

AGENDA

BERKELEY CITY COUNCIL MEETING TUESDAY, DECEMBER 14, 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. Amendment to the FY 2005 Annual Appropriations Ordinance

From: City Manager

Recommendation: Adopt second reading of an Ordinance amending the FY 2005 Annual Appropriations Ordinance No. 6808 for fiscal year 2005 based upon recommended re-appropriation of committed FY 2004 funding and other adjustments authorized since July 1, 2004, in the amount of \$49,087,624.

Financial Implications: See report.

Contact: Tracy Vesely, City Manager, 981-7000

2. Appointment to Alameda County Mosquito Abatement District

From: City Manager

Recommendation: Adopt a Resolution reappointing Dr. Jan Washburn to the Board of Trustees of the Alameda County Abatement District for a two-year term.

Financial Implications: None.

Contact: Sara T. Cox, City Clerk, 981-6900

Consent Calendar

- 3. Extension of Voluntary Time Off Program and Temporary Closure of Select City Offices**
From: City Manager
Recommendation: Adopt a Resolution designating five additional Voluntary Time Off (VTO) days in 2005 and authorizing the City Manager to temporarily close certain City offices and non-essential services for those days during Fiscal Year 2004-2005, permitting staff to voluntarily take time off resulting in immediate cost savings to the City of Berkeley.
Financial Implications: See report.
Contact: Grace Maguire, City Manager, 981-7000
- 4. Donation: Bayer HealthCare to Animal Care Shelter**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation from Bayer HealthCare to the Animal Shelter in the amount of \$2,500.
Financial Implications: Donation – \$2,500.
Contact: Jim Hynes, City Manager, 981-7000
- 5. 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 Funds – \$1,856,000.
Contact: Fran David, Finance, 981-7300
- 6. Contract: Xerox Multifunction Office Copiers**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Xerox Corporation for all City copier leases, maintenance agreements and per copy charges from October 1, 2004 through January 31, 2010, at an annual amount not to exceed \$350,000.
Financial Implications: Various Funds – \$350,000 annually.
Contact: Fran David, Finance, 981-7300
- 7. Program Changes for Paratransit Services**
From: City Manager
Recommendation: Adopt a Resolution: 1) establishing income eligibility criteria for the Berkeley Paratransit Services' Taxi Scrip Program and a system to distribute taxi scrip at no cost to the consumer; and 2) rescinding Resolution No. 56,512–N.S.
Financial Implications: Reduction in program costs.
Contact: Stephen Barton, Housing, 981-5400

8. Seniors and Disabled Home Rehabilitation Loan Program

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 62,912–N.S. so that the maximum loan amount of \$70,000 that can be extended to senior and disabled households under the Senior and Disabled Home Rehabilitation Loan Program (SDHRLP) can be obtained from either CDBG or CalHome funds or a combination of both, or any other future funds designated for the program.

Financial Implications: CDBG Funds and CalHomes Funds – Undetermined savings.

Contact: Stephen Barton, Housing, 981-5400

9. Rate Increase: Delta Dental Plan

From: City Manager

Recommendation: Adopt a Resolution: 1) approving a 9.85% rate increase for the Delta Dental Plan for all coverage groups effective January 1, 2005 through December 31, 2005; and 2) rescinding Resolution No. 62,350–N.S.

Financial Implications: Benefits Delta Fund – \$398,900 increase.

Contact: David Hodgkins, Human Resources, 981-6800

10. Rate Increase: Health Plan

From: City Manager

Recommendation: Adopt two Resolutions: 1) approving a 12.3% rate increase for the Kaiser Foundation Health Maintenance Organization (HMO) health plan; and 2) approving a rate increase of 21% for the Health Net Health Maintenance Organization (HMO) health plan and Point of Service (POS) plan for City employees effective January 1, 2005 through December 31, 2005, and rescinding Resolution No. 62,352–N.S. and Resolution No. 62,353–N.S.

Financial Implications: Payroll Deduction Trust Fund – \$2,116,000 increase over FY 2004.

Contact: David Hodgkins, Human Resources, 981-6800

11. Grant: Tree Planting Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to submit an application for an Environmental Enhancement and Mitigation Program (EEMP) grant from the State of California Resources Agency in the amount of \$247,327.

Financial Implications: Grant Revenue – \$247,327.

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700

12. Grant: Waste Tire Playground Cover

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1) submit a grant application to the California Integrated Waste Management Board (CIWMB) for the Fiscal Year 2004-2005 Waste Tire Playground Cover Grant Program in an amount not to exceed \$25,000; 2) accept the grant; 3) to execute any resultant revenue agreements and amendments; and 4) authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.

Financial Implications: Grant Revenue – \$25,000; Parks Tax CIP fund – \$12,500 matching funds.

