

AGENDA

BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 21, 2003 – 7:00 P.M. 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. Berkeley-Nihon Heiwa Torikaeru Jidai (Berkeley-Japan Peace Exchange Days)
2. 70th Anniversary of The University Students Cooperative Association
3. United Nations Day, October 24th

City Manager Comments: *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.*

Public Comment: *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 carried over to the next regular meeting.

1. **Cost for Removing Graffiti on Private Property** (*First reading – 10/14/03; Abstain - Shirek*)

From: City Manager

Recommendation: Adopt second reading of two Ordinances: 1) adding a new chapter to the Berkeley Municipal Code (BMC) Chapter 13.98 entitled, "Graffiti On Property Prohibited" and 2) amending Berkeley Municipal Code (BMC) Sections 1.24.140 and 1.24.205 to allow for the costs of abatement of graffiti to be placed as a lien on the vandal's property, or if the vandal is a minor, on the property of his/her guardian.

Contact: Manuela Albuquerque, City Attorney, 981-6950

Consent Calendar

- 2. Unauthorized Removal of Newspapers** (*First reading – 10/14/03*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance adding Berkeley Municipal Code (BMC) Section 13.54 to prohibit the unauthorized removal of free newspapers from news racks or other locations.
Contact: Manuela Albuquerque, City Attorney, 981-6950
- 3. Notification Period on No-Parking Signs** (*First reading – 10/14/03*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.08.090 to extend the notification period on no-parking signs from 24 hours to 72 hours.
Contact: Rene Cardinaux, Public Works, 981-6330
- 4. General Provisions Ordinance Amendment to Include Saturdays as Business Days** (*First reading – 10/14/03*)
From: Citizens Humane Commission
Recommendation: Adopt second reading of an Ordinance amending the Berkeley Municipal Code (BMC) Section 1.04.080 to include Saturdays as a business day for the Animal Shelter in order to speed up the adoption process timelines governed by state law.
Contact: Katherine O'Connor, Secretary, 981-6601
- 5. Downtown Berkeley Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the 2004 Annual Report of the Downtown Berkeley Business Improvement District (BID); 2) declaring an intention to levy an annual assessment for the Downtown Berkeley Business Improvement District for Calendar Year 2004; and 3) directing the City Clerk to schedule a public hearing for November 18, 2003, to consider levying a renewed assessment for the year 2004.
Contact: Tom Myers, Economic Development, 981-7530
- 6. Solano Avenue Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution declaring an intention to establish the Berkeley Solano Avenue Business Improvement District (the "District") and directing the City Clerk to schedule a public hearing from November 18, 2003, to consider establishment of the District.
Contact: Tom Myers, Economic Development, 981-5300
- 7. Contract: Consumer Liaison and Peer Counseling Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Peers Envisioning and Engaging in Recovery Services to increase the amount by \$82,563 for a total not to exceed \$122,963 and extend the term to December 31, 2004 for consumer liaison and peer counseling services.
Contact: Fred Medrano, Health and Human Services, 981-5100

Consent Calendar

8. **Purchase Order: Prescription Medicines** *(to be delivered)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) issue a Purchase Order to United Pharmacy for prescription medicines in an amount not to exceed \$220,000 for the period August 1, 2003 through June 30, 2004; 2) make payment to United Pharmacy for psychiatric medications provided in June and July 2003 in the amount of \$34,910; and 3) reaffirm prior year payments made to United Pharmacy in the amount of \$2,215,091 for the period October 15, 1991 through May 31, 2003.
Contact: Fred Medrano, Health and Human Services, 981-5100
9. **Contract: Lighting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Smith Rauch Lighting Services, Inc. for lighting and installation services increasing the amount by \$20,000, for a total not to exceed \$320,000.
Contact: Stephen Barton, Housing, 981-5400
10. **Energy Efficiency Grants**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) accept up to three grants from the California Public Utilities Commission; and 2) if awarded, execute revenue contracts and any amendments for such grants with PG&E, the Community Energy Services Corporation and Quantum Consulting for community energy efficiency services in the approximate amount of \$382,000 for the period January 1, 2004 to December 31, 2005.
Contact: Stephen Barton, Housing, 981-5400
11. **SRIP II Long-Term Disability Insurance Premium Increase**
From: City Manager
Recommendation: Adopt a Resolution approving a premium rate increase for the UnumProvident Life Insurance Company (formerly UNUM) Long-Term Disability (LTD) insurance plan from \$0.52 for every \$100 of active participants' covered salaries to \$0.81 for every \$100 of active participants' covered salaries, for an additional cost of \$108,800 for most non-sworn employees effective November 1, 2003 through June 30, 2004.
Contact: Nicki Spillane, Human Resources, 981-6800
12. **East Bay Sports Field Recreation Authority** *(to be delivered)*
From: City Manager
Recommendation: Adopt a Resolution approving the formation of and membership in the East Bay Sports Field Recreation Authority, a Joint Powers Authority, for the purpose of developing, maintaining and operating sports fields in the Eastshore Park and other East Bay locations, and appointing a member and alternate of the Council to the governing board.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700

