

# AGENDA

## BERKELEY CITY COUNCIL MEETING

NOVEMBER 25, 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. Proclamation honoring Fire Captain Wayne Dismuke.

**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 taken up after the "Action Calendar" unless the Council reorders the agenda.*

1. **Lease: Women's Daytime Drop In Center** (*First Reading – 11/18/03*)  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the Women's Daytime Drop In Center for City-owned property for the purposes of providing transitional housing for homeless women and children.  
Contact: Stephen Barton, Housing, 981-5400
2. **Amendment to Ellis Implementation Ordinance** (*First Reading – 11/18/03; Noes - Wozniak*)  
**From: Rent Stabilization Board**  
**Recommendation:** Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) sections 13.77.055 and 13.77.056 (Ellis Implementation Ordinance) to harmonize references in these sections with recent modifications to section 13.77.050.  
**Contact:** James Kelekian, Secretary, 644-6128

## Consent Calendar

- 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. City Council D-13 Expenditure Accounts** *(to be delivered)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing guidelines and procedures for the carryover of City Council D-13 Expenditure Accounts from one year to next fiscal year.  
Contact: Paul Navazio, Budget, 981-7000
- 5. Grant: Injury Prevention Activities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept a grant from the San Diego State University Foundation California Kids Plates' Program for funds in the amount of \$4,999 for the period August 18, 2003 to June 13, 2004 to incorporate appropriate injury prevention activities into the existing Maternal Child and Adolescent Health programs; to execute the resultant revenue agreements and any amendments; and authorizing the implementation of the projects and appropriation funding for related expenses, subject to securing the grant.  
Contact: Fred Medrano, Health and Human Services, 981-5100
- 6. Alternative Energy Resources Portfolio**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adopting the Alternative Energy Resources Portfolio as the plan to guide deployment of programs related to the use and the local generation of utility energy.  
Contact: Stephen Barton, Housing, 981-5400
- 7. Agreement: Cable Franchise Transfer to Comcast Corporation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the transfer of control of the cable television franchise from AT&T Corporation to Comcast Corporation and authorizing the City Manager to execute an agreement relating to this change of control.  
Contact: Chris Mead, Information Technology, 981-6500
- 8. Grant: State of California Housing and Community Development Jobs Application**  
**Housing Balance Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a grant agreement and any amendments with, and accept grant funds in the amount of \$77,500, from the State of California Department of Housing and Community Development Department for the recently awarded Jobs-Housing Balance Incentive Grant Program.  
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700

## Consent Calendar

- 9. Contract: Design Services for Martin Luther King Jr. Civic Center Park Rehabilitation (CF 107-02)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Amphion Inc. for design and construction observation of Martin Luther King Jr. Civic Center Park in an amount not to exceed \$167,894.  
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
- 10. Lease: Berkeley Women's Crew for Property in Aquatic Park**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the Berkeley Women's Crew, Inc. for City property located at 80 Bolivar Drive in Aquatic Park for an estimated amount of \$500 for five years.  
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
- 11. Support for Ballfields**  
**From: City Manager**  
**Recommendation:** Authorize the City Manager to write letters of support to endorse the East Bay Regional Park District's (EBRPD) grant applications for the Gilman Street Sports Field project under the 2002 Resources Bond Act (Proposition 40): Murray-Hayden Urban Parks and Youth Service Grant Program and the Urban Park Act of 2001 Grant Program.  
Contact: Marc Seleznow, Parks, Recreation and Waterfront, 981-6700
- 12. Contract: Mitigation Monitoring for Alta Bates Use Permit**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments in an amount not to exceed \$6,395 with Chandler Lee to assist with mitigation monitoring for the approved Alta Bates Use Permit.  
Contact: Dan Marks, Planning, 981-7400
- 13. Agreement: Authorized Vendor BART and AC Transit Tickets and Passes**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an agreement with the Bay Area Rapid Transit District (BART) and the Alameda Contra Costa County Transit District (AC Transit) in order for the City to be an authorized vendor to purchase transit tickets for resale in an amount not to exceed \$125,000.  
Contact: Peter Hillier, Transportation, 981-7010
- 14. Agreement: Eco Pass Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an agreement and any amendments with the Alameda-Contra Costa Transit District (AC Transit) for the continuation of an Annual Transit Pass Demonstration Program (Eco Pass Program) for City employees in an amount not to exceed \$100,000 per year, for the period January 1, 2004 through December 31, 2004, with the option to renew the program into a second year for 2005 for a total amount not to exceed \$200,000.  
Contact: Peter Hillier, Transportation, 981-7010

