

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 16, 2014
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 WOZNAK

Preliminary Matters

Roll Call: 7:02 p.m. Mayor Bates absent.

Ceremonial Matters:

1. Berkeley World Music Festival – Saturday, September 20
2. Celebrating the First Year of Implementation of Measure M

City Manager Comments:

1. APWA Accreditation Process Underway for Berkeley
2. Prescription Drug Take Back Event – September 27, South Berkeley Senior Center, 10am-2pm

Public Comment on Non-Agenda Matters: 2 speakers.

Public Comment on Consent Calendar and Information Items Only:

0 speakers.

Consent Calendar

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

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

1. Amendment to City Council Rules of Procedure Related to Communications from the Public and Procedures for Appeals

From: City Manager

Recommendation:

1. Adopt a Resolution amending the City Council Rules of Procedure to incorporate changes related to communications on land use matters and incorporating the necessary changes related to the recent amendments on land use appeals, and rescinding Resolution No. 66,500-N.S.
2. Review additional information provided by the City Clerk and Planning Department in response to the April 29, 2014 referral from the Council regarding the protection of citizens' privacy in online City records.

Consent Calendar

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: 1. Adopted Resolution No. 66,782–N.S. 2. Approved recommendation.

2. Contract Amendment No. 9509: Building Opportunities for Self-Sufficiency for Community Facility Improvement Project at McKinley Transitional House

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to: 1. Accept a payment from Nonprofits' Insurance Alliance of California in the amount of \$29,125 as compensation for fire damage on city property located at 2111 McKinley Street; and 2. Amend Contract No. 9509 to add these funds and an additional scope of work to a facility improvement contract already underway with Building Opportunities for Self-Sufficiency (BOSS) at 2111 McKinley Street, operated as transitional housing for homeless families.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: Adopted Resolution No. 66,783–N.S.

3. Contract: McNabb Construction, Inc. for Virginia-McGee Totland Play Area Renovation

From: City Manager

Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Virginia-McGee Totland Play Area Renovation (Bid Specification No. 14-10845-C); 2. Awarding the construction contract to the apparent lowest responsive, responsible bidder, McNabb Construction, Inc. for the amount of their bid \$344,960; 3. Authorizing the City Manager and his/her designee to execute a construction contract with McNabb Construction, Inc. in the amount of their bid, and to execute change orders, amendments and/or time extensions; 4. Authorizing a 10% construction contingency for an amount not to exceed \$34,496 for a total spending authority not-to-exceed \$379,456.

Financial Implications: Measure WW Park Bond - \$379,456

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

Action: Adopted Resolution No. 66,784–N.S.

4. Zoning Amendments to Encourage Accessory Dwelling Units (ADUs); Amending BMC Titles 23D, 23E, and 23F

From: City Manager

Recommendation: Adopt first reading of two Ordinances modifying the existing regulation of Accessory Dwelling Units (ADUs) to remove regulatory barriers. The Ordinances include adding a new Berkeley Municipal Code (BMC) Chapter 23D.10, compiling the new ADU regulations, and amending the existing residential zoning district chapters in BMC Titles 23D, 23E, and 23F for consistency with the new chapter.

Financial Implications: See report

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

Action: Moved to Action Calendar. 8 speakers. M/S/C (Wengraf/Maio) to refer the item to the Agenda Committee for future scheduling.

Consent Calendar

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

5. Lease Agreement: Postal Annex at 2425 Channing Way, Suite B

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Nareshkumer Bhakta dba Postal Annex for an initial term of 5 years with an option to extend for two additional 5-year periods for the purpose of operating a retail mailing, packaging and related business services located at 2425 Channing Way, Suite B in the Telegraph Channing Mall.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted first reading of Ordinance No. 7,374–N.S. Second reading scheduled for September 30, 2014.

6. Lease Agreement: Joy's Clothing at 2440 Durant Avenue

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Sung Wo Han dba Joy's Clothing Store for an initial term of 5 years with an option to extend for two additional 5-year periods for the purpose of operating a retail clothing store located at 2440 Durant Avenue in the Telegraph Channing Mall.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted first reading of Ordinance No. 7,375–N.S. Second reading scheduled for September 30, 2014.

7. Lease Agreement: The Framer's Workshop at 2439 Channing Way

From: City Manager

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with Jeffery Goldberg and Kirstie Bennett dba The Framer's Workshop for an initial term of 5 years with an option to extend for two additional 5-year periods for the purpose of operating a Do-it-yourself custom framing and picture shop located at 2439 Channing Way in the Telegraph Channing Mall.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted first reading of Ordinance No. 7,376–N.S. Second reading scheduled for September 30, 2014.

