

AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, July 8, 2003 – 7:00 P.M.

City Council Chambers, 2134 Martin Luther King Jr. Way

Preliminary Matters

Roll Call:

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

1. Proclamation: American Foundation for Blind

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 30 minutes is scheduled. Each speaker is limited to a maximum of 3 minutes.*

Comments from Youth: *A total of 15 minutes is designated to allow youth an opportunity to address the Council. 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 taken up after the "Action Calendar" unless the Council reorders the agenda.

1. **Deferred Compensation Plan**

From: City Manager

Recommendation: Adopt second reading of an Ordinance readopting the Deferred Compensation Plan to make technical changes to bring the plan into compliance with the Internal Revenue Code and other Federal laws, rules and regulations and rescinding Ordinance No. 5629-N.S. and all its amendments.

Contact: Nicki Spillane, Human Resources, 981-6800

- 2. Traffic Mitigation Measures related to Public Safety Building Parking Lot**
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Section 14.52.010A of the Berkeley Municipal Code (BMC) a) reverting the Police preferential parking spaces to metered parking on the west side of Martin Luther King, Jr. Way, except for 5 preferential parking spaces for the Berkeley-Albany Municipal Court, from 125 feet south of Addison Street to 90 feet south and from 370 feet south of Addison Street to 65 feet south; and b) removing parking meters on the north side of Allston Way between Martin Luther King, Jr. Way and McKinley Avenue.
Contact: Peter Hillier, Transportation, 981-7000
- 3. Lease Agreement: Rowing Club**
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the Berkeley Rowing Club, Inc. for City property located at 2851 West Bolivar Drive in Aquatic Park for an estimated amount of \$44,500 for ten years.
Contact: Lisa Caronna, Parks Recreation and Waterfront, 981-6700
- 4. Lease Agreement: Waterski Club**
From: City Manager
Recommendation: Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the Berkeley Waterski Club, Inc. to use City property at 2821 West Bolivar Drive in Aquatic Park for an estimated amount of \$44,500 for ten years.
Contact: Lisa Caronna, Parks Recreation and Waterfront, 981-6700
- 5. Five-Ton Truck Prohibition on Various Streets**
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.050 of the Berkeley Municipal Code (BMC) prohibiting use of certain streets by vehicles exceeding 5 ton gross weight.
Contact: Peter Hillier, Transportation, 981-7000
- 6. Fiscal Year 2004 Appropriation Ordinance**
From: City Manager
Recommendation: Adopt second reading of the FY 2004 Appropriation Ordinance.
Contact: Paul Navazio, Budget, 981-7000
- 7. Tax Rate: Library Services**
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2004 tax rate per square foot for residential dwelling units at \$0.1292 per square foot and for industrial, commercial and institutional buildings at \$0.1956 per square foot.
Contact: Phil Kamlarz, City Manager, 981-7000

Consent Calendar

- 8. Special Tax: Maintenance of Parks, City Trees and Landscaping**
From: City Manager
Recommendation: Adopt second reading of an Ordinance levying a FY 2004 special tax of \$.09831 per square foot of all improvements to fund the maintenance of parks, City trees, and landscaping.
Contact: Fran David, Finance, 981-7300 and Lisa Caronna, Parks & Waterfront, 981-6700
- 9. Special Tax: Emergency Medical Services**
From: City Manager
Recommendation: Adopt second reading of an Ordinance levying a special tax of \$0.026112 per square foot of improvements to fund the provision of emergency medical services.
Contact: Fran David, Finance, 981-7300
- 10. Tax Rate: Emergency Services for the Severely Disabled**
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2004 tax rate for the provision of emergency services for the disabled at \$0.00931 per square foot of improvements.
Contact: Fran David, Finance, 981-7300
- 11. Tax Rate: Disaster Fire Protection (Measure Q)**
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2004 tax rate for the procurement of disaster fire equipment at \$0.0125 per square foot of improvements.
Contact: Fran David, Finance, 981-7300
- 12. Tax Rate: General Obligation Bonds (Measure S)**
From: City Manager
Recommendation: Adopt second reading of an Ordinance setting the FY 2004 tax rate for the Measure S General Obligation Bonds (Election of 1996) at 0.0425%.
Contact: Fran David, Finance, 981-7300
- 13. Tax Rate: Fire Seismic General Obligation Bonds (Measure G, Series C) and the 2002 General Obligation Refunding Bonds**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2004 tax rate for the Fire Seismic General Obligation bonds (Measure G, Series C) and the 2002 General Obligation Refunding Bonds at 0.0300%.
Contact: Fran David, Finance, 981-7300
- 14. Approval of Minutes**
From: City Manager
Recommendation: Approve the minutes for Council meetings of a) June 10, 2003 (special and regular); b) June 17, 2003 (special and regular), and c) June 24, 2003 (special and regular).
Contact: Sherry M. Kelly, City Clerk, 981-6900

