



**BERKELEY CITY COUNCIL AGENDA COMMITTEE
SPECIAL MEETING**

BERKELEY CITY COUNCIL SPECIAL MEETING

MONDAY, FEBRUARY 24, 2014

2:30 P.M.

6th Floor Conference Room, 2180 Milvia Street

Committee Members:

Mayor Bates, Councilmembers Linda Maio and Gordon Wozniak
(Alternate: Councilmember Anderson)

AGENDA

1. Roll Call
2. Public Comment
3. Approval of Minutes: February 11, 2014
4. Review and Approve draft agendas for March 11, 2014
 - a. 3/11/14 – 7:00 p.m. Regular City Council Meeting
 - b. Adjournments in memory of -
5. Upcoming Council Items:
 - a. Upcoming Council Worksessions
 1. Mental Health Commission Referral - Crisis Response
 2. Hospital Charity Care and Community Benefits
 3. Homeless Count Data
 - b. Land Use Calendar – accept and file
6. Adjournment – next meeting Monday, March 10, 2014

Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure Resolution No. 66,180-N.S., Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.

Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, City Clerk, 981-6900.

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 20, 2014.

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, CMC, City Clerk

**BERKELEY CITY COUNCIL AGENDA COMMITTEE
SPECIAL MEETING MINUTES**

TUESDAY, FEBRUARY 11, 2014

2:30 P.M.

6th Floor Conference Room, 2180 Milvia Street

Committee Members:

Mayor Bates, Councilmembers Linda Maio and Gordon Wozniak
(Alternate: Councilmember Anderson)

1. Roll Call: 2:31 p.m. All present.
2. Public Comment: 0 speakers.
3. M/S/C (Maio/Wozniak) to approve the Minutes of January 27, 2014.
4. Review and Approve draft agendas for February 25, 2014
 - a. M/S/C (Maio/Wozniak) to approve the agenda of the 2/25/14 – 5:30 p.m. Special City Council Meeting.
 - b. M/S/C (Bates/Maio) to approve the agenda of the 2/25/14 – 7:00 p.m. Regular City Council Meeting revised to reflect the following:
 - *Item Added: Redistricting Referendum Petition: Repeal Ordinance No. 7,320 and Consideration of Alternative Plans (Councilmembers Arreguin, Worthington, and Anderson)*
 - *Item 6 – Grant Proposal to the California Strategic Growth Council; Staff to revise recommendation consistent with grantor requirements (City Manager)*
 - *Item 12 – Strengthen Youth tobacco Prevention – Revised Item Submitted (Moore)*
 - *Item 13 – Condemning Nigerian Ant-LGBT Legislation – Revised Item Submitted (Moore)*
 - *Item 14 – Water Conservation Measures – Revised Item Submitted (Arreguin)*
 - *Item 15 – Support of the Kindergarten Readiness Act of 2014 - – Revised Item Submitted (Arreguin)*
 - *Item 17 – City Manager Referral: Have Non-sworn (civilian) Employees Investigate After-hour Noise Complaints – Item held over to March 11 (Worthington)*
 - c. Adjournments in memory of – None.
5. Upcoming Council Items:
 - a. Upcoming Council Worksessions
 1. Mental Health Commission Referral - Crisis Response
 2. Hospital Charity Care and Community Benefits
 3. Homeless Count Data
 4. *Citywide Facilities removed from March 11 calendar.*
 - b. Land Use Calendar – accepted and filed
6. Adjourned at 2:46 p.m.



Mark Numainville, CMC, City Clerk

DRAFT AGENDA**BERKELEY CITY COUNCIL MEETING****TUESDAY, MARCH 11, 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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, City Clerk, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters**Roll Call:**

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

1. Formal Bid Solicitation and Request for Proposal Scheduled for Possible Issuance After Council Approval on March 11, 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 - \$2,915,599

Contact: Robert Hicks, Finance, 981-7300

2. Side Letter of Agreement - SEIU Local 1021 Maintenance and Clerical Chapters

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union (SEIU) Local 1021 Maintenance and Clerical Chapters to modify Section 13.2 of the Memorandum Agreement regarding the compensation for Public Safety Dispatcher II during temporary assignment to the higher classification of Supervising Public Safety Dispatcher in the Police Department.

Financial Implications: General Fund - \$2,000

Contact: David Abel, Human Resources, 981-6800

Consent Calendar

- 3. Contract No. 7470 Amendment: 2M Associates for Berkeley Tuolumne Camp Master Development Plan Update**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 7470 to update the Master Development Plan for Berkeley Tuolumne Camp after the Rim Fire of 2013 for an additional amount not to exceed \$300,000 for a total contract amount not to exceed \$527,162.
Financial Implications: Playground Camp Fund - \$300,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 4. Declaration of Intent: FY 2015 Street Light Assessment**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the Engineer's report, Street Lighting Assessment District 1982-1, dated January 2014; 2. Setting a public hearing to be held before Council at its May 6, 2014 meeting; and 3. Authorizing the City Clerk to publish the notice of the public hearing for FY 2015 Levy of Assessments of Street Lighting Assessment District No. 1982-1.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300

Council Consent Items

- 5. Waiver of Living Wage Ordinance Requirement for Outdoor Café Seating in Exchange for Public Amenities and Assumption of Liability**
From: Councilmember Maio
Recommendation: Waive the requirement of the Living Wage Ordinance applicability for a small café that wishes to provide café seating and public amenities in a small area of Public Right of Way (454 sq. ft.) adjacent to the Ohlone Greenway.
Financial Implications: None
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 6. Expansion of Permit Parking to Impacted Areas**
From: Councilmembers Maio and Moore
Recommendation: Refer to the City Manager the expansion of Residential Permit Parking to impacted areas beyond "The Donut," an expansion that is sensitive to the mix of uses that are both residential and commercial, such as exist in West Berkeley.
Financial Implications: Staff time
Contact: Linda Maio, Councilmember, District 1, 981-7110
- 7. Official City Sponsor of Walk with a Doc Berkeley**
From: Councilmember Moore
Recommendation: Approve City sponsorship of Walk with a Doc, Berkeley.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120

Council Consent Items

- 8. Official City Sponsor of Heart to Heart Health Day**
From: Councilmember Moore
Recommendation: Approve City sponsorship of Heart to Heart Health Day.
Financial Implications: Unknown
Contact: Darryl Moore, Councilmember, District 2, 981-7120
- 9. Commemorating the 50th Anniversary of the Wilderness Act and the Creation of the National Wilderness**
From: Councilmember Capitelli
Recommendation: Adopt a Resolution commemorating the 50th Anniversary of the Wilderness Act and the creation of the National Wilderness Preservation System (NWPS).
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
- 10. Option Recovery Services - Seeking Justice in America Fund Raising Event: Relinquishment of Council Office Funds in General Fund and Grant of Such Funds**
From: Councilmember Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$100 per Councilmember, including Councilmember Wengraf, to Options Recovery Services for its Seeking Justice in America Event with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budget of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$100
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 11. Prohibiting the Sale of Tobacco Products in Establishments with Pharmacies**
From: Councilmembers Wengraf and Capitelli
Recommendation: Request that the City Manager draft an ordinance that would prohibit the sale of tobacco and tobacco related products in stores that also sell prescription medications and return to Council by June, 2014 for City Council consideration.
Financial Implications: Staff time
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 12. Proclamation in Honor of the 12th Annual Holocaust Remembrance Day Event**
From: Councilmembers Worthington and Wengraf
Recommendation: Adopt the Holocaust Remembrance Day Proclamation for the 12th Annual Holocaust Remembrance Day event.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Council Consent Items

- 13. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmembers Worthington and Wengraf
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 from Councilmembers Worthington and Wengraf, to support the Holocaust Remembrance Day Event 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 and Councilmember Susan Wengraf's discretionary Council Office Budgets and any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - \$1,000
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 14. City Manager, Zero Waste Commission, and Community Environmental Advisory Commission Referral: Gas Pump Warning Labels**
From: Councilmember Worthington
Recommendation: Refer to the City Manager, Zero Waste Commission, and Community Environmental Advisory Commission to create an ordinance that requires climate-conscious warning labels be posted on gas pumps.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 15. City Manager and Zero Waste Commission Referral: Create an Ordinance to Require All Berkeley Food Establishments to Use Compostable Food Service Containers and Utensils**
From: Councilmember Worthington
Recommendation: Refer to the City Manager and Zero Waste Commission to create an ordinance to require all food establishments in Berkeley to use compostable containers and utensils for all food service activities. Materials that would qualify under this ordinance would be paper and cardboard containers, as well as containers and utensils made from compostable plant-based plastics (PLA). The mandate should specify the use of "compostable", as opposed to "biodegradable" materials, as well as "plant-based plastics (PLA)," as opposed to "plant starch plastics," which are not compostable.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action Calendar – Public Hearing

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

16. ZAB Appeal: 3001 Telegraph Avenue

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution approving Administrative Use Permit No. 13-20000024 to establish a quick-service food use within an existing 2,063 sq. ft. commercial tenant space with hours of operation from 5:30 a.m. to 9 p.m. daily and to waive the three off-street parking spaces that would be required with a change of use from general commercial to a food service use, and dismiss the appeal.

