

AGENDA



BERKELEY CITY COUNCIL REGULAR MEETING

TUESDAY, JANUARY 29, 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.

- 1. Lease: McGee Avenue Baptist Church, 1645 Oregon Street, Black Infant Health Program**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,015–N.S. 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.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Fred Medrano, Health and Human Services, 981-5100
- 2. Amendment to the Zoning Ordinance (ZA 1-07): Public Safety Exceptions for Structural Alterations**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,016–N.S. 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.
First Reading Vote: All Ayes
Financial Implications: None
Contact: Dan Marks, Planning and Development, 981-7400

Consent Calendar

- 3. Donation: Raymond Family Foundation to the Animal Care Shelter**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation from the Raymond Family Foundation to the Animal Shelter in the sum of \$5,000.
Financial Implications: Animal Shelter Donation Fund - \$5,000
Contact: Phil Kamlarz, City Manager, 981-7000
- 4. Prevention of Farm Animal Cruelty Act**
From: City Manager
Recommendation: Adopt a Resolution endorsing the Prevention of Farm Animal Cruelty Act, a statewide ballot initiative requiring that calves used for veal, egg-laying hens and breeding pigs on industrialized factory farms have enough room to turn around and extend their limbs.
Financial Implications: None
Contact: Phil Kamlarz, City Manager, 981-7000
- 5. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of December 11 and December 18, 2007.
Financial Implications: None
Contact Pamyła Means, City Clerk, 981-6900:
- 6. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days**
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
- 7. Memorandum Of Understanding: Berkeley Police Association**
From: City Manager
Recommendation: Adopt two Resolutions:
1) Approving a new four year Memorandum of Understanding with the Berkeley Police Association (hereinafter referred to as the "Association") with a term of July 1, 2007 through June 25, 2011; authorizing the City Manager to execute and implement the new labor agreement that includes certain adjustments to salaries and benefits retroactive to July 1, 2007 or other dates set forth in the contract;
2) Approving a new salary resolution for Representation Units E and F that implement the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 61,331-N.S.
Financial Implications: See report
Contact: David Hodgkins, Human Resources, 981-6800

Consent Calendar

8. **Contract: NEOGOV Job Applicant Tracking Service**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a contract and any amendments with NEOGOV to provide the City with a job applicant tracking system and service in an amount not to exceed \$45,000 for the period February 1, 2008 through January 31, 2009.

Financial Implications: General Fund - \$45,000

Contact: David Hodgkins, Human Resources, 981-6800

9. **Conservation Easement: Lower Codornices Creek - City of Albany and UC Berkeley**

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing and directing the City Manager to convey a conservation easement to the City of Albany and the University of California for Lower Codornices Creek.

Financial Implications: None

Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

10. **Changing the United States Drug Policy**

From: Peace and Justice Commission

Recommendation:

- 1) Recognize the leadership of Congresswoman Barbara Lee in advocating for reduced military spending by the federal government;
- 2) Declare that United States drug policy should be re-oriented toward programs for demand reduction in the United States and to support the rights of people with the diseases of alcoholism and drug dependency to receive effective treatment;
- 3) Urge Representative Lee to step up her leadership to terminate all military assistance to the Colombian Army, and to re-direct these funds to the United States Department of Health and Human Services for substance abuse prevention, harm reduction, and treatment programs;
- 4) Call for a policy toward Colombia that at its forefront promotes respect for human rights and the rule of law, by conditioning economic aid to the Colombian government on effective action to end impunity for human rights violations and collaboration with paramilitary groups;
- 5) Oppose proposals to expand into Mexico and Afghanistan the failed strategies of aerial fumigation and militaristic approaches to drug trafficking.

Financial Implications: None

Contact: Manuel Hector, Commission Secretary, 981-5400

Consent Calendar

11. Firestone Natural Rubber Company Workers in Liberia

From: Peace and Justice Commission

Recommendation: Join the International Labor Rights Forum, Friends of the Earth, NAACP, TransAfrica Forum, The RFK Memorial Center for Human Rights, and other United States and Liberian based organizations in demanding that the Bridgestone/Firestone Corporation:

- 1) Take responsibility for the situation in Liberia and follow the law;
- 2) Assign achievable quotas for the average worker to negate the use of child laborers;
- 3) Increase wages to raise the standard of living of plantation workers;
- 4) Supply modern tools to protect workers on the job from coming into contact with harmful chemicals;
- 5) Redress all environmental damages as a result of its Liberian operations;
- 6) Stop releasing chemicals into the environment and stop exposing workers to any compounds and chemicals that are internationally recognized as most toxic;
- 7) Fully disclose all key project payments, contracts, and concession agreements for all Firestone projects in Liberia.

