

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, FEBRUARY 24, 2015
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 – LORI DROSTE

Preliminary Matters

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

Ceremonial Matters:

1. Recognition of Ralph Benson, Sonoma Land Trust
2. Recognition of Ellie Shapiro, Jewish Music Festival

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 7 speakers.

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

Consent Calendar

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

Vote: All Ayes.

1. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of January 13, 2015 (special), January 17, 2015 (special), January 20, 2015 (special and regular) and January 27, 2015 (special and regular).

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Approved minutes as submitted.

Consent Calendar

2. Formal Bid Solicitation and Request for Proposal Scheduled for Possible Issuance After Council Approval on February 24, 2015

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 - \$1,378,450

Contact: Christine Daniel, Finance, 981-7300

Action: Approved recommendation.

3. Contract: David Paul Rosen & Associates for Consultant Services for the Housing Trust Fund Program

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract and any amendments with David Paul Rosen and Associates (DRA) for consultant services to the Housing Trust Fund (HTF) for a period of three years, with an option to renew for two additional years, for \$24,000 per year or not to exceed \$120,000 for five years.

Financial Implications: Various Funds - \$120,000

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

Action: Adopted Resolution No. 66,928–N.S.

4. Revenue Contract: Community Services Block Grant for Calendar Year 2015

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 15F-2001 for the initial amount of \$67,010, and execute any resultant agreements and amendments that may increase the contract amount up to an estimated \$250,000 to provide low-income services for the period January 1, 2015 to December 31, 2015.

Financial Implications: See report

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

Action: Adopted Resolution No. 66,929–N.S.

Consent Calendar

- 5. Contract: McNabb Construction, Inc. for Terrace View Park-Phase One Renovation**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Terrace View Park—Phase One Renovation Project (Bid Specification No. 14-10856-C); 2. Awarding the construction contract to the apparent lowest responsive, responsible bidder, McNabb Construction, Inc. dba DK Environmental Construction for the amount of their Base Bid plus Additive Bid Item No. 1, totaling \$315,595; 3. Authorizing the City Manager or her designee to execute a construction contract with McNabb Construction, Inc. dba DK Environmental Construction, Inc. in the amount of their Base Bid plus Additive Bid Item No. 1 and to execute any change orders, amendments and/or time extensions; 4. Authorizing a 10% construction contingency for an amount not to exceed \$31,560 for a total spending authority not-to-exceed \$347,155.
Financial Implications: Various Funds - \$347,155
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,930–N.S.
- 6. Contract: TranSystems, Inc. for Consultant Support Services for the South Cove Public Access Staging Area Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with TranSystems, Inc. in an amount not to exceed \$75,955 for consultant support services for the construction phase of the South Cove Public Access Staging Area Project.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,931–N.S.
- 7. Grant: California Parks and Recreation Department, Division of Boating and Waterways – South Cove West Parking Lot Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application for \$500,000 to the California Parks and Recreation Department, Division of Boating and Waterways for the South Cove West Parking Lot Project pursuant to the terms and provisions of the Harbors and Watercraft Revolving Fund program, and authorizing the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: \$500,000 (Revenue)
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,932–N.S.

Consent Calendar

8. **License Agreement No 2: Berkeley Partners for Parks – Santa Fe Right-of-Way - South Berkeley Bioremediation Garden Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a second license agreement with Berkeley Partners for Parks for a new two year period to conduct the South Berkeley Bioremediation Garden Project on the Santa Fe Right-of-Way.
Financial Implications: None
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 66,933–N.S.
9. **Contract: Mosto Construction for Sanitary Sewer Manhole Rehabilitation FY 2015 Project**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the Sanitary Sewer Manhole Rehabilitation FY 2015 Project, 15-10903-C, located at various locations within the City; 2. Accepting the bid of Mosto Construction, the lowest responsive and responsible bidder; and 3. Authorizing the execution of a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$225,600.
Financial Implications: Sanitary Sewer Operation Fund - \$225,600
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,934–N.S.
10. **Contract: Grade Tech, Inc. for FY 2015 Storm Drainage Improvements Project**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the FY 2015 Storm Drainage Improvement Project, Specification No. 15-10908-C; 2. Accepting the bid of Grade Tech, Inc. as the lowest responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$563,466.
Financial Implications: Various Funds - \$563,466
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,935–N.S.
11. **Contract: Skeo Solutions for Measure M Outreach Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Skeo Solutions for a term of 4 years for an amount not to exceed \$125,000 for Measure M outreach services.
Financial Implications: Measure M Fund - \$125,000
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,936–N.S.

