

# AGENDA

## BERKELEY CITY COUNCIL MEETING

TUESDAY, MARCH 20, 2007

7:00 P.M.

**Council Chambers, 2134 Martin Luther King Jr. Way  
Teleconference Location – 1636 Channing Way, Berkeley, CA**

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953, Teleconferencing. Any member of the public may attend this meeting at either location. Questions regarding this matter may be addressed to Pamyla Means, City Clerk, 981-6900.*

### 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.*

**Council Action:** *The City Council may take action related to any subject listed on the Agenda.*

#### Public Comment on Consent Calendar Items Only

### 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.*

- Limits on Terms, Membership Designated Commissions** (First reading March 13, 2007 – Noes – Anderson, Maio, Spring, Worthington)

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance 6,973 N.S amending the title of Berkeley Municipal Code (BMC) Chapter 3.02; and amending BMC Section 3.02.040 to limit terms on designated commissions

**Financial Implications:** See report

Contact: Manuela Albuquerque, City Attorney, 981-6950

## Consent Calendar

### 2. BAPAC Proposals - Second Follow-up Report

**From: City Manager**

**Recommendation:** That Council

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Sections 13.48.030, 13.48.040 and 13.48.050 (Second Response Ordinance);
2. Adopt first reading of ordinance adding new BMC Chapter 13.49 (Social Host Ordinance.)

**Financial Implications:** See report

Contact: Manuela Albuquerque, City Attorney 981-6950

### 3. Cleanup Amendments to Taxi Ordinance

**From: City Manager**

**Recommendation:** Adopt first reading of an ordinance amending BMC Sections 9.52.020, 9.52.030, 9.52.040, 9.52.050 and 9.52.150 regarding taxi permits.

**Financial Implications:** None

Contact: Manuela Albuquerque, City Attorney 981-6950

### 4. Minutes for Approval

**From: City Manager**

**Recommendation:** Approve the minutes for the Council meetings of January 16, 2007 (regular), January 29, 2007 (closed), January 30, 2007 (special and regular) and February 13, 2007 (special and regular).

**Financial Implications:** None

Contact: Pamyla Means, City Clerk, 981-6900

### 5. Expand the Appropriate Zoning District(s) for Medical Marijuana Dispensaries

**From: Councilmembers Moore and Maio**

**Recommendation:** That the City Council refer a zoning amendment to the Planning Commission which would allow non-profit, collective, medical services and dispensary facilities to locate in appropriate non-residential zoning districts where they currently are not permitted, recognizing the special site and operational needs of the use. The Planning Commission should also consider whether or not this important community service should be included in protected uses, as outlined by the zoning code.

**Financial Implications:** See report

Contact: Darryl Moore, Councilmember, District 2, 981-7120

### 6. Sixth Annual Peace Lantern Ceremony

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution endorsing the Sixth Annual Peace Lantern Ceremony to be held in Aquatic Park on Sunday, August 5, 2007, and directing the City Manager to post the event on the City's Community Calendar.

**Financial Implications:** None

Contact: Manuel Hector Jr., Commission Secretary, 981-5110

## Consent Calendar

**7. Reliable Replacement Warhead Program**

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution requesting that Representative Barbara Lee, and Senators Barbara Boxer and Dianne Feinstein not support funding for the "Reliable Replacement Warhead Program, or appropriations or other benefits to the civilian nuclear power industry; and that the University of California not violate the Nuclear Free Berkeley Ordinance.

**Financial Implications:** None

Contact: Manuel Hector Jr., Commission Secretary, 981-5110

**8. Commission Referral for Measure G Implementation**

**From: Mayor Bates**

**Recommendation:** That the City Council request the following commissions each discuss how they can participate in helping the City implement Measure G -- Community Environmental, Energy, Transportation, Planning, and Zero Waste.

