

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 7, 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: 7:46 p.m. Councilmember Anderson absent. Councilmember Arreguin absent. Councilmember Anderson present at 7:47 p.m. Councilmember Arreguin present at 7:47 p.m.

Ceremonial Matters:

1. Recognition of Berkeley CERT Fair Planning Team for FEMA Award
2. Recognition of Indigenous Peoples Day – October 11, 2014
3. Recognition of Sandhya Sood, Berkeley Architect

City Manager Comments:

1. Disaster Preparedness Drill on October 18, 2014 – visit www.cityofberkeley.info/prepare

Public Comment on Non-Agenda Matters: 4 speakers.

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

Consent Calendar

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

Vote: All Ayes.

1. Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance After Council Approval on October 7, 2014

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: Park Tax Fund - \$116,000

Contact: Christine Daniel, Finance, 981-7300

Action: Approved recommendation.

Consent Calendar

- 2. Enforcement of Ordinance No. 7,099-N.S. Sweatshop-Free Procurement Ordinance; Amending BMC Chapter 13.97**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.97 to lower the current established threshold of \$25,000 to \$1,000 for the Sweatshop-Free Procurement Ordinance No. 7,099-N.S. effective July 1, 2014, that was approved April 29, 2014.
Financial Implications: See report
Contact: Christine Daniel, Finance, 981-7300
Action: Adopted first reading of Ordinance No. 7,378-N.S. Second reading scheduled for October 21, 2014.
- 3. Revenue Agreement: Alameda County Transition to Independence Program for Berkeley Mental Health**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a revenue agreement with Alameda County Behavioral Health Care Services, and any amendments thereto, for outpatient mental health services to transition age youth in the amount of \$537,854 for the term July 1, 2014 through June 30, 2015, and approving the designations as listed on the Alameda County Health Care Services CBO Community Agency Contract Signature Authorization form.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 66,807-N.S.
- 4. Grant Agreement: The 11th Hour Project to Support the Residential Curbside Electric Vehicle Charging Pilot**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with The 11th Hour Project, a program of the Schmidt Family Foundation, to accept a grant for a one-year period from about November 1, 2014, to October 31, 2015, for approximately \$99,475, with no local match requirement, to support a City of Berkeley Residential Curbside Electric Vehicle Charging Pilot.
Financial Implications: \$99,475 (grant)
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Adopted Resolution No. 66,808-N.S.

Council Consent Items

5. Referral to City Manager: Tonnage Limit on Milvia Street

From: Councilmember Arreguin

Recommendation: Refer to the City Manager and Transportation Commission the establishment of designating Milvia Street between University Avenue and Cedar Street as a restricted street for the movement of vehicles over 3 tons under Berkeley Municipal Code Section 14.56.070.

Financial Implications: Unknown

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Approved recommendation.

6. Tenant Screening Fee Calculation

From: Councilmember Arreguin

Recommendation: Adopt the first reading of the proposed ordinance designating the Rent Stabilization Board as the entity responsible for calculating and publishing the annual maximum allowable tenant screening fee for the purposes of the Tenant Screening Fee ordinance (BMC 13.78).

Financial Implications: Unknown

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Moved to Action Calendar. 2 speakers. M/S/C (Arreguin/Anderson) to adopt first reading of Ordinance No. 7,379–N.S. as written in Supplemental Reports #1 Packet. Second reading scheduled for October 21, 2014 to include the legislative history from the Rent Board indicating their agreement to be the responsible entity for calculating and publishing the tenant screening fee and that the Rent Board will not charge the City for this service.

Vote: All Ayes.

7. Extend the Affordable Impact Housing Fee Discount

From: Councilmember Capitelli

Recommendation: Adopt a Resolution amending Resolution No. 66,015-N.S. to extend the affordable housing impact discount of \$8,000 one year to October 16, 2015 and the needed approval of the Zoning Adjustments Board to October 16, 2017.

Financial Implications: Unknown

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

Action: Moved to Action Calendar. 13 speakers. M/S/C (Capitelli/Moore) to adopt Resolution No. 66,809–N.S. amending Resolution No. 66,015-N.S. to extend the affordable housing impact discount of \$8,000 for six months to April 16, 2015 and the needed approval of the Zoning Adjustments Board to April 16, 2017, and directing staff to work with the Planning Commission and the Housing Advisory Commission to complete the Nexus study.