Financial Implications: None

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

Action Calendar – Old Business

17. City Manager Referral: Have Non-sworn (civilian) Employees Investigate After-hour Noise Complaints *(Continued from December 17, 2013)*

From: Councilmember Worthington

Recommendation: Refer to the City Manager to designate non-sworn (civilian) employees to investigate after-hour noise complaints.

Financial Implications: See report

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar – New Business

18. Approval of the Alameda County Transportation Expenditure Plan

From: City Manager

Recommendation: Adopt a Resolution approving the 2014 Alameda County Transportation Expenditure Plan and recommendation for the Board of Supervisors to place a 30-year extension and augmentation of the existing transportation sales tax on the November 4, 2014 general election ballot.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Information Reports

19. **Updating Public of Changes to Agenda After Consent Calendar**
From: City Manager
Contact: Mark Numainville, City Clerk, 981-6900
20. **Survey of Salaries for Mayor and Members of the Council**
From: City Manager
Contact: William Rogers, City Manager's Office, 981-7000
21. **Report on Workers' Compensation FY 2013**
From: City Manager
Contact: David Abel, Human Resources, 981-6800
22. **Governor Jerry Brown Presents the HERO Program with the Governor's Environmental and Economic Leadership Award ("GEELA")**
From: Councilmember Worthington
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Public Comment – Items Not Listed on the Agenda –

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/video> and KPFB Radio 89.3. Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue
West Branch – 1125 University
North Branch – 1170 The Alameda
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

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Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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CITY COUNCIL  
Linda Maio

CONSENT CALENDAR  
March 11, 2014

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Linda Maio

SUBJECT: Waiver of Living Wage Ordinance Requirement for Outdoor Café Seating  
in Exchange for Public Amenities and Assumption of Liability

RECOMMENDATION:

Waive the requirement of the Living Wage Ordinance applicability for a small café that wishes to provide café seating and public amenities in a small area of Public Right of Way (454 sq. ft.) adjacent to the Ohlone Greenway.

BACKGROUND:

I am making this recommendation now so as not to put an individual business at a disadvantage while we are deliberating a Living Wage Ordinance (LWO).

A small café is proposed for the corner of Gilman Street and the Ohlone Greenway (southeast corner). The proposed location for outdoor seating is 1,000 sq. ft., including the public ROW area of 454 sq. ft. The building is not in a strongly robust retail area and the applicants are concerned that no café will be able to succeed if the City's LWO is applied due to the 454 sq. ft., especially in that small commercial neighborhood. Their pricing would have to be too high to be competitive. They are, however, very willing to comply with the broad LWO that the City is considering if, and when, that occurs as it will be applicable to everyone. In exchange for the exemption, the owner is providing the following public amenities where currently there are none:

- 1) A total of 1,000 sq. ft. of fully landscaped area (now barren).
- 2) 80 linear feet of bench seating (seats 40 or so) open to the public at all times along the greenway.
- 3) Lease holder assumes liabilities for entire Piazza (including all public area), including maintenance, insurances, graffiti removal, landscaping, etc.
- 4) Improved ambiance for the Westbrae commercial district and Greenway.
- 5) Support for bike and pedestrian use by providing public resting area directly at the Piazza and the Ohlone Greenway.

FINANCIAL IMPLICATIONS:

None at this time.

CONTACT:

Councilmember Linda Maio, District 1 510-981-7110, lmaio@cityofberkeley.info





CITY COUNCIL  
**Linda Maio**

4a.06

CONSENT CALENDAR  
March 11, 2014

TO: Honorable Mayor and Members of the City Council  
FROM: Councilmembers Linda Maio and Darryl Moore  
SUBJECT: Expansion of Permit Parking to Impacted Areas

RECOMMENDATION:

Refer to the City Manager the expansion of Residential Permit Parking to impacted areas beyond “The Donut,” an expansion that is sensitive to the mix of uses that are both residential and commercial, such as exist in West Berkeley.

BACKGROUND:

As intensification of commercial uses grows in West Berkeley, residential neighbors who have no off-street parking find themselves in a hardship situation. They are unable to park near enough to their homes to manage groceries and children, or disability needs. Employees of commercial uses who commute park all day on these streets. Given that many of the properties for both residential and commercial are historic and lack on-site parking, street parking becomes highly competitive. Residents I have heard from are sensitive to the fact that they live in a mixed use area and know the businesses need parking as well. Some have suggested that they can “share the block” and have at least half be residential permit parking. This matter will ultimately go to the Transportation Commission but is being referred to the City Manager, as the first step is to conduct appropriate studies for implementing permit parking.

What follows are excerpts from an email that is typical of those I have been receiving:

*Ms. Maio,*

*I have lived on Cedar Street between 5th and 6th, since 1981. During this time I have seen many positive changes in our neighborhood, and a few that are not so great. Perhaps the most noticeable and constant problems are traffic and parking. Many of my neighbors have no driveways at all, and often find it impossible to park in front of, or even near their homes. This presents special difficulties for the elderly, the handicapped, and those with young children.*

FINANCIAL IMPLICATIONS:

Staff time to identify impacted areas and appropriate studies.

CONTACT:

Councilmember Linda Maio, District 1, 510-981-7110, lmaio@cityofberkeley.info







CITY COUNCIL

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
March 11, 2014

To: Honorable Mayor and Members of the City Council  
From: Councilmember Darryl Moore, District 2  
Subject: Official City Sponsor of Walk with a Doc Berkeley

RECOMMENDATION

Approve City sponsorship of Walk with a Doc, Berkeley.

BACKGROUND

The Walk with a Doc program was created in 2005 after Dr. David Sabgir went into private practice in Columbus. Today, doctors are hoping to get the program up and running in more than 250 other places as far away as China, Portugal and South Africa. The program started with a 2.2-mile hike on a spring day in suburban Columbus. Sabgir, a graduate of Miami University in Oxford and the Medical College of Ohio in Toledo, had grown tired of spending so much time urging patients to exercise and seeing so few of them follow his recommendation.

Dr. Sabgir decided if he invited them to walk with him, maybe more would get involved. It would be a win-win with no major expense: The walking could help people lose weight or fight the effects of disease and age, and it would give him time to answers their health questions.

The first Walk with a Doc (WWAD) Berkeley took place in October, 2013, and was a hit. Building on this success, WWAD, the City of Berkeley, Heart 2 Heart, and the Ecology Center will host another walk and health fair on March 8, 2014, from 10am to 1pm at San Pablo Park. Participants will join doctors on a 2-mile walk around the park and have the chance to get their health questions answered. Free blood pressure screenings will be available, various organizations will table and offer information, and healthy snacks and giveaways will be provided. The walk will also highlight the overlaps between public health and climate change, exemplified by the co-benefits achieved when people choose walking over driving.