- 15. Revised Records Retention Schedule**
From: City Manager
Recommendation: Adopt a Resolution approving revised Records Retention Schedules in compliance with the city's Records Management Program and rescinding Resolution Nos. 58,239-N.S., 57,527-N.S., 56,112-N.S., and 55,432-N.S.
Contact: Sherry Kelly, City Clerk, 981-6900
- 16. Needle Exchange**
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 local health officer to take steps to enable the operation of Needle Exchange Emergency Distribution.
Contact: Sherry Kelly, City Clerk, 981-6900
- 17. Waive Council Rules for July 15th Meeting**
From: City Manager
Recommendation: Waive Council Rules of Procedure to allow the City Manager to place action items on the agenda for the meeting of July 15, 2003 due to the upcoming summer recess.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- 18. Contract: The Berkeley Alliance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Berkeley Alliance to provide administrative support for this partnership endeavor with the Berkeley Unified School District (BUSD) and the UC Berkeley in an amount not to exceed \$80,000 for the period July 1, 2003 to June 30, 2004.
Contact: Arietta Chakos, City Manager, 981-7000
- 19. Contract: Fitness Center Memberships**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Downtown Berkeley YMCA in the amount of \$272,403 for fitness center memberships for City employees and Legislative Assistants for the period July 1, 2003 through June 30, 2004.
Contact: Paul Navazio, City Manager, 981-7000
- 20. Contract: Legislative Representation Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$49,970 with Lynn Suter & Associates to provide the City with legislative representation services in Sacramento for the period July 1, 2003 to June 30, 2004.
Contact: Arietta Chakos, City Manager, 981-7000

Consent Calendar

- 21. Purchase Order: Electrical Equipment and Supplies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute Purchase Orders with Graybar Electric Company, Inc. (Graybar) for purchases of electrical equipment and supplies for all departments not to exceed \$150,000 annually through June 30, 2005.
Contact: Fran David, Finance, 981-7300
- 22. Purchase Order: Office and Stationary Supplies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute Purchase Orders with Office Depot Business Services Division (Office Depot) for purchases of office and stationary supplies, and office products for all departments not to exceed \$525,000 annually through June 30, 2005.
Contact: Fran David, Finance, 981-7300
- 23. Lease: Central Duplicating and Mail Service**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to accept a month-to-month tenancy with RILCO-Center, LLC for continued occupancy of that portion of 2055 Center Street used for central duplicating and mail services and authorizing up to seven months of rental payments at \$5,250 per month, for a total not to exceed \$36,750 in FY 2004, and further authorizing additional operating expenses of approximately \$7,000 for maintenance and utilities.
Contact: Fran David, Finance, 981-7300
- 24. Residential Preferential Parking (*To be delivered*)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 14.72 regarding administrative changes.
Contacts: Fran David, Finance, 981-7300 and Peter Hillier, Transportation, 981-7000
- 25. Contract: Community Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute amendments to the contracts to extend the terms to June 30, 2004 and increase the amounts not to exceed: Alta Bates Medical Center (\$60,000), Berkeley Unified School District (\$40,514), California Department of Health Services Microbial Diseases Laboratory (\$423,215), and LifeLong Medical Care (\$77,134) for the provision of essential health services.
Contact: Fred Medrano, Health and Human Services, 981-5100