Consent Calendar

- 8. Lease Agreement: Cheese N' Stuff at 2442 Durant Avenue**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement with George S. Juha dba Cheese N' Stuff for an initial term of 5 years with an option to extend for two additional 5-year periods, for the purpose of operating a delicatessen located at 2442 Durant Avenue in the Telegraph Channing Mall.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted first reading of Ordinance No. 7,377–N.S. Second reading scheduled for September 30, 2014.
- 9. Appointment of Judith Kerr to the Mental Health Commission**
From: Mental Health Commission
Recommendation: Approve the appointment of Judith Kerr to the Mental Health Commission, as a representative of the special public interest category from the City of Albany, for a three year term beginning September 17, 2014 and ending September 16, 2017.
Financial Implications: None
Contact: Carol Patterson, Commission Secretary, 981-5400
Action: Adopted Resolution No. 66,785–N.S.

Council Consent Items

- 10. Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Bates
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Bates to the Berkeley Holiday Fund's annual campaign with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Bates and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Fund - \$500
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 66,786–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Capitelli - \$100; Councilmember Wengraf - \$100; Councilmember Anderson - \$100.

Council Consent Items

- 11. Uphold the Rights and Protections of the Lesbian, Gay, Bisexual, Transgender and Intersex Community of El Salvador**
From: Councilmember Moore
Recommendation: Adopt a Resolution urging the newly elected government of the Republic of El Salvador to adopt all necessary legal, administrative and/or judicial measures to guarantee the protection and promotion of human rights without any distinction based on a person's sexual orientation, gender identity or gender expression. That the City Clerk sends a copy of the Council action with the resolution to El Salvadorian President Salvador Sanchez Ceren and Vice President Oscar Ortiz, as well as United States Secretary of State, John Kerry.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120
Action: Adopted Resolution No. 66,787–N.S.
- 12. Humanitarian Response to Unaccompanied Minors Along the US-Mexico Border**
From: Councilmember Moore
Recommendation: Adopt a Resolution welcoming the children and families that have recently come across the border, fleeing violence and crippling poverty, and urging the federal government to take a more active role in resolving the current crisis and work to resolve the structural causes for the mass Central American migration. That the City Clerk sends a copy of the Council action with the resolution to Congresswoman Barbara Lee, Senators Barbara Boxer and Diane Feinstein, President Barack Obama and Secretary of State John Kerry.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120
Action: Item removed from the agenda by Councilmember Moore.
- 13. Referral to Commission on Labor: Amendments to Living Wage Ordinance (Berkeley Municipal Code Chapter 13.27)**
From: Councilmember Arreguin
Recommendation: Refer to the Commission on Labor the following suggested amendments to the Living Wage Ordinance, Berkeley Municipal Code Chapter 13.27: 1. Amend Section 13.27.050.A to allow an employee the right to opt out of an employer provided medical benefit plan and still receive the higher compensation amount (currently \$15.99 per hour) as cash in lieu if they provide proof of alternative coverage under a medical benefit plan. 2. Amend the posting requirements, retaliation, complaint process, and enforcement sections to conform to the language in the recently adopted Minimum Wage Ordinance.
Financial Implications: Staff time
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Approved recommendation.

Council Consent Items

- 14. Contraceptive Coverage Equity Act of 2014**
From: Councilmembers Arreguin, Maio, Wengraf, and Worthington
Recommendation: Adopt a Resolution urging Governor Jerry Brown to sign Senate Bill (SB) 1053, authored by State Senator Holly Mitchell (D – Los Angeles) and send a letter to our local State representatives, urging them to draft legislation to close the limited loopholes in California law due to the Hobby Lobby decision.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 66,788–N.S.
- 15. City Manager Referral: Reform Berkeley’s 3 Strikes Rule, Whereby 3 Parking Tickets Can End an Entire Business**
From: Councilmember Worthington
Recommendation: Refer to the City Manager to look into the unintended consequences of the 3 strikes law on Berkeley taxi cab owners, which can revoke a cab company's business license after receiving 3 parking tickets.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: 3 speakers. Moved to Action Calendar. M/S/C (Worthington/Capitelli) to refer to the City Manager to look into the unintended consequences of the 3 strikes law on Berkeley taxi cab owners, which can revoke a cab company's business license after receiving 3 parking tickets.
Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak; Noes – None; Abstain – None; Absent – Bates.
- 16. Endorse H.R. 1213 and the United for Homes Campaign to Fund the National Housing Trust Fund**
From: Councilmember Worthington
Recommendation: Adopt a Resolution endorsing the United for Homes campaign to fund the National Housing Trust Fund, which would build, preserve, rehabilitate, and operate rental housing that is affordable for extremely low income households.
Financial Implications: See report
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Moved to Action Calendar. 0 speakers. Item held over to October 7, 2014.
- 17. Letter to StopWaste to Encourage the Expansion of the Ban on Single-Use Plastic Bags in Alameda County**
From: Councilmember Worthington
Recommendation: Send a letter to StopWaste to urge the expansion of the ban on single-use plastic bags in Alameda County.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Moved to Action Calendar. 0 speakers. Councilmember Wozniak added as a co-sponsor. M/S/C (Wozniak/Moore) to send a letter to StopWaste to urge the expansion of the ban on single-use plastic bags in Alameda County revised as follows:

