

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

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. 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

- 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

Consent Calendar

3. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of December 17, 2007 (special closed), January 15, 2008 (regular), (special closed).

Financial Implications: None

Contact: Pamyla Means, City Clerk, 981-6900

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

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

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

7. Retroactive Houseboat Billing (*To be delivered*)

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

Consent Calendar

- 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
- 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
- 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
- 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

Council Consent Items

- 12. United Nations Association 8th Annual Traveling Film Festival**
From: Mayor Bates
Recommendation: Co-sponsor the United Nations Association 8th Annual Traveling Film Festival scheduled for February 23-25, 2008.
Financial Implications: See report
Contact: Tom Bates, Mayor, 981-7100

Council Consent Items

- 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
- 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
- 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
- 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
- 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

Council Consent Items

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 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 – 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 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 Calendar – New Business

21. **FY 2008 Second Quarter Budget Update** (*To be delivered*)
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
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 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
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 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
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

Information Reports

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

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.*

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.

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.

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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 February 7, 2008.**

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

Pamyla Means, MMC, City Clerk

## Communications – 02/12/08

*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 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

**Support for Warm Water Pools**

7. Pools for Berkeley

**Pedestrian/Bicycle Stings**

8. Bakari Kafele
9. Jason Meggs

**Safety Concerns**

woolseykitty@\*\*\*com