Contact: Marc Seleznow, Parks Recreation & Waterfront, 981-6700

Consent Calendar

- 13. Contract: Mitigation Monitoring for Alta Bates Use Permit**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 6231 with Chandler Lee for Mitigation Monitoring services for the Alta Bates Use Permit to increase the hourly rate from \$100 to \$110 and increase the contract amount by \$6,000 for a total contract amount not to exceed \$12,295.
Financial Implications: None. \$6,000 from Alta Bates.
Contact: Dan Marks, Planning, 981-7400
- 14. Contract: Plan Checking Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute contracts and any amendments with Linhart Petersen Powers Associates (LP2A) and Telesis Engineers to provide plan checking services for the period of January 1, 2005 through January 1, 2007 in an amount not to exceed \$120,000 each.
Financial Implications: Permit Service Center Fund – \$240,000.
Contact: Dan Marks, Planning, 981-7400
- 15. Contract: PG&E – Cable and Equipment – Thousand Oaks Heights AFUUD No. 1**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with the Pacific Gas and Electric Company (PG&E) in an amount not to exceed \$375,000 to furnish and install electrical cable and associated equipment for the Thousand Oaks Heights Applicant Funded Utility Underground District No. 1 (AFUUD No.1) for a term in accordance with the District’s timelines as specified in Resolution No. 62,659–N.S.
Financial Implications: See report.
Contact: Rene Cardinaux, Public Works, 981-6300
- 16. Special Handling Rate for Television Sets and Computer Monitors**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No.62,492–N.S., Section 21(c), to remove the special handling rate for television sets and computer monitors, effective January 1, 2004.
Financial Implications: Refuse Fund net revenue – \$13,000 per year.
Contact: Rene Cardinaux, Public Works, 981-6300
- 17. New Locations for Metered Parking**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Section 14.52.010 of the Berkeley Municipal Code (BMC) to add new parking meter zones on Fourth Street south of Virginia, on Hearst Avenue between Third and Fifth Streets, and the north side of Hearst Avenue between Oxford and Walnut Streets.
Financial Implications: Parking Meter Fund – \$131,000 annual increased revenue.
Contact: Peter Hillier, Transportation, 981-7010

Consent Calendar

- 18. Remarks by Mayor Bates on Goals and Opportunities for 2005**
From: Mayor Bates
Recommendation: Schedule a 20 minutes presentation by Mayor Bates to make comments on the challenges and opportunities facing the City at 6:30 p.m. prior to the start of the Council meeting on January 11, 2005.
Contact: Tom Bates, Mayor, 981-7100
- 19. Loan: Elmwood Theater Seismic Retrofit**
From: Mayor Bates and Councilmember Wozniak
Recommendation: Direct the City Manager to make a loan of approximately \$90,000 from the Citywide Business Loan Fund program to the Elmwood Theater Foundation to complete the seismic retrofit of the Elmwood Theater, with the terms and conditions of said loan to be negotiated between the Elmwood Theater Foundation and City staff.
Contact: Tom Bates, Mayor, 981-7100 and Gordon Wozniak, Councilmember District 8, 981-7180
- 20. Oppose SBC's Privacy Disclosure Policies and Request Legislative Action**
From: Councilmember Maio
Recommendation: Communicate to SBC opposition to its punitive privacy disclosure and discount policies, and request that our state legislators pursue hearings on the matter and consider strengthening regulation to protect consumer privacy.
Contact: Linda Maio, Councilmember District 1, 981-7110
- 21. Presentation: Oakland/Berkeley Asthma Hospitalization Report**
From: Councilmember Maio
Recommendation: Schedule a presentation with Poki Namkung to discuss and answer questions about the "Oakland/Berkeley Asthma Hospitalization Report" prepared by the Oakland Berkeley Asthma Coalition.
Contact: Linda Maio, Councilmember District 1, 981-7110
- 22. Extend Service at the Winter Emergency Shelter**
From: Councilmember Worthington
Recommendation: Extend the number of nights of service at the winter emergency shelter to help protect homeless individuals and families during harsh winter nights.
Contact: Kriss Worthington, Councilmember District 7, 981-7170
- 23. Support Review of Tibetan Trulku Tenzin Delek Rinpoche's Case and Urge for the Halt of his Planned Execution**
From: Councilmember Worthington
Recommendation: Adopt a Resolution supporting the immediate review of Tibetan Trulku Tenzin Delek Rinpoche's case and urging for the halt of his planned execution.
Contact: Kriss Worthington, Councilmember District 7, 981-7170

24. Support Sutter Employees and Patients

From: Councilmembers Worthington, Maio and Moore

Recommendation: Adopt a Resolution in support of Sutter employees and patients.
Contact: Kriss Worthington, Councilmember District 7, 981-7170, Linda Maio, Councilmember District 1, 981-7110 and Darryl Moore, Councilmember District 2, 981-7120

