ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 29, 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: 7:06 p.m. Councilmember Anderson absent. Mayor Bates absent.

Report from Closed Session:

On October 22, 2013, the City Council approved a proposed settlement in the case of City of Berkeley v. Kenneth Sarachan and Laurie Brown, Alameda County Superior Court Case #RG12614265, in which the City had sought to foreclose on a deed of trust and lien against the property at 2501 Haste Street. The settlement calls for waiver of the amounts owing if Mr. Sarachan complies with specified conditions concerning development of the property.

Ceremonial Matters:

1. Rosa Parks Elementary Mock Trial.
2. National Coming Out Day.

City Manager Comments:

1. Drug Take Back Day – accepted 250 pounds of prescription drugs.
2. Volunteer All-Storm Day, November 2, 9am-12pm, King School Park.

Public Comment on Non-Agenda Matters: 5 speakers.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Consent Calendar

Action: M/S/C (Worthington/Moore) to adopt the Consent Calendar in one motion except as indicated:
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – None; Abstain – None; Absent – Anderson, Bates.

Consent Calendar

1. Amendment to Berkeley Municipal Code Section 3.02.030 Regarding Appointments to the Design Review Commission
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,311-N.S. amending Berkeley Municipal Code Section 3.02.030 clarifying the rules for granting a leave of absence to a member of the Design Review Commission that was appointed by another commission.
First reading vote: Ayes – Maio, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – None; Abstain – None; Absent – Moore, Bates.
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900
Action: Adopted second reading of Ordinance No. 7,311-N.S.

2. Amendment: FY 2014 Annual Appropriations Ordinance
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the FY 2014 Annual Appropriations Ordinance No. 7,303–N.S. for fiscal year 2014 based upon recommended re-appropriation of committed FY 2014 funding and other adjustments authorized since July 1, 2013, in the amount of $42,956,138 (gross) and $36,004,163 (net).
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
Action: Adopted first reading of Ordinance No. 7,312–N.S. Second reading scheduled for November 12, 2013.

3. Revised Conflict of Interest Code
From: City Manager
Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 65,921-N.S.
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900
Action: Adopted Resolution No. 66,346–N.S.

4. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 29, 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 - $1,150,000
Contact: Robert Hicks, Finance, 981-7300
Action: Approved recommendation.

Consent Calendar

5. Contract No. 7050E Amendment: Berkeley Food & Housing Project
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7050E with the Berkeley Food & Housing Project for operating costs for the Russell Street Residence supportive housing facility and to provide third party administration of Mental Health client funding supports and assistance to increase the amount by $53,000 for a total contract amount not to exceed $540,500 through June 30, 2014.
Financial Implications: Various Funds - $53,000
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 66,347–N.S.

6. Contract: Berkeley Unified School District for Nutrition Education at Qualifying Schools and Afterschool Programs
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Berkeley Unified School District for nutrition education at qualifying schools and afterschool programs in an amount not to exceed $100,000 for the period October 1, 2013 through September 30, 2014.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 66,348–N.S.

7. Contracts: On-Call Landscape Architecture and Project Development Services
From: City Manager
Recommendation: Adopt six Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architecture services, each for a contract period from November 4, 2013 through November 1, 2016:
1. Carducci & Associates, Inc. for an amount not to exceed $100,000
2. Dillingham Associates for an amount not to exceed $100,000
3. Hansen & McArdle for an amount not to exceed $100,000
4. Harris Design for an amount not to exceed $100,000
5. The Planning Center/DC&E for an amount not to exceed $100,000
6. RHAA Landscape Architecture + Planning for an amount not to exceed $100,000

Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,349–N.S. (Carducci); Resolution No. 66,350–N.S. (Dillingham); Resolution No. 66,351–N.S. (Hansen); Resolution No. 66,352–N.S. (Harris Design); Resolution No. 66,353–N.S. (The Planning Center); and Resolution No. 66,354–N.S. (RHAA).

Consent Calendar

8. Donation: Memorial Bench at Codornices Park
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of $3,400 from the family of Deena Glass for a memorial bench to be placed in Codornices Park.
Financial Implications: $3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,355–N.S.

9. California Energy Commission Loan for Citywide LED Street Light Replacement
From: City Manager
Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to enter into a loan agreement with the California Energy Commission for up to $3.5 million, at a 1% interest rate for a 15 year term beginning approximately January 1, 2014 for replacement of high pressure sodium and metal halide street lights with light emitting diode (LED) fixtures; and 2. Finding that the proposed project is categorically exempt from the California Environmental Quality Act under Section 15301.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,356–N.S.

10. Enable Off-Street Parking Rate Changes in goBerkeley Pilot Program
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 66,245-N.S. authorizing the City Manager to set hourly parking rates at City parking garages and lots in amounts up to $4 per hour to enable “First Hour Free” programs where justified within demand-responsive off-street parking in the goBerkeley Pilot Project Areas.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,357–N.S. Requested staff to consider a discount rate in City garages on Sundays.

11. Additional 2013 Meeting for the Commission on the Status of Women
From: Commission on the Status of Women
Recommendation: Approve an additional meeting in calendar year 2013 for the Commission on the Status of Women.
Financial Implications: General Fund - $220
Contact: Eric Brenman, Commission Secretary, 981-5114
Action: Approved recommendation.

