ANNOTATED AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL
TUESDAY, MAY 28, 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

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Preliminary Matters

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

City Manager Comments:

1. The City Manager acknowledged a proclamation presented by Councilmember Maio for the Women's Daytime Drop-In Center 25th Anniversary – June 2, 2013, 2 - 6 p.m. at the Ed Roberts Campus

Consent Calendar

Public Comment – Items on this agenda only: None

Action: M/S/C (Bates/Moore) to adopt the Consent Calendar in one motion except as indicated:
Vote: All Ayes.

1. Women's Daytime Drop-In Center: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Maio
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $500 per Councilmember including $500 from Councilmember Maio to the Women's Daytime Drop-In Center with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Maio and any other Councilmember who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - $500
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Adopted Resolution No. 66,179–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - $500; Councilmember Anderson - $150.

Action Calendar – Public Hearing

2. Fiscal Year 2014 and Fiscal Year 2015 Proposed Biennial Budget Public Hearing #2
From: City Manager
Recommendation: Conduct a second public hearing on the FY 2014 and FY 2015 proposed biennial budget.
Financial Implications: See Proposed FY 2014 and FY 2015 Budget
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
Public Testimony: The Mayor opened the public hearing. 6 speakers.
M/S/C (Moore/Maio) to close the public hearing.
Vote: All Ayes.

Action: Presentation made and discussion held.

Action Calendar – Old Business

3. Extend Commercial Zoning on Fourth Street and Gilman Street *(Continued from May 7, 2013)*
From: Mayor Bates
Recommendation: Request the Planning Commission consider expanding Commercial West Berkeley (CW) zoning along: 1) Fourth Street to Virginia Street, 2) Gilman Street from Sixth Street to San Pablo Avenue (precise area indicated on map attached to Council report).
Financial Implications: Increased tax revenue and employment opportunities.
Contact: Tom Bates, Mayor, 981-7100

Action: M/S/C (Maio/Moore) to accept revised material from Mayor Bates.
Vote: All Ayes.

Action: 11 speakers. M/S/C (Maio/Moore) to approve the Mayor's recommendation as revised to:

1. Request the Planning Commission consider expanding Commercial West Berkeley (CW) zoning along the area indicated on the revised map attached to Council report.
2. Revise the boundary line to include Fitness Evolved and Phoenix Gym within the area for consideration.
3. Refer to the Planning Commission to:
   a. Study the area south of Gilman Street between Sixth Street and Seventh Street, consult with Berkeley Unified School District as appropriate, and return to Council with a recommendation for possible future action.
   b. Evaluate alternatives to drawing zoning boundaries through buildings.
   c. Consider the possibility of overlay zoning to remove the residential component.

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

Councilmember Worthington absent 8:33 p.m. – 9:11 p.m.

Action Calendar – Old Business

4. Temporarily Relax Quota System on Telegraph Avenue *(Continued from April 30, 2013)*
From: Mayor Bates
Recommendation: Request the Planning Commission consider zoning changes on Telegraph Avenue in the Southside area to allow a temporary relaxation of the quota system for three years.
Financial Implications: Increased sales tax revenue and employment opportunities.
Contact: Tom Bates, Mayor, 981-7100
Action: 3 speakers.

M/S/F (Worthington/Arreguin) to table the issue of temporarily relaxing the quota system on Telegraph Avenue until such time that the Planning Department provides a report to Council containing data on how many food uses and how many of the different categories currently exist within the area.
Vote: Ayes – Anderson, Arreguin, Worthington; Noes – Maio, Capitelli, Wengraf, Wozniak, Bates; Abstain – Moore.

M/S/C (Bates/Maio) to refer the issue of quotas on Telegraph Avenue to the Planning Commission to study. The Commission is to determine what is currently in the quotas and the current effects of the quotas, based on an analysis of what is currently happening on the Avenue.
Vote: Ayes – Maio, Moore, Capitelli, Wengraf, Wozniak, Bates; Noes – Arreguin, Worthington; Abstain – Anderson.

5. Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70 *(Continued from May 7, 2013)*
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 12.70 to prohibit tobacco smoking which involuntarily exposes neighbors to secondhand smoke in all multi-unit housing in the City with enforcement through private right of action; to require that all new leases include a non-smoking clause; and to permit any tenant who is involuntarily exposed to tobacco smoke to terminate his or her lease without penalty if the landlord fails to include or enforce the non-smoking clause.
Financial Implications: None
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: 14 speakers. M/S/C (Bates/Maio) to refer the item to the City Manager to return with a revised Ordinance that incorporates the following recommendations from Council:
1. Encourage, but don't require, mediation;
2. Provide a limit of $1,500 for all liability of each smoking tenant in a one year period.
3. Add "initial" before lease in the first sentence of Section 12.70.037.
4. Require tenancy applications to include information about which units do not have prohibitions in the lease regarding smoking.
5. Add a provision for voluntary lease addendums prohibiting smoking in the unit.

Action Calendar – Old Business

6. Require disclosure in condominium sales regarding the Smoke Free Ordinance.
7. Require signage in common areas regarding the ordinance, and add disclosure language that landlords would be required to provide to tenants at time of application.
8. Provide for outreach and smoking cessation classes.

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

Adjournment

Action: M/S/C (Maio/Moore) to adjourn the meeting.

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

Councilmember Worthington absent 10:19 p.m. – 10:57 p.m.

Adjourned at 10:57 p.m.

Communications

Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

1. Housing Advisory Commission
2. Carol Denney

Supplemental Communications and Reports 1

Item 2: Fiscal Year 2014 and Fiscal Year 2015 Proposed Biennial Budget Public Hearing #2

3. Ann Krooth
4. Carol Rooney

Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

5. Cynthia Hallett, on behalf of Americans for Nonsmokers' Rights
6. Tirien Steinbach, on behalf of the East Bay Community Law Center
7. Jay Kelekian
8. Serena Chen, on behalf of the American Lung Association in California

Supplemental Communications and Reports 3

Item 3: Extend Commercial Zoning on Fourth Street and Gilman Street

9. Revised materials, submitted by Mayor Bates
10. Unknown

Item 4: Temporarily Relax Quota System on Telegraph Avenue

11. M. Eid Abdallah

Item 5: Tobacco Free Multi-Unit Housing: Amending Berkeley Municipal Code Chapter 12.70

12. Presentation, submitted by Health, Housing & Community Services
13. Bruce Fiedler