- 26. California Youth Energy Services Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole-source contract and any amendments with Rising Sun Energy, a non-profit organization, to provide energy services and youth employment through California Youth Energy Services (CYES) for the period July 1, 2003 through June 30, 2004 in an amount not to exceed \$40,000.
Contact: Stephen Barton, Housing, 981-5400
- 27. Revision to Rental Housing Safety Program**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Sections 12.48.030, 12.48.050, and 12.48.110 of the Berkeley Municipal Code (BMC) and adding sections 12.48.120 and 19.40.110 to allow for changes to the Rental Housing Safety Program (RHSP).
Contact: Stephen Barton, Housing, 981-5400
- 28. Grant Application: Brownfields Economic Development Initiative for the Ed Roberts Campus**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an application for \$2,000,000 for a Brownfields Economic Development Initiative (BEDI) grant to the U.S. Department of Housing and Urban Development for construction of the Ed Roberts Campus.
Contact: Stephen Barton, Housing, 981-5400
- 29. Section 108 Loan Guarantee Application: Ed Roberts Campus**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an application not to exceed \$6,000,000 to the U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program for construction of the Ed Roberts Campus.
Contact: Stephen Barton, Housing, 981-5400
- 30. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Sanitary Sewer Project located at Fifth Street, Seventh Street, Eighth Street, Ninth Street, Addison Street and Allston Way; 2) accepting the bid of Gold Wing Engineering; and 3) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$840,943 for the period of 220 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6300

Consent Calendar

- 31. Grant: Beverage Container Recycling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept a grant and execute resulting agreement from the California Department of Conservation (DOC) in the amount of \$85,565 and amend the FY 2004 Solid Waste Management Division budget.
Contact: Rene Cardinaux, Public Works, 981-6300
- 32. Purchase Order: Mattress Recycling and Transportation Services**
From: City Manager
Recommendation: Adopt a Resolution increasing Purchase Orders with St. Vincent de Paul Society for mattress recycling and transportation services in an amount not to exceed \$30,000 to pay invoices for the closing of FY 2003.
Contact: Rene Cardinaux, Public Works, 981-6300
- 33. Transfer Station Cash Receipts / Cash Handling Audit**
From: City Auditor
Recommendation: Request the City Manager report back on November 25, 2003, regarding the implementation status of each of the Auditor's recommendations in the attached report, and, should any recommendations remain outstanding, to fully implement them by January 31, 2004, and report back in February.
Contact: Ann-Marie Hogan, City Auditor, 981-6750
- 34. Proclamation: Berkeley High School Men's Varsity Lacrosse Team**
From: Councilmember Olds
Recommendation: Approve a proclamation honoring the Berkeley High School Men's Varsity Lacrosse Team for their winning season and number one ranking in California.
Contact: Betty Olds, Councilmember District 6, 981-7160
- 35. Proclamation: CeCe Weeks Commemoration Day**
From: Councilmember Spring
Recommendation: Approve a proclamation declaring July 27th, annually, as CeCe Weeks Commemoration Day in memory of her outstanding contributions to civil rights.
Contact: Dona Spring, Councilmember District 4, 981-7140
- 36. HR 1157: Freedom to Read**
From: Councilmember Worthington
Recommendation: Support HR 1157 Freedom to Read (exempting bookstores and libraries from parts of the Foreign Intelligence Surveillance Act) and send a letter of our support to U.S. Congressional representatives.
Contact: Kriss Worthington, Councilmember District 7, 981-7170

Action Calendar – Public Hearing

37. Appeal: 1936 Delaware Street

a. From: City Manager (*July 8, 2003*) (*To be delivered*)

Recommendation: Continue the public hearing to either July 15, 2003 or September 16, 2003 in an effort to reach an agreement between the parties.

Contact: Phil Kamlarz, Planning, 981-7400

b. City Manager Supplemental Report (*June 17, 2003*)

Recommendation: Grant the request of the applicant and appellant to continue the public hearing, without taking testimony, to July 8, 2003, and waive Council rules to schedule a public hearing on a non-public hearing night.

Contact: Phil Kamlarz, Planning, 981-7400

c. From: City Manager (*May 13, 2003*)

Recommendation: Adopt a Resolution affirming the Zoning Adjustments Board's approval of Use Permit #02-1000060, to add two dwellings by enlarging an existing single-family dwelling by raising it one story and by constructing a second two-story building, and dismissing the appeal.