Council Consent Items

First Paragraph: "...plastic bag litter, the Berkeley City Council urges StopWaste to expand this successful program to include all retailers, and ..."

Third Paragraph: The last sentence of the paragraph is replace with the following, "Expanding this successful program to include all retailers will help us achieve our goal of zero plastic bags in the environment."

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

- 18. Support Proposition 45: Public Notice Required for Insurance Company Rates From: Councilmember Worthington**
Recommendation: Support Proposition 45, the Public Notice Required for Insurance Company Rates Initiative, on the November 4, 2014 statewide ballot.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
- 19. Oppose Proposition 46: Medical Malpractice Lawsuits Cap and Drug Testing of Doctors Initiative**
From: Councilmember Worthington
Recommendation: Oppose Proposition 46, the Medical Malpractice Lawsuits Cap and Drug Testing of Doctors Initiative, on the November 4, 2014 statewide ballot.
Financial Implications: Unknown
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Action Calendar – New Business

- 20. Rental Subsidies for Homeless Transition Age Youth**
- a. From: Homeless Commission**
Recommendation: Adopt a Resolution providing \$100,000 in annual rental subsidies for transition-age youth who are chronically homeless in Berkeley.
Financial Implications: \$100,000
Contact: Andrew Wicker, Commission Secretary, 981-5400
- b. From: City Manager**
Recommendation: Take no action at this time on the Homeless Commission's recommendation to provide \$100,000 annually in rental subsidies for chronically homeless transition age youth ("TAY", youth between the ages of 18 and 25) and review the Homeless Commission's recommendation in the context of the applications for homeless funding the City will receive in January 2015.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
- Action:** Moved Item 20.b. to the Consent Calendar.

Council Action Items

21. **City Manager Referral: Rent Fairness Policies for Telegraph Channing Merchants**
From: Councilmember Worthington
Recommendation: City Manager Referral: Rent Fairness Policies for Telegraph Channing Merchants.
Financial Implications: Minor costs
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: 0 speakers. M/S/C (Worthington/Arreguin) to refer to the City Manager the following policy for consideration.
Rent Disparity: Long-term tenants at the northern entrance on Durant Avenue pay significantly higher rents (+63%). It is understandable that higher rents are charged on Durant Avenue entrance shops, so we need a policy for a higher rate but not a drastically higher rate.
Vote: Ayes – Anderson, Arreguin, Capitelli, Worthington, Wozniak; Noes – Maio; Abstain – Moore, Wengraf.

Information Reports

22. **Breathmobile Update**
From: City Manager
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Received and filed.
23. **Status Report on the Training, Future Data collection and Implementation of Fair and Impartial Policing Policy**
From: City Manager
Contact: Michael Meehan, Police, 981-5900
Action: Received and filed.
24. **City Water Conservation and Use Reduction Update**
From: City Manager
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700; Andrew Clough, Public Works, 981-6300; Eric Angstadt, Planning and Development, 981-7400
Action: Received and filed.

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

Adjournment in memory of:

1. Grantland Johnson, Clinton Administration Official
2. Louise Brown, Local Community Activist
3. Barry Silverman, Labor Activist

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

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

Adjourned at 9:00 p.m.

Communications

CNA Newsletter

1. Ted Edlin

Support of Measure D

2. Deborah Turner, on behalf of BUSD Board of Education

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item 4: Zoning Amendments to Encourage Accessory Dwelling Units (ADUs); Amending BMC Titles 23D, 23E, and 23F

3. Joann Sullivan
4. Bob Flasher
5. Carrie Shores

Supplemental Communications and Reports 3

Item 4: Zoning Amendments to Encourage Accessory Dwelling Units (ADUs); Amending BMC Titles 23D, 23E, and 23F

6. James Smith

Item 17: Letter to StopWaste to Encourage the Expansion of the Ban on Single-Use Plastic Bags in Alameda County

7. Unknown