

AGENDA

BERKELEY CITY COUNCIL MEETING TUESDAY, NOVEMBER 4, 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.*

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.*

Youth Comments: *A total of 15 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 taken up after the "Action Calendar" unless the Council reorders the agenda.

1. Lease: California Department of Transportation *(First reading – 10/21/03)*

From: City Manager

Recommendation: Adopt second 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

Consent Calendar

- 2. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of September 9, 2003 (regular); October 14, 2003 (special and regular); and October 21, 2003 (special and regular).
Contact: Sherry Kelly, City Clerk, 981-6900
- 3. 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
- 4. Grant Application: Local Housing Trust Fund Program** *(to be delivered)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to: 1) apply for \$1 million in funding from the California Department of Housing and Community Development (HCD) Local Housing Trust Fund Program (LHTFP) and 2) to provide for a \$1.5 million match currently available in the Housing Trust Fund for the purpose of developing and increasing the supply of affordable housing and amending Resolution No. 62,240 – N.S.
Contact: Stephen Barton, Housing, 981-5430
- 5. City Manager's Contract Authority**
From: City Manager
Recommendation: Adopt first reading of an Ordinance 1) amending the Berkeley Municipal Code (BMC) Section 7.18.010B to increase the City Manager's expenditure authority for capital improvements, including playground improvements and equipment, to \$100,000, 2) adding BMC Section 7.18.010C to increase the City Manager's general expenditure authority for supplies, equipment, and materials to \$50,000, and 3) amending BMC Section 7.18.020A to increase the City Manager's emergency expenditure authority for materials, supplies and equipment to \$50,000 and for public construction projects, playground improvements and equipment to \$100,000.
Contact: Fran David, Finance, 981-7200
- 6. Grants: Measure B Bicycle and Pedestrian Countrywide Discretionary Fund**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit an application to the Alameda County Transportation Improvement Authority (ACTIA) for available grant funding through the Measure B Bicycle and Pedestrian Countywide Discretionary Fund, Cycle 1: 2003/2004; and 2) execute related grant agreements and any amendments, and accept these grant funds, if awarded.
Contact: Lisa Caronna, Parks and Waterfront, 981-6700

Consent Calendar

7. **Off-Peak Parking on the Northwest Corner of Monterey Avenue and Hopkins Street**
From: Councilmembers Hawley and Olds
Recommendation: Adopt a Resolution authorizing the City Manager to amend the MOU with the Alameda-Contra Costa Transportation District (AC Transit) to allow parking in the bus zone on the northwest corner of Monterey Avenue and Hopkins Street except during weekday morning peak commute periods.
Contact: Miriam Hawley, Councilmember District 5, 981-7150 and Betty Olds, Councilmember District 6, 981-7160
8. **Painful Non-Curative Cosmetic Mutilation of Animals**
- a. **From: Citizens Humane Commission**
Recommendation: Adopt a Resolution deploring the painful non-curative and cosmetic mutilation of any animals within the City of Berkeley.
Contact: Kate O'Connor, Secretary, 981-6601
- b. **City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the commission's report.
Contact: Jim Hynes, City Manager, 981-7000

Action Calendar – Ballot Measures – March 2, 2004 Election

9. **Ballot Measure – Special Tax Measure for Fire Services**
- a. **From: City Manager**
Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure related to a proposed special tax for fire protection and prevention services in the amount of either \$8 or \$10 million per year.
Contact: Phil Kamlarz, City Manager, 981-7000
- b. **City Manager Information Report** (*to be delivered*)
Contact: Paul Navazio, Budget Manager 981-7000
10. **Ballot Measure – Charter Amendment - Runoff Elections** (*to be delivered*)
From: City Manager
Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure(s) related to: a) changing the date of runoff elections from 28 days after the general municipal election to the first Tuesday after the first Monday in February of the odd-numbered years and b) reducing the percent required to be nominated to the office of auditor, mayor or council member from 45% to 40%.
Contact: Manuela Albuquerque, City Attorney, 981-6950

Action Calendar – Ballot Measures – March 2, 2004 Election

11. **Ballot Measure – Charter Amendment - Instant Runoff Voting** (*October 21, 2003*)
- a. From: City Manager**
Recommendation: 1) Determine whether the Council desires to place a charter amendment on either the March or November 2004 ballot to allow for instant runoff voting, when feasible and 2) if the Council desires to place a charter amendment on either the March or November ballot, review and comment on proposed charter language prepared by the City Attorney.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- b. Information Report from Councilmember Spring** (*November 4, 2003*)
Contact: Dona Spring, Council District 4, 981-7140
12. **Ballot Measure – Charter Amendment - Candidate Nomination Process** (*to be delivered*)
From: City Manager
Recommendation: Review and comment on the ballot title, City Attorney analyses and text of ballot measure related to: a) requiring candidates running for a council district office to be nominated by registered voters within the district; b) establishing a filing fee or signatures in lieu of a filing fee in addition to current requirements to run for office.
Contact: Sherry M. Kelly, City Clerk, 981-6900
13. **Argument and Rebuttal Process**
From: City Manager
Contact: Sherry Kelly, City Clerk, 981-6900

Action Calendar – Old Business

14. **Contract: James Kenney Recreation Center Renovation** (*Held over from 10/14/03 and 10/21/03*)
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
15. **Contract: Financial Software Maintenance** (*Held over from 9/16/03, 10/14/03 and 10/21/03*)
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

16. Public Safety Building Tower Study *(Held over from 10/21/2003)*

a. Councilmember Spring *(November 4, 2003)*

Recommendation: Hold over this matter to the meeting of November 25, 2003.

