

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, JANUARY 22, 2013
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 WOZNIAK

Preliminary Matters

Roll Call: 7:10 p.m. All present.

Ceremonial Matters:

1. Announcement: Post Office Subcommittee meeting on Feb. 12 at 6pm in Council Chambers.
2. 40th Anniversary of Roe v. Wade
3. Presentation of gift painting from Palma Soriano, Berkeley's sister city in Cuba.
4. Honoring of Fran Packard by League of Women Voters.
5. Les Blank Day in Berkeley – January 22, 2013

Recess 7:27 p.m. – 7:32 p.m.

City Manager Comments:

1. Neighborhood Disaster Cache application period is now open.
2. Grand Opening of the new Animal Shelter on February 2 at 12pm.
3. Biennial Homeless Count will be conducted on January 30.

Public Comment on Non-Agenda Matters: 4 speakers.

Public Comment on Consent Calendar and Information Items Only: 1 speaker.

Consent Calendar

Action: M/S/C (Wengraf/Worthington) to adopt Consent Calendar in one motion except as indicated.

Vote: All Ayes.

Consent Calendar

Recess Item

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

From: City Manager

Recommendation: Ratifying the action taken by the City Manager during recess authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2013 for administering the Workers' Compensation Program, in an amount not to exceed \$158,194, which is \$19,895 greater than the original preliminary fee authorized by Council on November 13, 2012.

Financial Implications: Workers' Compensation Self-Insurance Fund - \$19,895

Contact: David Abel, Human Resources, 981-6800

Action: Adopted Resolution No. 65,982–N.S.

Consent Calendar

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of November 13, 2012 (special closed, special and regular), November 27, 2012 (special and regular), December 11, 2012 (special and regular) and December 18, 2012 (regular).

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

Action: Approved minutes as amended. Item 5 from the 12/18/2012 meeting - the fourth Whereas clause is amended to read, "*BE IT FURTHER RESOLVED that the City of Berkeley urges the Alameda County Sheriff and all other law enforcement agencies to not fly drones over Berkeley air space except 1) in the case of a disaster, 2) to assist in locating missing persons, 3) to assist in rescue efforts, 4) to assist in police pursuit of known suspects who have committed serious or violent crimes.*"

3. Designate the Line of Succession for the Director of Emergency Services

From: City Manager

Recommendation: Adopt a Resolution approving the designated line of succession to the position of Director of Emergency Services in the event of an officially declared disaster, and rescinding Resolution No. 65,510-N.S.

Financial Implications: None

Contact: Christine Daniel, City Manager, 981-7000

Action: Adopted Resolution No. 65,983–N.S.

4. Donation of Furniture for the Dona Spring Animal Shelter by Crate and Barrel

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to accept the donation of furniture for the Dona Spring Animal Shelter from Crate and Barrel.

Financial Implications: Furniture Donation - \$24,000

Contact: William Rogers, City Manager's Office, 981-7000

Action: Adopted Resolution No. 65,984–N.S.

Consent Calendar

- 5. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on January 22, 2013**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$2,177,488
Contact: Robert Hicks, Finance, 981-7300
Action: Approved Recommendation.
- 6. Change in Scope for Community Facility Improvement Project at Berkeley Food and Housing Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment based on a revised scope for a Community Development Block Grant (CDBG) and Emergency Solutions Grant (ESG) funded community facility improvement project undertaken by the Berkeley Food and Housing Project.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 65,985–N.S.
- 7. Reclassify Mental Health Commissioner Dan Virkstis as a Berkeley Special Public Interest Commissioner**
From: City Manager
Recommendation: Adopt a Resolution reclassifying Dan Virkstis as a Berkeley Special Public Interest member on the Mental Health Commission.
Financial Implications: None
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 65,986–N.S.
- 8. Police Retiree Health Premium Assistance Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement the Berkeley Police Retiree Health Premium Assistance Plan and Trust Agreement for represented sworn police employees who retire after September 19, 2012. This action establishes the regulatory authority to enable the City to provide retiree health premium assistance as set forth in the Memorandum of Understanding (MOU) between the City and the Berkeley Police Association.
Financial Implications: None
Contact: David Abel, Human Resources, 981-6800
Action: Adopted Resolution No. 65,987–N.S.