FISCAL IMPACTS OF RECOMMENDATION

Unknown

CONTACT PERSON

Councilmember Darryl Moore, District 2 981-7120





CITY COUNCIL

**Darryl Moore**  
Councilmember District 2

CONSENT CALENDAR  
March 11, 2014

To: Honorable Mayor and Members of the City Council  
From: Councilmember Moore, District 2  
Subject: Official City Sponsor of Heart to Heart Health Day

RECOMMENDATION

Approve City sponsorship of Heart to Heart Health Day

BACKGROUND

Heart 2 Heart (H2H) uses a holistic, community-based approach to address health inequities while preventing high blood pressure and heart disease in South Berkeley. H2H serves as bridge between community, programs, resources, and services that are necessary to address the needs of community members. The City partnered with LifeLong Medical Care, community members, and other community organizations, to provide information and resources that promote healthier living in a selected South Berkeley community. This project is sponsored by Alameda County Measure A funding.

The Heart 2 Heart program has a mobile health van in which they conduct blood pressure screenings and resource tables in front of Spiral Gardens in South Berkeley. In order to further engage the community, Heart to Heart plans to expand their April mobile health van event into a larger community gathering. The event will close off a portion of Oregon Street and will include door-to-door blood pressure screenings for residents in the neighborhood, other types of screening (glucose, HIV, dental screenings), health care enrollment and information about the Affordable Care Act, and a Health and Resource Fair. This community event will be on April 26, 2014 from 10am to 3pm.

FISCAL IMPACT

Unknown

CONTACT PERSON

Darryl Moore, Councilmember, District 2, 510 981-7120



Berkeley City Council  
District 5

CONSENT CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council  
From: Councilmember Laurie Capitelli  
Subject: Commemorating the 50<sup>th</sup> Anniversary of the Wilderness Act and the Creation of the National Wilderness Preservation System

RECOMMENDATION:

Adopt a Resolution commemorating the 50<sup>th</sup> Anniversary of the Wilderness Act and the creation of the National Wilderness Preservation System (NWPS).

FINANCIAL IMPLICATIONS:

None.

ENVIRONMENTAL SUSTAINABILITY

Recognition of the anniversary of the Wilderness Act and the creation of the National Wilderness Preservation System is consistent with the City's sustainability goal: "Preserve natural habitats and minimize air and water pollution."

BACKGROUND:

On September 3, 1964 President Lyndon B. Johnson signed into law the Wilderness Act. This historic bill established the National Wilderness Preservation System (NWPS) and set aside an initial 9.1 million acres of wildlands for the use and benefit of the American people. Over the past 50 years, and as a result of America's support for wilderness, Congress has added over 100 million acres to this unique land preservation system. The 1964 Wilderness Act defines "Wilderness" as areas where the earth and its communities of life are left unchanged by people, where the primary forces of nature are in control, and where people themselves are visitors who do not remain.

The NWPS was established for the use and enjoyment of the American people and provides many direct and in-direct benefits, such as those relating to ecological, geological, scientific, educational, scenic, spiritual, economic, recreational, historical, and cultural uses and activities. The 757 wilderness areas within the NWPS are managed by all four federal land managing agencies, the Bureau of Land Management, Fish and Wildlife Service, Forest Service, and National Park Service.

In 2014, our nation will celebrate "50 Years of Wilderness." The anniversary website, <http://www.wilderness.net>, has been created to document this historical commemoration honoring America's "True American Legacy of Wilderness." A national team, called [Wilderness50](http://www.wilderness50th.org/about.php?useraction=about-) at <http://www.wilderness50th.org/about.php?useraction=about->

[wilderness50](http://www.wilderness50.org), has been created to plan educational events, projects, programs, and products to raise awareness of wilderness during the 50th anniversary year. This website provides a map and listing of all local, regional, and national 50th anniversary events at <http://www.wilderness50th.org/events.php> that are occurring nation-wide, including the [National Wilderness Conference](http://www.wilderness50th.org/conference.php?useraction=conf-about) at <http://www.wilderness50th.org/conference.php?useraction=conf-about>. It also provides access to resources for individuals or community groups interested in hosting a 50th anniversary event.

**CONTACT PERSON:**

Councilmember Laurie Capitelli, District 5 981-7150

**ATTACHMENT**

1. Resolution Commemorating the 50<sup>th</sup> Anniversary of the Wilderness Act

RESOLUTION NO. ##,###-N.S.

COMMEMORATING THE 50<sup>TH</sup> ANNIVERSARY OF THE WILDERNESS ACT

WHEREAS, on September 3, 1964 President Lyndon B. Johnson signed into law the Wilderness Act, an historic bill establishing the National Wilderness Preservation System (NWPS) and setting aside an initial 9.1 million acres of wildlands for the use and benefit of the American people; and

WHEREAS, the 1964 Wilderness Act defines "Wilderness" as areas where the earth and its communities of life are left unchanged by people, where the primary forces of nature are in control, and where people themselves are visitors who do not remain; and

WHEREAS, the NWPS provides many direct and in-direct benefits, such as those relating to ecological, geological, scientific, educational, scenic, spiritual, economic, recreational, historical, and cultural uses and activities; and

WHEREAS, over the past 50 years, and as a result of America's support for wilderness, Congress has added over 100 million acres to this unique land preservation system, establishing 757 wilderness areas within the NWPS that are managed by all four federal land managing agencies: the Bureau of Land Management, the Fish and Wildlife Service, the Forest Service, and the National Park Service; and

WHEREAS, website [Wilderness50](http://www.wilderness50.org) at <http://www.wilderness50th.org/about.php?useraction=about-wilderness50>, has been created to document this historical commemoration honoring America's "True American Legacy of Wilderness."

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley does hereby commemorate our nation's "50 Years of Wilderness" celebration honoring the 50<sup>th</sup> Anniversary of the 1964 Wilderness Preservation Act and encourages Berkeley citizens to visit the anniversary organization website [Wilderness50](http://www.wilderness50.org) at <http://www.wilderness50th.org/about.php?useraction=about-anniversary> to learn more about educational events, projects, programs, and products to raise awareness of wilderness during this 50th anniversary year.







Susan Wengraf  
City Council District 6

CONSENT CALENDAR  
March 11, 2014

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Option Recovery Services - Seeking Justice in America Fund Raising Event: Relinquishment of Council Office Funds in General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$100 per Councilmember, including Councilmember Wengraf, to Options Recovery Services for its Seeking Justice in America Event with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budget of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$100 is available from Councilmember Wengraf's Council Office Budget discretionary account

BACKGROUND

Options Recovery Services is a non-profit organization providing out-patient drug and alcohol treatment services in downtown Berkeley. This event will launch a capital campaign for new offices and program space.

CONTACT PERSON

Susan Wengraf, Councilmember District 6 981-7160

Attachment:

1. Resolution

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBER TO OPTIONS RECOVERY SERVICES

WHEREAS, Councilmember Wengraf has surplus funds in her office expenditure account 010-0262-410-55-11; and

WHEREAS, Options Recovery Services provides vital out-patient drug and alcohol treatment services in downtown Berkeley in order to 'break the cycle of addiction that causes violence, crime, homelessness, and broken families'; and

WHEREAS, Option Recovery Services is launching a Capital Campaign to fund their move to relocate some of their programs to the historical building, The Annex, located on Allston Way.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$100 per office shall be granted to Options Recovery Services for its Seeking Justice in America fund raising event.



Susan Wengraf  
Councilmember District 6

4a.11

CONSENT CALENDAR  
March 11, 2014

To: Honorable Mayor and Members of the City Council  
From: Susan Wengraf & Laurie Capitelli  
Subject: Prohibiting the Sale of Tobacco Products in Establishments with Pharmacies

RECOMMENDATION

Request that the City Manager draft an ordinance that would prohibit the sale of tobacco and tobacco related products in stores that also sell prescription medications and return to council by June, 2014 for City Council consideration.

FINANCIAL IMPLICATIONS:

Staff time

BACKGROUND

Cigarette smoking accounts for approximately 450,000 deaths annually in the U.S. The increased risks of coronary disease, stroke, and cancer from smoking are well established in the medical literature.

Because cigarettes are known to cause many deadly diseases, it is inappropriate for them to be sold in stores that sell prescription drugs that treat disease and that promote health.

