivered*)
Contact: Phil Kamlarz, Deputy City Manager, 981-7006
- b. Transportation Commission Report**
Recommendation: a) Fully fund the Office of Transportation in the upcoming budget cycle; and 2) if the Office of Transportation needs more staffing in the future to accomplish the work plans and priorities outlined in a preliminary assessment memorandum, the upcoming budget cycle should allow for additional staffing.
Contact: Peter Hillier, Secretary, 981-7000
- c. Senior Center Saturday Program Information Report (CF 143-01)**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5178
- d. Shop Local/Shop Berkeley Marketing Campaigns Information Report**
From: City Manager
Contact: Tom Myers, Economic Development, 705-8181

Information Reports

37. **2 x 2 Committee Meeting**
From: City Manager
Contact: Arrietta Chakos, City Manager, 981-7000
38. **Health Disparities Program**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100

Communications

The Council's regulations permit a Councilmember to refer a communication to staff for action, if appropriate. Alternatively, a Councilmember may prepare a consent or action item for placement on a future agenda which directs the City Manager to investigate or take certain actions. Unless a communication is referred to staff for action, if appropriate, it is deemed noted and filed.

Page

1. Emily B. Longfellow, Miller, Starr & Regalia, regarding City programs and fees:
2. Regarding the Middle East
 - a. Jane Stillwater
 - b. Christine Bitar (3 communications)
 - c. Dave Loev
3. Roland Peterson, regarding food vending ordinance
4. Howie Muir, regarding Growth in the Bay Area
5. Leuren Moret, regarding UC Berkeley Chancellor
6. Regarding Eastshore State Park planning.
 - a. Anita Feingold-Shaw
 - b. Suzanne Betterdeff
 - c. Amy Livingston
 - d. Carol Bledsoe
 - e. Michael Vandermant, PhD.
 - f. Suzanne Jones
 - g. Richard Calendar
 - h. Charles Hancock
 - i. Robert Nelson
7. Patrick Kennedy, regarding a different approach to parking.

Adjournment
