

**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING  
TUESDAY, FEBRUARY 12, 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

## **Preliminary Matters**

**Roll Call:** 7:03 p.m. All present.

**Ceremonial Matters:** None.

**City Manager Comments:** February is Black History Month. A Special celebration will be held on Saturday, February 23, 2008 at the South Berkeley Senior Center.

**Public Comment on Non-Agenda Matters:** 0

**Public Comment – Consent Calendar and Information Items Only:** 0

## **Consent Calendar**

**Action:** M/S/C (Anderson/Moore) to adopt Consent Calendar in one motion except as indicated: Item No. 7 (Retroactive Houseboat Billing), Item No.15 (Condemn Construction of Border Wall), and Item No. 17 (Freedom to Marry Month) continued to February 26, 2008; Item No. 26 moved to Consent.

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

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,017–N.S. 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.

**First Reading Vote:** All Ayes

**Financial Implications:** None

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

**Action:** Adopted second reading of Ordinance No. 7,017–N.S.

## Consent Calendar

- 2. Parking Meter and Pay-and-Display Station Fees**  
**From: City Manager**  
**Recommendation:** Adopt second reading of an Ordinance No. 7,018–N.S. 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).  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Adopted second reading of Ordinance No. 7,018–N.S.
- 3. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of December 17, 2007(special closed), January 7, 2008 (special) and January 15, 2008 (regular),  
**Financial Implications:** None  
Contact: Pamyla Means, City Clerk, 981-6900  
**Action:** Approved minutes as submitted.
- 4. Formal Bid Solicitation and Request for Proposals**  
**From: City Manager**  
**Recommendation:** Approve the attached 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  
**Action:** Approved recommendation.
- 5. Approval of Additional Funds for Permanent Financing for University Avenue Senior Housing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to approve the allocation of an additional \$200,000 from the City’s Housing Trust Fund to the University Avenue Senior Housing project for permanent financing and authorize the City Manager to amend the existing development loan agreement for the previously approved \$1.9 million loan to reflect the new loan amount of \$2.1 million.  
**Financial Implications:** General Fund - \$200,000  
Contact: Rae Mary, Interim Director, Housing  
**Action:** Adopted Resolution No. 63,968–N.S.

## Consent Calendar

- 6. Side Letter of Agreement with IBEW Local 1245**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with the International Brotherhood of Electrical Workers (IBEW) Local 1245 to modify Section 35 (Grievances) of the Memorandum Agreement.  
**Financial Implications:** None.  
Contact: David Hodgkins, Human Resources, 981-6800  
**Action:** Adopted Resolution No. 63,969–N.S.
- 7. Retroactive Houseboat Billing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution amending the Marina Fee Resolution for FY 2007 (63,354–N.S.) and FY 2008 (63,777–N.S.) to reduce all fees owed by Houseboat owners in the Berkeley Marina during the construction period for the new H & I docks (March thru September 2007) by forty percent (40%) and to retroactively bill for the balance (sixty percent - 60%) via an 18 month interest free payment plan.  
**Financial Implications:** \$35,647 in revenue to Marina Fund  
Contact: William Rogers, Parks, Recreation and Waterfront, 981-6700  
**Action:** Continued to February 26, 2008.
- 8. 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  
**Action:** Adopted first reading of Ordinance No. 7,019–N.S. Second reading scheduled for February 26, 2008.
- 9. ZAB Appeal: 161 Panoramic Way (Continued from January 29, 2008)**  
**From: City Manager**  
**Recommendation:** Continue public hearing to March 11, 2008.  
**Financial Implications:** None  
Contact: Dan Marks, Planning and Development, 981-7400  
**Action:** Approved recommendation.

## Consent Calendar

- 10. Increase Expenditure Authorization for Refuse and Recycling Carts**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase the authorized amount from \$400,000 to \$485,000 for the purchase of curbside refuse and recycling carts from Otto Industries and Rehrig Pacific Company in Fiscal Years 2005 through 2008.  
**Financial Implications:** See report  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,970–N.S.
- 11. Contract No. 6833 Amendment: Urban Ore for Recycling Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 6833 with Urban Ore for salvage of reusable items at the City's transfer station, increasing the amount by \$10,000 for a total amount not to exceed \$67,500 for the period July 1, 2005 to June 30, 2008.  
**Financial Implications:** \$10,000 Refuse Fund  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Adopted Resolution No. 63,971–N.S.

