

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, MARCH 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. Councilmember Anderson absent. Councilmember Wengraf absent. Councilmember Wengraf present at 7:04 p.m.

Ceremonial Matters:

1. Recognition of Chaparral House Skilled Nursing Facility
2. Recognition of the 10 Year Anniversary of MapLight

City Manager Comments: None

Public Comment on Non-Agenda Matters: 3 speakers.

Public Comment on Consent Calendar and Information Items Only:

1 speaker.

Consent Calendar

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

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

1. Digital Video Surveillance Cameras at Alcohol Outlets; Adding BMC Chapter 9.12

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,398-N.S. requiring liquor stores within certain designated commercial corridors to install digital video camera surveillance upgrades to their locations within six months of the passage of the ordinance, and adding Berkeley Municipal Code Chapter 9.12.

First Reading Vote: All Ayes.

Financial Implications: None

Contact: Michael Meehan, Police, 981-5900

Action: Adopted second reading of Ordinance No. 7,398-N.S.

Consent Calendar

- 2. Lease Agreement: Tarrific at 2432 Durant Avenue**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,399-N.S. authorizing the City Manager to execute a lease agreement with Marcela Escamilla Gutierrez dba Tarrific, for an initial term of 5 years with one 5-year option to extend, located at 2432 Durant Avenue in the Telegraph Channing Mall.
First Reading Vote: All Ayes.
Financial Implications: Off-Street Parking Fund - \$93,334 (Revenue)
Contact: Andrew Clough, Public Works, 981-6300
Action: Item removed from the agenda by the City Manager.
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of February 10, 2015 (specials and regular), February 23, 2015 (special closed), and February 24, 2015 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900
Action: Approved minutes as submitted.
- 4. Contract: NetFile for Online Campaign Report and Form 700 Filing and Tracking**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Westcoast Online Information Systems, Inc., dba NetFile, for an amount not to exceed \$85,000 for the period June 19, 2015 through June 19, 2020 for online campaign report and Form 700 filing and tracking.
Financial Implications: General Fund - \$85,000
Contact: Mark Numainville, City Clerk, 981-6900
Action: Adopted Resolution No. 66,958–N.S.
- 5. Formal Bid Solicitation and Request for Proposal Scheduled for Possible Issuance After Council Approval on March 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 - \$475,000
Contact: Christine Daniel, Finance, 981-7300
Action: Approved recommendation.

Consent Calendar

- 6. Designate the Line of Succession for the Director of Emergency Services**
From: City Manager
Recommendation: Adopt a Resolution approving the designated line of succession to the position of Director of Emergency Services in the event of an officially declared disaster, and rescinding Resolution No. 65,983-N.S.
Financial Implications: None
Contact: Gil Dong, Fire, 981-3473
Action: Adopted Resolution No. 66,959–N.S.
- 7. FEMA Pre-Disaster Mitigation Grant for James Kenney Community Center Seismic Retrofit Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept 1-time Pre-Disaster Mitigation Grant funds from the Federal Emergency Management Agency (FEMA) in the amount of \$727,499 to be used to fund seismic hazard mitigation at the James Kenney Community Center, and execute the resultant grant agreement.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 66,960–N.S.

Council Consent Items

- 8. Youth Spirit Artworks: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Anderson
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 from Councilmember Anderson, to the Youth Spirit Artworks (YSA) with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Anderson and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$1,000
Contact: Max Anderson, Councilmember, District 3, 981-7130
Action: Adopted Resolution No. 66,961–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Moore - \$100.
- 9. Scheduling June 23, 2015 Worksession: Homeless Task Force**
From: Councilmember Arreguin
Recommendation: Approve the scheduling of a Council Worksession at 5:30 p.m. on Tuesday, June 23, 2015 for presentation from the community Homeless Task Force on its recommendations.
Financial Implications: Minimal
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Approved recommendation.

Council Consent Items

10. **Support AB 768 - Tobacco Free Baseball Act**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution supporting AB 768, the "Tobacco Free Baseball Act", introduced by Assemblymember Tony Thurmond. Send copies of the resolution to Assemblymember Thurmond, State Senator Loni Hancock, Governor Jerry Brown, and bill coauthors Assemblymember Richard Bloom and State Senator Mark Leno.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 66,962–N.S.
11. **Assembly Bill 7: Larry Itliong Day**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution in support of Assembly Bill (AB) 7, authored by Assemblymember Rob Bonta, which would require the Governor to annually proclaim October 25 as Larry Itliong Day and establish special significance in public schools to encourage remembrance. Copies of the Resolution are to be sent to Governor Jerry Brown, State Senate President Pro Tem Kevin de Leon, State Senator Loni Hancock, Assembly Speaker Toni Atkins, and State Assemblymembers Tony Thurmond and Rob Bonta.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
Action: Adopted Resolution No. 66,963–N.S.

