

AGENDA



BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, JANUARY 15, 2008

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 WOZNIAK

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

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 on Non-Agenda Matters: *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Consent Calendar

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

Recess Consent Items

1. **Fee Assessment - State of California Self-Insurance Fund (Workers' Compensation Program)**

From: City Manager

Recommendation: Ratifying the action taken by the City Manager during recess authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2008 for administering the Workers' Compensation Program, in an amount not to exceed \$17,104.04.

Financial Implications: Workers' Compensation Self-Insurance Fund - \$17,104.04.
Contact: David Hodgkins, Human Resources, 981-6800

Consent Calendar

2. **Ordinance Establishing Operating Standards for Alcohol Outlets and Fee Options**

From: City Manager

Recommendation: Adopt second reading of Ordinance 7,010–N.S. establishing operating standards and an inspection program for alcohol establishments.

First Reading Vote: Ayes – Maio, Moore, Anderson, Spring, Olds, Worthington, Wozniak, Bates; Noes – None; Absent – Capitelli.

Financial Implications: See report

Contact: Zach Cowan, Acting City Attorney, 981-6950

Consent Calendar

- 3. Zoning Ordinance, General Plan, and West Berkeley Plan Amendments and Revised Mitigated Negative Declaration to Allow Automobile Sales in the Manufacturing District**
a. From: City Manager
Recommendation: Adopt second reading of Ordinance 7013–N.S. amending Chapters 23E.72 (Manufacturing District) and 23F.10 (Definitions).
First Reading Vote: Ayes – Maio, Moore, Spring, Capitelli, Olds, Worthington, Wozniak, Bates; Noes – None; Absent – Anderson.
Financial Implications: See report
Contact: Dan Marks, Planning and Development, 981-7400
- 4. Adoption of Ordinance for Cable Public Access (PEG) Support**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,014–N.S adding a new chapter to the Berkeley Municipal Code (“BMC”), Chapter 9.58 entitled “Video Franchise Fees, Customer Service and Other Video Related Matters” to enable the City to receive an additional fee equal to one percent (1%) of the gross revenue of a video franchisee to support PEG and to establish customer service standards.
First Reading Vote: Ayes – Maio, Moore, Spring, Capitelli, Olds, Wozniak, Bates; Noes – None; Absent – Anderson, Worthington
Financial Implications: None
Contact: Zach Cowan, Acting City Attorney, 981-6950
- 5. Annual Commission Attendance Report and Meeting Frequency Schedule**
From: City Manager
Recommendation: Accept annual attendance report and adopt a Resolution approving a revised commission meeting frequency schedule.
Financial Implications: None
Contact: Pamyla Means, City Clerk, 981-6900
- 6. Resubmission of Medical Marijuana Ballot Measure (Measure R) from 2004**
From: City Manager
Recommendation: Direct the resubmission of the Patient's Access to Medical Cannabis Act (Measure R from 2004) to the voters on the November 4, 2008 General Municipal Election ballot as directed by court order, and direct the City Attorney to submit the original 2007 title and impartial analysis.
Financial Implications: None
Contact: Pamyla Means, City Clerk, 981-6900
- 7. Formal Bid Solicitation 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

Consent Calendar

- 8. Kaiser Permanente Grant: Healthy Eating Environments (To be delivered)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to Kaiser Permanente for funds in the amount of \$270,000 to implement activities that increase healthy eating among Berkeley residents by increasing access to healthier food choices in local corner markets and restaurants; to accept the grant and execute any resultant revenue agreements and amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report
Contact: Fred Medrano, Health and Human Services, 981-5100
- 9. Lease: McGee Avenue Baptist Church, 1645 Oregon Street, Black Infant Health Program**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement and any amendments with the McGee Avenue Baptist Church for real property located at 1645 Oregon Street in an amount not to exceed \$12,300, for the purpose of leasing program space for the Black Infant Health Program for the period March 1, 2008 to February 28, 2009 with an option to extend for an additional two-year period.
Financial Implications: See report
Contact: Fred Medrano, Health and Human Services, 981-5100
- 10. Classification: Vector Control Technician**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 61,805-N.S., Classification and Salary Resolution for Service Employees International Union (SEIU) Local 1021 (Legacy 535), to revise the classification of Vector Control Technician and establish a 2% Salary Differential effective December 30, 2007 for eligible employees.
Financial Implications: Vector Control Fund - \$3,800
Contact: David Hodgkins, Human Resources, 981-6800
- 11. Purchase Order: Western States Oil for Fuel for City Vehicles**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order for Western States Oil for fuel for City vehicles in an amount not to exceed \$1,452,000 for FY 2008, with a 5% escalation for each fiscal year through FY 2013.
Financial Implications: Equipment Maintenance Fund - \$1,452,000
Contact: Claudette Ford, Public Works, 981-6300

