

AGENDA

BERKELEY CITY COUNCIL MEETING

TUESDAY, OCTOBER 19, 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.*

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. Medical Marijuana Dispensaries** (*First Reading October 12, 2004: Noes – Worthington; Abstain – Spring*)
From: City Manager
Recommendation: Adopt second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 12.26 to impose a quota and deconcentration requirements on medical marijuana dispensaries, as requested by the City Council September 21, 2004.
Financial Implications: None.
Contact: Manuela Albuquerque, City Attorney, 981-6950
- 2. Ellis Implementation Ordinance** (*First Reading October 12, 2004: Noes – Olds; Abstain – Hawley*)
From: Rent Stabilization Board
Recommendation: Adopt second reading of an Ordinance amending Section 13.77.055 of the Berkeley Municipal Code (BMC), Ellis Implementation Ordinance, to increase the amount of the relocation benefit given to displaced tenants and to include elderly and disabled tenants in the class of tenants who qualify for relocation benefits.
Financial Implications: None.
Contact: Jay Kelekian, Rent Stabilization Program, 644-6128

Consent Calendar

- 3. University Avenue Strategic Plan Height and Setback Standards and Review Consistency**
(First Reading October 12, 2004: Noes – Maio, Spring, Worthington; Abstain – Breland)
From: City Manager
Recommendation: Adopt the second reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 23E.36 to implement the University Avenue Zoning Overlay in order to establish specific Height and Setback standards as provided for in the University Avenue Strategic Plan (UASP).
Financial Implications: See report.
Contact: Dan Marks, Planning, 981-7400
- 4. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for Council meetings of October 5, 2004 (regular).
Contact: Sherry Kelly, City Clerk, 981-6900
- 5. 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
- 6. Contract: North Shattuck Association**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the North Shattuck Association for \$180,744 to implement the Management District Plan and approved work plan for the North Shattuck Business Improvement District (BID) for FY 2004.
Financial Implications: North Shattuck BID Funds – \$180,744.
Contact: Tom Myers, Economic Development, 981-7530
- 7. Downtown Berkeley Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the 2005 Annual Report of the Downtown Berkeley Business Improvement District (BID); 2) declaring the intention to levy an annual assessment for the Downtown Berkeley BID for calendar year 2005; and 3) directing the City Clerk to schedule a public hearing on November 16, 2004 to consider levying a renewed assessment for the year 2006.
Financial Implications: See report.
Contact: Tom Myers, Economic Development, 981-7530

- 8. Solano Avenue Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving the 2004 Annual Report of the Solano Avenue Business Improvement District (BID); 2) declaring the intention to levy an annual assessment for the Solano Avenue BID for calendar year 2005; and 3) directing the City Clerk to schedule a public hearing for November 16, 2004, to consider levying a renewed assessment for the year 2005.
Financial Implications: See report.
Contact: Tom Myers, Economic Development, 981-7530
- 9. Fiscal Year 2005 Tax and Revenue Anticipation Notes**
From: City Manager
Recommendation: Adopt a Resolution providing for the borrowing of \$25,000,000 and the sale and issuance of FY 2005 Tax and Revenue Anticipation Notes.
Financial Implications: General Fund Revenue – \$25,000,000.
Contact: Fran David, Finance, 981-7300
- 10. Formal Bid Solicitations and Requests for Proposals**
From: City Manager
Recommendation: Approve new invitations for bids and requests for proposals (RFP) that will be, or are planned to be, issued; that have been issued and received due to extenuating circumstances; or that have been sent out (opened) but not yet received (closed).
Financial Implications: Various sources – \$1,039,999.
Contact: Fran David, Finance, 981-7300
- 11. Influenza Vaccine Supplies**
From: City Manager
Recommendation: Ratify the City Manager's October 13, 2004 proclamation of a local emergency concerning limited influenza vaccine supplies.
Financial Implications: See report.
Contact: Fred Medrano, Health and Human Services, 981-5100
- 12. Agreement: Section 236 Administrator of Harriet Tubman Terrace at 2870 Adeline Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into agreements with the U.S. Department of Housing and Urban Development and Harriet Tubman Associates, LP to act as Section 236 Administrator for the property known as Harriet Tubman Terrace at 2870 Adeline Street.
Financial Implications: None.
Contact: Stephen Barton, Housing, 981-5400
- 13. Contract Amendment: Financial Consultant Services – Seifel Consulting, Inc. (To be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Seifel Consulting, Inc. for additional financial consulting services in an amount not to exceed \$10,000 for a new total contract amount of \$34,950.
Financial Implications: Housing Program Fund – \$10,000.
Contact: Stephen Barton, Housing, 981-5400