The neighboring cities of San Francisco and Richmond, Ca. already have ordinances that prohibit the sale of tobacco products in establishments with pharmacies. The ordinance in San Francisco was challenged by Phillip Morris and Safeway and in both instances the courts ruled in favor of the city of San Francisco.

In a bold move, CVS recently announced that all of their stores would stop selling tobacco products. Rather than wait for others to follow, the City of Berkeley should adopt an ordinance that would prohibit the sale of tobacco and tobacco related products in all establishments that sell prescription medications and impose penalties on those that violate the law.

This ordinance reflects our commitment to protecting and improving the health of our citizenry.

CONTACT PERSON

Councilmember Susan Wengraf Council District 6 510-981-7160

**ORDINANCE NO. 38-09 N.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADDING SECTION 7.107 TO THE RICHMOND MUNICIPAL CODE TO PROHIBIT DRUG STORES CONTAINING PHARMACIES FROM SELLING TOBACCO PRODUCTS.**

The City Council of the City of Richmond do ordain as follows:

**SECTION 1. Findings.**

The City Council hereby finds and declares as follows:

1. Tobacco is the leading cause of preventable death in the United States and the leading risk factor contributing to the burden of disease in the world's high-income countries;
2. In addition to its health impact, tobacco related death and disease has an economic impact. In 1999, the economic costs of smoking in California were estimated to be \$475 per resident or \$3,331 per smoker, for a total of nearly \$15.8 billion in smoking-related costs (1999 dollars). Those same costs in 2008 dollars would be \$614 per resident or \$4,310 per smoker for a total of nearly \$20.4 billion dollars;
3. The American Diabetes Association's standards of medical care in diabetes call for smoking cessation as well as prescription drug therapy;
4. Through the sale of tobacco products, drug stores convey tacit approval of the purchase and use of tobacco products. This approval sends a mixed message to consumers who generally patronize pharmacies for health care services;
5. In 1970, the American Pharmaceutical Association stated that mass display of cigarettes in pharmacies is in direct contradiction to the role of a pharmacy as a public health facility;
6. The Tobacco Education and Research Oversight Committee for California, as well as the American Pharmacists Association, the California Pharmacists Association, and the California Medical Association have called for the adoption of state and local prohibitions of tobacco sales in drug stores containing pharmacies;
7. A majority (78%) of independently owned pharmacies in California have become tobacco free; however, tobacco products are still sold by 94% of chain drug stores;
8. Of the independently owned pharmacies that are tobacco-free, 88% report they have experienced either no loss or an increase in business since removing tobacco from their shelves;
9. An overwhelming percentage of California consumers (96.8%) indicate that they would continue to patronize their pharmacy or drug store as often or more often if it stopped selling tobacco products;
13. A large majority (72.3%) of California consumers are opposed to the sale of tobacco products in drug stores and nearly one-half of California smokers (49.7%) disagree or strongly disagree that tobacco products should be sold through drug stores;
14. Only 13.2% of chain drug store pharmacists are in favor of the sale of tobacco products in drug stores;
15. In a 2003-2004 national survey of pharmacy students, nearly three-quarters (71%) of those surveyed were against tobacco sales in pharmacies. These findings were aligned with the 2003 resolution of the American Association of Colleges of Pharmacy that encourages pharmacy schools to use only training sites that do not sell tobacco products;
16. Drugstores are among the most accessible and trusted sources of health information

among the public;

17. Clinicians can have a significant effect on smokers' probability of quitting smoking;

18. Most health care institutions have adopted policies that have banned tobacco sales and created smoke-free environments. In spite of numerous resolutions and recommendations by state and national pharmacy organizations calling for pharmacies to stop selling tobacco, some community pharmacies in the United States continue to sell tobacco products.

19. Prescription drug sales for chain drug stores represent a significantly higher percentage of total sales than for grocery stores and big box stores that contain pharmacies. According to the 2007 Rite Aide Annual Report, prescription drugs sales represented 63.7% of total sales in fiscal 2007. Walgreen's 2007 Annual Report documented prescription sales as approximately 65% of net sales that year. Pharmacy sales at Safeway have been estimated at 7.5% of annual volume. Costco's prescription sales generated 1.5% of total revenue in 2002. (Findings 1-19 are based primarily on the article "Tobacco sales in pharmacies: time to quit," Hudmon et al. *Tob Control*, 2006; 15: 35-38.)

**SECTION 2.** The Richmond Municipal Code is hereby amended by adding Section 7.107 to the Richmond Municipal Code as follows:

**7.107.10 Definitions**

For purposes of this chapter, the following words, terms and phrases shall have the meanings given below:

"City Manager" shall mean the Richmond City Manager or his or her designee.

"Drug Store" shall mean any business or other commercial enterprise that is (1) licensed as a pharmacy by the State of California pursuant to the California Business and Professions Code, and (2) identified as a Drug Store with the California Board of Equalization, or with the Richmond Finance Department, or is otherwise commonly known as a drugstore.

"Tobacco Product" as used in this Chapter shall mean: (1) any substance containing tobacco leaf, including, but not limited, to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

**7.107.020 Prohibition Against Tobacco Product Sales at Drug Stores**

No Drug Store shall sell, or otherwise distribute, tobacco products.

**7.107.030 Penalties and Enforcement**

The City may seek compliance with this Chapter by any remedy allowed under the Richmond Municipal Code, including, but not limited to, revocation of Tobacco License pursuant to section 7.106.120, administrative fines (Richmond Municipal Code Chapter 2.62), or the penalties set forth in section 1.04.100 of the Richmond Municipal Code.

**7.107.040 Expiration of License to Sell Tobacco**

Any license to sell tobacco issued to a pharmacy, as defined by California Business and Professions Code Section 4037, pursuant to Chapter 7.106 shall expire on January 1, 2010, and shall not be renewed if sales of tobacco by that pharmacy are prohibited under this Chapter.

**7.107.050 Authority to Adopt Rules and Regulations**

The City Manager may issue and amend rules, regulations, standards, guidelines, or conditions to implement and enforce this Article.

**7.107.060 Preemption**

In adopting this Chapter, the Richmond City Council does not intend to regulate or affect the rights or authority of the State to do those things that are required, directed, or expressly authorized by federal or state law. Further, in adopting this Article, Richmond City Council does not intend to prohibit that which is prohibited by federal or state law.

**7.107.070 City Undertaking Limited to Promotion of General Welfare**

In undertaking the adoption and enforcement of this Article, the Richmond City Council is assuming an undertaking only to promote the general welfare. The City does not intend to impose the type of obligation that would allow a person to sue for money damages for an injury that the person claims to arise as a result of a City officer or employee taking or failing to take an action with respect to any matter covered by this Chapter.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such division shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

**SECTION 4. Effective date.** This ordinance shall become effective 60 days after the date of its adoption.

\*\*\*\*\*

First read at a regular meeting of the Council of the City of Richmond held, October 20, 2009, and finally passed and adopted at a regular meeting thereof held November 17, 2009, by the following vote:

AYES: Councilmembers Butt, Ritterman, Rogers, and Viramontes

NOES: Vice Mayor Lopez

ABSTENTIONS: Councilmember Bates

ABSENT: Mayor McLaughlin

DIANE HOLMES  
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
City Attorney

I certify that the foregoing is a true copy of **Ordinance No. 38-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 17, 2009.

1 [Prohibiting Pharmacies From Selling Tobacco Products.]

2  
3 **Ordinance amending the San Francisco Health Code by amending Section 1009.53 and**  
4 **adding Section 1009.60 and Article 19J, to prohibit pharmacies from selling tobacco**  
5 **products.**

6 Note: Additions are single-underline italics Times New Roman;  
7 deletions are ~~strikethrough italics Times New Roman~~.  
8 Board amendment additions are double underlined.  
9 Board amendment deletions are ~~strikethrough-normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. Findings.

