




Office of the City Manager

INFORMATION CALENDAR

October 24, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Manuela Albuquerque, City Attorney
Dan Marks, Director of Planning and Development
Doug Hambleton, Chief of Police
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Subject: Berkeley Alcohol Policy Advisory Coalition (BAPAC) Proposals
Concerning Additional Alcohol Regulations

This report will update the Council as to staff's progress in responding to its April 25, 2006 referral of a proposal by BAPAC for "Comprehensive Alcoholic Beverage Sales Commercial Activities Regulations".

On April 25, 2006, Council members Moore and Spring presented to the Council a brief report noting that over the past decade Berkeley residents and City staff had devoted significant resources to abating "major nuisances related to the operation of problematic alcohol outlets." Attached to this report was a proposal from BAPAC for "Comprehensive Alcoholic Beverage Sales Commercial Activities Regulations" (the "BAPAC Report"). The BAPAC Report proposed several new regulatory and enforcement schemes and efforts, as well as changes to existing ones. The Council referred the BAPAC proposals to the Health Commission, and to the City Manager for a "report to be presented at the first September meeting, including plans for implementation."

On July 11th, the Council received and adopted a recommendation from Council members Moore, Spring and Anderson that the City reduce the number of off-sale alcohol outlets (*i.e.*, retail outlets that sell alcohol, as opposed to outlets that serve alcohol, such as restaurants and bars) "as opportunities arise".

Also on July 11th, BAPAC representatives gave an oral presentation of their earlier proposals to the Council.

Finally, on July 18th, the Council received and adopted a resolution supporting a report titled "City of Berkeley Taking the Lead in Combating Alcohol and Other Drug Problems". This report discussed a broad range of public health issues related to alcohol and other drugs, and made various findings and recommendations, some of them relevant to the BAPAC Report.

Pursuant to the Council's April 25th referral to the City Manager and the Community Health Commission, this report was originally scheduled to be presented to the Council on September 19th. In early September, staff sent BAPAC representatives a draft of the September 19th report and invited them to discuss it with staff.

BAPAC representatives did not respond to this invitation.

Absent any response from BAPAC, staff presented the September 19th version of the report to the Community Health Commission on September 14th without significant change. At the Commission meeting, however, staff had the opportunity to discuss the draft report not only with members of the Commission, but also BAPAC representatives who were in attendance, and this discussion clarified a number of issues the BAPAC Report had raised.

As a result of the September 14th meeting, staff significantly revised its report and recommendations, and submitted it into the City's agenda process, for presentation to the Council on October 24th. The revised report added a number of recommendations and proposed ordinances and ordinance amendments that had not been included in the original report, but had been sought by BAPAC.

However, on October 6, 2006, well after the revised report had been submitted into the agenda process, staff received a document from BAPAC responding to the previous (September 19th) version of the report. Several of BAPAC's responses to the former version of the report were moot; in other respects, BAPAC simply continued to disagree with staff's recommendations.

In response, staff again contacted BAPAC and requested an opportunity to meet, in order to fully explain the contents and rationale of the staff recommendations. This meeting is scheduled to take place during the week of October 20th.

In light of the continuing discussion between staff and BAPAC, the report scheduled for Council consideration on October 24th has been pulled. It will be presented only after staff has an opportunity to discuss BAPAC's concerns directly with BAPAC representatives.