

AGENDA

BERKELEY CITY COUNCIL MEETING

TUESDAY, JUNE 22, 2004 – 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. Environmental Award to City of Berkeley for Outstanding Achievement from EPA and Certificate of Special Congressional Recognition from Representative Boxer for conversion to biodiesel
2. Award from Alameda County Lead Agency to City of Berkeley

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. **Mandatory Microchipping of Animal Shelter Cats and Dogs** (*First Reading June 15, 2004 – Unanimous*)

From: Citizens Humane Commission

Recommendation: Adopt second reading of an Ordinance amending the Berkeley Municipal Code (BMC) Section 10.04.032A by deleting Section A (2), "offering free elective microchipping for animals adopted from the shelter", and adding Section 10.04.207 requiring all impounded dogs and cats adopted or returned to owner to be microchipped before leaving the Animal Shelter and at the expense of the person taking possession of the animal subject to exceptions.

Financial Implications: Revenue Neutral.

Contact: Kate O'Connor, Secretary, 981-6601

Consent Calendar

- 2. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of June 7, 2004 (closed), June 8, 2004 (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. Contract: Real-Time Closed Captioning Stenography Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a personal services contract and any amendments with Theresa “Teri” Darrenougue for the provision of real-time closed captioning stenography services at all worksessions, regular and special meetings of the Council, Housing Authority and Redevelopment Agency for the period July 1, 2004 to June 30, 2005 in an amount not to exceed \$50,000, and for four one-year renewable options.
Financial Implications: General Fund – \$50,000.
Contact: Sherry Kelly, City Clerk, 981-6900
- 5. Ballot Measure: Public Financing of Campaigns**
From: City Manager
Recommendation: Adopt a Resolution placing a charter amendment on the November 2, 2004 ballot to provide for public financing of campaigns.
Contact: Sherry M. Kelly, City Clerk, 981-6900
- 6. Contract: FY 2005 Downtown Berkeley YMCA**
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 \$256,932 for fitness center memberships for City employees and Legislative Assistants for the period July 1, 2004 through June 30, 2005.
Financial Implications: See report.
Contact: Tracy Vesely, Budget, 981-7000
- 7. Disaster Mitigation Plan**
From: City Manager
Recommendation: Adopt a Resolution adopting the Disaster Mitigation Plan and an Environmental Initial Study/Mitigated Negative Declaration.
Financial Implications: See report.
Contact: Arrietta Chakos, City Manager, 981-7000

Consent Calendar

- 8. Contract: Maintenance and Support for Animal Services Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase and extend the contract with H.L.P. Incorporated by \$9,000 through June 30, 2007 for the annual support and maintenance of the Chameleon software and the ChamCam web site currently being used at the Animal Shelter, for a total contract amount not to exceed \$34,000.
Financial Implications: General Fund – \$9,000 annually.
Contact: Kate O'Connor, City Manager, 981-6601
- 9. Contract: Addison Street Poetry Panels**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend contract with Cherokee Porcelain and Enamel Corporation to complete manufacturing services associated with the Addison Street Poetry Panels, increasing the contract amount by \$6,000 for a total not to exceed \$41,816 and extending the term to June 30, 2005.
Financial Implications: Measure S Public Art Projects – \$6,000.
Contact: Tom Myers, Economic Development, 981-7530
- 10. Federal Corporation for National and Community Service Senior Volunteer Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to apply for and accept a grant and any amendments, from the Corporation for National and Community Service (CNCS) assistance in an amount of \$434,193 for a centralized emergency volunteer program that will organize residents with skills in public health, public safety, mental health, disaster response, and other critical areas to assist first responders in emergencies or disasters.
Financial Implications: Grant – \$434,193.
Contact: Reginald Garcia, Fire, 981-5500
- 11. Contract: Abatement Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Freitas Landscape and Maintenance for abatement services to increase the amount by \$15,000 for a total not to exceed \$37,958, and extend the period to June 30, 2005.
Financial Implications: General Fund –\$15,000.
Contact: Fred Medrano, Health and Human Services, 981-5100
- 12. Grant and Contracts: Greater Accountability of Juveniles in the Justice System (to be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the State Board of Correction to promote greater accountability of juveniles in the Justice System; 2) execute a contract and any amendments with the State Board of Corrections for the period July 1, 2004 through June 30, 2005; and 3) provide for matching funds of 10% of the grant award; and 4) execute a subcontract with Donald P. McCullum Youth Court Inc.
Financial Implications: See report.
Contact: Roy Meisner, Police,