Financial Implications: None

Contact: Manuel Hector, Commission Secretary, 981-5400

12. Marine Recruiting Office in Berkeley

From: Peace and Justice Commission

Recommendation:

- 1) Direct the City Attorney to investigate and report back to Council within 60 days on City options for enforcing Chapter 13.28 of the Berkeley Municipal Code, prohibiting discrimination on the basis of sexual orientation, with respect to military recruiting offices in Berkeley;
- 2) Direct the City Manager to send letters to the Marine Corps Recruiting Station at 64 Shattuck Avenue and to General James T. Conway, Commandant of the United States Marine Corps, advising them that the Marine recruiting office is not welcome in our city, and if recruiters choose to stay, they do so as uninvited and unwelcome intruders;
- 3) Encourage all people to avoid cooperation with the Marine Corps recruiting station, and applaud residents and organizations such as Code Pink, that may volunteer to impede, passively or actively, by nonviolent means, the work of any military recruiting office located in the City of Berkeley.

Financial Implications: See report

Contact: Manuel Hector, Commission Secretary, 981-5400

13. Withdrawal of California National Guard Troops from Iraq

From: Peace and Justice Commission

Recommendation: Call upon the Governor of California to demand that the President and Congress take immediate steps to withdraw California National Guard troops from Iraq now, and urge the California State Assembly and Senate to introduce legislation calling upon the prompt return of the California National Guard from Iraq.

Financial Implications: None

Contact: Manuel Hector, Commission Secretary, 981-5400

Council Consent Items

- 14. Enforcement Of Lying In Public Spaces And Implementation Policy**
From: Councilmembers Maio and Capitelli
Recommendation: Refer to City Manager the request that staff review and suggest implementation of a policy that would require no (or low) enforcement of (647j) at night if no shelter beds are available, and if available enforcement would involve offering a shelter bed and would include transportation to the bed funded via taxi scrip for those homeless individuals who opt for a bed.
Financial Implications: To be determined
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 15. Permit Waiver and Parking Space Designation Request for Code Pink**
From: Councilmembers Maio and Anderson
Recommendation: Approve the waiver of a sound permit (\$36) every Wednesday from 12:00 pm - 4:00 pm for the next six (6) months (February 6, 2008 - July 30, 2008) and designate one (1) parking space on Shattuck directly in front of the Military Recruiting Station at 64 Shattuck Square for Code Pink. It is recommended that Council approve the permanent tagging of the one parking spot and designate it with signage "No Parking from 12:00 pm - 4:00 pm every Wednesday," for six (6) months from approval of this request, and that Code Pink be allowed permission for one table and chairs that may not obstruct the 10-foot access for public-right-of-way.
Financial Implications: See report
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 16. Midyear Budget Referral: Bicycle Safety Signs - University from 6th Street to Sacramento Street**
From: Councilmembers Moore and Maio
Recommendation: Install Bicycle Safety Signs, similar to those along Telegraph Ave. and Shattuck Ave., on the North and South sides of University Avenue from 6th Street to Sacramento Street.
Financial Implications: To be determined
Contact: Darryl Moore, Councilmember, District 2, 981-7120
- 17. Pedestrian Safety; Current Statistical Data and Recommendations**
From: Councilmembers Capitelli, Spring and Olds
Recommendation: Request the City Manager direct staff to:
1) Provide Council with pedestrian and bicycle collision data for the years 2004 to the present; and
2) Review the May 2000 "Bicycle and Pedestrian Safety Report" and return to Council with an update and strategies on how the 2000 pedestrian-related recommendations can and be further implemented in light of current data.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Council Consent Calendar

- 18. Wind Turbines and Bird Deaths**
From: Councilmember Olds
Recommendation: Direct the City Manager to write letters to both the Alameda County Board of Supervisors and the Alameda County Planning Department, expressing the Berkeley City Council's concerns about the number of bird deaths as a result of wind turbines in the Altamont Pass.
Financial Implications: None
Contact: Betty Olds, Councilmember, District 6, 981-7160
- 19. Condemn Construction of Border Wall - United States and Mexico Border**
From: Councilmember Worthington
Recommendation: Condemn the construction of a border wall along the international boundary zone connecting the United States of Mexico and the United States of America.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 20. Reaffirmation - U.S. Record of the Armenian Genocide**
From: Councilmember Worthington
Recommendation: Adopt a resolution calling upon the House of Representatives to schedule a vote on House Resolution 106, which reaffirms the U.S. record of the Armenian Genocide.
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 – Public Hearing

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and 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.

21. ZAB Appeal: 161 Panoramic Way

a. From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adopting the revised mitigated negative declaration and approve Use Permit No. 04-10000145 to construct a new single family dwelling at 161 Panoramic Way, with modified conditions of approval.

Financial Implications: None

b. Appeals

1. Panoramic Hill Association
2. Regula Muller

c. Communications (Received after November 6, 2007)

1. Blanche Sack

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

22. Parking Meter and Pay-and-Display Station Fees (To be delivered)

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC), Section 14.52.120, Parking Meter and Pay-and-Display Station Fees, to increase the rate to \$1.25 per hour; and amending Section 14.52.110, Use of Money Deposited in Parking Meters and Pay-and-Display Stations, to allow transfer of excess revenue to the General Fund for program costs associated with the Public Commons for Everyone Initiative (PCEI).