Council Consent Items

- 12. Authorize the City Attorney to participate in the “Mayors for the Freedom to Marry” amicus brief to the U.S. Supreme Court**
From: Mayor Bates
Recommendation: Adopt a Resolution authorizing the City Attorney to participate in the ‘Mayors for the Freedom to Marry’ amicus brief to the U.S. Supreme Court.
Financial Implications: Minimal
Contact: Tom Bates, Mayor, 981-7100
Action: Adopted Resolution No. 66,937–N.S.
- 13. Strengthening Proposed Crude By Rail Safety Regulations**
From: Councilmember Maio
Recommendation: Send a letter to U.S. Transportation Secretary Foxx urging the strengthening of proposed crude by rail safety regulations.
Financial Implications: Minimal
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Approved recommendation.
- 14. Referral to CEAC Regarding Cigarette Butt Litter**
From: Councilmember Maio
Recommendation: Request that the Community Environmental Advisory Commission explore ways to invest in public outreach to stem the tide of cigarette butts flowing to the Bay via our storm drains.
Financial Implications: Staff time
Contact: Linda Maio, Councilmember, District 1, 981-7110
Action: Approved recommendation.
- 15. Declaring Mondays to be "Meatless Mondays" in the City of Berkeley**
From: Councilmember Anderson
Recommendation: Adopt a Resolution declaring Mondays to be "Meatless Mondays" in the City of Berkeley since the city is committed to the well-being and good health of its citizens and dedicated to the preservation of the environment and natural resources.
Financial Implications: None
Contact: Max Anderson, Councilmember, District 3, 981-7130
Action: Adopted Resolution No. 66,938–N.S.

Council Consent Items

- 16. Phase II: Implementation of City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report**
From: Councilmembers Anderson and Moore
Recommendation: Consider implementing the recommendations in the City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report: a) Department Audits; b) Inventory of EEO Complaints; c) Whistle Blowing Policy; d) Applicant and Employee Reporting; e) Nepotism Policy; f) Additional Staffing Needs of the Human Resources and EEO Departments; g) Improvements of Communication Methods; and h) Revisions of the Personnel Rules.
Financial Implications: To be determined
Contact: Max Anderson, Councilmember, District 3, 981-7130
Action: Approved recommendation.
- 17. City Co-Sponsorship of the Persian New Year Festival**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution approving city co-sponsorship of the Persian New Year Festival that will take place on Tuesday, March 17, 2015.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 66,939–N.S.
- 18. Persian Center For The Persian New Year Festival: Relinquishment Of Council Office Budget Funds To General Fund And Grant Of Such Funds**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including up to \$500 from Councilmember Arreguin, to the Persian Center for the Persian New Year Festival with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Jesse Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - \$500
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 66,940–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Arreguin - \$200; Councilmember Anderson - \$200.

