

AGENDA



BERKELEY CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 29, 2009

7:00 P.M.

Council Chambers – 2134 Martin Luther King Jr. Way

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNAK

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Deanna Despain, CMC, 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. Repeal and Reenactment of Berkeley Municipal Code Chapter 9.32 (Regulation of Massage Parlor Establishments)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,106–N.S. repealing and reenacting Chapter 9.32 of the Berkeley Municipal Code (BMC).
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Zach Cowan, City Attorney's Office, 981-6950

- 2. Lease Amendment: 1013 Pardee Street No. 105**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,107–N.S. to amend Contract 7472, approved by Ordinance No. 7,001-N.S., to increase expenditure authority for warehouse property lease at 1013 Pardee Street No. 105, for the period covering October 1, 2009 to September 30, 2010 to an amount not to exceed \$166,800.00.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Debra Pryor, Fire, 981-3473

Consent Calendar

3. **Repeal and Re-enact BMC Section 17.12 - Flood Zone Development Ordinance and Rescind Ordinance 7,104**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,108–N.S. to repeal and reenact Section 17.12 of the Berkeley Municipal Code regulating flood zone development, to comply with current National Flood Insurance Program requirements and rescind Ordinance 7,104-N.S.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Claudette Ford, Public Works, 981-6300
4. **Contract No. 7743 Amendment: Project Management for Citywide Pools Master Plan Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment with Tina Stott (Contract No. 7743) for project management of the Citywide Pools Master Plan Project, to increase the amount by \$35,000 for a total amount not to exceed \$110,000 for the period of September 24, 2008 through September 24, 2010.
Financial Implications: See report
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700
5. **Grant and Contract: 2009 Recovery Act Edward J. Byrne Memorial Justice Assistance Grant Local Solicitation (ARRA JAG)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept \$285,168 in Federal funds from the 2009 Edward J. Byrne Memorial Justice Assistance Grant Local Solicitation (ARRA JAG) to be used for funding costs associated with crime and violence suppression patrols related to serious violent crimes for a period of approximately 36 months.
Financial Implications: Revenue: JAG Grant - \$285,168
Contact: Douglas N. Hambleton, Police, 981-5900
6. **Grant and Contract: 2009 Edward J. Byrne Memorial Justice Assistance Grant (JAG)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept \$69,374 in Federal funds from the 2009 Edward J. Byrne Memorial Justice Assistance Grant (JAG) to be used for funding overtime costs associated with violence suppression patrols related to serious violent crimes for a period of approximately 24 months.
Financial Implications: JAG Grant Fund - \$69,374
Contact: Douglas N. Hambleton, Police, 981-5900
7. ****Removed from Agenda by City Manager**Purchase Orders: Trillium USA for Compressed Natural Gas for FY 2010 Through FY 2014**

Consent Calendar

8. **Contract: Alta Planning + Design for Architectural and Engineering Services for the Ninth Street Bicycle Boulevard Extension Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Alta Planning + Design in an amount not to exceed \$147,000 to provide architectural and engineering design services for the Ninth Street Bicycle Boulevard Extension project for the period October 1, 2009 through October 1, 2011.
Financial Implications: See report
Contact: Claudette Ford, Public Works, 981-6300

Council Consent Items

9. **Support of Congo Week October 18-24, 2009**
From: Councilmembers Anderson and Moore
Recommendation: Adopt a Resolution supporting Congo Week for the Bay Area Friends of the Congo (BAFOTC) in the City of Berkeley.
Financial Implications: None
Contact: Max Anderson, Councilmember, District 3, 981-7130
10. **Amnesty for Late Renewal Penalties for Dog Licenses**
From: Councilmember Arreguin and Wengraf
Recommendation: Adopt a Resolution approving the waiving of late renewal penalties for Berkeley dog licenses during the month of October 2009 as part of Animal Shelter Awareness Month.
Financial Implications: See report
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
11. **Support For The People Of Iran In The Wake Of The National Election Of June 13, 2009**
From: Councilmember Arreguin and Anderson
Recommendation: Adopt a Resolution expressing support for the people of Iran in the wake of the national election of June 13, 2009.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
12. **Establishing the City of Berkeley as Tree City USA**
From: Councilmember Capitelli
Recommendation: Request that the Parks and Recreation Commission review the criteria and process for becoming a Tree City USA through the national Arbor Day Foundation, and return to the Berkeley City Council by their first meeting in January with a recommendation and resolution in time for California State Arbor Day, March 7 through 14.
Financial Implications:
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Council Consent Items

13. **Parking Modification on Telegraph Avenue**
From: Councilmembers Worthington and Wozniak
Recommendation: Refer to City Manager the Telegraph Business Improvement District request that the City approve yellow zone parking on Telegraph Avenue be available for short-term parking from 6p.m. to 6a.m.
Financial Implications: See report
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
14. **Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds to Telegraph Business Improvement District**
From: Councilmember Worthington
Recommendation: Adopt a Resolution to approve the expenditure of \$2,000 to the Telegraph Business Improvement District with funds relinquished from Councilmember Worthington's discretionary budget
Financial Implications: Councilmember Worthington's Discretionary Budget - \$2,000
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.