Action Calendar – Public Hearings

12. **ZAB Appeal: 2135 Roosevelt Avenue**
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit No. AUP2014-0032 to raise an existing single-story, single-family residence to create 1,357 square feet of habitable space at the ground floor and to install a hot tub on the rear deck.
Financial Implications: None
Contact: Eric Angstadt, Planning and Development, 981-7400
- Public Testimony:** The Mayor opened the public hearing. 9 speakers.
Action: M/S/C (Moore/Worthington) to close the public hearing.
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – None; Abstain – None; Absent – Anderson.
- Action:** M/S/C (Arreguin/Wengraf) to re-open the public hearing.
Vote: Ayes – Maio, Moore, Arreguin, Wengraf, Worthington, Droste; Noes – Bates; Abstain – Capitelli; Absent – Anderson.
- Action:** M/S/C (Moore/Droste) to close the public hearing.
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – None; Abstain – None; Absent – Anderson.

Action Calendar – Public Hearing

Action: M/S/Failed (Arreguin/Worthington) to amend the main motion to include the addition of a skylight in the appellant's home at the expense of the applicant as a condition of approval.

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

Action: M/S/C (Moore/Maio) to adopt Resolution No. 66,964–N.S. affirming the decision of the Zoning Adjustments Board (ZAB) to approve Administrative Use Permit No. AUP2014-0032 to raise an existing single-story, single-family residence to create 1,357 square feet of habitable space at the ground floor and to install a hot tub on the rear deck.

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

Action Calendar – Old Business

13. a. Establishment of Disaster Council *(Continued from February 10, 2015)*

From: Disaster and Fire Safety Commission

Recommendation:

1. Establish a Disaster Council, consisting of the City Manager, any of the City senior staff that she believes to be necessary for such a Council, the Mayor and/or such members of the City Council as the City Council deems appropriate, and such members of the public as either the City Manager or City Council deems appropriate with the authority to register, activate, and deploy Disaster Service Workers;
2. Authorize the City Manager to act on behalf of the Disaster Council between meetings of that Council; and
3. Authorize the City Manager to delegate any duties related to the Disaster Council to such members of the City Staff as she deems appropriate.

Financial Implications: None

Contact: David Brannigan, Commission Secretary, 981-3473

b. Establishment of Disaster Council *(Continued from February 10, 2015)*

From: City Manager

Recommendation: Defer creation of a Disaster Council separate from the Disaster and Fire Safety Commission pending a response from the California Office of Emergency Services (Cal OES) regarding compliance of the City of Berkeley's Disaster and Fire Safety Commission (D&FSC) serving as its Disaster Council.

Financial Implications: None

Contact: Gil Dong, Fire, 981-3473

Action: Item removed from the agenda by the City Manager. Subject of establishing a Disaster Council to be agendized for the May 26, 2015 City Council meeting.

Action Calendar – Old Business

14. **City Manager Referral: Amend the Berkeley Municipal Code to Require City Contractors to submit an Equal Pay Report** *(Continued from February 10, 2015)*
From: Councilmember Worthington
Recommendation: Refer to the City Manager to amend the Berkeley Municipal Code to require City contractors and subcontractors with 20 more employees to submit a Equal Pay Report.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: 0 speakers. Councilmember Droste added as a co-sponsor. M/S/C (Worthington/Arreguin) to refer to the City Manager to draft a simplified version of the San Francisco ordinance to require an equal pay report from certain city contractors; to send the draft ordinance to the Commission on the Status of Women for review and comment; and to then bring the ordinance to the City Council for consideration.
Vote: Ayes – Moore, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – None; Abstain – Maio; Absent – Anderson.

Action Calendar – New Business

15. **Amending BMC Chapter 13.42 to Adopt Additional Operating Standards for Mini-Dorms and Group Living Accommodations**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the title of Chapter 13.42 and Sections 13.42.010, 13.42.020, 13.42.030, 13.42.035, and 13.42.040 of the Berkeley Municipal Code ("BMC") to adopt additional operating standards for Mini-dorms and to extend these standards to all group living accommodations ("GLAs"), in specified districts.
Financial Implications: See report
Contact: Eric Angstadt, Planning and Development, 981-7400
Action: Item held over to the April 28, 2015 meeting.