Consent Calendar

- 13. Contract: Hills Fire Station Stabilization** *(to be delivered)*
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Alan Kropp & Associates, Inc. for geo-technical, civil and structural engineering services for the Hills Fire Station stabilization project, increasing the amount by \$60,000 for a total not to exceed \$82,500 for the period June 22, 2004 through December 31, 2005.
Financial Implications: Measure G Fund – \$60,000.
Contact: Rene Cardinaux, Public Works, 981-6300
- 14. Purchase Order: Telephone Directory Advertising**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a Purchase Order with SBC Smart Yellow Pages in an amount not to exceed \$26,112 for FY 2005, to advertise the City's refuse collection and recycling services.
Financial Implications: Refuse Fund – \$17,160; Various Grants – \$8,952.
Contact: Rene Cardinaux, Public Works, 981-6300
- 15. Purchase Order: Police Vehicle Replacements**
From: City Manager
Recommendation: Adopt a Resolution accepting the State of California contract bid procedures to satisfy the requirement of Berkeley Charter Section 67, and authorizing the City Manager to execute a purchase order with Downtown Ford Sales for fourteen police vehicles in an amount not to exceed \$385,000.
Financial Implications: Equipment Replacement Fund – \$385,000.
Contact: Rene Cardinaux, Public Works, 981-6300
- 16. Purchase Order: Case 570M XT Wheel Loader**
From: City Manager
Recommendation: Adopt a Resolution accepting the City of San Bruno's bid procedures to satisfy the requirements of the Berkeley Charter Section 67, and authorizing the City Manager to execute a purchase order with GCS Western Power & Equipment in an amount not to exceed \$72,084 for the purchase of a Case 570M XT Wheel Loader.
Financial Implications: Equipment Replacement Fund – \$72,084.
Contact: Rene Cardinaux, Public Works, 981-6300
- 17. Ban on Gasoline Powered Scooters, Mini-Bikes and Go-Carts**
From: Councilmember Spring
Recommendation: Request the City Manager prepare an ordinance to prohibit gasoline powered scooters, mini-bikes, and go carts on streets and sidewalks and that this ban be enforced by the Police Department.
Contact: Do na Spring, Councilmember District 4, 981-7140

Consent Calendar

18. Books Not Bombs

From: Councilmember Worthington

Recommendation: Adopt a Resolution supporting “Books Not Bombs,” advocating that Livermore and Los Alamos labs, and the University of California, stop the research and development of nuclear weapons in favor of funding for educational programs and expanded jobs in civilian sciences.

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

Appeals

19. 2211 Fifth Street – Landmarks Structure of Merit

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Landmarks Preservation Commission decision of May 10, 2004, disapproving the designation of 2211 Fifth Street as a Structure of Merit and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning, 981-7400

b. Appeal

1. Carol Denney (61 signatures)

c. Communications

1. Timothy Rempel

***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 – Budget

20. Adoption of FY 2005 Budget/FY 2006 Reduction Plan and Side Letters of Agreement (to be delivered)

a. From: City Manager

Recommendation: 1) Adopt a Resolution adopting the FY 2005 Budget and FY 2006 Reduction Plan as contained in the City Manager’s FY 2005 Proposed Budget and as amended by the Council and 2) Adopt Resolutions approving Side Letters of Agreement with the City’s labor unions and amendments to the City’s classification and salary resolutions for its represented and unrepresented employees.

Contact: Tracy Vesely, Budget, 981-7000; Nicki Spillane, Human Resources, 981-6800

Action Calendar – Budget

b. From: Mayor Bates

Recommendation: Consider amendments to the City Manager's proposed Budget for FY 2005 as proposed in the enclosed report dated June 8, 2004.

Contact: Tom Bates, Mayor, 981-7100

c. From: Councilmember Spring

Recommendation: Refer to the FY 2005 budget process the restoration of funding to the following community organizations: Berkeley Drop In Center - \$88,500; Berkeley Food and Housing Project, Quarter Meal - \$53,000; Jobs for the Homeless - \$19,000; Hobitot - \$25,000; additional funding for Traffic Circles - \$50,000; and funding for Creek Restoration.

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

21. FY 2005 Appropriation Ordinance (to be delivered)

From: City Manager

Recommendation: Adopt first reading of the FY 2005 Appropriation Ordinance.

Contact: Tracy Vesely, Budget, 981-7000

22. Appropriations Limit for Fiscal Year 2005

From: City Manager

Recommendation: Adopt a Resolution establishing the appropriations limit at \$135,178,801 for FY 2005 pursuant to Article XIII B of the Constitution of the State of California based on the calculations for the appropriations limit.

Contact: Fran David, Finance, 981-7300

23. Temporary Appropriation

From: City Manager

Recommendation: Adopt a Resolution authorizing a temporary appropriation in the sum of \$50,000,000 to cover payroll and other expenses from July 1, 2004, until the effective date of the FY 2005 Annual Appropriations Ordinance.

Contact: Fran David, Finance, 981-7300

24. Tax Rate: Maintenance of Parks, City Trees and Landscaping

From: City Manager

Recommendation: Adopt first reading of an Ordinance levying a FY 2005 special tax of \$.098869 per square foot of all improvements to fund maintenance of parks, City trees, and landscaping.

Contact: Fran David, Finance, 981-7300

25. Tax Rate: Measure S General Obligation Bonds

From: City Manager

Recommendation: Adopt first reading of an Ordinance setting the FY 2005 tax rate for the Measure S General Obligation Bonds (Election of 1996) at 0.0425%.