**15. Grants: Citywide Pedestrian Plan**

**From: City Manager**

**Recommendation:** Adopt a Resolution ratifying the City Manager's submission of 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 I: 2003/2004 and authorizing the City Manager to execute related grant agreements and any amendments and accept these grant funds, if awarded.

Contact: Peter Hillier, Transportation, 981-7010

**16. Support SB 916: Increasing Bay Area Bridge Tolls to Fund Transportation Improvements**

**From: Councilmember Worthington**

**Recommendation:** Support SB 916 (Perata) on the March 2004 Ballot, which will increase Bay Area Bridge Tolls to fund transportation improvements.

Contact: Kriss Worthington, Councilmember District 7, 981-7170

**17. Support SB 289: Solar Power on New Homes**

**From: Councilmember Worthington**

**Recommendation:** Support SB 289 (Murray), which encourages more solar power on new homes beginning in 2006.

Contact: Kriss Worthington, Councilmember District 7, 981-7170

**18. Grant and Contract: Diabetes and Hypertension Prevention**

**a. From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the University of California, San Francisco Center for Healthy and Active Aging for funds in the amount of \$725,000 in FY 2004 to initiate and conduct an effective, ongoing physical activity promotion program for older adults at high risk of diabetes and hypertension; 2) to accept the grant, to execute any resultant revenue agreements and amendments, and authorizing the implementation of projects and appropriation of funding for related expenses, subject to securing the grant; and 3) to execute a contract and any amendments with Contra Costa County Health Services to conduct parallel activities in their communities for the five-year period beginning with the grant start date in an amount not to exceed \$325,000.

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

**b. From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution finding that no reasonable alternative exists under Section 12.90.070 of the Berkeley Municipal Code (BMC), the Nuclear Free Act, for the grant from the University of California, San Francisco Center for Healthy and Active Aging in the amount of \$725, 000 to initiate and conduct an effective, ongoing physical activity promotion program; and approving a waiver of Section 12.90.070 of the Berkeley Municipal Code (BMC).

Contact: Manuel Hector, Secretary, 981-5110

## Ballot Measures

### 19. Calling for a Consolidated Special Municipal Election for March 2, 2004

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1) calling for a Special Municipal Election to be consolidated with the Statewide Direct Primary Election to be held in Berkeley on March 2, 2004; 2) requesting the Alameda County Board of Supervisors consolidate the City of Berkeley Special Municipal Election with the Statewide Direct Primary Election; and 3) authorizing certain procedural and contractual actions.

Contact: Sherry Kelly, City Clerk, 981-6900

### 20. Placing a Special Tax and Charter Amendments on the March 2, 2004 Ballot

**From: City Manager** (*to be delivered*)

**Recommendations:** Review and comment on ballot titles, texts, and City Attorney analyses and adopt Resolutions placing the following measures on the March 2, 2004 Statewide Direct Primary Election Ballot: 1) an ordinance authorizing a special tax to fund fire prevention and protection services; 2) a charter amendment to reduce the runoff vote threshold from 45% to 40% and changing the date of the runoff election from four weeks after the initial election to the first Tuesday after the first Monday in February of the odd-numbered year; 3) a charter amendment providing for instant runoff voting in lieu of a runoff election; and 4) a charter amendment to require candidates running for council district seats to obtain nominating signatures from registered voters within the district and for all candidates to pay a filing fee or submit signatures in-lieu of a filing fee to cover the costs of processing the candidate's nomination papers.

Contact: Sherry Kelly, City Clerk, 981-6900

## Appeals

### 21. Appeal: 2219 Spaulding Avenue

**a. From: City Manager**

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board approving Administrative Use Permit #03-20000055 under Berkeley Municipal Code section 23D.28.030 for a major residential addition which includes the addition of 190 square feet at the first level and 618 square feet at the second floor level, for a total addition of 808 square feet to an existing 1,416 square foot home on a 4,302 square foot parcel of land and denying the appeal.