Council Action Items

16. **Accessory Dwelling Units**
From: Mayor Bates
Recommendation: Request the City Manager incorporate requirements outlined in the report to allow Accessory Dwelling Units (ADUs) as-of-right and return to Council with appropriate ordinance language to implement. ADUs not conforming to these standards may be considered with an Administrative Use Permit.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
Action: 12 speakers. M/S/C (Maio/Arreguin) to accept supplemental material from Mayor Bates on Item 16
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – None; Abstain – None; Absent – Anderson.

Information Reports

Action: M/S/Failed (Wengraf/Arreguin) to include in the main motion that the proposed ADU is designed in a manner wherein the design and materials relate to the primary structure, places windows and doors that addresses privacy impacts on the neighboring lots, and is clearly subordinate in size and location to the primary unit.

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

Action: M/S/Failed (Droste/Moore) to include in the main motion that proposed ADUs will be eligible for a parking waiver if they are located within one quarter mile of a major transit service.

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

Action: M/S/C (Bates/Maio) to include in the main motion that proposed ADUs that are within one quarter mile of a BART station and located in an RPP zone will have no additional parking requirement.

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

Action: M/S/C (Bates/Capitelli) to request the City Manager incorporate requirements outlined below to allow Accessory Dwelling Units (ADUs) as-of-right and return to Council with appropriate ordinance language to implement. ADUs not conforming to these standards may be considered with an Administrative Use Permit.

1. No lot size requirement.
2. Maximum size of 750 square feet or 75% of the primary structure, whichever is less.
3. Height - 14 foot maximum height at peak of roof, 10 foot maximum at eave of roof. Not to exceed 10 feet at property line.
4. Setback – 4 foot minimum side and rear setback from property line. No side or rear setback required if ADU will replace preexisting buildings on the property line.
5. Parking - tandem parking in driveway is allowed (including non-conforming driveways that don't comply with the minimum 2-foot landscaping strip).
Proposed ADUs that are within one quarter mile of a BART station and located in an RPP zone will have no additional parking requirement. No Residential Parking Permit will be issued to an ADU under all circumstances.
6. Other - Legal property owner shall live in main dwelling unit or ADU. If ADU is built on property line, doors and windows cannot face neighbors' property. Should be excluded from use as short term rentals. ADUs are prohibited in the Environmental Safety Residential (ESR) zone. ADUs may be allowed with an AUP on lots on streets that do not meet minimum fire access requirements. ADU may be allowed only if the fire flow and water pressure meet minimum fire safety requirements.

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

Information Reports

17. LPC-NOD: 1350 Fourth Street

From: City Manager

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

Action: Received and filed.

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

Adjournment

Adjourned in Memory of:

1. Carol Berry, First Female Berkeley Patrol Officer
2. Larry Kazuo, Downtown Ambassador

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

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

Adjourned at 9:58 p.m.

Communications

Item 12: ZAB Appeal: 2135 Roosevelt Avenue

1. Yonatan Cohen

Item 16: Accessory Dwelling Units

2. Jay Claiborne
3. Debbie Sanderson
4. Joann Sullivan

Community Benefits for Large-Scale Downtown Buildings

5. Kate Harrison, on behalf of the Wellstone Democratic Renewal Club

Tasers

6. Human Welfare & Community Action Commission

Formaldehyde Hazard

7. Beatriz Manz

Property Issue

8. Calvin Justice

Public Comment on 2211 Harold Way

9. Tobey Wiebe

Supplemental Communications and Reports 1

Item 12: ZAB Appeal: 2135 Roosevelt Avenue

10. Dean Metzger, on behalf of Berkeley Neighborhoods Council
11. Jim Bernholtz

Item 16: Accessory Dwelling Units

12. Kathryn Horsley

Supplemental Communications and Reports 2

Item 12: ZAB Appeal: 2135 Roosevelt Avenue

13. Eric Gellerman

Item 16: Accessory Dwelling Units

14. Karen Chapple

15. Andy & Becky Donohoe

16. Alberto Benejam

17. Debbie Sanderson

18. Dorothy Walker

Supplemental Communications and Reports 3

Item 16: Accessory Dwelling Units

19. Supplemental materials, submitted by Mayor Bates

20. Kathryn Horsley