**Financial Implications:** See report

Contact: Tom Bates, Mayor, 981-7100

**9. Contract: San Pablo Park Pathway and Frances Albrier Recreation Center Renovation Project (To be delivered)**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the Plans and Specifications for the San Pablo Park Pathway and Frances Albrier Recreation Center Renovation project; accepting the bid from Rosas Brothers Construction; authorizing the City Manager to execute a contract and any amendments with Rosas Brothers Construction in an amount not to exceed \$523,250 which includes a 15% contingency for the period March 15, 2007 to December 31, 2007.

**Financial Implications:** Various Funds - \$455,000

Contact: Mark Seleznow, Parks, Recreation and Waterfront, 981-6700

**10. Final Map of Tract 7618: 1501 Oxford Street**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the final Tract Map 7618, a five (5) unit residential condominium located at 1501 Oxford Street.

**Financial Implications:** None

Contact: Dan Marks, Planning and Development, 981-7400

**11. Contract Amendment: Downtown BART Plaza & Transit Area Design Plan**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Community Design + Architecture Inc. (CD+A), increasing the amount from \$90,000 to an amount not to exceed \$150,000, and extending the termination date to October 31, 2008.

**Financial Implications:** Measure B Fund - \$60,000

Contact: Claudette Ford, Public Works, 981-6300

## Consent Calendar

- 12. Final Tract Map 7674: 1414 Harmon Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the final map of Tract Map 7674, a seven unit residential condominium located at 1414 Harmon Street.  
**Financial Implications:** None  
Contact: Claudette Ford, Public Works, 981-6300
- 13. Parking Prohibition on West Frontage Road**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution prohibiting parking for all vehicles and trailers (private and commercial) from 9 PM to 6 AM every day, including weekends and holidays, on the Bay Trail Park parking area on the west side of West Frontage Road, from a point 1100 feet north of the Berkeley-Emeryville city limits to a point 500 feet north thereof.  
**Financial Implications:** Transportation Division budget - \$800  
Contact: Claudette Ford, Public Works, 981-6300
- 14. Purchase Order: Ten Police Vehicles**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the City of Sacramento's bid procedures to satisfy the requirement of Berkeley Charter Section 67, and authorizing the City Manager to execute a purchase order with Downtown Ford in an amount not to exceed \$260,370 to purchase ten police patrol vehicles.  
**Financial Implications:** Equipment Maintenance Fund - \$260,370  
Contact: Claudette Ford, Public Works, 981-6300
- 15. Contract Amendment: Elevator Maintenance for Telegraph/Channing Garage and Mall**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with ThyssenKrupp Elevator Corporation for elevator maintenance at the Telegraph/Channing Garage and Mall, increasing the amount by \$28,000 for a total amount not to exceed \$90,178 and extending the termination date to June 30, 2008.  
**Financial Implications:** Off-Street Parking Fund - \$28,000  
Contact: Claudette Ford, Public Works, 981-6300
- 16. Contract: Landfill Postclosure Monitoring and Maintenance Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders with SCS Engineers, in an amount not to exceed \$250,000, to provide engineering, monitoring, and maintenance services for the landfill post closure to meet mandatory compliance requirements at Cesar Chavez Park, for the period of April 1, 2007 to March 31, 2010, with an option to extend the contract for an additional two one-year periods at a cost of \$90,000 per each additional one-year period.  
**Financial Implications:** Refuse Fund - \$250,000  
Contact: Claudette Ford, Public Works, 981-6300

