

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 28, 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 WOZNIAK

Preliminary Matters

Roll Call: 7:00 p.m. Councilmember Maio absent.

Ceremonial Matters: None.

City Manager Comments:

1. Haunted House at MLK Youth Center at 6pm on October 31.

Public Comment on Non-Agenda Matters: 3 speakers.

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

Consent Calendar

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

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

1. Formal Bid Solicitation and Request for Proposal Scheduled for Possible Issuance After Council Approval on October 28, 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: Various Funds - \$120,000

Contact: Christine Daniel, Finance, 981-7300

Action: Approved recommendation.

Consent Calendar

- 2. California Mental Health Services Authority Joint Exercise of Powers Agreement Update**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute the documents necessary to sign the amended California Mental Health Service Authority (CalMHSA), Joint Exercise of Powers Agreement (JPA), in order to continue jointly participating with other state mental health jurisdictions in developing, funding and administering an expanded array of mental health and/or behavioral health services and programs as determined on a regional, statewide or other basis.
Financial Implications: Mental Health Service Act - \$500
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 66,830–N.S.
- 3. Expanding the City Parks Donation Policy**
From: City Manager
Recommendation: Adopt a Resolution adopting an expanded City parks donation policy.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,831–N.S.
- 4. Contract: Public Safety Corporation for False Alarm Management Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Public Safety Corporation (PSC) to perform false alarm management services for the Police Department, for a revenue amount not to exceed \$850,000 for the period of November 1, 2014 through December 31, 2017, with the option to extend for two additional one-year terms.
Financial Implications: General Fund - \$850,000
Contact: Michael Meehan, Police, 981-5900
Action: Adopted Resolution No. 66,832–N.S.
- 5. Emeryville-Berkeley-Oakland Transportation Study (EBOTS) Draft Recommendations**
From: City Manager
Recommendation: Adopt a Resolution concurring with the draft final recommendations of the Emeryville-Berkeley-Oakland Transportation Study.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Moved to Action Calendar. 0 speakers. Adopted Resolution No. 66,833–N.S. concurring with the draft final recommendations of the Emeryville-Berkeley-Oakland Transportation Study.
Vote: Ayes – Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Bates; Noes – None; Abstain – None; Absent – Maio.

Consent Calendar

- 6. Injury Prevention: Better Investigations and Data Use Will Help the Berkeley Police Department and the City**
From: Auditor
Recommendation: Request the City Manager report back by April 28, 2015, and every six months thereafter, regarding the status of recommendations until reported fully implemented.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
- 7. Audit Report: Written Guidance and Improved Monitoring Can Help Prevent Unnecessary Overtime at the Animal Shelter and Help Manage Citywide Comp Time**
From: Auditor
Recommendation: Request the City Manager report back by April 28, 2015, and every six months thereafter, regarding the status of recommendations until reported fully implemented.
Financial Implications: See report
Contact: Ann-Marie Hogan, Auditor, 981-6750
Action: Approved recommendation.
- 8. Renewal of the Elmwood Avenue BID for Calendar Year 2015**
From: Elmwood Advisory Board
Recommendation: Adopt a Resolution: 1. approving the Annual Report and preliminary budget on proposed improvements in the District for calendar year 2015; 2. declaring an intention to levy an assessment to finance improvements in the District for calendar year 2015; and 3. directing the City Clerk to schedule a public hearing on the renewal of the assessment for November 18, 2014.
Financial Implications: See report
Contact: Jordan Klein, Commission Secretary, 981-7530
Action: Adopted Resolution No. 66,834–N.S.
- 9. Renewal of the Solano Avenue BID for Calendar Year 2015**
From: Solano Avenue BID Advisory Board
Recommendation: Adopt a Resolution: 1. approving the Annual Report and preliminary budget on proposed improvements in the District for calendar year 2015; 2. declaring an intention to levy an assessment to finance improvements in the District for calendar year 2015; and 3. directing the City Clerk to schedule a public hearing on the renewal of the assessment for November 18, 2014.
Financial Implications: See report
Contact: Eleanor Hollander, Commission Secretary, 981-7530
Action: Adopted Resolution No. 66,835–N.S.