Consent Calendar

- 13. Contract: 1947 Center Street Tenant Improvements, Phase I**
From: City Manager
Recommendation: Adopt a Resolution increasing the City Manager's contract authorization for the 1947 Center Street Tenant Improvement project by \$400,000 to a total not to exceed \$3,950,000.
Contact: Rene Cardinaux, Public Works, 981-6330
- 14. Lease: California Department of Transportation**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a five-year lease agreement with one five-year option to extend the term and any necessary amendments with the State of California Department of Transportation (CalTrans) for the vacant lot located at I-80/University Avenue underpass at Second Street, known as freeway lease area number 04-ALA-80-01 in an amount not to exceed \$61,500 which includes monthly lease payments, operating expenses, insurance, options and security deposit to accommodate storage space for City departments.
Contact: Rene Cardinaux, Public Works, 981-6330
- 15. Contract: Sanitary Sewer Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Sanitary Sewer Project located at Adeline Street, Harmon Street, Julia Street, Ward Street, Canyon Road, Ada Street, Ordway Street, Rose Street, Santa Barbara Road and Florida Avenue; 2) accepting the bid of McNamara and Smallman Construction, Inc.; and 3) authorizing the City Manager to execute a contract and any amendments in accordance with the approved plans and specifications, in an amount not to exceed \$1,179,442 for the period of 220 calendar days.
Contact: Rene Cardinaux, Public Works, 981-6330
- 16. Contract: James Kenney Recreation Center Renovation (10/14/03 report)**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for renovation of the James Kenney Recreation Center; 2) waiving permit fees; 3) accepting the bid of Kin Wo Construction, Inc.; and 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$772,604.
Contact: Rene Cardinaux, Public Works, 981-6330
- 17. Contract: Financial Software Maintenance (9/16/03 report)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into an agreement with H.T.E. Inc. for maintenance software for the City's financial system, FUNDS\$, for a total amount not to exceed \$250,000, for the period July 1, 2003 to June 30, 2005.
Contact: Chris Mead, Information Technology, 981-6500

Consent Calendar

- 18. Participation in Clean Air Consortium**
From: Mayor Bates
Recommendation: Authorize the City to join the Clean Air Consortium sponsored by the Bay Area Quality Management District and direct the City Manager to reduce activities that pollute on “Spare the Air” Days.
Contact: Tom Bates, Mayor, 981-7100
- 19. Support State Prevailing Wage Law**
From: Mayor Bates
Recommendation: Adopt a Resolution supporting the state prevailing wage law and ensuring the City will not participate in efforts to overturn the City of Long Beach court decision.
Contact: Tom Bates, Mayor, 981-7100
- 20. Clarity, Priority and Responsibility Plan for Telegraph Avenue**
From: Councilmember Worthington and Mayor Bates
Recommendation: Support the Clarity, Priority and Responsibility Plan (CPR) for Telegraph Avenue and refer to the City Manager: 1) creating a clear policy brochure to address questions of what laws prohibit and permit; 2) committing sufficient Police Department staffing to the Telegraph area; 3) requesting U.C. Berkeley restore staffing to the Telegraph area patrol; and 4) restoring Community Health and Safety Team staffing as needed.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
- 21. Creation of Homeless Storage Lockers** *(10/14/03 report)*
From: Councilmember Worthington
Recommendation: Support continued exploration of the creation of homeless storage lockers at service agency location(s).
Contact: Kriss Worthington, Councilmember District 7, 981-7170
- 22. Appointments to the Mental Health Commission**
a. From: Mental Health Commission
Recommendation: Adopt a Resolution reappointing Artensia Barry, Special Public Interest Category, and James Rinaldi, General Public Interest Category, to the Mental Health Commission for three-year terms beginning October 22, 2003 and ending October 21, 2006.
Contact: Harvey Tureck, Secretary, 981-5213
b. From: City Manager
Recommendation: The City Manager concurs with the content and recommendations of the report.
Contact: Fred Medrano, Health and Human Services, 981-5100
- 23. Duties and Functions of the Waterfront Commission**
a. From: Waterfront Commission
Recommendation: Adopt first reading on an Ordinance amending Berkeley Municipal Code (BMC) Section 3.36.060 (B) to delete “Aquatic Park” from the duties and functions of the Waterfront Commission.
Contact: Cliff Marchetti, Secretary, 644-6376, Ext. 224

Consent Calendar

b. From: City Manager

Recommendation: The City Manager concurs with the content and recommendation of the report.