- 17. Contract: Sanitary Sewer Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project located at Baker Street, Derby Street, Milvia Street, Sacramento Street, Tyler Street, Hearst Avenue, Scenic Avenue, La Loma Avenue, and Highland Place; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Ranger Pipelines, Inc., until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$455,994 for a term of 190 calendar days from the date of the execution of the contract.  
**Financial Implications:** Sanitary Sewer Operation Fund - \$455,594  
Contact: Claudette Ford, Public Works, 981-6300
- 18. Contract Amendment: Architectural Services for Hills Fire Station**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Marcy Li Wong Architects for architectural services for the Hills Fire Station, increasing the contract amount by \$13,815 for a new contract amount not to exceed \$518,451, with no change to the contract expiration date of December 31, 2006.  
**Financial Implications:** Measure G Fund - \$13,815  
Contact: Claudette Ford, Public Works, 981-6300
- 19. Support Efforts to Maintain AB 2034 Funding**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution supporting efforts to maintain AB2034 funding.  
**Financial Implications:** See report  
Contact: Phil Kamlarz, City Manager, 981-7000
- 20. Application For CalHome Funds (To be delivered)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the Housing Department to submit an application to the State of California Department of Housing and Community Development (HCD) for up to \$600,000 in funding under the CalHome Owner-Occupied Rehabilitation Program.  
**Financial Implications:** See report  
Contact: Stephen Barton, Housing , 981-5400
- 21. Grant: 2006 Regional Transportation Improvement Program – Augmentation for Gilman/I-80 Interchange Reconfiguration Project (To be delivered)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit an application to the Metropolitan Transportation Commission or \$1.5 million in funding from the 2006 Regional Transportation Improvement Program Augmentation for the Gilman/I-80 Interchange Reconfiguration Project; accept the grant; and execute any resultant agreements and amendments.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300

## Consent Calendar

22. **Holocaust Remembrance Day Proclamation**  
**From: Councilmember Worthington**  
**Recommendation:** That the Berkeley City Council adopts the Holocaust Remembrance Day proclamation.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
23. **Oppose Governor Schwarzenegger's Budget Cuts To Education And Transportation**  
**From: Councilmember Worthington and Mayor Bates**  
**Recommendation:** That the Berkeley City Council opposes the Governor's budget recommendations to reduce funding to critical transportation programs in the short term and educational programs in the long term.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
24. **Berkeley Schools Mental Health Partnership** (*To be delivered*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution supporting the Berkeley Integrated Resources Initiative and approving an Inter-Agency Agreement with the Berkeley Unified School District for the Berkeley Schools Mental Health Partnership.  
**Financial Implications:** See report  
Fred Medrano, Health and Human Services, 981-5100
25. **Making a More Manageable Move-Out**  
**From: Councilmembers Worthington and Wozniak**  
**Recommendation:** That the Berkeley City Council authorize \$5,000 - \$10,000 as a City expenditure to encourage UC to create a trash and materials collection program to facilitate a cleaner move-out process for the end of the school year, in May 2007.  
**Financial Implications:** See report  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Public Comment – Items Not Listed on the Agenda

## Action Calendar – Appeals

### 26. ZAB Appeal: 2701 Shattuck Avenue

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustment Board to approve Use Permit #04-10000014 to construct a 24-unit, mixed-use project, and dismissing the appeal.

**Financial Implications:** None

Contact: Dan Marks, Planning and Development, 981-7400

#### b. Appeal

1. Rolf Bell

#### c. Communications

1. Karl Reeh
2. Rolf Bell on behalf of Aspasia Nea
3. Rolf Bell on behalf of Elizabeth Ditmars and Joan More
4. Gale Garcia
5. Ernest Machen

### 27. ZAB Appeal: 651 Addison Street (Drayage)

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit #06-10000067 to allow the demolition of an unsafe building.

**Financial Implications:**None

Contact: Dan Marks, Planning and Development, 981-7400

#### b. Appeal

1. Gale Garcia

#### c. Communications

1. Aquatic Park Enterprises LLC
2. Gale Garcia

## Action Calendar – New Business

### 28. Contract: Warm Water Pool Preliminary Design and Cost Estimate

#### From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ELS Architecture and Urban Design, to provide architectural and engineering services for the preliminary design and cost estimating for a new Warm Water Pool on Berkeley Unified School District property at the corner of Milvia and Bancroft, in an amount not to exceed \$125,000 for all services and expenses for the term ending December 31, 2007.