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

Council Consent Items

- 8. Support Measure D: Sugar Sweetened Beverage Tax**
From: Councilmembers Capitelli and Moore
Recommendation: Adopt a Resolution supporting Measure D, the Sugar Sweetened Beverage Tax.
Financial Implications: Staff time
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Adopted Resolution No. 66,810–N.S.
- 9. City Manager Referral: Accept Electronic Signatures for All City Documents, Including Commissioner Applications and Affidavits of Residency**
From: Councilmember Worthington
Recommendation: Refer the City Manager to investigate allowing digital signatures for all City documents, which state and federal law allow us to accept, including Commissioner Applications and Affidavits of Residency.
Financial Implications: Staff time
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.
- 10. Berkeley Pride: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmembers Worthington, Moore, and Arreguin
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 from Councilmember Worthington, to support the Pacific Center with funds relinquished to the City's general fund for this purpose that the City of Berkeley is able to come together to celebrate the local LGBT community and reflect on the issues they are facing and for costs of Berkeley Pride from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$1,000
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 66,811–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Worthington - \$1000; Councilmember Anderson - \$300.
- 11. City Manager Referral: Consider Immediate Actions to Prevent Continued Vandalism at the Cesar E. Chavez Memorial Solar Calendar**
From: Councilmembers Worthington, Maio, and Arreguin
Recommendation: Refer to the City Manager to take immediate actions to prevent continued vandalism at the Cesar E. Chavez Memorial Solar Calendar, including a reward of no less than \$1000 to the identifier of the vandal(s).
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Councilmember Moore added as a co-sponsor. Approved recommendation.

Action Calendar – Public Hearing

12. ZAB Appeal: 2598-2600 Shattuck Avenue and 2037 Parker Street

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution approving Use Permit Modification No. 2014-0003 to modify previously approved plans for a mixed-use development with 155 dwelling units and 22,905 sq. ft. of commercial space (Use Permit No. 08-10000130); proposed modifications include adding 8,927 sq. ft. of commercial floor area and 116 parking spaces, allowing offices, gyms/health clubs, and dance/martial arts studios, increasing height of 2600 Shattuck building by 4.3 inches, and changing interior massing of 2600 Shattuck building; no changes to total dwelling units proposed.

Financial Implications: None

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

Action: M/S/C (Maio/Bates) to accept supplemental material from staff on Item 12.

Vote: All Ayes.

Public Testimony: The Mayor opened the public hearing. 9 speakers.

Action: M/S/C (Maio/Wozniak) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Capitelli/Maio) to adopt Resolution No. 66,812–N.S. approving Use Permit Modification No. 2014-0003 to modify previously approved plans for a mixed-use development with 155 dwelling units and 22,905 sq. ft. of commercial space (Use Permit No. 08-10000130); proposed modifications include adding 8,927 sq. ft. of commercial floor area and 116 parking spaces, allowing offices, gyms/health clubs, and dance/martial arts studios, increasing height of 2600 Shattuck building by 4.3 inches, and changing interior massing of 2600 Shattuck building; no changes to total dwelling units proposed

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

Action Calendar – Old Business

13. Vacancy Registration Fee (*Continued from September 9, 2014*)

From: Councilmembers Arreguin and Worthington

Recommendation: Refer to the City Manager the establishment of a registration fee for vacant ground floor commercial spaces, as well as undeveloped vacant lots throughout the City of Berkeley

Financial Implications: Unknown

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Item held over to October 21, 2014.

Action Calendar – Old Business

14. **Endorse H.R. 1213 and the United for Homes Campaign to Fund the National Housing Trust Fund** *(Continued from September 16, 2014)*
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: 0 speakers. M/S/C (Worthington/Moore) to hold the item over to October 28, 2014.
Vote: All Ayes.

Action Calendar – New Business

15. **Report to the United Nations Committee Against Torture: Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution approving the submission of the proposed Report to the United Nations Committee Against Torture and related international and national, state and local governmental entities and representatives, regarding compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("CAT").
Financial Implications: None
Contact: Eric Brenman, Commission Secretary, 981-5400
Action: M/S/C (Worthington/Arreguin) to accept supplemental and revised material from the Peace and Justice Commission on Item 15.
Vote: Ayes – Maio, Moore, Anderson, Arreguin, Capitelli, Worthington, Wozniak, Bates; Noes – None; Abstain – None; Absent – Wengraf.

Councilmember Wengraf absent 9:55 p.m. – 10:02 p.m.

Action: 6 speakers. M/S/C (Maio/Wengraf) to adopt Resolution No. 66,813–N.S. from the supplemental submitted by the commission and to revise the report to the UN by deleting the ninth paragraph on page 4.
Vote: Ayes – Maio, Capitelli, Wengraf, Wozniak, Bates; Noes – Worthington; Abstain – Moore, Anderson, Arreguin.