Contact: Fran David, Finance, 981-7300

Action Calendar – Budget

26. **Tax Rate: Library Services**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2005 tax rate for the Library Services Tax at \$0.132172 per square foot for dwelling units and \$0.2001 per square foot for industrial, commercial, and institutional buildings.
Contact: Fran David, Finance, 981-7300 and Jackie Griffin, Library, 981-6195
27. **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 2005 Tax Rate for the Fire Seismic General Obligation Bonds (Measure G, Series C) and the 2002 Obligation Refunding Bonds at 0.0300%.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500
28. **Tax Rate: Disaster Fire Protection (Measure Q)**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting FY 2005 tax rate for the procurement of disaster fire equipment at \$0.0125 per square foot of improvements.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500
29. **Tax Rate: Emergency Services for the Severely Disabled**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the FY 2005 tax rate for the provision of emergency services for the disabled at \$.009524 per square foot of improvements.
Contact: Fran David, Finance, 981-7300
30. **Tax Rate: Emergency Medical Services**
From: City Manager
Recommendation: Adopt first reading of an Ordinance levying a special tax of \$0.026280 per square foot of improvements to fund the provision of emergency medical services to residents.
Contact: Fran David, Finance, 981-7300 and Reginald Garcia, Fire, 981-5500

Action Calendar – New Business

31. **Ballot Measures: Revenue Measures (to be delivered)**
From: City Manager
Recommendation: Provide comments to the City Attorney on the text, title and City Attorney's analysis for the following ballot measures for the November 2004 ballot: 1) Increase to Emergency Medical Services Tax; 2) Increase to Library Tax; 3) Increase to Utility Users Tax; and 4) Increase to Property Transfer Tax.
Contact: Manuela Albuquerque, City Attorney, 981-6950

Action Calendar – New Business

- 32. Downtown Hotel/Conference Center/Museums Complex (CF 76-03)**
- a. From: Planning Commission**
Recommendation: The Planning Commission requests the Council accept the “Task Force Report on a Downtown Hotel/Conference Center/Museums Complex and Public Open Space,” dated April 27, 2004 and transmit it to the developer and the University.
Contact: Dan Marks, Planning, 981-7400
- b. From: Transportation Commission**
Recommendation: Approve and adopt the transportation-related recommendations of the Planning Commission’s Hotel Task Force April 27, 2004 report as written.
Contact: Peter Hillier, Secretary, 981-7010
- c. From: City Manager**
Recommendation: The City Manager concurs with the content and recommendations of the Planning Commission.
Contact: Dan Marks, Planning, 981-7400
- 33. Vista Parking Mitigation Funds**
- a. From: Transportation Commission**
Recommendation: Adopt a final plan for allocation of Vista mitigation funds that allocates: 1) \$2 million, or 55.5% of the funds, to programs to reduce vehicle traffic and promote and improve alternative modes of transportation in Downtown; and 2) \$1.6 million, or 44.5% of the funds, to accommodate vehicle trips to Downtown.
Financial Implications: See report.
Contact: Peter Hillier, Secretary, 981-7010
- b. From: City Manager**
Recommendation: Direct staff to: 1) consider the Transportation Commission’s recommendations during its negotiations with the Peralta Community College District respecting the use of the Vista College parking mitigation funds, and 2) return to Council this fall with final recommendations upon completion of negotiations.
Contact: Peter Hillier, Transportation, 981-7010

Information Reports

- 34. Developing Programs to Respond to Identified Buildings with Seismic Weaknesses**
From: City Manager
Contact: Dan Marks, Planning, 981-7400
- 35. Status of Fleet Management Audit Recommendations (CF15-03)**
From: City Manager
Contact: Rene Cardinaux, Public Works, 981-6300
- 36. FY 2005 Audit Plan**
From: City Auditor
Contact: Ann-Marie Hogan, Auditor, 981-6750

Communications

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

Arts & Culture Plan

1. Deborah Badhia, Downtown Berkeley Association

Creek Ordinance

2. Tome and Jane Kelly, Strawberry Lodge Restoration Project; Elyce Judith, Committee to Restore Strawberry Creek; Juliet Lamont, Environmental Consultant; Carole Schemmerling, Urban Creeks Council; Phil Price and Alan Gould and Diane Tokugawa, LOCCNA; Char Markell, Watershed Ecologist; Vikrant Sood, Environmental Planner; David Snippen, Creekside Property Owner
3. Janet Byron (2)

DNA Testing in Criminal Investigations

4. Anne Whyte

Noisy Trash Collection Before 7AM

5. Anne Marselis, Saint John's Neighbors

Ohlone Dog Park Hours

6. Ellen Scheiner, Deborah Green, Kim Wade, Jessabelle Labampa, Gala Bogue, Gail Kamade

Hazardous Environmental Conditions: 2517 Sacramento

7. Robert C. Baum, Blake & California Neighborhood Association

Scooter Noise

8. Andrew McAllister

Adjournment