- 14. Contract: Vocational Services to the Homeless – Jobs Consortium**
From: City Manager
Recommendation: Authorizing the City Manager to enter into a contract with Rubicon Programs Incorporated in an amount not to exceed \$19,000 for the period July 1, 2004 through June 30, 2005 to provide vocational services to homeless people in Berkeley.
Financial Implications: \$19,000.
Contact: Stephen Barton, Housing, 981-5400
- 15. Environmentally Preferable Purchasing Policy (CF 62-03)**
From: City Manager
Recommendation: Adopt a Resolution approving the Environmentally Preferable Purchasing Policy (EPP), to be implemented in a phased manner beginning with, but not limited to, janitorial products used by the City; and direct the City Manager to prioritize, by December 2005, additional product areas where the EPP will be further integrated into City purchasing.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400; Fran David, Finance, 981-7300
- 16. Winter Voucher and Winter Shelter Programs**
From: City Manager
Recommendation: Adopt a Resolution authorizing: 1) the allocation of \$40,000 for the purpose of providing emergency vouchers to homeless households for shelter at local motels and the Berkeley YMCA; 2) payment of \$56,000 to the City of Oakland Department of Human Services, representing the City of Berkeley's pro-rata share of direct program operating costs related to the Joint Winter Shelter Program at the Oakland Army Base; and 3) payment not to exceed \$42,000 to Bay Area Rapid Transit (BART) for transportation for residents to and from the Winter Shelter.
Financial Implications: General Fund – \$138,000.
Contact: Stephen Barton, Housing, 981-5400
- 17. Contract: Corporation Yard Modular Offices**
From: City Manager
Recommendation: Adopt a Resolution: 1) approving plans and specifications for the Purchase and Installation of Modular Offices; 2) accepting the bid of Resun Leasing, Inc.; 3) waiving plan check, building inspection and permit fees; 4) approving \$200,000 from the Parks Tax Fund, \$423,000 from the Sewer Fund, and \$423,000 from the Refuse Fund balances for inclusion in the Corporation yard modular offices project budget to allocate \$640,000 toward the purchase of modular buildings and \$406,000 toward associated construction, equipment and soft costs; and 4) authorizing the City Manager to execute a contract and any amendments in an amount not to exceed \$640,000.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300

Action Calendar – Appeals

18. Appeal: 1406-10 San Pablo Avenue

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve demolition of a single-family dwelling and construction of a three-story building with four dwelling units and four live/work units; and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning, 981-7400

b. Appeal

1. Robin McCrane

c. Communications

1. None.

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 – Old Business

19. Creeks Ordinance (Held over from 10/12 by Councilmembers Worthington and Maio)

From: City Manager

Recommendation: Provide direction to staff on work program options presented in staff report.

Contact: Dan Marks, Planning, 981-7400

20. Major Residential Addition Policy Interpretations (CF 32-03, 41-03, 46-03) (Held over from July 13, 2004)

From: City Manager

Contact: Dan Marks, Planning, 981-7400

Action Calendar – New Business

21. **HUD Section 108 Loan Guarantee for the Jubilee Village** *(To be delivered)*
From: City Manager
Recommendation: Adopt a Resolution: 1) approving participation in the U.S. Housing and Urban Development (HUD) Section 108 Loan Guarantee Program; 2) authorizing the use of current and future Community Development Block Grant funds to secure a loan for the Jubilee Village development in an amount up to \$3,008,000 and not to exceed eighty percent (80%) of the appraised value of the property; 3) that the findings of HUD’s recent monitoring be resolved to the City Manager’s satisfaction prior to closing on the Section 108 loan and a report be brought to City Council on November 9, 2004 for final review; and 4) rescinding Resolution No. 62,215-N.S.
Financial Implications: See report.
Contact: Stephen Barton, Housing, 981-5400
22. **Double Fines in School Zones**
- a. **From: Transportation Commission**
Recommendation: Adopt an Ordinance amending the Berkeley Municipal Code (BMC) Chapter 14 by adding a section “Double Fines in School Zones” in Berkeley High School, Berkeley Alternative High School, Willard School, Malcolm X School and Longfellow School zones in the City of Berkeley, to double the fines for motor vehicle moving violations, and to establish a Pedestrian and Bicycle School Safety Fund. The pilot program would operate for one calendar year. The Transportation staff will evaluate the pilot program by means of speed studies and other methods as appropriate and report to the Commission after the conclusion of the program as is practicable.
Financial Implications: See report.
Contact: Peter Hillier, Secretary, 981-7010
- b. **From: City Manager**
Recommendation: Adopt first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 14 Vehicles and Traffic, by adding Chapter 14.66 “Double Fines ” Section 14.66.010 “Purpose of Program”, 14.66.020 “Fine Enhancement: Passing a School”, 14.66.030 “Double Fine School Zone”, and 14.66.040 “Sunset”.
Contact: Peter Hillier, Transportation, 981-7010

Information Reports

23. **Status of Negotiations with Fire Fighters** *(To be delivered)*
From: City Manager
Contact: Phil Kamlarz, City Manager, 981-7000
24. **Accounts Payable Audit - Status Report** *(CF 77-04)*
From: City Manager
Contact: Fran David, Finance, 981-7300

Information Reports

25. **Business License Tax Audit for Year Ending June 30, 2001 - Status Report (CF 31-04)**
From: City Manager
Contact: Fran David, Finance, 981-7300
26. **Treasury Cash Receipts/Cash Handling Audit - Status Report (CF 26-04)**
From: City Manager
Contact: Fran David, Finance, 981-7300
27. **Pedestrian Right-of-Way Enforcement**
From: City Manager
Contact: Roy Meisner, Police, 981-5700

Communications

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

Archaeological investigation at West Berkeley Building Project

1. Stephanie Manning

Fire and Police Services

2. Annette and Robin Pennell

South Berkeley Drop-In Center

3. Michael Gabel

BART and Translink System

4. Charles Smith

Adjournment