Council Consent Items

- 19. Community Emergency Response Training for Multi-unit Residential Buildings and Emergency Cache Program Tailored to the Needs of Large Multi-unit Residential Buildings**
From: Councilmembers Capitelli, Arreguin, and Droste
Recommendation: Refer to the Disaster and Fire Safety Commission, the Housing Advisory Commission, and the Berkeley Fire Department Office of Emergency Services to design a pilot Community Emergency Response Training curriculum specifically for multi-unit residential buildings and to design an emergency cache program tailored to the needs of large multi-unit residential buildings as outlined in the background material below. Both proposed pilots should be evaluated after 2 years.
Financial Implications: See report
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Amended to add that the item also be referred to the Resilience and Sustainability Committee of the Rent Stabilization Board. Approved recommendation.
- 20. Urging California Elected Officials to Reform Proposition 13 and Close the Commercial Property Loophole**
From: Councilmember Wengraf
Recommendation: Adopt a Resolution urging California elected officials to reform Proposition 13 and close the commercial property loophole and send copies of the signed resolution to the appropriate government representatives, including Assemblymember Thurmond, Senator Loni Hancock, Congressmember Barbara Lee, US Senator Dianne Feinstein, US Senator Barbara Boxer.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Councilmembers Capitelli, Arreguin, and Anderson as co-sponsors. Adopted Resolution No. 66,941–N.S.
- 21. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds To General Fund And Grant Of Such Funds**
From: Councilmember Worthington
Recommendation:
1. Adopt a Resolution approving the expenditure of an amount not to exceed \$1,500 per Councilmember, including up to \$1,500 from Councilmember Worthington, to support the Holocaust Remembrance Day Event and Holocaust Awareness Lecture with funds relinquished to the City's general fund for this purpose that the City of Berkeley is able to invite and support the community on this event from Councilmember Kriss Worthington's discretionary Council Office Budget and any other Councilmembers who would like to contribute; and
2. Co-Sponsor the Holocaust Remembrance Day Event and Holocaust Awareness Lecture.
Financial Implications: Councilmember's Discretionary Funds - \$1,500
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Councilmembers Anderson and Wengraf added as co-sponsors; references to the Holocaust Awareness Lecture are stricken from the item; Councilmember

Council Consent Items

Worthington is authorized to submit a new item for the Holocaust Awareness Lecture to the City Clerk for inclusion on the March 17, 2015 agenda.

1. Adopted Resolution No. 66,942–N.S. to support the Holocaust Remembrance Day Event revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$250; Councilmember Anderson - \$200.

2. Approved Co-Sponsor the Holocaust Remembrance Day Event.

22. Business License Tax Renewal Procedure

From: Councilmember Droste

Recommendation: Refer to the City Manager to draft an amendment to the Berkeley Municipal Code Title 9 Chapter 9.04.065 to grant a grace period for enforcement of business license requirements for contractors seeking building permits through March 31 of each year, as long as the contractor had an active business license the previous year.

Financial Implications: Staff time

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Approved recommendation.

Action Calendar – Old Business

23. Police and Community Relations: Action Items *(Continued from February 10, 2015)*

From: City Manager

Recommendation: Discuss and prioritize action items identified by the City Council at the January 20, 2015 worksession.

Financial Implications: None

Contact: Christine Daniel, City Manager, 981-7000

Action: M/S/C (Anderson/Arreguin) to accept supplemental material from Councilmember Anderson for Item 23.

Vote: All Ayes.

Action: 19 speakers. M/S/C (Worthington/Anderson) to refer all the items, and their financial impacts, in the supplemental item from Councilmember Anderson, amended to replace the word “Ban” in items 3 and 4 with “Examine the practices and impacts of,” and all the items from the item submitted by Councilmember Maio in the agenda packet to the City Manager.

Vote: All Ayes.

24. Confidential Closed Session Documents *(Continued from February 10, 2015)*

From: City Manager

Recommendation: Review and consider the information provided in response to the Council referral and determine whether to direct staff to develop a policy for closed session documents.

Financial Implications: None

Contact: Zach Cowan, City Attorney, 981-6950

Action Calendar – New Business

Action: 0 speakers. M/S/C (Bates/Maio) to establish a policy for the use of binders for confidential closed session materials on Labor Negotiations, Litigation, and Real Estate matters that includes provisions for numbered binders assigned to each Councilmember and the Mayor that will be retained by staff, distributed and collected at closed session meetings, made available to Councilmembers at any time during business hours for review, and the binder will include materials from previous closed session meetings. This policy should not prohibit the distribution of materials in advance of the meeting as needed.