Council Consent Items

10. Release of Balloons

From: Councilmember Arreguin

Recommendation: Refer to Community Environmental Action Commission the issue of releasing balloons into the environment and to report back to Council with recommendations to mitigate the environmental and infrastructural impact of the release of latex and Mylar balloons, including, but limited to: 1. Declare that balloons pose environmental and physical hazards when released into the environment; 2. Include a clause prohibiting the release of balloons within permits issued by the City for special events; 3. Define the intentional act of releasing balloons by adults into the environment as littering for the purposes of citation; 4. Require disclosures at the point of sale of helium inflated balloons regarding the environmental and infrastructural impact of releasing such balloons and that the intentional release of balloons is considered littering, actionable offense; provide a private right of action for failure to provide such disclosure so that staff resources are not needed for enforcement.

Financial Implications: Staff time

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

Action: Moved to Action Calendar. 0 speakers. Item held over to December 16, 2014.

11. Labor Commission Referral: City of Berkeley Labor Practices

From: Councilmember Arreguin

Recommendation: Refer to the Labor Commission for public hearings on the issue of labor practices of the City of Berkeley and to report back to Council with recommendations. The issues explored should include, but not necessarily be limited to the following: Contracting out services currently or previously provided by City Staff; Standards and Qualifications for City Contractors; Promotion practices and hiring for staff vacancies.

Financial Implications: Staff time

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

Action: Moved to Action Calendar. 0 speakers. M/S/C (Bates/Wengraf) to hold the item over to January 20, 2015.

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

Action Calendar – Public Hearing

12. Agreements, With Other Law Enforcement Agencies, Police Departments or Private Security Organizations

From: City Manager

Recommendation:

1. Conduct a public hearing, and upon conclusion, adopt a Resolution approving agreements, understandings or policies existing or revised as of May 15, 2014 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations in order to maintain the current level of police resources and emergency services.

2. Review attached Suspicious Activity Reports provided annually as per City Council request.

Financial Implications: None

Contact: Michael Meehan, Police, 981-5900

Public Testimony: The Mayor opened the public hearing. 8 speakers.

Action: M/S/C (Bates/Moore) to close the public hearing.

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

Action: M/S/Failed (Arreguin/Anderson) to approve all agreements except Northern California Regional Intelligence Center (NCRIC).

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

Action: M/S/Failed (Arreguin/Anderson) to hold over the NCRIC agreement for further review.

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

Action: M/S/C (Capitelli/Bates) to:

1. Adopt Resolution No. 66,836–N.S. to adopt a Resolution approving agreements, understandings or policies existing or revised as of May 15, 2014 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations in order to maintain the current level of police resources and emergency services.

2. Review General Order N-17 in first quarter of 2015 including consultation with the Police Review Commission.

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

Action Calendar – Old Business

13. **Endorse H.R. 1213 and the United for Homes Campaign to Fund the National Housing Trust Fund** *(Continued from October 7, 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: Referred to the Agenda Committee for scheduling.