## Council Consent Items

- 12. United Nations Association 8th Annual Traveling Film Festival**  
**From: Mayor Bates**  
**Recommendation:** Co-sponsor the United Nations Association 8<sup>th</sup> Annual Traveling Film Festival scheduled for February 23-25, 2008.  
**Financial Implications:** See report  
Contact: Tom Bates, Mayor, 981-7100  
**Action:** Approved recommendation.
- 13. Budget Referral: Our Family Coalition**  
**From: Councilmember Moore**  
**Recommendation:** Refer the following to the midyear budget process: A one-time request for \$20,000 for Our Family Coalition to leverage other funding sources to implement their Schools Program.  
**Financial Implications:** See report  
Contact: Darryl Moore, Councilmember, District 2, 981-7120  
**Action:** Approved recommendation.
- 14. Budget Referral: Restore Electricity to Aquatic Park EGRET's Cabin**  
**From: Councilmember Moore**  
**Recommendation:** Refer the following to the FY2008-2009 budget process: A request for \$15,000 to be used to pay for equipment and services related to restoring electricity to the Aquatic Park EGRET cabin.  
**Financial Implications:** See report  
Contact: Darryl Moore, Councilmember, District 2, 981-7120  
**Action:** Approved revised recommendation to refer the following to the FY2008-2009 budget process: a request for \$15,000 to be used to pay for equipment and services related to restoring electricity to the Aquatic Park EGRET cabin with the condition that the Aquatic Park EGRET has a lease with the City that is mutually agreed upon.

## Council Consent Items

- 15. Condemn Construction of Border Wall - United States and Mexico Border**  
**From: Councilmember Worthington**  
**Recommendation:** Adopt a Resolution condemning 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  
**Action:** Continued to February 26, 2008.
- 16. Proclamation: February 2008 as Freedom to Marry Month**  
**From: Councilmembers Worthington and Moore**  
**Recommendation:** Adopt a Proclamation declaring February 2008 as Freedom to Marry Month in the City of Berkeley and urge the state to end discrimination against lesbian, gay, bisexual, and transgendered people and their families by removing references to sex and gender as eligibility requirements for a civil marriage license and enacting a law providing for equal access to marriage and all of its legal benefits and obligations by all persons, regardless of sex, gender identity or sexual orientation.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Approved recommendation.
- 17. Letter To Canadian Officials Requesting Sanctuary For U.S. War Resisters**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to Canadian Prime Minister Stephen Harper, Minister of Citizenship and Immigration Diana Finley and Liberal Party leader Stephane Dion requesting that the government of Canada establish provisions to provide sanctuary for U.S. military service members who are living in Canada to resist fighting in the Iraq War.  
**Financial Implications:** See report  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Continued to February 26, 2008.
- 18. Enforcement Of Agricultural Workplace Safety Laws**  
**From: Councilmember Worthington**  
**Recommendation:** Send a letter to Governor Arnold Schwarzenegger asking existing agricultural workplace safety laws be strongly enforced.  
**Financial Implications:** None  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Send a letters to Assemblywoman Loni Hancock, Assemblyman Don Perata and Governor Arnold Schwarzenegger asking existing agricultural workplace safety laws be strongly enforced.

## Action Calendar – Appeals

### 19. ZAB Appeal: 1050 Parker Street

#### a. From: City Manager

**Recommendation:** Adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Use Permit No. 07-10000118 to allow the demolition of four adjacent storage buildings and one metal shed (Buildings A, B, C, D, and E) with approximately 25,540 square feet of floor area.

**Financial Implications:** None

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

**Action:** M/S/C (Olds/Wozniak) to adopt Resolution No. 63,972–N.S. Vote: (Ayes-Moore, Capitelli, Olds, Wozniak, Bates; Noes-Worthington; Abstain-Maio, Anderson)

## Action Calendar – New Business

### 20. Quarterly Report: Crime in Berkeley

#### From: City Manager

**Recommendation:** Presentation on crime report and crime reduction strategies.

**Financial Implications:** None

Contact: Douglas N. Hambleton, Police, 981-5900

**Action:** Continued to February 26, 2008.

### 21. FY 2008 Second Quarter Budget Update

#### From: City Manager

**Recommendation:** Adopt a resolution to

1. Set aside anticipated, one-time General Fund revenue of \$1,500,000 for specific one-time expenditures:

- \$1 million for the Animal Shelter reconstruction project, and
- \$500,000 for the Ed Roberts Campus - City of Berkeley contribution;

2. Defer any new one-time or recurring costs for consideration during the FY 2009 Mid-Biennial Budget Update; and

3. Identify a specific project for Proposition 1B Transportation Bond funding in the amount of \$1.7M and amend the FY 2008 budget to include this project.

