

# AGENDA



## BERKELEY CITY COUNCIL MEETING

TUESDAY, NOVEMBER 27, 2007

7:00 P.M.

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

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO  
DISTRICT 2 – DARRYL MOORE  
DISTRICT 3 – MAX ANDERSON  
DISTRICT 4 – DONA SPRING

DISTRICT 5 – LAURIE CAPITELLI  
DISTRICT 6 – BETTY OLDS  
DISTRICT 7 – KRISS WORTHINGTON  
DISTRICT 8 – GORDON WOZNAK

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953, and 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*

*Note: Council Rules of Procedure are currently under review and are subject to change.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## 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: 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*

## Consent Calendar

*removed from the Consent Calendar will be taken up after the "Action Calendar" unless the Council reorders the agenda.*

*Items that are removed from the Consent Calendar and deemed by the Mayor to be controversial in nature will be considered at the end of the agenda. The Mayor will call for public comments on items on the Consent Calendar. For each item, the Mayor will entertain one speaker in support and ask that persons in the audience who are also in support stand to be recognized. The Mayor will then entertain one speaker in opposition and follow the same process for the speaker in support. If the Mayor determines that there are several persons wishing to speak to the item, the item will be removed from the Consent Calendar and considered at the end of the agenda.*

- 1. Adoption of Revisions to Berkeley Municipal Code 13.46 (Indoor Entertainment Events)**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance 7,004–N.S amending Berkeley Municipal Code Chapter 13.46 Indoor Entertainment Events.  
**First Reading** Ayes – Maio, Moore, Anderson, Spring, Capitelli, Olds, Worthington, Wozniak, Bates; Noes – None.  
**Financial Implications:** None  
Contact: Debra Pryor, Fire, 981-3473
  
- 2. Downtown Berkeley Business Improvement District**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the 2008 Annual Report of the Downtown Berkeley Business Improvement District (BID); declaring Council's intention to levy an annual assessment for the Downtown Berkeley Business Improvement District for calendar year 2008; and directing the City Clerk to schedule a public hearing for December 18, 2007, to consider levying a renewed assessment for the year 2008.  
**Financial Implications:** Downtown BID Fund - \$250,000  
Contact: Michael Caplan, Economic Development, 981-7530
  
- 3. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of October 23, 2007 (closed and regular).  
**Financial Implications:** None  
Contact: Pamyla Means, City Clerk, 981-6900
  
- 4. Revised December 2007 City Council Meeting Schedule**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending Resolution 63,559-N.S. to revise the City Council regular meeting schedule for December 2007.  
**Financial Implications:** None  
Contact: Pamyla Means, City Clerk, 981-6900

## Consent Calendar

### 5. Formal Bid Solicitations and Request for Proposals

**From: City Manager**

**Recommendation:** Approve the new invitation for bid/request for proposal (RFP) that will be, or is planned to be, issued in the next 30 days upon final approval by the requesting department or division.

**Financial Implications:** See report

Contact: Robert Hicks, Finance, 981-7300

### 6. Safety Members' Pension Fund Annual Reports for FY 2007

**From: City Manager**

**Recommendation:** Accept the Safety Members Pension Fund (SMPF) annual reports for fiscal year ended June 30, 2007.

**Financial Implications:** None

Contact: Robert Hicks, Finance, 981-7300

### 7. Contract 7282 Amendment: Housing Retention Program Fiscal Agent *(To be delivered)*

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to increase the contract amount (Contract No. 7282) for Berkeley Food and Housing Project (BFHP) by \$166,123 to provide fiscal agent services to the City's Housing Retention Program, formerly the Homeless Prevention Grants Program.

**Financial Implications:** See report

Contact: Renelda Mary, Housing, 981-5400

### 8. Lease Agreement: Property at 711 Harrison Street *(To be delivered)*

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with Building Opportunities for Self-Sufficiency to lease a City-owned parcel of property to be created at 711 Harrison Street for the continued operation of emergency shelter and transitional housing at the site, and to allow BOSS to apply for State of California financing to rehabilitate the existing facility.