Consent Calendar

9. License Agreement: Alameda County Community Food Bank

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a license agreement with the Alameda County Community Food Bank for a five year term, starting January 2013, to use an area at the Berkeley Marina to distribute food to member agencies in Berkeley and the surrounding area.

Financial Implications: Marina Operations/Maint. Fund - \$1 per year (revenue)

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

Action: Adopted Resolution No. 65,988–N.S.

Council Consent Items

10. Support for a Moratorium on Fracking in California until Adequate Regulatory Safeguards are in Place

From: Councilmember Wengraf

Recommendation: Adopt a Resolution calling for a moratorium on hydraulic fracturing in California until adequate regulatory safeguards are adopted and send to Governor Brown, Senator Loni Hancock, Assemblywoman Nancy Skinner and the California Department of Conservation.

Financial Implications: No General Fund impact

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Action: Adopted Resolution No. 65,989–N.S.

11. Proclamation to Honor Shira Leeder as Ms. Wheelchair California

From: Councilmember Worthington

Recommendation: Adopt a proclamation to honor Shira Leeder as Ms. Wheelchair California.

Financial Implications: None

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

Action: Approved proclamation.

Action Calendar - Appeals

12. ZAB Appeal: 740 Heinz Avenue

From: City Manager

Recommendation: Adopt a Resolution to affirm the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 11-70000020 to modify Use Permit No. 09-10000104, to enlarge the building footprint to create a new entrance lobby at the southwest corner of the building, delete the 49-car basement parking garage, and demolish 100% of the existing building to allow the construction of a new 100,000 square foot lab building.

Financial Implications: See report

Contact: Eric Angstadt, Planning and Development, 981-7400

b. Communication

1. Jeffrey Kaplan

Action Calendar - Appeals

Action: 2 speakers. M/S/C (Moore/Wozniak) to adopt Resolution No. 65,990–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 11-70000020 to modify Use Permit No. 09-10000104, to enlarge the building footprint to create a new entrance lobby at the southwest corner of the building, delete the 49-car basement parking garage, and demolish 100% of the existing building to allow the construction of a new 100,000 square foot lab building.

Vote: Ayes – Maio, Moore, Capitelli, Wengraf, Wozniak, Bates; Noes – Arreguin; Abstain - Anderson, Worthington.

Recess 9:21 p.m. – 9:31 p.m.

Action Calendar – Old Business

- 13. The Robin Hood Tax Campaign; Supports the Inclusive Prosperity Act (HR 6411) (Continued from December 11, 2012)**
From: Councilmember Anderson
Recommendation: Adopt a Resolution endorsing the Robin Hood Tax Campaign; supports the Inclusive Prosperity Act (HR 6411) introduced by Rep. Keith Ellison (D-MN), which would impose a small tax of 50 cents on the trade of every \$100 of stocks and a lesser tax on the trade of other financial instruments, and asks our Members of Congress, the US Senate and the President to support and help pass and sign into law the Prosperity Act (HR 6411).
Financial Implications: None
Contact: Max Anderson, Councilmember, District 3, 981-7130
Action: Moved to Consent Calendar. Adopted Resolution No. 65,991–N.S.
- 14. Compassionate Sidewalks Plan (Continued from December 18, 2012)**
From: Councilmember Arreguin
Recommendation: Direct the City Manager to convene a working group of representatives of City staff, the Homeless, Housing Advisory, Human Welfare & Community Action, and Police Review Commissions, the Police Department, and other stakeholders, including but not limited to business owners, homeless persons, service providers, students, and academic experts to develop a Compassionate Sidewalks Plan over a series of workshops. The working group should focus but is not limited to the following topics: 1) The demographics and causes of homelessness 2) A survey of existing homeless services 3) An assessment of potential funding needs and sources 4) Existing laws and enforcement 5) Best Practices.
Financial Implications: Staff time
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Item held over to January 29, 2013.

Action Calendar – New Business

15. Potential Locations for City Council Meetings - Alternate Locations with Larger Capacity

From: City Manager

Recommendation: Review the potential alternate locations to hold City Council meetings when additional capacity may be desired and provide direction to the Agenda Committee on preferred locations.