**Financial Implications:** See report

Contact: Tracy Vesely, Budget Manager, 981-7000

**Action:** Presentation made and discussion held. M/S/C (Moore/Worthington) to continue to February 26, 2008.

### 22. Proposed Condo Conversion Ordinance, BMC Chapter 21.28

#### From: City Manager

**Recommendation:** Adopt first reading of an ordinance repealing and re-enacting Chapter 21.28 of the Berkeley Municipal Code regulating conversion of rental units to condominiums.

**Financial Implications:** See report

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

**Action:** Continued to February 26, 2008.

## Action Calendar - Council Items

### 23. Nuisance Abatement Against Pacific Steel Casting, 1333 Second Street

**From: Councilmember Maio and Mayor Bates**

**Recommendation:** Refer to the Zoning Officer initiation of nuisance abatement or other appropriate proceedings with respect to plants 1-3 at Pacific Steel Casting, 1333 Second Street, on the basis of odors.

**Financial Implications:** See report

Contact: Linda Maio, Councilmember, District 1, 981-7110

**Action:** M/S/C (Maio/Wozniak) to refer to Agenda Committee a referral to the Zoning Officer initiation of nuisance abatement or other appropriate proceedings with respect to plants 1-3 at Pacific Steel Casting, 1333 Second Street, on the basis of odors, and to pursue an agreement between the City and Pacific Steel Casting.

**RECESS 8:25 p.m. – 8:35 p.m.**

### 24. Cell Phone Antenna Equipment Purchase and Moratorium

**From: Councilmembers Spring and Anderson, Mayor Bates**

**Recommendation:** Refer to the City Manager:

- 1) Request for purchase RF Radiation Measurement Equipment and measure radiation levels prior to the installation of the antennas and every six months thereafter. An increase could occur if Verizon/Nextel decide they need more strength or because of malfunctioning equipment;
- 2) Provide staff training to operate the equipment;
- 3) Establish a moratorium on the issuance of further antenna permits until modifications of the current ordinance are in place.

**Financial Implications:** See report

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

**Action:** M/S/C (Maio/Anderson) to refer to the City Manager:

- 1) Request for purchase RF Radiation Measurement Equipment and measure radiation levels prior to the installation of the antennas and every six months thereafter. An increase could occur if Verizon/Nextel decide they need more strength or because of malfunctioning equipment;
- 2) Provide staff training to operate the equipment;
- 3) Establish a moratorium on the issuance of further antenna permits until modifications of the current ordinance are in place; and
- 4) Exploration of an agreement with cellular phone companies regarding location of cell towers away from residential areas as much as possible.

Vote: (Ayes: Maio, Moore, Anderson, Spring, Capitelli, Worthington, Bates; Noes-Wozniak; Abstain-Olds)

**RECESS: 9:30 p.m. – 9:39 p.m.**

## Action Calendar – Council Items

**25. Reiteration of Berkeley's Opposition to the Iraq War and Clarification of the City's Support for the Men and Women who Voluntarily Serve this Country in the Military  
From: Councilmembers Olds and Capitelli**

**Recommendation:**

- 1) That the City Council, through adoption of this item, publicly differentiate between the City's documented opposition to the unjust and illegal war in Iraq and our respect and support for those serving in the armed forces.
- 2) Rescind point 2 of Item 12, of the January 29, 2008 Berkeley City Council Agenda, "Marine Recruiting Office in Berkeley," regarding communications with the Marine Recruiting Station in Berkeley.

**Financial Implications:** None

Contact: Betty Olds, Councilmember, District 6, 981-7160

**Action:** M/S/C (Maio/Moore) to

- 1) Accept Councilmembers Olds' and Capitelli's recommendation to publicly differentiate between the City's documented opposition to the unjust and illegal war in Iraq and our respect and support for those serving in the armed forces, and
- 2) Accept the following statement submitted by Mayor Bates, and Councilmembers Anderson, Maio and Moore:

Given the confusion about the Council's action on January 29, 2008, a strong statement of the Berkeley City Council's position regarding the Marine Recruiting Station is needed. The City of Berkeley and the citizens of Berkeley are strongly opposed to the war in Iraq. The war has resulted in over 4,000 soldiers killed, tens of thousands wounded in body and spirit, hundreds of soldier suicides, and millions of Iraqi people killed, injured and displaced from their homes. In addition, the hundreds of billions of dollars spent on this deeply immoral war could have been spent to meet the needs of our people and to strengthen our economy. We recognize the recruiter's right to locate in our city and the right of others to protest or support their presence. We deeply respect and support the men and women in our armed forces. However, we strongly oppose the war and the continued recruitment of our young people into this war.