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

25. **Replace the Residential and Commercial Energy Conservation Ordinances (RECO and CECO) with the Building Energy Saving Ordinance**

From: City Manager

Recommendation:

1. Adopt first reading of an Ordinance repealing the Residential and Commercial Energy Conservation Ordinances (RECO and CECO), BMC Chapters 19.16 and 19.72, and adding the revised Building Energy Saving Ordinance, BMC Chapter 19.81.

2. Direct the City Manager to identify funding sources that could provide incentives to encourage energy efficiency improvements in residential buildings

Financial Implications: See report

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

Action: 2 speakers. M/S/C (Capitelli/Moore) to:

1. Adopt first reading of Ordinance No. 7,397–N.S. Second reading scheduled for March 10, 2015.

2. Refer to the City Manager to have staff work with the Landmarks Preservation Commission on producing and distributing informational materials to the public on window and door replacements in energy retrofit projects.

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

26. **Establishing a Two Year Moratorium on Drones in Berkeley**

From: Peace and Justice Commission

Recommendation: Adopt a Resolution adopting a two year moratorium on drones in Berkeley.

Financial Implications: Unknown

Contact: Eric Brenman, Commission Secretary, 981-5400

Action: 11 speakers. M/S/C (Bates/Maio) to: 1) adopt a one-year moratorium on the use of unmanned aircraft systems, or “drones,” by the Berkeley Police Department, 2) ask the Council to develop a policy for police use of drones, and 3) to authorize the use of drones by the Berkeley Fire Department for disaster response purposes.

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

Information Reports

27. **Update: Citywide Expansion of Residential Preferential Parking**
From: City Manager
Contact: Andrew Clough, Public Works, 981-6300
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 3 speakers.

Adjournment

Adjourned in Memory of:

1. Mildred Parish Massey, Mother of Congresswoman Barbara Lee
2. Earl Crabbe, former CENA Board Member

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

Vote: All Ayes.

Adjourned at 10:34 p.m.

Communications

Item 16: Phase II: Implementation of City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report

1. Commission on Labor

Item 25: Replace the Residential and Commercial Energy Conservation Ordinances (RECO and CECO) with the Building Energy Saving Ordinance

2. Dona Bretherick

Bicycles in Berkeley

3. Barbara Kochan

2211 Harold Way

4. Dan & Andree Julian

Youth Musical Theater Company

5. Jennifer Boesing (2)

Living Wage Ordinance Violations

6. Carl Walter – Referred to City Manager by Councilmember Anderson

BHS Harassment Article

7. Heidi Goldstein

North Berkeley Farmers' Market

8. Mary Ann Brewin – Referred to City Manager by Councilmember Arreguin
9. Charlene Woodcock – Referred to City Manager by Councilmember Arreguin

Performance Space in Berkeley

10. Ilona McHugh

Supplemental Communications and Reports 1

Item 23: Police and Community Relations: Action Items

11. Save the Berkeley Post Office Committee

Item 24: Confidential Closed Session Documents

12. Supplemental materials, submitted by City Attorney's Office

Supplemental Communications and Reports 2

Item 16: Phase II: Implementation of City of Berkeley: Review of Personnel Policies and Procedures Top-Line Report

13. Dean Metzger, on behalf of Berkeley Neighborhoods Council

Item 23: Police and Community Relations: Action Items

14. Gene Hendrix

Item 26: Establishing a Two Year Moratorium on Drones in Berkeley

15. Eugene Ruyle

16. Peter Straus

17. Shang-Mei Lee

Supplemental Communications and Reports 3

Item 23: Police and Community Relations: Action Items

18. Max Anderson, District 3

Item 25: Replace the Residential and Commercial Energy Conservation Ordinances (RECO and CECO) with the Building Energy Saving Ordinance

19. Landmarks Preservation Commission

1701 62nd Street

20. Calvin Justice

Jewish Music Festival

21. Unknown