11 The Board of Supervisors hereby finds and declares as follows:

- 12 1. Tobacco is the leading cause of preventable death in the United States and the  
13 leading risk factor contributing to the burden of disease in the world's high-income countries;
- 14 2. In addition to its health impact, tobacco related death and disease has an  
15 economic impact. In 1999, the economic costs of smoking in California were estimated to be  
16 \$475 per resident or \$3,331 per smoker, for a total of nearly \$15.8 billion in smoking-related  
17 costs (1999 dollars). Those same costs in 2008 dollars would be \$614 per resident or \$4,310  
18 per smoker for a total of nearly \$20.4 billion dollars;
- 19 3. Twenty-three percent of San Franciscans have been diagnosed with high blood  
20 pressure. The National Heart Lung and Blood Institute's guidelines for the use of prescription  
21 drugs in the treatment of high blood pressure call for smoking cessation;
- 22 4. Twenty percent of San Franciscans have been diagnosed with high cholesterol.  
23 The National Heart Lung and Blood Institute's guidelines for the use of prescription drugs in  
24 the treatment of high cholesterol call for smoking cessation;
- 25



1           5.     The American Diabetes Association's standards of medical care in diabetes call  
2 for smoking cessation as well as prescription drug therapy;

3           6.     Thirteen percent of San Franciscans have asthma. The National Heart Lung  
4 and Blood Institute's guidelines for the use of prescription drugs in the treatment of asthma  
5 call for avoidance of tobacco smoke;

6           7.     Through the sale of tobacco products, pharmacies convey tacit approval of the  
7 purchase and use of tobacco products. This approval sends a mixed message to consumers  
8 who generally patronize pharmacies for health care services;

9           8.     In 1970, The American Pharmaceutical Association stated that mass display of  
10 cigarettes in pharmacies is in direct contradiction to the role of a pharmacy as a public health  
11 facility;

12          9.     The Tobacco Education and Research Oversight Committee for California, as  
13 well as the American Pharmacists Association, the California Pharmacists Association, and  
14 the California Medical Association have called for the adoption of state and local prohibitions  
15 of tobacco sales in drugstores and pharmacies;

16          10.    A majority (78%) of independently owned pharmacies in California have become  
17 tobacco free; however, tobacco products are still sold by 94% of chain drugstores;

18          11.    Of the independently owned pharmacies that are tobacco-free, 88% report they  
19 have experienced either no loss or an increase in business since removing tobacco from their  
20 shelves;

21          12.    An overwhelming percentage of California consumers (96.8%) indicate that they  
22 would continue to patronize their pharmacy or drugstore as often or more often if it stopped  
23 selling tobacco products;

1           13. A large majority (72.3%) of California consumers are opposed to the sale of  
2 tobacco products in drugstores and nearly one-half of California smokers (49.7%) disagree or  
3 strongly disagree that tobacco products should be sold through drugstores;

4           14. Only 13.2% of chain drugstore pharmacists are in favor of the sale of tobacco  
5 products in drugstores;

6           15. In a 2003-2004 national survey of pharmacy students, nearly three-quarters  
7 (71%) of those surveyed were against tobacco sales in pharmacies. These findings were  
8 aligned with the 2003 resolution of the American Association of Colleges of Pharmacy that  
9 encourages pharmacy schools to use only training sites that do not sell tobacco products;

10          16. Pharmacies and drugstores are among the most accessible and trusted sources  
11 of health information among the public;

12          17. Clinicians can have a significant effect on smokers' probability of quitting  
13 smoking;

14          18. Most health care institutions have adopted policies that have banned tobacco  
15 sales and created smoke-free environments. In spite of numerous resolutions and  
16 recommendations by state and national pharmacy organizations calling for pharmacies to stop  
17 selling tobacco, some community pharmacies in the United States continue to sell tobacco  
18 products.

19          19. A study of 100 randomly selected San Francisco pharmacies found that in 2003,  
20 61% of pharmacies sold cigarettes, significantly less compared to 89% of pharmacies in 1976.  
21 Most of this decrease was among independently owned pharmacies.

22          20. In a 2003 study of San Francisco pharmacies' merchandising of cigarettes, 84%  
23 of pharmacies selling cigarettes displayed tobacco advertising.

1           21. Prescription drug sales for chain drugstores represent a significantly higher  
2 percentage of total sales than for grocery stores and big box stores that contain pharmacies.  
3 According to the 2007 Rite Aide Annual Report, prescription drugs sales represented 63.7%  
4 of total sales in fiscal 2007. Walgreen's 2007 Annual Report documented prescription sales as  
5 approximately 65% of net sales that year. Pharmacy sales at Safeway have been estimated  
6 at 7.5% of annual volume. Costco's prescription sales generated 1.5% of total revenue in  
7 2002.

8           Section 2. The San Francisco Health Code is hereby amended by amending Section  
9 1009.53 and adding Section 1009.60 and Article 19J, to read as follows:

10           **SEC. 1009.53. APPLICATION PROCEDURE: INSPECTION OF PREMISES;**  
11 **ISSUANCE AND DISPLAY OF PERMIT.**

12           (a) Application. An application for a tobacco sales permit shall be submitted in the  
13 name of the person(s) proposing to engage in the sale of tobacco products and shall be  
14 signed by each person or an authorized agent thereof. The application shall be accompanied  
15 by the appropriate fees as described in section 35 of the San Francisco Business and Tax  
16 Regulations Code. A separate application is required for each location where tobacco sales  
17 are to be conducted. All applications shall be submitted on a form supplied by the Department  
18 and shall contain the following information:

- 19           1. The name, address, and telephone number of the applicant;
- 20           2. The establishment name, address, and telephone number for each location for  
21 which a tobacco sales permit is sought;
- 22           3. Such other information as the Director deems appropriate, including the applicant's  
23 type of business, and whether the applicant has previously been issued a permit under this  
24 Article that is, or was at any time, suspended or revoked.

1 (b) Inspection by Director. Upon receipt of a completed application and fees, the  
2 Director may inspect the location at which tobacco sales are to be permitted. The Director  
3 may also ask the applicant to provide additional information that is reasonably related to the  
4 determination whether a permit may issue.

5 (c) Issuance of Permit. If the Director is satisfied that the applicant has met the  
6 requirements of this Article and that issuance of the permit will not violate any law, the  
7 Department shall issue the permit. No permit shall issue if the Director finds that the applicant  
8 is in violation of San Francisco Health Code section 1009.1 (regulating cigarette vending  
9 machines), ~~or~~ San Francisco Police Code section 4600.3 (regulating the self-service  
10 merchandising of tobacco products), or if the applicant is a pharmacy prohibited from selling  
11 tobacco products under Article 19J. No permit shall issue if the application is incomplete or  
12 inaccurate.

13 (d) Display of Permit. Each permittee shall display the permit prominently at each  
14 location where tobacco sales occur. No permit that has been suspended shall be displayed  
15 during the period of suspension. A permit that has been revoked is void and may not be  
16 displayed.

17  
18 **SEC. 1009.60. CONDUCT VIOLATING TOBACCO CONTROL LAWS**

19 (a) Upon a decision by the Director that the permittee or the permittee's agent or employee has  
20 engaged in any conduct that violates local, state, or federal law applicable to tobacco products or  
21 tobacco sales, the Director may suspend a tobacco sales permit as set forth in section 1009.66, impose  
22 administrative penalties as set forth in section 1009.67, or both suspend the permit and impose  
23 administrative penalties.

1           **(b) The Director shall commence enforcement of this section by serving either a notice of**  
2 **correction under section 1009.68 of this Article or a notice of initial determination under section**  
3 **1009.69 of this Article.**

4  
5           **ARTICLE 19J: PROHIBITING PHARMACIES FROM SELLING TOBACCO PRODUCTS**

6           **SEC. 1009.91. DEFINITIONS.**

7           **(a) "Big Box Store" shall mean a single retail establishment occupying an area in excess of**  
8 **100,000 gross square feet.**

9           **(b) "Director" shall mean the Director of the Department of Public Health or his or her**  
10 **designee.**

11           **(c) "General Grocery Store" shall have the same meaning as set forth in Planning Code**  
12 **Section 790.102(a) or any successor provisions.**

13           **(d) "Person" shall mean any individual person, firm, partnership, association, corporation,**  
14 **company, organization, or legal entity of any kind.**

15           **(e) "Pharmacy" shall mean a retail establishment in which the profession of pharmacy by a**  
16 **pharmacist licensed by the State of California in accordance with the Business and Professions Code is**  
17 **practiced and where prescriptions are offered for sale. A pharmacy may also offer other retail goods**  
18 **in addition to prescription pharmaceuticals. For purposes of this Article, "pharmacy" includes retail**  
19 **stores commonly known as drugstores.**

20           **(f) "Tobacco Product" shall mean any substance containing tobacco leaf, including but not**  
21 **limited to cigarettes, cigars, pipe, tobacco, snuff, chewing tobacco, and dipping tobacco.**

22  
23           **Sec. 1009.92. PROHIBITION AGAINST TOBACCO PRODUCT SALES AT**  
24 **PHARMACIES.**

1 No person shall sell tobacco products in a pharmacy, except as provided in Sec. 1009.93.

2  
3 **Sec. 1009.93. EXCEPTIONS.**

4 The prohibition against tobacco sales at pharmacies in Section 1009.92 shall not apply to:

5 (a) General Grocery Stores.