**Financial Implications:** See report

Contact: Phil Kamlarz, City Manager, 981-7000

**29. Amend Program Year 2006 Annual Action Plan**

**From: City Manager**

**Recommendation:** Adopt a Resolution amending the City of Berkeley's Program Year (PY) 2006 Annual Action Plan to enable the City to allocate Community Development Block Grant (CDBG) Funds from the Housing Trust Fund to Affordable Housing Associates, Inc., to complete rehabilitation work at 2121 7th Street, Allston House.

**Financial Implications:** See report

Contact: Stephen Barton, Housing, 981-5400

**30. a. Discussion and Direction - Sunshine Ordinance** *(Continued from 5:00p.m. Worksession)*

**From: Mayor Bates**

**Recommendation:** That the City Council hear from the community panel on its reactions to the current (24th) draft of the Sunshine Ordinance, pose any questions to the panel and staff, hear from the public and then provide guidance on possible changes and next steps towards final adoption of the ordinance.

**Fiscal Impacts:** See report

**Contact:** Tom Bates, Mayor, 981-7100

**b. Access to Berkeley Police Department Information** *(continued from February 27, 2007, revised report submitted for March 20, 2007 meeting)*

**From: Councilmember Spring**

**Recommendation:** That Council thank the Police Chief for improving public access to police reports to the public and request the City Manager provide a plan to give public access to Berkeley's Police Department information, including police reports compliant with state law.

**Financial Implications:** See report

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

**31. Gilman Fields Project**

**a. Sign Relocation Agreement/Funding for Gilman Fields Project**

**Recommendation:** That the Council

1. Adopt a resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Sign Relocation Agreement with CBS Outdoor and the first reading of an ordinance adding new section 20.04.040 to the Berkeley Municipal Code, and authorizing the City Manager to execute a Sign Relocation Agreement with CBS Outdoor: and
2. Adopt the first reading of an ordinance adding new section 20.04.040 of the Berkeley Municipal Code, providing for sign relocation agreements pursuant to Business & Professions Code section 5412. and exempting signs authorized under such agreements from design review.

**Financial Implications:** See report

Contact: Manuela Albuquerque, City Attorney, 981-6950

## Action Calendar – New Business

### **b. Lease Agreement: Gilman Street Sports Fields** *(To be delivered)*

**Recommendation:** Adopt the first reading of an Ordinance authorizing the City Manager to execute a lease agreement with the East Bay Regional Park District for the City to occupy the Gilman property to develop, operate, and maintain the Gilman Street Sports Fields for a twenty-five year term.

**Financial Implications:** See report

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

### **c. Information Report from City Manager - Construction of Gilman Street Sports Fields** *(To be delivered)*

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

## Information Reports

32. **LPC NOD: 1300 Martin Luther King Jr. Way**  
**From: City Manager**  
Contact: Dan Marks, Planning and Development, 981-7400
33. **LPC NOD: 2120 Dwight Way**  
**From: City Manager**  
Contact: Dan Marks, Planning and Development, 981-7400
34. **Oxford Plaza and David Brower Center Project Status** *(To be delivered)*  
**From: City Manager**  
Contact: Stephen Barton, Housing, 981-5400
35. **Comments on Lawrence Berkeley National Lab Long Range Development Plan Draft Environmental Impact Report** *(To be delivered)*  
**From: City Manager**  
Contact: Dan Marks, Planning and Development, 981-7400

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Item 2: BAPAC Proposals - Second Follow-up Report**

1. Wendy Alfsen

### **Item 34: Oxford Plaza and David Brower Center Project Status**

2. Barbara Gilbert

### **Commercial/Housing Policy Changes**

3. Mary Ann Clegg

### **Neglected Dog**

4. Anne Whyte (2)

## Communications

### Miscellaneous

5. Carol Denney

### Shootings

6. Paul Rauber
7. Marian Mabel

## Adjournment

**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.*