Council Consent Items

12. Berkeley Public Library Foundation: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $500 per Councilmember to the Berkeley Public Library Foundation with funds relinquished to the City's General Fund for this purpose from the Discretionary Council Office Budgets of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - $500
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 66,358–N.S. amended to include expenditures from the following Councilmembers up to the amounts listed: Councilmember Maio - $100.

13. City Sponsorship: "A Night in Berkeleywood"
From: Councilmember Wengraf
Recommendation: Adopt a Resolution sponsoring the first annual "A Night in Berkeleywood" event to be held March 2, 2014 at the Freight and Salvage Coffeehouse in collaboration with the Berkeley Downtown Association as a benefit for the Berkeley Film Foundation.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 66,359–N.S.

14. Update on Customer Service Improvement Initiative
From: Councilmember Wengraf
Recommendation: Request that the City Manager return to the Council with an updated evaluation of the Customer Service Improvement Initiative established in 2009.
Financial Implications: Staff time
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Approved recommendation.

15. City Manager Referral: Evaluate Implementation of Clean Water Program on the Euclid Avenue between Cedar Street and Hearst Avenue
From: Councilmembers Worthington and Wengraf
Recommendation: Refer to the City Manager implementing the Clean Water Program, which includes regular street sweeping on the blocks of Euclid Avenue between Cedar Street and Hearst Avenue.
Financial Implications: Unknown
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Council Consent Items

16. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmembers Worthington and Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $400 per Councilmember to the Holocaust Remembrance Day Event with funds relinquished to the City's general fund for this purpose from Councilmember Kriss Worthington's and Councilmember Susan Wengraf's discretionary Council Office Budgets and any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - $400
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 66,360–N.S. amended to include expenditures from the following Councilmembers up to the amounts listed: Councilmember Wengraf - $200; Councilmember Capitelli - $100; Councilmember Arreguin - $100.

Action Calendar – Appeal

17. ZAB Appeal: 2227 Dwight Way
From: City Manager
Recommendation: Adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 13-10000018 to rebuild a fire-damaged, legal non-conforming six-unit apartment building to the same size, extent and configuration as previously existed.
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400

a. Appeal
1. Luis Amezcua

b. Communications
1. Andrew Cohn

Action: 12 speakers. M/S/C (Arreguin/Worthington) to adopt Resolution No. 66,361–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Use Permit No. 13-10000018 to rebuild a fire-damaged, legal non-conforming six-unit apartment building to the same size, extent and configuration as previously existed. In addition, the City Manager will make available the Rental Housing Safety Reports for the subject property for the past five years to the Council and the tenants, and staff will contact the owner of the property regarding his obligations under the Relocation Ordinance.

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

Action Calendar – Public Hearing

18. General Plan Re-designation and Re-zone 1000 - 1010 Gilman
From: City Manager
Recommendation: Conduct a Public Hearing for the purpose of considering an amendment to the General Plan re-designating a portion of a parcel, within the building at 1000 – 1010 Gilman (APN 060-235200100) from light industrial to commercial, and upon conclusion:
Consider the re-designation and re-zone of the portion of the parcel identified for the Public Hearing.
1. Adopt a Resolution amending the Berkeley General Plan to re-designate a portion of the parcel with APN 060-235200100 from light industrial to commercial.
2. Adopt first reading of an Ordinance amending Berkeley Municipal Code Title 23 (zoning), official zoning map, to rezone a portion of a parcel in west Berkeley from MU-LI to C-W.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400

Public Testimony: The Vice-Mayor opened the public hearing. 0 speakers.
M/S/C (Capitelli/Moore) to close the public hearing.

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

Action: M/S/C (Wengraf/Capitelli) to:
1. Adopt Resolution No. 66,362–N.S.
2. Adopt first reading of Ordinance No.7,313–N.S. Second reading scheduled for November 12, 2013.

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

Action Calendar – Old Business

19. Expedited Permit Processing for Targeted Retail Segments *(Continued from October 15, 2013)*
From: Councilmember Arreguin
Recommendation: Refer to the City Manager and Planning Commission changes to the Zoning Ordinance to expedite the permitting process by lowering the level of discretion from a Use Permit/Public Hearing to an Administrative Use Permit in commercial districts throughout the city, for the following targeted retail segments: a) 442 Furniture and home furnishings; b) 443 Electronics; c) 448 Clothing and accessories; d) 451 Sporting goods and bookstores; e) 452 Department stores; f) 4511 Grocery stores; g) 8412 Museums and Art Galleries. In addition, explore changes to the Zoning Ordinance to allow an AUP for these target retail segments to be appealed directly to Council, rather than ZAB and then Council. In the event there is an appeal this will help insure rapid resolution. Establish a square footage limit for an AUP for these target retail segments be capped at 15,000 square feet. That covers most of the existing retail spaces in the Downtown and other commercial districts, however would require an UP on large projects that may have significant community impact.
Financial Implications: See report
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Removed from Agenda by Councilmember Arreguin.