6 (b) Big Box Stores.

7  
8 **Sec. 1009.94. PENALTIES AND ENFORCEMENT.**

9 Administrative penalties shall be assessed and collected by the Director in accordance with San  
10 Francisco Administrative Code Chapter 100, a copy of which is on file in Board of Supervisors File No.  
11 \_\_\_\_\_ and which is hereby incorporated by reference.

12  
13 **SEC. 1009.95. EXPIRATION OF PERMIT TO SELL TOBACCO.**

14 Any permit to sell tobacco issued to a pharmacy pursuant to Article 19H shall expire on  
15 September 30, 2008, and shall not be renewed if sales of tobacco by that pharmacy are prohibited  
16 under this Article.

17  
18 **SEC. 1009.96. AUTHORITY TO ADOPT RULES AND REGULATIONS.**

19 The Director may issue and amend rules, regulations, standards, guidelines, or conditions to  
20 implement and enforce this Article.

21  
22 **SEC. 1009.97. PREEMPTION.**

23 In adopting this Article, the Board of Supervisors does not intend to regulate or affect the rights  
24 or authority of the State to do those things that are required, directed, or expressly authorized by

1 federal or state law. Further, in adopting this Article, the Board of Supervisors does not intend to  
2 prohibit that which is prohibited by federal or state law.

3  
4 **SEC. 1009.98. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL**  
5 **WELFARE.**


6 In undertaking the adoption and enforcement of this Article, the City and County is assuming an  
7 undertaking only to promote the general welfare. The City does not intend to impose the type of  
8 obligation that would allow a person to sue for money damages for an injury that the person claims to  
9 suffer as a result of a City officer or employee taking or failing to take an action with respect to any  
10 matter covered by this Article.

11  
12 **SEC. 1009.99. SEVERABILITY.**

13 If any of the provisions of this Article or the application thereof to any person or circumstance  
14 is held invalid, the remainder of this Article, including the application of such part or provisions to  
15 persons or circumstances other than those to which it is held invalid, shall not be affected thereby and  
16 shall continue in full force and effect. To this end, the provisions of this Article are severable.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:

  
21 Cecilia T. Mangoba  
22 Deputy City Attorney  
23  
24  
25



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails

### Ordinance

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**File Number:** 080594

**Date Passed:**

Ordinance amending the San Francisco Health Code by amending Section 1009.53 and adding Section 1009.60 and Article 19J, to prohibit pharmacies from selling tobacco products.

---

July 29, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 8 - Alioto-Pier, Ammiano, Daly, Maxwell, McGoldrick, Mirkarimi, Peskin,  
Sandoval

Noes: 3 - Chu, Dufty, Elsbernd

August 5, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Alioto-Pier, Ammiano, Daly, Maxwell, McGoldrick, Mirkarimi, Peskin,  
Sandoval

Noes: 3 - Chu, Dufty, Elsbernd




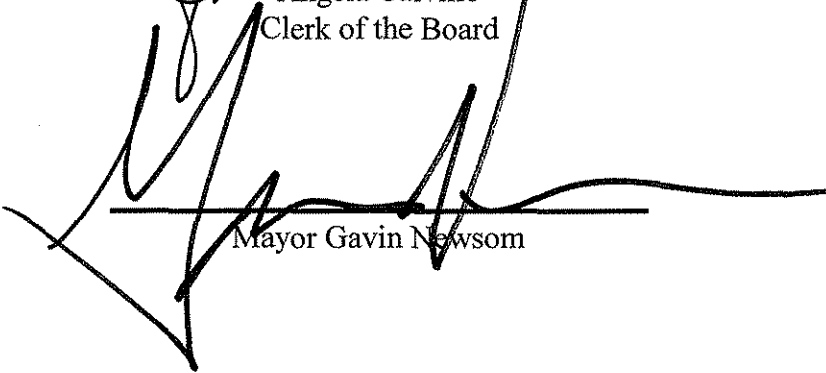
File No. 080594

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on August 5, 2008  
by the Board of Supervisors of the City and  
County of San Francisco.

8.7.08

Date Approved

  
Angela Calvillo  
Clerk of the Board

  
Mayor Gavin Newsom





## Kriss Worthington

Councilmember, City of Berkeley, District 7  
 2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704  
 PHONE 510-981-7170 FAX 510-981-7177 kworthington@ci.berkeley.ca.us

### CONSENT CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Kriss Worthington  
 Councilmember Susan Wengraf

Subject: Proclamation in Honor of the 12<sup>th</sup> Annual Holocaust Remembrance Day Event

#### RECOMMENDATION:

Adopt the Holocaust Remembrance Day Proclamation for the 12<sup>th</sup> Annual Holocaust Remembrance Day event.

#### BACKGROUND:

On April 27, 2014 at the Magnes Collection of Jewish Art and Life, at 11am, the City of Berkeley will be honoring East Bay Holocaust survivors and remembering all who perished in the Shoah.

The Twelfth Annual Holocaust Remembrance Day theme is “Confronting the Holocaust: American Responses.” Musicians and speakers will utilize this year’s theme in their presentations. We invite the community to share song, traditional music, verse, and personal stories in commemorating this day.

#### FINANCIAL IMPLICATIONS:

None.

#### CONTACT PERSON:

Councilmember Kriss Worthington 510-981-7170  
 Councilmember Susan Wengraf 510-981-7160

#### Attachments:

1. Proclamation

## HOLOCAUST REMEMBRANCE DAY

**WHEREAS,** We remember with sadness the millions of victims of the "final solution." We remember with admiration the resisters, known and unknown, who risked and lost their lives to save others. We remember with respect the survivors, who escaped or who were freed, and to this very day, live to contribute so much to our world and our city. We remember today to firmly commit ourselves to say NEVER AGAIN; and

**WHEREAS,** We remember today the eleven million people killed by Nazi genocidal policy. It was the explicit aim of Hitler's regime to create a European world dominated and populated by the "Aryan" race; and

**WHEREAS,** We remember that those believed by Hitler and the Nazis to be enemies of the state, were banished to squalid concentration and death camps. Inside the camps prisoners were forced to wear various colored triangles, each color denoting a different group; and

**WHEREAS,** We remember the millions who died for who they were, how they worshiped, what they believed, and who they loved. Victims included Jews, Romanies, Poles and other Slavs, people with physical disabilities, Jehovah's Witnesses, lesbians and gays, the dissenting clergy, Communists, Socialists, and other political enemies; and

**WHEREAS,** We remember the African German children, offspring of German mothers and African soldiers, who were forcibly sterilized due to their mixed race heritage; and

**WHEREAS,** We remember the Holocaust was the state sponsored, systematic persecution and annihilation of European Jews by Nazi Germany. The Jewish people were marked for total destruction and over six million Jews were murdered; and

**WHEREAS,** We remember, to preserve this shared history of anguish, to keep it vivid and real, so that racism, Anti-Semitism, hatred, persecution and prejudice can be combated and contained; and

**WHEREAS,** We remember, and by memorializing the past we thereby steel ourselves for the challenges of tomorrow.

**THEREFORE BE IT HEREBY PROCLAIMED,** that we the people of Berkeley will always remember the suffering victims, always remember the courage of the resisters, and always treasure the survivors who are still with us in Berkeley. We join in the worldwide chorus of hope and activism to say never again and to proclaim