Contact: Lisa Caronna, Parks and Waterfront, 981-6700

24. Berkeley Bowl Union Organization *(to be delivered)*

a. From: Commission on Labor

Recommendation: Adopt a Resolution supporting the efforts of Berkeley Bowl workers to unionize and consider any proposed amendments to the resolution.

Contact: Delfina Geiken, Secretary, 644-6085

b. From: City Manager

Recommendation: The City Manager takes no position.

Contact: Fred Medrano, Health and Human Services, 981-5100

Action Calendar - Appeals

25. Appeal: 1326 Allston Way *(to be delivered)*

From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board, based on findings and conditions, to approve Use Permit 02-100000008 for 1326 Allston Way, City of Berkeley Corporation Yard, to allow demolition of non-residential buildings, construction of storage buildings, installation of 7,368 square feet of modular offices and relocation of certain non-essential services and staff offsite and dismissing the appeal.

Contact: Dan Marks, Planning, 981-7400

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.*

Action Calendar – Public Hearing

26. Appeal: 1600 Shattuck Avenue

a. From: City Manager

Recommendation: Without taking any public comment at tonight's meeting, continue the public hearing to January 20, 2004 to allow adequate time for public review of an engineering report providing independent evaluation of technical aspects of the proposed project, and the attendance of all involved parties.

Contact: Dan Marks, Planning, 981-7400

Action Calendar – Public Hearing

b. From: City Manager (*September 16, 2003*)

Recommendation: Conduct a Public Hearing, allowing each of the two appellants and the applicant five minutes each to summarize their position, and continue the hearing until October 21, 2003 to allow adequate time for public view of an engineering report providing independent evaluation of technical aspects of the proposed project.

Contact: Dan Marks, Planning, 981-7400

c. From: City Manager (*from June 17, 2003*)

Recommendation: Open the public hearing, allow each of the two appellants and the applicant five minutes each to summarize their position, and continue the hearing until July 15, 2003 to allow completion of an engineering report providing independent evaluation of technical aspects of the proposed project.

Contact: Phil Kamlarz, Planning, 981-7400

d. Communications (*from June 17, 2003– numbering follows original sequence*)

1. Frances Strassman (2)
2. Shahram Shahruz (10)
3. Appellants: Strassman, Shahruz, Reynolds, Gaddini, Cloud, Wolfe
4. Libby Kelley
5. Jon-Erik Beckjord
6. L.G.
7. Carol Suveda
8. Marsha Hiller
9. Vida Bateau

e. Supplemental Communications 1 (*from June 17, 2003– numbering follows original sequence*)

17. Supplemental Report submitted by City Manager
18. Shahram Shahruz
19. Dennis Martin, Applicant Response to Appeals

f. Supplemental Communications 2 (*from June 17, 2003– numbering follows original sequence*)

33. Michael Fried

g. Communications (*from September 16, 2003*)

1. Shahram Shahruz (24)
2. 107 Signed Petitions
3. Mark Rhoades
4. Leonard Schwartzburd (2)
5. Doug Loranger (2)
6. Vida Bateau (2)
7. Robert Riedlinger
8. Radiation Free Gourmet Ghetto (2)
9. Ruth S. Clifford
10. Helena Bautin
11. Arianpour
12. Jingang Yi, PhD
13. Susan Clarke (2)

Action Calendar – Public Hearing

14. Daniel Wolfe
15. Val Peters
16. Scott Wheeler
17. Joan Levinson (2)
18. Greg Bowman
19. Ayn Lowry
20. Jordan Rothstein
21. Kathie Taylor and Neill Bourke
22. Marianne Robinson
23. Sarah Jones (2)
24. Rand Knox
25. Michael Marchant
26. Connie and Kevin Sutton
27. Helena Bautin
28. Zach Cowan
29. Carrie Olson
30. Leonard Schwartzburd (3)
31. Kriss Worthington
32. Shahram Shahruz
33. Frieda Feen
34. Frank Harris
35. Andrew Packard
36. La Chanteuse
37. PhoeBe ANNE (thomas/sorgen)
38. Barb Wilkie
39. Petitions from Kate Bernier, Rose Vekony, Andrew Joron and Barbara Guest
40. Frances Strassman

h. Supplemental Communications 1 (*from September 16, 2003– numbering follows original sequence*)