20. City Manager Referral: Inform the Public of Updates and Modifications to Council Agenda After the Completion of the Consent Calendar *(Continued from October 1, 203)*
From: Councilmember Worthington
Recommendation: City Manager Referral: That the Council inform the public of any updates or modifications to the Council agenda after the completion of the consent calendar.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: 0 speakers. M/S/C (Worthington/Capitelli) to refer to the City Manager an evaluation of potential solutions for notifying the public of changes to the agenda.
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – None; Abstain – None; Absent – Anderson, Bates.

Action Calendar – New Business

21. a. Homeless Commission Site Visit Plan
From: Homeless Commission
Recommendation: Adopt a Resolution allowing the Homeless Commission to conduct 18 visits to City-funded homeless services provider sites during calendar year 2014, in addition to the Commission's regular meetings, and pursuant to the site visit plan submitted as part of this report.
Financial Implications: Minimal costs
Contact: Andrew Wicker, Commission Secretary, 981-5418

Action Calendar – New Business

21. b. Commission Visits to Community Agencies
From: City Manager
Recommendation: Adopt a Resolution authorizing the Homeless, Human Welfare and Community Action, Housing Advisory and Children Youth and Recreation Commissions to make two half-day visits to three community agencies applying for services funding, for a maximum of one hour each, every six months in the period between issuing Requests for Proposals.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: 0 speakers. M/S/Failed (Worthington/Arreguin) to adopt Item 21.b. amended to allow for all commissioners to attend the site visits instead of a subcommittee.
Vote: Ayes – Arreguin, Worthington; Noes – Maio, Capitelli, Wengraf, Wozniak; Abstain – Moore; Absent – Anderson, Bates.

Action: 0 speakers. M/S/C (Moore/Wozniak) to adopt Resolution No. 66,363–N.S. authorizing the Homeless, Human Welfare and Community Action, Housing Advisory and Children Youth and Recreation Commissions to make two half-day visits to three community agencies applying for services funding, for a maximum of one hour each, every six months in the period between issuing Requests for Proposals.
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – None; Abstain – None; Absent – Anderson, Bates.

Council Action Items

22. City Manager Referral: Add Procedural Due Process to Appeal a Warning for the Second Response Ordinance
From: Councilmember Worthington
Recommendation: Refer to the City Manager that the Second Response Ordinance (BMC Chapter 13.48) be amended to include procedural due process to appeal a warning consistent with the Fifth and the Fourteenth Amendment.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Item held over to November 12, 2013.

23. Establish an Annual City Manager Evaluation Policy
From: Councilmember Worthington
Recommendation: Establish a policy to conduct an annual performance evaluation of the City Manager in order to ensure efficient city operations.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Moved to Consent Calendar. Referred to the ad hoc Council Subcommittee on City Manager Evaluation.

Information Reports

24. Investment Report: Quarter Ended June 30, 2013
From: City Manager
Contact: Robert Hicks, Finance, 981-7300
Action: Received and filed.

25. LPC-NOD: 2959 College Avenue
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

26. LPC-NOD: 2201-05 Blake Street
From: City Manager
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

27. goBerkeley Pilot Program Parking Garage Rate Changes Effective December 2, 2013
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Moved to Action Calendar. M/S/C (Arreguin/Capitelli) to direct the City Manager to set the maximum rate for the Center Street and Oxford parking garages at $17, and to refer consideration of a Sunday discount rate for all garages as well as the possible elimination of the early bird rate to the City Manager.

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

Councilmember Worthington absent 8:47 p.m. – 9:08 p.m.

28. Rebuilding Berkeley Tuolumne Camp
From: Parks and Waterfront Commission
Contact: Roger Miller, Commission Secretary, 981-6704
Action: Received and filed.

29. Berkeley Small Businesses
From: Councilmember Arreguin
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda – 1 speakers.

Adjournment

Adjourned in Memory of Muriel Paley

Action: M/S/C (Capitelli/Wengraf) to adjourn the meeting.

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

Adjourned at 9:08 p.m.

Communications

Mercury Dental Amalgam
1. Jenny Guy

Secondhand Smoke Regulations
2. Carol Denney

Medical Cannabis Ordinance Revisions
3. Chris Horgan

Garden Village Project
4. Beverly Potter

Kayla Moore
5. Berkeley Copwatch

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

Item 17: ZAB Appeal: 2227 Dwight Way
6. Diana Bohn
7. Ben Mahrer
8. Fred Dodsworth
9. Joanne Sultar
10. Nina Sprecher
11. Phoebe Sorgen
12. Gary Hicks
13. Bill Bogert
14. Nancy Lieblich
15. John Selawsky

Supplemental Communications and Reports 3

Item 17: ZAB Appeal: 2227 Dwight Way
16. Luis Amezcua

Item 21a: Homeless Commission Site Visit Plan
17. Homeless Commission

Item 27: goBerkeley Pilot Program Parking Garage Rate Changes Effective December 2, 2013
18. Barbara Gilbert

Post Office Sales
19. Margot Smith (48-page booklet available for viewing in the City Clerk's Office)

U.S. Economy
20. M. Eid Abdallah