**Financial Implications:** See report

Contact: Renelda Mary, Housing, 981-5400

### 9. Recognition of Service Employees International Union Local 1021

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union (SEIU) to recognize SEIU Local 1021 as the sole and exclusive representative for employees assigned to Representation Units currently represented by SEIU Local 790, Local 535, and the Part-Time Recreation Leaders Association/SEIU Local 535.

**Financial Implications:** None

Contact: David Hodgkins, Human Resources, 981-6800

## Consent Calendar

- 10. Agreement: Build It Green**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source agreement with Build It Green for the period September 15, 2007 through September 14, 2009 in the amount of \$50,040 for development of a solar energy program.  
**Financial Implications: See report**  
Contact: Dan Marks, Planning and Development, 981-7400
- 11. Contract: East Stockton Transfer Recycle for Construction & Demolition Waste Processing** (*Held over from November 6, 2007*)  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract with East Stockton Transfer Recycle to sort construction and demolition waste for an annual amount not to exceed \$1,382,500 in FY 2008 and a total contract amount not to exceed \$5,727,500 for FY 2008, FY 2009 and FY 2010, for the period November 12, 2007 to June 30, 2010.  
**Financial Implications:** Refuse Fund - \$1,382,500  
Contact: Claudette Ford, Public Works, 981-6300
- 12. Contract: Kappe + Du Architects for On-Call Architectural Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Kappe + Du Architects in an amount not to exceed \$100,000 to provide on-call architectural services for various City facility projects for a period of 42 months from December 1, 2007 through June 30, 2011.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 13. Easement Agreement: 1310 University Avenue - Berkeley Montessori School Providing Public Access**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept the Easement Agreement granting public access on a 10-foot wide path through the property at 1310 University Avenue between the owner of the property, Berkeley Montessori School, and the City of Berkeley for a continuation of a pedestrian and bicycle path along West Street and south of University Avenue to Strawberry Park at Addison Street.  
**Financial Implications: None**  
Contact: Claudette Ford, Public Works, 981-6300

## Consent Calendar

- 14. Designation of New FEMA Pre-Disaster Mitigation Grant Authorized Agents**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution designating the Public Works Director, Deputy City Manager, and Budget Manager as authorized agents for the FEMA Pre-Disaster Mitigation Grant for the Ratcliff Building Seismic Retrofit project.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 15. Contract: Noll & Tam Architects for On-Call Architectural Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Noll & Tam Architects in an amount not to exceed \$100,000 to provide on-call architectural services for various City facility projects for a period of 42 months from December 1, 2007 through June 30, 2011.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300
- 16. Proposed General Assistance Budget Reductions in FY08**  
**From: Homeless Commission**  
**Recommendation:** Adopt a Resolution opposing the County of Alameda's Social Service Agency's plan to limit General Assistance to six months of the year in this fiscal year for people the Agency determines are "employable".  
**Financial Implications:** None  
Contact: Jennifer Vasquez, Commission Secretary, 981-5400

## Council Consent Items

- 17. Priority Permit Process for Green Buildings Initiative**  
**From: Councilmember Olds**  
**Recommendation:** Request that the City Council refer to the Planning Commission the concept of giving priority in the permit process to buildings that will use environmentally sound practices and return to the City Council with recommendations for standards of eligibility and a process that can be adopted by the Planning Department.  
**Financial Implications:** Unknown  
Contact: Betty Olds, Councilmember, District 6, 981-7160
- 18. Urging The State Department Of Pesticide Regulation To Refuse Approval Of Methyl Iodine For Use In California**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to the state Department of Pesticide Regulation urging them to refuse approval of methyl iodine use in California.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Consent Calendar

19. **Opposing the Lockout of Workers at Metro Lighting**  
**From: Councilmember Worthington**  
**Recommendation:** Express opposition to the lockout of workers at Metro Lighting in Berkeley  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
20. **Support Of Increased Internet Access And Protections For Workers And Consumers**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt Resolutions establishing City policy that all employees who enter homes for utility work must be employees of a utility franchise holder; establishing a city policy establishing standards for users of the public right of way and requiring that they must be employees of a franchise holder; and endorsing the Speed Matters initiative.  
Resolution A: Establishing a City of Berkeley policy to require that all employees who enter homes for utility work should be employees of a utility franchise holder.  
Resolution B: Establishing standards for users of the public right of way and requiring that all users should be employees of a franchise holder  
Resolution C: Endorsing speed matters initiative.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
21. **Opposing Land Lease Near The Teshekpuk Lake In The National Petroleum Reserve In Alaska**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to the U.S. Department of the Interior opposing the leasing of any land north and east of the Teshekpuk Lake in the National Petroleum Reserve in Alaska.  
**Financial Implications: None**  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