### APRIL 27, 2014 AS HOLOCAUST REMEMBRANCE DAY IN BERKELEY

\_\_\_\_\_  
Mayor Tom Bates

\_\_\_\_\_  
Councilmember Max Anderson

\_\_\_\_\_  
Councilmember Jesse Arreguin

\_\_\_\_\_  
Councilmember Laurie Capitelli

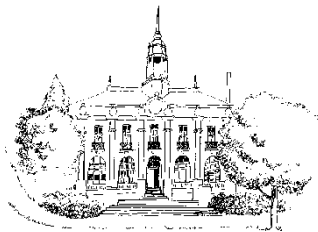
\_\_\_\_\_  
Councilmember Linda Maio

\_\_\_\_\_  
Councilmember Darryl Moore

\_\_\_\_\_  
Councilmember Susan Wengraf

\_\_\_\_\_  
Councilmember Kriss Worthington

\_\_\_\_\_  
Councilmember Gordon Wozniak



## Kriss Worthington

Councilmember, City of Berkeley, District 7

2180 Milvia Street, 5<sup>th</sup> Floor, Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 kworthington@ci.berkeley.ca.us

### CONSENT CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmember Kriss Worthington  
Councilmember Susan Wengraf

Subject: Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

#### RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including up to \$1,000 from Councilmembers Worthington and Wengraf, to support the Holocaust Remembrance Day Event 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 and Councilmember Susan Wengraf's discretionary Council Office Budgets and any other Councilmembers who would like to contribute.

#### BACKGROUND

We are proposing that the City Council make a grant of \$1,000 to the Holocaust Remembrance Day for the Annual Holocaust Remembrance Day which will be held at the Magnes Collection of Jewish Art and Life in Berkeley on Sunday, April 27, 2014. This money is needed to pay costs associated with producing this event.

#### FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$1,000 is available from Councilmember's Council Office Budget discretionary account.

#### CONTACT PERSON

Councilmember Kriss Worthington

510-981-7170

RESOLUTION NO. ##,###-N.S.

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Kriss Worthington has surplus funds in his office expenditure account (budget code 010-0272-410); and

WHEREAS, Councilmember Susan Wengraf has surplus funds in her office expenditure account (budget code 010-0262-410); and

WHEREAS, a California non-profit tax exempt corporation Jewish Community Center seeks funds in the amount of \$1,000 that provided the following public services of light refreshments, honorariums, publicity, and video production; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose of providing a community program supporting Holocaust survivors, community recognition and education about the Holocaust, and unity among Berkeley residents. The grants provide a spacious venue, video documentation, and light refreshments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$1,000 per office shall be granted to Berkeley Community Media and Jewish Community Center, to fund the following services for venue access, and video services.



## Kriss Worthington

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### CONSENT CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Kriss Worthington  
 Subject: City Manager, Zero Waste Commission, and Community Environmental Advisory Commission Referral: Gas Pump Warning Labels

#### RECOMMENDATION

Refer to the City Manager, Zero Waste Commission, and Community Environmental Advisory Commission to create an ordinance that requires climate-conscious warning labels be posted on gas pumps.

#### BACKGROUND

The purpose of a global warming warning label on the gas pump may be comparable to the purpose of the surgeon general's warning on a pack of cigarettes. Consumers of both gas and cigarettes are reminded every time they use the product that there are long-term consequences.

The goal of the labels, and this warning label campaign, is to keep the issue of global warming salient and on the minds of gasoline consumers. Thus, a gas pump warning label may encourage the use of other methods of transportation that will reduce carbon emissions.

The Environmental Protection Agency agrees with the general consensus that carbon dioxide emissions are a leading cause of global warming. The California Air Resources Board has found that automobiles are the number one source of carbon emissions. Additionally, the EPA has estimated that 31% of all carbon dioxide emissions may be attributed to transportation.

Many people know about the environmental costs of driving their cars, but may not be consciously thinking about them as they rush about their busy lives. However, we hope to increase public awareness of these carbon emission costs to the environment and what they can do to help on a day-to-day basis.

#### FISCAL IMPACTS:

None.

#### CONTACT PERSON

Councilmember Kriss Worthington      510-981-7170

#### Attachments:

1. Draft: "Title 11: Environmental Health" Berkeley Municipal Code

**Berkeley Municipal Code**

**Title 11**

**ENVIRONMENTAL HEALTH**

**New section DRAFT**

**11.64 REQUIREMENT OF WARNING LABELS FOR PRODUCTS THAT RELEASE GREENHOUSE GASES TO THE ATMOSPHERE**

**11.64.010 Findings and Purpose**

The council finds and declares as follows:

- A. The Intergovernmental Panel on Climate Change, the U.S. Environmental Protection Agency, the State of California, the Bay Area Air Quality Management District and the City of Berkeley all find that greenhouse gases (primarily CO<sub>2</sub> and methane), when discharged into the environment, are causing global warming and climate change that pose a danger to human life.
- B. Gasoline used by internal combustion engines is the largest source of CO<sub>2</sub> in California, and in Berkeley
- C. There are numerous ways that citizens can reduce their gas use as described in the Berkeley Climate Action Plan.
- E. Warning labels have been shown to provide valuable consumer information for many products including cigarettes. The public deserves to know that gasoline combustion is a leading cause of global warming and is a global danger to the environment and that any reduction in the release of said materials within the City of Berkeley will reduce the global danger and will result in a benefit to the overall health and safety of the public inside and outside the City of Berkeley.
- F. The City of Berkeley encourages the research and development of environmentally safe alternative technologies and products to replace the use of fossil fuels.
- G. The City of Berkeley supports federal and state warning labels on the connection between gasoline combustion and global warming; however, until such warning labels have been adopted by the appropriate agencies, responsible action on the part of the City of Berkeley is



necessary to reduce greenhouse gases in order to promote the long-term health, safety and welfare of the general public, and the environment.

H. To protect the environment, and the health, safety and welfare of its citizens, the City of Berkeley herein, by this chapter intends to require warning labels on the sale of gasoline as part of its goal to reduce greenhouse gases to 80% below 1990 levels by 2050.

#### **11.64.020 Definitions**

A. Gasoline and diesel fuel are hydrocarbons used in internal combustion engine vehicles. Gasoline includes various octane levels rated from "regular" to "premium

B. "Greenhouse gas" includes carbon dioxide--CO<sub>2</sub> and methane--CH<sub>4</sub> as well as hydrofluorocarbons and nitrous oxides. All of these are heat trapping gases that contribute to global warming.

C. "Person," "anyone" means any natural person, firm, corporation, partnership or other organization or group however organized.

D. "Establishment" means any domestic or foreign corporation, firm, association, syndicate, joint stock company, partnership of any kind, joint venture, club, common law trust, society or individual engaged in any profession, trade, occupation and any and every kind of calling carried on for profit or otherwise within the City, including any governmental entity or charitable organization.

E. "Retail establishment" means any establishment primarily engaged in the business of selling any goods, wares or merchandise for any purpose other than resale in the regular course of business.

F. "Supplier" means anyone selling, or otherwise supplying rigid or flexible foam containing or utilizing an ozone-depleting compound.

#### **11.64.030 Gasoline Pump Warning Labels**

A. All establishments selling gasoline shall provide consumer information to all persons purchasing gasoline in Berkeley by placing labels on gas pumps advising consumers that "the State of California has determined that global warming caused by greenhouse gases poses a serious threat to the economic well-being, public health, natural resources, and the environment of California" ( AB32--California's Global Warming Solutions Act of 2006).

B. The design of the labels shall be approved by the Office of Energy and Sustainable Development and approved by the City Attorney. The labels may also provide consumers with a link to the Berkeley Climate Action Plan so they may learn more about ways to reduce fuel use. The labels may also provide additional consumer information as determined by the Sustainability office

C. Labels shall be provided by the Office of Energy and Sustainable Development staff to the gas stations. It shall be the responsibility of the gas station owners to obtain and affix the consumer information labels. Failure to comply with this ordinance shall result in a fine of no less than \$100 per violation per pump. The cost of the labels shall be covered by any fines received, and/or by the business license fee paid by establishments selling gasoline.