15. **New Revenue Related to Parking Programs**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of two Ordinances to amend Berkeley Municipal Code (BMC) Chapter 14.52, Parking Meters to:
1. Increase the parking rate by 25¢ to \$1.50 per hour effective November 15, 2009 by amending BMC Section 14.52.120.

Action Calendar – Public Hearing

2. Expand locations of Single-Space Parking Meters and Pay-and-Display (P&D) Stations to commercial parking areas in Districts 1, 2, and 3 that currently have time zones, by amending BMC Section 14.52.010.

Financial Implications: See report

Contact: Claudette Ford, Public Works, 981-6300

Action Calendar – Appeals

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment.

16. **LPC Appeal: 2525 Telegraph Avenue** (continued from September 22, 2009)

From: City Manager

Recommendation: Adopt a Resolution to affirm the decision of the Landmarks Preservation Commission (LPC) to designate 2525 Telegraph Avenue as a City of Berkeley Landmark; or remand the matter back to the LPC to clarify the designation.

Financial Implications: None

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

Action Calendar – Old Business

17. **Increase the Percentage of Inclusionary Housing Ordinance in Berkeley**

(continued from September 22, 2009)

From: Councilmembers Worthington, Anderson, Arreguin and Moore

Recommendation: Refer to the Planning Commission as a time sensitive issue to consider strengthening the Inclusionary Housing Ordinance, including looking at raising it to 25 percent citywide.

Financial Implications: Unknown

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

Action Calendar – New Business

18. **Borrowing of Funds and the Sale and Issuance of FY 2010 Tax and Revenue Anticipation Notes**

From: City Manager

Recommendation: Adopt a Resolution approving the borrowing of \$25,000,000 and the sale and issuance of Fiscal Year 2010 Tax and Revenue Anticipation Notes.

Financial Implications: See report.

Contact: Robert Hicks, Finance, 981-7300

Action Calendar – New Business

19. United Nations Treaty Reports

From: Peace and Justice Commission

Recommendation: The Peace and Justice Commission adopted the following recommendation:

1. That the Berkeley City Council affirm the value of localities complying with relevant UN Treaty recommendations;
- 2 That the Council direct the City Manager to direct City Departments to provide data on City of Berkeley compliance with standards set forth in these treaties to UN Reports Subcommittee members;
- 3 That the Council direct the City Clerk to send a letter to Secretary of State Hillary Clinton with copies to President Barack Obama and UN Ambassador Susan Rice urging compliance with the reporting recommendations of the three UN Treaties for reports from the local level;
- 4 That the Council direct the City Clerk to send the City of Berkeley reports, when completed, with a cover letter to the following: Alameda County Board of Supervisors, the State of California Attorney General, the US State Department, The League of California Cities; the National League of Cities, the California Association of Counties, The Association of State Attorneys General.

The UN Human Rights Committee (ICCPR) (the U.S. report is due August 8, 2010), UN Committee on the Elimination of Racial Discrimination (CERD) (the U.S. report is due November 20, 2011), UN Committee Against Torture (CAT) (the U.S. report is due November 19, 2011).

Financial Implications: Unknown. Additional staff resources to be determined.
Contact: Eric Brenman, Commission Secretary, 981-5100

Action Calendar – Council Items

20. Refer AC Transit Suggestions to the Transportation Commission

From: Councilmember Worthington

Recommendation: Refer the following suggestions, which are designed to improve transit in designated areas and throughout the city, to the Transportation Committee for review and recommendation:

1. Explore future site locations for the development and implementation of a Multi-Modal Transit Center: Other cities have successfully created such centers. It may become necessary to site and develop a location for a layover location that could ultimately serve as a Transit Center for the Downtown core. To date, no project exists in either the Regional Transportation Plan or AC Transit's Capital Improvement Plan.
2. Implement a "Complete Streets" concept by developing paths of pedestrian travel from bus stops because every passenger completes their trip by walking to their final destination.
3. Using fees from developers, work with AC Transit to develop investments in transit service to off-set the additional VMT.
4. Prioritize transit operation during major events, like sporting games, by operating transit-only lanes in peak directions of travel.
5. Prioritize programs and policies that will allow AC Transit to improve transit reliability and shorten travel times. Responsibility for implementation should be shifted from the transit provider to cooperation with the transit provider and the City.

Council Action Calendar

6. Develop a group of policies to provide safe, adequate transit operations. Safe and accessible transit operation should be a very high priority. The design of bus stops and turn motions should be guided by publications such as AC Transit's handbook, *Designing with Transit*. Efforts to minimize parking loss can be considered, but should not be prioritized over safety and accessibility, since Berkeley is a Transit First City
7. Collaborate with AC Transit to obtain funds to improve services to poorly served neighborhoods.

Financial Implications: Unknown

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

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 an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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 Zoning Adjustments Board decision, 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.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.ci.berkeley.ca.us/video> and KPFB Radio 89.3. Archived indexed video streams are available at <http://www.ci.berkeley.ca.us/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.ci.berkeley.ca.us/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
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.

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 September 24, 2009.

A handwritten signature in black ink, appearing to read 'Deanna Despain'.

Deanna Despain, CMC, City Clerk

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.

Downtown Area Plan

1. Anthony Bruzzone
2. Fred Dodsworth