## Action Calendar - Public Hearings

22. **Ambulance User Fee Increase**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution increasing the Ambulance User Fee to match the Alameda County's ambulance user fee schedule set and approved by the Alameda County Board of Supervisors effective October 1, 2007, included as an updated addendum to the Ambulance Provider Agreement.  
**Financial Implications: See report**  
Contact: Debra Pryor, Fire, 981-3473

## Action Calendar – Old Business

- 23. Adoption of the 2007 California Fire Code with Local Amendments**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion,  
1. Adopt second reading of Ordinance 7,003–N.S. repealing and re-enacting the Berkeley Fire Code Chapter 19.48 and related procedural and stricter provisions.  
2. Adopt a Resolution reenacting BMC Chapter 19.48 and related procedural and stricter provisions to take effect on January 1, 2008.  
**Financial Implications:** See report  
Contact: Debra Pryor, Fire, 981-3473
- 24. Adoption of Berkeley Building Codes**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing, and, upon conclusion,  
1. Adopt second reading of Ordinance 7,005–N.S. repealing and re-enacting the Berkeley Building, Electrical, Mechanical and Plumbing Codes and related procedural and stricter provisions in BMC Chapters 19.28, 19.30, 19.32 and 19.36;  
2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent regulations than those provided by the 2007 California Building Code and rescinding Resolution No. 60,862-N.S.  
**Financial Implications:** See report  
Contact: Dan Marks, Planning and Development, 981-7400
- 25. ZAB Appeal: 1365 Summit Road**  
**a. From: City Manager**  
**Recommendation:** Conduct a Public Hearing and upon conclusion, adopt a Resolution to modify the Zoning Adjustments Board’s approval of Use Permit No. 06-10000105 for the demolition of the existing home at 1365 Summit Road and to permit its replacement with a new single family residence, incorporating changes agreed to by both the applicant and the appellant.  
**Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400
- b. Appeal**  
1. Robin Gal
- c. Communications**  
None

## Action Calendar – Old Business

### 26. Tract Map Appeal: 1423 Walnut Street

**From: City Manager**

**Recommendation:** Conduct a public hearing and adopt a resolution affirming the Notice of Decision (NOD) for converting five (5) units at 1423 Walnut to condominiums. The 50-day action period expired on July 6, 2007 without action by the Planning Commission as required by State law and the applicant declined the Planning Department's request for an extension of the time period. Therefore, this five-unit residential condominium conversion project was approved, with conditions, by operation of law on July 6, 2007.

**Financial Implications:** See report

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

#### **b. Appeal**

1. 1423 Walnut, LLC

#### **c. Communications**

None

## Action Calendar - New Business

### 27. Emergency Actions Related to San Francisco Bay Oil Spill

**From: City Manager**

**Recommendation:**

1. Ratify the City Manager's proclamation of emergency related to San Francisco Bay oil spill.
2. Confirm the City Manager's emergency proclamations regulating:
  - a. Public access to the shoreline
  - b. Boat washing
  - c. Dogs off-leash at the Berkeley Marina

**Financial Implications:** None

Contact: Phil Kamlarz, City Manager, 981-7000

### 28. Public Commons for Everyone Initiative

**a. From: City Manager**

**Recommendation:** Council to approve the following plan to improve Berkeley's public areas to make them safer and healthier environments for everyone:

- 1) Direct City Manager to raise parking meter fees \$.25/hour to support services and capital improvements.
- 2) Contingent upon funding approval, direct City Manager to implement services and capital improvements that include: increasing accessibility to public toilets; providing for additional permanent supportive housing, transitional age youth programs, SSI benefits advocacy, an additional outreach worker, and centralized homeless intake system; developing a Berkeley Host Program; providing additional public seating and trash receptacles; and investigating future development of a community court.
- 3) Discussion and possible adoption which would include first reading of ordinances and amendment to a resolution as follows:
  - a. Amend BMC 13.36.015 to extend restriction on lying on certain commercial sidewalks during daytime hours to all commercial zones; and

## Action Calendar – New Business

b. Amend BMC 12.70 to ban smoking in various locations in the City, including sections of commercial zones, recreation areas, and near health facilities; and

c. Amend Resolution 61,042 to require one warning and no complaint to enforce public lodging provision of Penal Code 647j, with enforcement to remain a low priority between 10:00 p.m. and 6:00 a.m.