25. Investigation of 2004 Election Irregularities

a. From: Peace and Justice Commission

Recommendation: Adopt a Resolution: 1) supporting the request of United States Representatives John Conyers, Jr., Jerrold Nadler, Robert Wexler, Robert C. Scott, Melvin Watt, Rush Holt and several others, “that the Government Accountability Office immediately undertake an investigation of the efficacy of voting machines and new technologies used in the 2004 elections, how election officials responded to difficulties they encountered, and what we can do in the future to improve our election systems and administration”; 2) directing the City Manager to send a letter to the City’s representatives on the Alameda County Board of Supervisors, in the State Legislature, and in Congress expressing Berkeley’s endorsement of seventeen measures to improve access to and fairness of elections; and 3) sending copies of this Resolution to Alameda County Registrar of Voters Bradley Clark, California Secretary of State Kevin Shelley, California Senate Majority Leader Don Perata, California Assemblymember Loni Hancock, United States Representatives Barbara Lee and John Conyers, Jr., United States Senators Barbara Boxer and Dianne Feinstein, and United Nations High Commissioner for Human Rights Louise Arbour.
Contact: Manuel Hector, Secretary, 981-5110

b. From: City Manager

Recommendation: The City Manager takes no position concerning the recommendations of the Commission.
Contact: Fred Medrano, Health and Human Services, 981-5100

c. From: Councilmember Spring

Recommendation: Adopt the Peace and Justice Commission’s Resolution supporting an investigation of 2004 Election Irregularities.
Contact: Dona Spring, Councilmember District 4, 981-7140

26. Representatives of the Poor

a. From: Human Welfare and Community Action Commission

Recommendation: Adopt a Resolution certifying the results of the November 17, 2004 selection of Mr. Derek Fontenot (District 1), Ms. Catherine Davenport (District 2), and Mr. Gregory R. Brinkley (District 3) as representatives of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the remaining elected representatives of the poor, and that their terms expire on December 30, 2008.

Financial Implications: See report.

Contact: Kristen Lee, Secretary, 981-5427

b. From: City Manager

Recommendation: The City manager concurs with the content and recommendations of the report.
Contact: Stephen Barton, Housing, 981-5400

Action Calendar – Appeals

27. Appeal: 2961-2963 College Avenue

a. From: City Manager

Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit under Section 23E.44.050 of the Zoning Ordinance to combine a 1,585 square foot storefront with an adjacent 1,227 square foot storefront and dismissing the appeal.

Financial Implications: None.

Contact: Dan Marks, Planning, 981-7400

b. Appeal:

1. Jason Wayman

c. Communications

1. Jason Wayman

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

28. Minutes for Approval (Held over from December 7, 2004 by Councilmember Spring) (To be delivered)

From: City Manager

Recommendation: Approve the minutes for Council meetings of November 9, 2004 (regular).

Contact: Sara T. Cox, City Clerk, 981-6900

Action Calendar – New Business

29. Exclusive Negotiating Rights Agreement for the Development of Oxford Lot

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to extend a new Exclusive Negotiating Rights Agreement (ENRA) with Resources for Community Development and Equity Community Builders (RCD/ECB) for the development of the Oxford Lot for the period of twelve months ending December 15, 2005.

Financial Implications: Housing Department budget – \$20,000.

Contact: Stephen Barton, Housing, 981-5400

Action Calendar – New Business

30. **Mills Act Contract: 2426 Fulton Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a Mills Act Contract and any amendments with Dajun Yu for the restoration of historic property at 2426 Fulton Street in order to obtain property tax reduction for a period of ten years.
Financial Implications: See report.
Contact: Dan Marks, Planning, 981-7400
31. **Marin Avenue Reconfiguration**
From: City Manager
Recommendation: Adopt a Resolution adopting a Negative Declaration for the Marin Avenue Reconfiguration Project and directing staff to proceed toward implementation of the project and submit a combined funding application to the Measure B Countywide Bicycle-Pedestrian Discretionary Fund, Transportation Development Act (TDA) Article 3, BAAQMD Transportation Fund for Clean Air Program Manager Fund in January 2005.
Financial Implications: Various Grants – \$30,000.
Contact: Peter Hillier, Transportation, 981-7010
32. **Arts and Culture Plan, Work Plan for 2005 (CF 47-04)**
- a. **From: Civic Arts Commission**
Recommendation: Adopt the policies recommended for the first year of the Arts and Culture Plan as adopted by Council on July 13, 2004, Resolution No. 62,599–N.S.
Financial Implications: See report.
Contact: Mary Ann Merker, Secretary, 981-7533
- b. **From: City Manager**
Recommendation: Refer the recommendations from the Commission with financial implications to the FY 2006 budget process.
Contact: Tom Myers, Economic Development, 981-7530
- c. **Information Report: Responses to Questions Raised by Council**
From: Civic Arts Commission
Contact: Mary Ann Merker, Secretary, 981-7533

Information Reports

33. **Cash Receipts/Cash Handling Audit: Employment Compliance**
From: City Manager
Contact: David Hodgkins, Human Resources, 981-6800
34. **Update: Implementation of FUNDS Change Management Audit Recommendations (CF 33-04)**
From: City Manager
Contact: Chris Mead, Information Technology, 981-6500
35. **Sanitary Sewer System Study (CF 06-03)**
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.

New Locations for Metered Parking

1. Jim Hultman

Marin Avenue Reconfiguration

2. Deborah Moore and Adam Dawson

Building Inspections and Permits

3. Anne Whyte

Transportation and Land Use

4. Hank Resnik

Tax Measures and Budget Situation

5. Willard Neighborhood Association

Adjournment