Action Calendar – New Business

- 16. Report to United Nations Human Rights Committee: Compliance with International Covenant on Civil and Political Rights**
From: Peace and Justice Commission
Recommendation: Adopt a Resolution approving the submission of the proposed Report to the United Nations Human Rights Committee and related international and national, state and local governmental entities and representatives, regarding compliance with the International Covenant on Civil and Political Rights ("ICCPR").
Financial Implications: None
Contact: Eric Brenman, Commission Secretary, 981-5400
Action: 0 speakers. M/S/Failed (Worthington/Anderson) to adopt the Resolution as written.
Vote: Ayes – Anderson, Arreguin, Worthington; Noes – Moore, Bates; Abstain – Maio, Capitelli, Wengraf, Wozniak.
- Action:** M/S/C (Bates/Wengraf) to adopt Resolution No. 66,814–N.S. and to revise the report to the UN by deleting the second paragraph under number 23.
Vote: All Ayes.

Council Action Items

- 17. Commercial District Stabilization Fee**
From: Councilmember Arreguin
Recommendation: Refer to the City Manager the establishment of a Commercial District Stabilization Fee, alternatively known as a speculation fee, to be levied on commercial property owners when lease renewals are not offered to existing commercial tenants, or a lease is not renewed due to a significant rental increase. The revenue generated can either go towards nuisance abatement costs associated with vacancies and/or a loan fund for local businesses.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Item held over to October 21, 2014.
- 18. Targeted Commercial Tenant Incentives**
From: Councilmembers Arreguin and Worthington
Recommendation: Refer to the City Manager the concept of reducing or eliminating permit fees and/or business license taxes for a set period as an incentive to attract specific retailers and entertainment uses to the Telegraph Avenue and Downtown commercial areas as a companion policy to vacancy registration.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: 0 speakers. M/S/C (Arreguin/Anderson) to refer to the City Manager the concept of reducing or eliminating permit fees and/or business license taxes or other incentives for a set period as an incentive to attract specific retailers and entertainment uses to all commercial districts and to report to Council by May 2015.
Vote: All Ayes.

Council Action Items

19. **Referral to the City Manager: Request for Funding of a Berkeley-Specific Homeless Count**
From: Councilmember Arreguin
Recommendation: Request that the City Manager allocate the funding required for a Berkeley-specific homeless count in the upcoming 2015 Alameda County EveryOne Home homeless count.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Moved to Consent Calendar. Approved recommendation.
20. **City Manager Referral on "Digital Divide" in Ultrafast Fiber Optic Internet Technology**
From: Councilmember Worthington
Recommendation: Refer to the City Manager to address the growing "Digital Divide" through making ultrafast fiber technology available to middle class and low income residents.
Financial Implications: Significant
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: 0 speakers. M/S/C (Worthington/Arreguin) to approve the recommendation with the addition of access by commercial entities.
Vote: All Ayes.

Public Comment – Items Not Listed on the Agenda – 0 speakers.

Adjournment

Action: M/S/C (Maio/Bates) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 10:41 p.m.

Communications

Measure R

1. Berkeley Design Advocates

Accessory Dwellings

2. Kevin Casey

Supplemental Communications and Reports 1

Item 6: Tenant Screening Fee Calculation

3. Revised materials, submitted by Councilmember Arreguin

Item 7: Extend the Affordable Impact Housing Fee Discount

4. Kimberly Near

Item 8: Support Measure D: Sugar Sweetened Beverage Tax

5. Robert Benjamin, on behalf of the California Public Health Association - North

Supplemental Communications and Reports 2

Item 7: Extend the Affordable Impact Housing Fee Discount

6. Tobie Lurie
7. Housing Advisory Committee
8. Genevieve Wilson
9. Caitlin Quinn, on behalf of the Associated Students of the University of California
10. Shayna Orfus
11. Patrick Sheahan
12. Jeanne Miller
13. Davinder Gabhi
14. Lisa Giampaoli
15. Pedro Garcia
16. Avram Gur Arye

Item 12: ZAB Appeal: 2598-2600 Shattuck Avenue and 2037 Parker Street

17. Karl Reeh, on behalf of the LeConte Neighborhood Association
18. June Kodani
19. Gale Garcia

Item 15: Report to the United Nations Committee Against Torture: Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

20. Carolyn Scarr

Supplemental Communications and Reports 3

Item 7: Extend the Affordable Impact Housing Fee Discount

21. Stephanie Thomas
22. Kimberly Winkleman
23. Olga Bolotina, on behalf of the Sierra Club Northern Alameda County Group
24. Kelsey Swan
25. Michael Donaldson
26. Gloria Bruce

Item 12: ZAB Appeal: 2598-2600 Shattuck Avenue and 2037 Parker Street

27. Supplemental materials, submitted by Planning & Development Department
28. Brenda Quan
29. Christopher Lien
30. Christina Caro, on behalf of Shattuck Parker Neighborhood Association
31. Unknown

Item 15: Report to the United Nations Committee Against Torture: Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

32. Unknown

Item 20: City Manager Referral on "Digital Divide" in Ultrafast Fiber Optic Internet Technology

33. Daniel Newman