**Financial Implications:** See report

Contact: Phil Kamlarz, City Manager, 981-7000

### **b. From: Homeless Commission**

**Recommendation:** The Homeless Commission recommends that the Mayor and City Council support the City Manager's proposal to further research and develop the social services component of PCEI's implementation strategy and to formally require that the Homeless Commission be involved in the ongoing PCEI discussion and review potential funding that may be recommended to expand homeless services programs.

**Financial Implications:** See report

Contact: Jennifer Vasquez, Commission Secretary, 981-5400

### **c. From: Peace and Justice Commission (Information Report)**

Contact: Manuel Hector, Commission Secretary, 981-5100

### **d. From: Human Welfare and Community Action Commission (To be delivered)**

**Recommendation:** The Human Welfare and Community Action Commission recommends that the Mayor and City Council support the City Manager's proposal to increase essential social services as well as changes in the enforcement of clearly defined rules that prohibit behavior that make members of the public feel unsafe or threatened.

**Financial Implications:** See report

Contact: Angellique De Coud, Secretary, Human Welfare and Community Action Commission, 981-5400

### **e. From: Community Health Commission (To be delivered)**

**Recommendation:** That the Public Commons for Everyone Initiative address the over concentration of alcohol outlets and incorporates input from the Berkeley Alcohol Policy Advocacy Coalition.

**Financial Implications:** See report

Contact: Kimi Sakashita, Commission Secretary, 981-5300

## Action Calendar – New Business

### Action Calendar – New Council Items

**29. Ed Roberts Campus**

**From: Mayor**

**Recommendation:** Adopt a Resolution authorizing the City Manager to allocate \$2 million to the Ed Roberts Campus (ERC) to partially match \$4.5 million in new funds from the Metropolitan Transportation Commission (MTC) for the construction of the Ed Roberts Campus (ERC). The funding would come from a transfer of \$1.5 million from the Aquatic Park Sound Wall project and \$500,000 of General Fund Capital Projects. Request the City Manager return to Council with a report on the impacts to the Deferred Capital Projects

**Financial Implications:** See report

Contact: Tom Bates, Mayor, 981-7100

### Information Reports

**30. Solano Avenue Business Improvement District**

**From: City Manager**

Contact: Michael Caplan, Economic Development, 981-7530

**31. Parcel-Based Special Taxes, Fees and Assessments Audit -- Status Report**

**From: City Manager**

Contact: Robert Hicks, Finance, 981-7300

**32. Dredging in Aquatic Park *(To be delivered)***

**From: City Manager**

Contact: Claudette Ford, Public Works, 981-5400

**33. Underground Policy for Rule 20A Monies**

**From: Public Works Commission**

Contact: Jeff Egeberg, Secretary, Public Works Commission, 981-5400

### Public Comment –Including Items Not Listed on the Agenda

## 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.*

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City Clerk Department  
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Email: [clerk@ci.berkeley.ca.us](mailto:clerk@ci.berkeley.ca.us)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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**I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 19, 2007**

A handwritten signature in black ink that reads "Pamyla Means".

Pamyla Means, MMC, City Clerk

## **Communications – 11/27/07**

*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: Downtown Berkeley Business Improvement District**

1. John Roberts

### **Support for Cedar Street No. 19 Bus Line**

2. Kent Lewandowski

### **Departing City Attorney**

3. Peter Mutnick

### **Cell Phone Towers**

4. Peter Mutnick

### **Code Enforcement Review Commission**

5. Carrie Olson, Berkeley Architectural Heritage Association

### **Neighborhood Harassment\***

6. Charles Jackson

*\* Photos on file at City Clerk's Office*