Consent Calendar

12. **Purchase Order: Western Truck Parts and Equipment for Three CNG-Fueled Rear Loader Refuse Collection Trucks**
From: City Manager
Recommendation: Adopt a Resolution accepting the County of Sacramento's bid procedures to satisfy the requirements of Berkeley's Charter Section 67, and authorizing the City Manager to execute a purchase order with Western Truck Parts and Equipment in an amount not to exceed \$673,768 for three CNG fueled rear loader refuse collection trucks.
Financial Implications: Equipment Maintenance Fund - \$673,768
Contact: Claudette Ford, Public Works, 981-6300
13. **Purchase Order: Western Truck Center for Two Drop Box Trucks**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to purchase two drop box trucks from Western Truck Center for a total amount not to exceed \$451,693.
Financial Implications: Equipment Maintenance Fund - \$451,693
Contact: Claudette Ford, Public Works, 981-6300
14. **Park Bench Donation Policy**
From: Parks and Recreation Commission
Recommendation: Adopt a Resolution that:
1) Limits park bench donation to sites recommended by staff;
2) Approves the bench donation policy as revised, and establishes a process and conditions for granting both bench memorial and anonymous requests.
Financial Implications: None
Contact: Virginia Aiello, Commission Secretary, 981-6700
15. **Taxi Scrip Cash Count Audit - Controls Over Cash Handling Need Improvement**
From: Auditor
Recommendation: Request the City Manager to report back during or before March 2008 on the implementation status of the one remaining outstanding recommendation.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750

Council Consent Items

16. **Opposition of the Nomination of Richard Honaker to the U.S. District Court for the District of Wyoming**
From: Councilmember Worthington
Recommendation: Send a letter to Senators Barbara Boxer, Dianne Feinstein and the Senate Judiciary Committee opposing the nomination of Richard Honaker to the U.S. District Court for the District of Wyoming.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action Calendar – Items Removed from the Consent Calendar

Action Calendar - Appeals

17. ZAB Appeal: 2129 Rose Street

a. From: City Manager

Recommendation: Adopt a Resolution affirming the ZAB decision to allow the installation of a skylight and French doors to a building within a non-conforming rear yard setback.

b. Appeals

1 Peter Lomhoff

c. Communications

None

Financial Implications: None

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

Action Calendar – Public Hearings

18. Fees: Inspection Program For Alcohol Establishments

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving an annual inspection program fee (\$467.00) for alcohol outlets and an hourly re-inspection fee (\$221.75) in order to fund and establish an alcohol inspection program.

Financial Implications: See report

Contact: Phil Kamlarz, City Manager, 981-7400

19. Downtown Berkeley Business Improvement District Annual Assessment

From: City Manager

Recommendation:

1) Conduct a public hearing, and upon conclusion, adopt a Resolution confirming the 2008 Annual Report of the Downtown Business Improvement District (BID) and levy an annual assessment for the Downtown BID for calendar year 2008.

2) Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) Main Street Program for \$250,000 of Downtown BID funds to support Downtown revitalization.

Financial Implications: See report

Contact: Phil Kamlarz, City Manager, 981-7400

Action Calendar – New Business

20. Amendment to the Zoning Ordinance (ZA 1-07): Public Safety Exceptions for Structural Alterations

From: City Manager

Recommendation: Adopt first reading of an Ordinance altering Berkeley Municipal Code (BMC) Chapter 23C.04 to exempt structural alterations, for the purpose of public safety improvements for buildings subject to BMC Chapter 19.39 - Potentially Hazardous Buildings Containing Soft, Weak or Open Front Stories also known as the Soft Story Ordinance and BMC Chapter 19.38 - Seismic Hazard Mitigation Program for Unreinforced Masonry Buildings (URM), from certain Zoning Ordinance restrictions and some levels of discretionary review.

Financial Implications: None

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

21. Warm Water Pool at the Berkeley High School Milvia Street Site

Select either a or b

a. From: Commission on Disability

Recommendation: Place a bond measure on the November 2008 ballot for the construction of a new warm water pool and hire all necessary consultants to insure passage of the bond.

Financial Implications: See report

Contact: Paul Church, Commission Secretary, 981-5400

b. From City Manager

Recommendation: Refer to staff for possible ballot measure discussion for the November 2008 general election.

Financial Implications: See report

Contact: Phil Kamlarz, City Manager, 981-7000

Action Calendar – Council Items

22. Approval of East Bay Green Corridor and Joint Green Job Appropriation Request

From: Mayor Bates

Recommendation:

- 1) Formally approve the City's participation in the East Bay Green Corridor Partnership
- 2) Authorize the City to jointly request a federal appropriation for a regional green collar job and workforce development program along with the other city members of the East Bay Green Corridor.

Financial Implications: See report

Contact: Tom Bates, Mayor, 981-7100

Information Reports

23. Council Rules of Procedure

From: City Manager

Contact: Pamyla Means, City Clerk, 981-6900

24. Unrepresented Temporary Employees

From: City Manager

Contact: David Hodgkins, Human Resources, 981-6800

25. LPC Structural Alteration Permit Notices of Decision for 2411 Fifth St

From: City Manager

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

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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Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: 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 January 10, 2008**

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

Pamyła Means, MMC, City Clerk

## **Communications – 01/15/08**

*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 18: Fees: Inspection Program For Alcohol Establishments**

1. Marlene DeMarchi

#### **Downtown Redevelopment**

2. Don Gosney

#### **National Trust Preservation Funds**

3. Marie Bowman

#### **Berkeley Downtown Area Plan (DAPAC)**

4. Kent Lewandowski, Sierra Club Northern Alameda County Group

#### **Banning Cheap Booze**

5. Barbara Gilbert

**Medicare and COB Employees**

6. Barbara Gilbert

**LBNL – CRT Project, DEIR Problems**

7. John Shively