Financial Implications: See report

Contact: Mark Numainville, Acting City Clerk, 981-6900

Action: 1 speaker. M/S/C (Bates/Wengraf) to 1) direct the Agenda Committee to use Longfellow Middle School Auditorium as the preferred alternative when additional capacity is required for Council Meetings, 2) empower the Agenda Committee to search for alternate locations in the downtown area, and 3) for the Agenda Committee to report to the Council on possible methods for determining when additional capacity is needed.

Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes – None..

16. Budget Referral: Annual Grant for Sunday Streets Events

From: Councilmember Capitelli

Recommendation: Refer to the FY 2014 budget process an annual budget allocation of \$59,098 to cover City-related services, materials, permits and fees for two Sunday Streets events in Berkeley: Approximately \$44,224 would be for in-kind services and permit fees, and a \$15,000 cash Grant to Livable Berkeley for city-required signage, materials & related labor.

Financial Implications: \$59,098

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Action: M/S/C (Bates/Moore) to accept supplemental material from Councilmember Capitelli on Item 16.

Vote: Ayes – Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Abstain – None; Absent – Maio

Councilmember Maio absent 9:31 p.m. – 9:36 p.m.

Action: 9 speakers. Councilmember Arreguin added as a co-sponsor. M/S/C (Bates/Worthington) to refer \$59,098 to both the FY 2014 and FY 2015 Budget processes for Sunday Streets Events and to include an agenda item on the February 19 Agenda from the Mayor's Office to allow Councilmembers to contribute to Sunday Streets from their Council Office Budget Discretionary Accounts.

Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes – None.

Information Reports

17. Council Referral: Prohibit Contributions from Public Works Contractors and Parties to Land Use Applications

From: City Manager

Contact: Mark Numainville, Acting City Clerk, 981-6900

Action: Received and filed.

Information Reports

18. **Availability Study to Allow Affirmative Action in City Contracting**
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
Action: Received and filed.
19. **Staff Response to Council Recommendations for Disaster Preparedness Projects**
From: City Manager
Contact: Gil Dong, Fire, 981-3473
Action: Item removed from agenda by City Manager.
20. **Unrepresented Temporary Employees**
From: City Manager
Contact: David Abel, Human Resources, 981-6800
Action: Received and filed.
21. **LPC-NOD: 2133 University Avenue**
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.
22. **Status Report: Leases Audit: Conflicting Directives Hinder Contract Oversight**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.
23. **Status Report: Public Works Contract Monitoring: Risk of Overpayment/Lack of Inventory Controls**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda –

Adjournment in memory of:

- Fran Packard, former Berkeley Community Leader

Adjourned at 10:41 p.m.

Communications

Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Berkeley Housing Authority

1. John Bell (2)

2539 Benvenue Avenue

2. David Baker – referred to City Manager by Councilmembers Worthington and Arreguin.

Communications

Bike Lanes on Tunnel Road

3. Phil Carter

Shelter Plus Care

4. Richard Berkeley

Drones

5. Anne van Rossum

Sikh Temple Issues

6. Sukh Sekhon

Actors Ensemble/Live Oak Theatre

7. Maureen Coyne

LED Lighting

8. Susan Wengraf, District 6

CNA Newsletter

9. Council of Neighborhood Associations

North Shattuck Development Proposal

10. Margot Smith

Fran Packard

11. Linda Maio, District 1

Supplemental Communications and Reports 1

Item 12: ZAB Appeal: 740 Heinz Avenue

12. Friends of the West Berkeley Plan

13. Patrick Sheahan

Supplemental Communications and Reports 2

Item 12: ZAB Appeal: 740 Heinz Avenue

14. Michael Ziegler and Pietro Mussi

Item 16: Budget Referral: Annual Grant for Sunday Streets Events

15. Dan McMullan

Supplemental Communications and Reports 3

Item 12: ZAB Appeal: 740 Heinz Avenue

16. Jeffrey Kaplan

17. Curtis Manning

Item 16: Budget Referral: Annual Grant for Sunday Streets Events

- Revised materials, submitted by Councilmember Capitelli (see agenda item)

Fran Packard

18. Pat Kuhi