With the issuance of this statement there is no need to send the letter to the Marine Corps that the City Council approved on January 29, 2008.

Vote: (Ayes: Maio, Moore, Anderson, Spring, Capitelli, Worthington, Bates; Noes – Olds, Wozniak).

**RECESS: 11:19 p.m. – 11:28 p.m.**

M/S/C (Anderson/Capitelli) to extend meeting to 12:00 a.m.

M/S/C (Maio/Worthington) to extend meeting to 12:30 a.m.

M/S/C (Maio/Worthington) to extend meeting to 1:00 a.m.

M/S/C (Maio/Capitelli) to extend meeting to 1:15 a.m.

## Action Calendar – Council Items

26. **Sponsorship of 2008 Bike to Work Day**  
**From: Councilmember Worthington**  
**Recommendation:** Approve the allocation of \$5,000 to the East Bay Bicycle Coalition to officially sponsor 2008 Bike to Work Day and to help in promoting the event and other bicycling activities.  
**Financial Implications:** Measure B and Pedestrian Funds - \$5,000  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Moved to Consent Calendar and approved Councilmember Worthington's recommendation to approve the allocation of \$5,000 to the East Bay Bicycle Coalition to officially sponsor 2008 Bike to Work Day.

## Information Reports

27. **LPC NOD: 2600 Durant Ave**  
**From: City Manager**  
Contact: Dan Marks, Planning and Development, 981-7400  
**Action:** Received and filed.
28. **Acquisition of 9th Street Drill Track**  
**From: City Manager**  
Contact: Claudette Ford, Public Works, 981-6300  
**Action:** Received and filed.

## Public Comment – Including Items Not Listed on the Agenda – 0

**Adjournment – 1:06 a.m.** in honor of Tim Davis, Bob Nesmeth and Congressman Tom Lantos

## Communications – 02/12/08

### Item 19: ZAB Appeal: 1050 Parker Street

1. Rick Auerbach

### Item 23: Nuisance Abatement Against Pacific Steel Casting, 1333 Second Street

2. Matt Smith
3. Sean Yokomizo, on behalf of Jason Allen

### Item 24: Cell Phone Antenna Equipment Purchase and Moratorium

4. Peter Teichner

### Item 25: Reiteration of Berkeley's Opposition to the Iraq War and Clarification of the City's Support for the Men and Women who Voluntarily Serve this Country in the Military

- Voluminous correspondence on file and available for viewing in the City Clerk's Office

### 1441 Ashby Avenue – Bio-diesel Oasis

5. Leo Stegman

### Medical Marijuana

6. Jay Fleming

## Communications

### **Support for Warm Water Pools**

7. Pools for Berkeley

### **Pedestrian/Bicycle Stings**

8. Bakari Kafele
9. Jason Meggs

### **Safety Concerns**

10. woolseykitty@\*\*\*com

## Supplemental Communications and Reports 1

### **Item 15: Condemn Construction of Border Wall - United States and Mexico Border**

11. Barbara Gilbert

### **Item 23: Nuisance Abatement Against Pacific Steel Casting, 1333 Second Street**

12. Rome Aloise, Teamsters Local 853
13. L A Wood (3)
14. Lee Lewis, Acme Casting, Inc.
15. Andrew Galpern (2)
16. Meryl Siegal
17. Nicolie Bolster
18. Carol Sutton
19. Janice Schroeder, West Berkeley Alliance for Clean Air and Safe Jobs
20. Joe Emmerichs, Pacific Steel Casting Company

### **Item 25: Reiteration of Berkeley's Opposition to the Iraq War and Clarification of the City's Support for the Men and Women who Voluntarily Serve this Country in the Military**

- Voluminous correspondence on file and available for viewing in the City Clerk's Office

## Supplemental Communications and Reports 2

### **Item 14: Budget Referral: Restore Electricity to Aquatic Park EGRET's Cabin**

- Revised materials, submitted by Councilmember Moore

### **Item 21: FY 2008 Second Quarter Budget Update**

- Revised materials and presentation, submitted by Finance

### **Item 23: Nuisance Abatement Against Pacific Steel Casting, 1333 Second Street**

21. Ye Lian Li
22. Joshua Headley
23. Peter Guerrero

### **Item 25: Reiteration of Berkeley's Opposition to the Iraq War and Clarification of the City's Support for the Men and Women who Voluntarily Serve this Country in the Military**

- Voluminous correspondence on file and available for viewing in the City Clerk's Office