Contact: Dan Marks, Planning, 981-7400

**b. Appeal**

1. Arnold Passman

**c. Communications**

1. Carlton, Birgit, Myles, Julian and Finn Jones

2. David Ramer, DR Architecture

3. Arnold Passman

4. Fritjof Capra

## Appeals

5. Ross D. Schlueter
6. Laurie Jacobs
7. Gene Opton

*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

### 22. **Appeal: 1326 Allston Way** (*Public Hearing held and closed on 11/18/03*)

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

**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

#### **b. Appeal by:**

1. Tamara and Daniel Horodysky
2. Nancy Hunt
3. Gerardo Moreno
4. Judith and Steven Sager
5. Patricia Jones
6. Judith Olson
7. Muni and Tania Schwieg
8. Bruce Simon
9. Michele Manning
10. Letti Glavde
11. Jessica Phrogus

#### **c. Communications** (*November 18, 2003*)

1. Martin Gugino
2. George Collins
3. Mary Magocsy

**23. Public Safety Building Tower Study** (*Held over from 10/21/03 and 11/4/03 by Councilmember Spring*)

**a. Information Report from City Manager** (*November 25, 2003*)

Contact: Rene Cardinaux, Public Works, 981-6300

**b. 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

**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, 981-6300

**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

## Old Business

### **i. Supplemental Reports and Communications #2** *(November 4, 2003)*

29. Dorothea Grelon

### **j. Communications** *(November 25, 2003)*

1. Janice Haugan

### **24. Update on LBNL Long Range Development Plan – Notice of Preparation** *(Held over from 11/18/03 by Councilmember Wozniak)*

**From: Councilmember Spring**

**Recommendation:** Adopt the Community Environmental Advisory Commission's (CEAC) unanimous recommendations on Lawrence Berkeley National Laboratory Notice of Preparation for its proposed Long Range Development Plan and request the City Manager send appropriate letters.

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

### **25. Commendation for Police Department and Mental Health for Outstanding Work** *(Held over from 11/4/03 by Councilmember Worthington)*

**From: Police Review Commission**

Contact: Barbara Attard, Secretary, 981-4950

## New Business

### **26. Budget Crisis Recovery Strategy**

**From: Mayor Bates and Councilmembers Wozniak, Maio, and Hawley**

**Recommendation:** Adopt a budget crisis recovery strategy, including: 1) prepare two final "cut lists" for if (a) the ballot measure passes or (b) fails to pass; 2) institute a hard hiring freeze; 3) place a moratorium on all new expenditures; 4) instituting a "City Savings Award"; 5) aggressively pursue cost recovery options from non-profit land owners; 6) review all city tax and fee collection systems to find escaped taxes; 7) institute immediate labor savings programs; 8) continue efforts to work with employee unions to achieve labor cost savings; and 9) launch an education campaign to inform residents about the budget crisis.

Contact: Tom Bates, Mayor, 981-7100; Gordon Wozniak, Council District 8, 981-7108; Linda Maio, Council District 1, 981-7101, Mim Hawley, Council District 5, 981-7105

## Information Reports

### **27. Investment Report: Quarter Ending September 30, 2003**

**From: City Manager**

Contact: Fran David, Finance, 981-7200

### **28. Implementation Status of Fleet Vehicle Management Audit Recommendations** *(CF 15-03)*

**From: City Manager**

Contact: Rene Cardinaux, Public Works, 981-6300

### **29. Implementation Status of Transfer Station Cash Receipts/Cash Handling Audit Recommendations** *(CF 35-03)*

**From: City Manager**

Contact: Rene Cardinaux, Public Works, 981-6300

## Communications

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

### **Cost Effective Traffic Circles**

1. David A. Coolidge
2. Bob Price
3. Mark Abrahams
4. Julia Robertson
5. Nils Moe

### **1698 University Avenue**

6. Stan Leibowitz

### **Crosswalk at Durant and Sather Lane**

7. Steven Guess

### **Smart Growth Height Limits**

8. Martha Nicoloff, 2002 Height of Building Initiative

### **Mayor's Task Force Land Use Report**

9. Martha Nicoloff

## Adjournment