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

Action Calendar – New Business

23. Chevron Corporation

Select a or b

a. From: City Manager

Recommendation: Adopt a policy directing City staff, where practical, to cease purchases from Chevron Corporation.

Financial Implications: See report

Contact: Fred Medrano, Health and Human Services, 981-5100

b. From: Peace and Justice Commission

Recommendation: Direct the City Manager to report to the City Council as soon as possible what, if any, is the nature of the City of Berkeley business with Chevron Corporation, and that the City of Berkeley cease all purchases from Chevron.

Financial Implications: See report

Contact: Manuel Hector, Commission Secretary, 981-5100

Action Calendar – New Business

24. **Citizen Participation Plan** *(To be delivered)*
From: City Manager
Recommendation: Adopt a Resolution to rescind and re-adopt the Citizen Participation Plan of the Berkeley Consolidated Plan for Housing and Community Development, 2005-2010, and authorize the City Manager to incorporate the newly-adopted Citizen Participation Plan into the Consolidated Plan.
Financial Implications: See report
Contact: Renelda Mary, Housing, 981-5400
25. **Evidence Theft Issues within the Berkeley Police Department**
Select a or b
a. From: City Manager
Recommendation: Approve the Police Department's response plan to the Police Review Commission's report on evidence theft issues as described in this report. Request that the City Manger report back to council in September 2008 on the implementation of the response plan.
Financial Implications: None
Contact: Douglas N. Hambleton, Police, 981-5900
- b. From: Police Review Commission**
Recommendation: Approve the Police Review Commission's (PRC) Evidence Theft Policy Report and recommendations. Request that the Chief of Police report back to Council in September 2008 on the completion and implementation of the PRC recommendations.
Financial Implications: Unknown
Victoria Urbi, Commission Secretary, 981-4960
26. **Project and Program Submittals for 2008 Alameda Countywide Transportation Plan and 2009 Regional Transportation Plan**
Recommendation: Adopt a Resolution authorizing the City Manager to submit a list of projects and programs, consistent with City Council direction as advised by the Transportation Commission, to the 2008 Alameda Countywide Transportation Plan for submission to the Metropolitan Transportation Commission's 2009 update of the Regional Transportation Plan 2035.
Financial Implications: See report
Claudette Ford, Public Works, 981-6300

Action Calendar – Council Items

27. Medical Cannabis Sanctuary Resolution and Opposing U.S. DEA Dispensary Raids

From: Councilmembers Worthington and Moore

Recommendation:

- 1) Adopt a Resolution opposing the attempts by the U.S. Drug Enforcement Administration to close medical marijuana dispensaries, and declaring the City of Berkeley as a sanctuary for medicinal cannabis use, cultivation, and distribution that complies with State law and local ordinances in the event that the U.S. Drug Enforcement Administration (DEA) closes one or more of Berkeley's regulated medical cannabis dispensaries (MCDs).
- 2) Direct the Berkeley Police Department and the City Attorney's office not to cooperate with DEA investigations of, raids upon, or threats against physicians, individual patients or their primary caregivers, and medical cannabis dispensaries and operators who are operating in accordance with California state law and local ordinances, and
- 3) Direct the City Clerk to send letters to the Alameda County District Attorney, the Alameda County Sheriff's Department, and the State Attorney General requesting that they not assist in the harassment, arrest or prosecution of physicians, individual patients or their primary caregivers, and medical cannabis dispensaries and operators attempting to comply with section 11362.5 of the California Health and Safety Code; and send a letter to Governor Arnold Schwarzenegger urging him to defend the more than 200,000 California patients who rely on medical cannabis, and to prevent any further interference by the federal Drug Enforcement Administration in the successful implementation of state law.
- 4) Schedule a special workshop on the status of medical marijuana locally and statewide that includes reports from dispensary operators, patients, medical marijuana policy experts, the Berkeley Police Department, Health and Human Services Department, and Planning Department.

Financial Implications: None

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Information Reports

28. Contract: Vector Control Services

From: Health and Human Services

Contact: Fred Medrano, Health and Human Services, 981-5100

29. Audit: Residential Rental Inspection Program

From: City Manager

Contact: Renelda Mary, Housing, 981-5400

Information Reports

30. Volunteer Clean-up of Bay Trail

From: City Manager

Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700

31. SMART 911

From: Disaster and Fire Safety Commission

Contact: Donna McCracken, Commission Secretary, 981-5580

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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2180 Milvia Street

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.

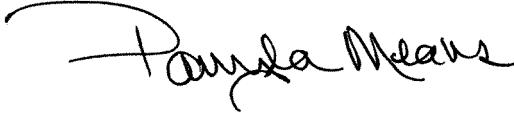
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

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 24, 2008.



Pamyla Means, MMC, City Clerk

## **Communications – 01/29/08**

*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.*

### **Operating Standards for Alcohol Outlets and Fee Options**

1. Anna de Leon
2. Andy & June Lee

### **Warm Water Pool at the Berkeley High School Milvia Street Site**

3. Michael Wilson
4. Jerry Landis

### **Declining Atmosphere in South Berkeley**

5. Robin Wright