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

b. Information Report from City Manager *(November 4, 2003) (to be delivered)*

Contact: Rene Cardinaux, Public Works, 981-6330

c. From: Councilmember Spring *(October 21, 2003)*

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

d. From: City Manager *(October 21, 2003)*

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

e. Communications *(October 21, 2003)*

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

f. Supplemental Reports and Communication #1 *(October 21, 2003)*

18. Janet Levenson
19. Wendy Alfsen (2)
20. Michael Dove
21. Krys Upstill
22. Stephany Rach-Silba
23. Stephani Hesh
24. Harry Wiener and Anita White
25. Michael Popso
26. Harry Weiner
27. Connie and Kevin Sutton

g. Supplemental Reports and Communications #2 *(October 21, 2003)*

30. Janet Levenson

h. Communications *(November 4, 2003)*

1. John and Helen Wang

Action Calendar – Old Business

17. **Eco-Pass Program** (*held over from 10/21/03*)
From: Councilmember Worthington
Recommendation: Support inclusion of the Eco-Pass program into the Regional Transportation Program (RTP) and expansion of the Eco-Pass to additional employers, including consideration by the City, the Berkeley Unified School District (BUSD), and regional agencies of whether to include this in future ballot measures. Refer to the BUSD the possibility of adding the Eco-Pass into a future ballot measure.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
18. **Living Wage Ordinance Wage Rate Increases** (*Held over from 10/14/03*)
a. From: Commission on Early Childhood Education
Recommendation: Adopt a Resolution placing a moratorium on the implementation of the Living Wage Ordinance wage rate increases for Fiscal Year 2004 for the non-profit organizations affected, and create a task force of non-profit organizations and City Councilmembers to review the consequences of these increases and devise a realistic implementation schedule.
Contact: Errol Johnson, Secretary, 981-5417
b. From: City Manager (*to be delivered*)
Recommendation: Options to address concerns raised by the impact of the Living Wage Ordinance on non-profits.
Contact: Stephen Barton, Housing, 981-5400
19. **Duties and Functions of the Waterfront Commission** (*Held over from 10/21/2003*)
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, 981-6376
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

Action Calendar – New Business

20. **Green Business Certification of the Office of Economic Development**
From: City Manager
Recommendation: Accept Bay Area Green Business Program (BAGBP) Green Business Certification for the Office of Economic Development (OED) which green certified its operations in October 2003.
Contact: Tom Myers, Economic Development, 981-7537

Action Calendar – New Business

21. Investment of City Funds in Youth Services

From: Mayor Bates

Recommendation: 1) Adopt priorities for the investment of City funds in youth services: Prenatal to 5, Coordinated and Integrated Family Support Services, Before and After School programming, Mentoring and Tutoring, and Youth Safety; and 2) direct the City Manager to incorporate these youth services funding priorities into the process for community funding applications and departmental budget development.

Contact: Tom Bates, Mayor, 981-7100

22. Berkeley Champions for Kids - Volunteer Employee Release Time Policy

From: Mayor Bates

Recommendation: 1) Approve, in principle, the *Berkeley Champions for Kids* City of Berkeley Volunteer Employee Release Time Policy; and 2) direct the City Manager to return to Council for final approval, an assessment of fiscal impacts, a work plan, and a timeline for implementation.

Contact: Tom Bates, Mayor, 981-7100

Information Reports

23. Status Report on Escaped Tax Assessments *(to be delivered)*

From: City Manager

Contact: Fran David, Finance Director, 981-7200

24. Commendation for Police Department and Mental Health for Outstanding Work

From: Police Review Commission

Contact: Barbara Attard, Secretary, 981-4950

Communications

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

Raw Sewage Above Ground at 2210 Ashby

1. T. "Dea" Robertson-Gutierrez (2)

Support Telegraph Fair

2. Esther Galicia

Israeli-Palestinian Mediation Efforts Event

3. Daniel Silverberg

Equal Rights for Transsexuals

4. Barbara Ann Berwick

1600 Shattuck – Sprint Cell Phone Tower

5. Matt Plumb

Communications

Request for Retraction and Correction from Daily Planet

6. Patrick Kennedy

Ballot Measure – Property Tax Increase

7. Nick and Barbara Rosenlicht

Adjournment