Council Action Items

14. **City Manager Referral: Cell Phone Ordinance Referral to City Manager**
From: Councilmember Anderson
Recommendation: Refer to City Manager for the creation of an ordinance to have cell phone retailers give to consumers who purchase a phone, a factual, informational handout referring the user to their cell phone manufacturers' disclosure regarding the recommended separation distance for use against the body.
Financial Implications: See report
Contact: Max Anderson, Councilmember, District 3, 981-7130
Action: Item held over to November 18, 2014 by Councilmember Anderson.
15. **"Good Government" Package**
From: Councilmember Arreguin
Recommendation: Refer to the following policies to the Fair Campaign Practices and Open Government Commission for discussion and to make recommendations back to the City Council: 1. Public Calendars: require the Mayor and City Councilmembers to maintain a public calendar of meetings that relate only to City business and require such meetings to be posted in advance to the extent practicable but no later than 1 week after the meeting occurred, along with a short description of the purpose and attendants of the meeting. The City Clerk will post the public calendars of the Mayor and Council on the city's website. 2. Revolving Door Policy: prohibition of former City staff, for a specified period of time after they left employment with the City, from lobbying current staff on matters relating to City business. Additionally, prohibit Council staff from concurrently holding employment by organizations that regularly lobby City Council. 3. Conflict of Interest Disclosures: require outside firms, when commissioned by the City or City Manager for research report(s), to disclose any relevant conflicts of interest 4. Contract Disclosures: require specified types of contracts under 50k to be reported to Council. Any increase in a city contract resulting in a contract amount over \$50,000 requires Council approval for the increase, even if the initial contract was approved by City Manager action. 5. Political Polling: prohibition on including in city funded community surveys questions on resident favorability of elected officials. 6. Independent Ballot Questions: designation of the City Attorney's Office as the sole drafter of a ballot question on an initiative or Council-initiated ballot measure, and the Council's role is relegated to approving the ballot question without modification. 7. Contribution Prohibitions: prohibit contributions from contractors doing business

Council Action Items

with the City for specified duration and at a specified threshold, as well as parties to land use applications.

Financial Implications: Staff time

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

Action: 3 speakers. M/S/C (Bates/Wozniak) to hold the item over to 2015 and refer the matter to the Agenda Committee for scheduling with the instruction that the Mayor appoint a three-person committee to report back to the full council on the specific recommendations relative to making a more open government.

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

16. **Street Sweeping Violations: Burden of Proof**

From: Councilmembers Arreguin and Wozniak

Recommendation: Refer to the City Manager for drafting a policy establishing that street sweeping violations are only valid if street sweeping had in fact occurred and, upon contest, that the burden of proof on whether or not street sweeping occurred falls on the City.

Financial Implications: Staff time

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

Action: 0 speakers. M/S/Failed (Wozniak/Arreguin) to refer the matter to the City Manager and request information on how often scheduled street sweeping in missed, how many citations of this type are issued, and options for the Council to consider.

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

Councilmember Worthington absent 8:25 p.m. – 8:57 p.m.

17. **Fair Housing: 1st Qualified Tenant Applicant Acceptance**

From: Councilmember Arreguin

Recommendation: Refer to the Housing Advisory Commission for discussion the issue of accepting of the first qualified tenant applicant for rental housing built after 1979 at the listed rental rate and the general issue of rental bidding that is displacing local residents, and make a recommendation back to Council.

Financial Implications: Staff time

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

Action: 2 speakers. Item held over to a future date.

Information Reports

18. **Audit Implementation Status Report: Parks Recreation & Waterfront Department Cash Handling Audit**

From: City Manager

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

Action: Received and filed.

Information Reports

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

Adjournment in memory of:

1. William McCammon, Former Alameda County Fire Chief

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

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

Adjourned at 9:02 p.m.

Communications

Item 12: Agreements, With Other Law Enforcement Agencies, Police Departments or Private Security Organization

1. Police Review Commission

Trans-Atlantic Free Trade Agreement Free Zone

2. Phoebe Sorgen

Nexus Study

3. Marian Wolfe

Supplemental Communications and Reports 1

Item 14: City Manager Referral: Cell Phone Ordinance Referral to City Manager

4. Revised materials, submitted by Councilmember Anderson
5. Polly Armstrong

Supplemental Communications and Reports 2

Item 14: City Manager Referral: Cell Phone Ordinance Referral to City Manager

6. Virginia Farver (2)
7. Ellen Marks (4)
8. Cynthia Franklin
9. Kevin Kunze

Supplemental Communications and Reports 3

Item 5: Emeryville-Berkeley-Oakland Transportation Study (EBOTS) Draft Recommendations

10. Presentation, submitted by Public Works

Item 10: Release of Balloons

11. Olga Bolotina, on behalf of the Sierra Club Northern Alameda County Group

Item 14: City Manager Referral: Cell Phone Ordinance Referral to City Manager

12. Gerard Keegan

13. Harry Lehmann

14. Cynthia Franklin and Ellen Marks