Contact: Phil Kamlarz, Planning, 981-7400

d. Appeal (*May 13, 2003*)

1. Ted Kluger

e. Communications (*May 13, 2003*)

1. Jane and Ted Kluger (3)
2. Patricia Hom
3. David Levy, Morrison & Foerster
4. Rena Rickles

f. Supplemental Communication (*May 13, 2003*)

20. Ted Kluger (2)
21. Petition with 46 Signatures, submitted by Jayne Kluger
22. Rena Rickles
23. James Mellgren
24. Sydney Turnshek

g. Supplemental Communication (*May 13, 2003*)

39. Sydney Turnshek
40. James Mellgren

h. Communications (*June 17, 2003*)

1. Ted Kluger (2)
2. David C. Levy, Morrison & Foerster LLP (2)
3. Sydney Turnshek

i. Supplemental Communications (*June 17, 2003*)

16. Rena Rickles (2)

Action Calendar – Public Hearing

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 85009(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.

Action Calendar – Old Business

- 38. Marina Master Plan and Related Environmental Documents (CF 138-99)***(Held over from June 24, 2003 by Councilmember Worthington)*
From: City Manager
Recommendation: Adopt two Resolutions approving: 1) the Mitigated Negative Declaration, and Mitigation, Monitoring, and Reporting Program; and 2) the Marina Master Plan and rescinding Resolution No. 53,838-N.S.
Contact: Lisa Caronna, Parks Recreation and Waterfront, 981-6700

Action Calendar – New Business

- 39. Temporary Signs**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Section 20.16.070 of the Berkeley Municipal Code (BMC), to require that temporary noncommercial signs on public property need not bear the name of the sponsor, and clarifying regulations applicable to temporary commercial signs on public property.
Contact: Manuela Albuquerque, City Attorney, 981-6950
- 40. Contract: MBIA MuniServices Company**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with MBIA MuniServices Company (MMC) as follows: 1) Scope of Services to include Business License Tax discovery services and Transient Occupancy Tax audit services; 2) Compensation for Other Revenue Sources to include compensation for one-time business License Tax Discovery services and Transient Occupancy Tax audit services for a one-time fee; and 3) extend the term through June 30, 2004.
Contact: Fran David, Finance, 981-7300
- 41. Accessory Dwelling Units**
From: City Manager
Recommendation: Adopt the first reading of an Ordinance amending various sections of the Berkeley Municipal Code (BMC) Title 23 relating to Accessory Dwelling Units.
Contact: Phil Kamlarz, Planning, 981-7400

Action Calendar – New Business

42. Lawrence Berkeley National Laboratory

From: Mayor Bates

Recommendation: Adopt a Resolution directing: 1) City planning and environmental staff to conduct preliminary analyses of all major planned development projects at Lawrence Berkeley National Laboratory (LBNL) and provide a written summary of land use and environmental issues; and 2) the City Manager identify a “Lab Liaison” who will be responsible for coordinating City/LBNL relations.

Contact: Tom Bates, Mayor, 981-7100

Information Reports

43. Business License Tax Audit for FY 2001 (CF 157-02)

From: City Manager

Contact: Fran David, Finance, 981-7300

44. Formal Bid Solicitations and Request for Proposals

From: City Manager

Contact: Fran David, Finance, 981-7300

Communications

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

Adjustment of “On-Time” Window for Paratransit Pickups

1. Patrisha Piras, AC Transit Board of Directors

Vehicle Maintenance Manager, Bill Ivie, and Alternative Sources of Power

2. Martin Bourque c/o Dave Williamson

Timed Enforcement of On-street Parking

3. Rachel Rupert, Berkeley Chamber of Commerce

Measure B Bike-Ped Safety Funds are not for Landscaping Enhancements

4. Mark Abrahams, Bike for a Better City of Berkeley

2500/2580 Benvenue

5. Sharon Hudson, Benvenue Neighbors Association

Recall Vice Mayor Maudelle

6. Recallmaudelle@***.com

University Apartment, 1698 University Avenue

7. Diane and Robert Leech

AC Transit Diesel Buses on Hopkins and Gilman Streets

8. Petition with 36 Signatures

Communications

Berkeley Bowl Unionization

9. Strawberry Creek Affinity Group

Renegotiating City Worker's Contract

10. Barbara Sargent

Development in Berkeley

11. Barbara Sargent

High Speed Pursuits

12. D.O. Helmick, Department of California Highway Patrol

Sick Child Care Program

13. Theodora Crawford

1340 6th Street, Ken David Project

14. Edward J. Levitch

Adjournment