7. Tanya Temkin
8. Laurie Gold
9. Ami Kronfeld
10. Sharam Shahruz (4)
11. Barbara Wilke

i. Supplemental Communications 2 (*from September 16, 2003– numbering follows original sequence*)

24. Shahram Shahruz, Presentation
25. Signed Petition, 1110 Signatures

j. Communications (*October 21, 2003*)

1. Shahram Shahruz (6)
2. Frances Strassman
3. Leonard Schwartzburd (2)
4. Melinda E. Lopez (2)
5. Dennis Martin
6. Ruth S. Clifford
7. Abhishek Singhal

27. Public Safety Building Tower Study

a. From: Councilmember Spring

Recommendation: Conduct a public hearing as approved by the Council at the meeting of September 9, 2003 and upon conclusion direct the City Manager to replace the current industrial-design public safety building tower with two shorter towers with a flagpole design and increase their signal reliability with repeater antennas or other options or that it construct a one-pole antenna, sited as far away from the residents as possible.

Contact: Dona Spring, Councilmember District 4, 981-7140

b. From: City Manager

Recommendation: Staff recommends that no further work be done on either the evaluation of the current tower or in the design of tower alternatives.

Contact: Rene Cardinaux, Public Works, 981-6330

c. Communications

1. Betty Alcutt, McKinley Transitional House for Women and Children
2. Chris Knudsen (2)
3. Andrea DuFlon
4. Erica Etelson
5. Arthur and Carol Dembling
6. Carol Maharathy
7. Kirk McCarthy
8. Debra Golata

28. Appeal: 1616 Harmon Street

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution rejecting the property owner's objection to the cost of the nuisance abatement at 1616 Harmon Street, and allowing the property lien to be recorded as written and approved by the Manager of Environmental Health, Director of Health and Human Services, and City Manager.

Contact: Fred Medrano, Health and Human Services, 981-5100

29. 2003 Local Law Enforcement Block Grant

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution authorizing the City Manager to: 1) accept \$145,801 in federal funds from the 2003 Local Law Enforcement Block Grant (LLEBG) Program to be used to fund a Violence Suppression Program for a period of approximately 24 months; 2) utilize \$16,200 from the existing 2002 Senate COPS Grant to cover the required local match; and 3) establish a trust account for these funds until they are expended.

Contact: Roy Meisner, Police, 981-5900

Action Calendar – Public Hearing

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Information Reports

- 30. Update on the Disaster Resistant Berkeley Program**
From: City Manager
Contact: Arrietta Chakos, City Manager, 981-7000
- 31. Formal Bids and Requests for Proposals**
From: City Manager
Contact: Fran David, Finance, 981-7200
- 32. Storage Lockers for the Homeless (CF 25-03)**
From: City Manager
Contact: Fred Medrano, Health and Human Services, 981-5100
- 33. Solar Energy and Energy Conservation Education**
From: City Manager
Contact: Stephen Barton, Housing, 981-5400
- 34. Disposal of Residential Lots at 2114 and 2140 McKinley Street**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6330
- 35. Landmarks Preservation Commission Notices of Decision: 3075 Telegraph Avenue - Landmark Designation (to be delivered)**
From: City Manager
Contact: Dan Marks, Planning, 981-7400

Communications

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

Resolution in Support of House Concurrent Resolution 111

1. Bonnie Brodersen & Eugene Robbins

Communications

Space Weapons Resolution

2. Leuren Moret

“Campers” at Saint John’s, 2727 College Avenue

3. Anne Marselis, Saint John’s Neighbors

Route 65 - Poor Service

4. Perry Smith

Popeyes

5. Marina Villers-Barnett (2)

Corporation Yard Parking and Appearance

6. Martin Gugino (2)

UC Berkeley 2020 Long Range Development Plan

7. Janice Thomas, Panoramic Hill Association
8. Dean Metzger, Claremont Elmwood Neighborhood Association
9. Leuren Moret

Berkeley Bowl Resolution

10. Jeremy Plague

Adjournment