**11.64.040 City Manager's powers.**

The City Manager is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, inspecting any establishment's premises to verify compliance.

**11.64.050 Liability and enforcement.**

A. Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code.

B. Any violation of subsection 11.64.030 is hereby declared to be a nuisance.

C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

D. The remedies and penalties provided in this section are cumulative and not exclusive







## Kriss Worthington

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### CONSENT CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmember Kriss Worthington

Subject: City Manager and Zero Waste Commission Referral: Create an Ordinance to Require All Berkeley Food Establishments to Use Compostable Food Service Containers and Utensils

#### RECOMMENDATION:

Refer to the City Manager and Zero Waste Commission to create an ordinance to require all food establishments in Berkeley to use compostable containers and utensils for all food service activities. Materials that would qualify under this ordinance would be paper and cardboard containers, as well as containers and utensils made from compostable plant-based plastics (PLA). The mandate should specify the use of “compostable”, as opposed to “biodegradable” materials, as well as “plant-based plastics (PLA),” as opposed to “plant starch plastics,” which are not compostable.

#### BACKGROUND:

Berkeley banned the use of polystyrene (i.e. Styrofoam) in 1988, setting a precedent that over 70 cities and counties across California have followed since then with their own local ordinances to ban the use of polystyrene.<sup>1</sup> In 2005, Berkeley passed a resolution setting a Zero Waste Goal of eliminating the materials that Berkeley sends to landfills by the year 2020,<sup>2</sup> and in 2006, changed the name of the Solid Waste Commission to the Zero Waste Commission.<sup>3</sup> Berkeley has already taken the lead in raising the bar and establishing clear priorities for waste management standards. Now, the increasing affordability of compostable plastics, as their use expands through the food service market, provides a unique opportunity for Berkeley to raise the bar again and come even closer to achieving its Zero Waste Goal.

Americans’ addiction to plastic causes us to discard 33.6 million tons of plastic per year into landfills, of which we recycle only 6.5 percent. This does not include the 100 million tons of plastic currently floating in our oceans.<sup>4</sup> While the Ecology Center provides valuable plastic recycling services for the city, the nature of plastic recycling technology is limited by the ability to recycle only certain types of uncontaminated plastics. Clearly, the best strategy to achieve Zero Waste is elimination at the point of consumption. Furthermore, plastic contaminates our groundwater as it leaches from landfills, requires almost 8 percent of world petroleum oil production to sustain, kills and injures wildlife and disrupts our ocean ecosystems, and causes chronic health problems in humans.

Phtalates and bisphenol A, two common endocrine disrupters found in plastics, impair reproduction and sexual and brain development, and have been linked to higher rates of heart disease and diabetes. Phtalates and bisphenol A substances leach easily into food and water in plastic containers.<sup>5</sup>

Many food establishments now choose to use a variety of compostable alternatives to petroleum-based plastic containers and utensils for their food service needs. It is now not uncommon to find takeout containers made from waxed cardboard or sugarcane-based paper, as well as takeout boxes, cups and utensils made from compostable plant-based plastics (PLA).<sup>6</sup> As more businesses and institutions choose to use these alternatives, compostable food service materials will become increasingly affordable, and thus further increase their use in a positive feedback cycle. By passing the suggested ordinance, Berkeley can quickly increase the accessibility of this environmental choice and change the norms of individual and institutional behavior by merely strengthening through policy the growing preferences of consumers and businesses to use compostable food products. The ordinance would also increase the awareness and active participation of Berkeley residents, patrons and businesses in achieving its zero waste goal.

Once this ordinance is passed, the Ecology Center, Zero Waste Commission, and the Berkeley Health Department could provide assistance in outreach and implementation. The Ecology Center currently operates three farmers' markets that already have such a policy in place to require their food vendors to use compostable containers and utensils. The City of San Francisco passed an ordinance in 2006 that both bans the use of Styrofoam and requires the use of compostable food service materials, and uses a system of fines for violations to enforce compliance.<sup>7</sup>

One important technical note to include in the ordinance will be the distinction between the use of "compostable" materials and "biodegradable" materials. Compostable plastic is "plastic that can undergo a full decomposition as part of an industrial compost program," whereas biodegradable plastic will biodegrade naturally from bacteria or fungi, but has no requirement as to the length of time in which it breaks down and whether it leaves toxic residues.<sup>8</sup> Also, businesses should be instructed to use compostable plant-based plastics (PLA), as opposed to "plant starch plastics," which are not compostable.<sup>9</sup>

**FISCAL IMPACT:**

Minimal.

**CONTACT PERSON:**

|                                 |                |
|---------------------------------|----------------|
| Councilmember Kriss Worthington | (510) 981-7170 |
| Christine Cherdboonmuang        | (510) 981-7170 |

Web Links for Additional Information:

San Francisco Food Service Waste Ordinance, 2006

([http://www.sfenvironment.org/sites/default/files/editor-uploads/zero\\_waste/pdf/sfe\\_zw\\_food\\_service\\_waste\\_reduction\\_ordinance.pdf](http://www.sfenvironment.org/sites/default/files/editor-uploads/zero_waste/pdf/sfe_zw_food_service_waste_reduction_ordinance.pdf))

List of Vendors of Compostable or Recyclable Food Service Ware and Bags, from San Francisco Department of the Environment

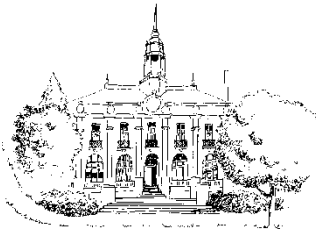
([http://www.sfenvironment.org/sites/default/files/fliers/files/sfe\\_zw\\_vendors\\_bags\\_fs\\_w\\_0.pdf](http://www.sfenvironment.org/sites/default/files/fliers/files/sfe_zw_vendors_bags_fs_w_0.pdf))

Citations:

1. <http://ethicalfoods.com/compostable-containers-restaurant/>,  
[http://www.cawrecycles.org/issues/plastic\\_campaign/polystyrene/local](http://www.cawrecycles.org/issues/plastic_campaign/polystyrene/local)
2. [http://www.ci.berkeley.ca.us/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Zero%20Waste%20Goal.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Zero%20Waste%20Goal.pdf)
3. <http://www.ci.berkeley.ca.us/citycouncil/2006citycouncil/packet/012406/2006-01-24%20Item%2008%20Change%20Name%20of%20Solid%20Waste%20to%20Zero%20Waste.pdf>
4. <http://blogs.ei.columbia.edu/2012/01/31/what-happens-to-all-that-plastic/>
5. <http://www.environmentalhealthnews.org/ehs/news/dangers-of-plastic>
6. <http://ethicalfoods.com/compostable-containers-restaurant/>
7. [http://www.sfenvironment.org/sites/default/files/editor-uploads/zero\\_waste/pdf/sfe\\_zw\\_food\\_service\\_waste\\_reduction\\_ordinance.pdf](http://www.sfenvironment.org/sites/default/files/editor-uploads/zero_waste/pdf/sfe_zw_food_service_waste_reduction_ordinance.pdf)
8. <http://ethicalfoods.com/what-is-bioplastic/>
9. <http://www.biodegradablestore.com/products.html>,  
[http://www.biodegradablestore.com/plantware\\_cutlery.html](http://www.biodegradablestore.com/plantware_cutlery.html),  
[http://www.biodegradablestore.com/plant\\_starch\\_cutlery.html](http://www.biodegradablestore.com/plant_starch_cutlery.html)







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### ACTION CALENDAR

March 11, 2014

*(Continued from December 17, 2013)*

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Kriss Worthington

Subject: City Manager Referral: Have Non-sworn (civilian) Employees Investigate After-hour Noise Complaints

### RECOMMENDATION

Refer to the City Manager to designate non-sworn (civilian) employees to investigate after-hour noise complaints.

### BACKGROUND

Noise complaints occur in Berkeley every day. If one were to occur between 9-5, an Environmental Health employee would investigate. However, during the other hours of the day, the public are expected to call the Berkeley Police Department non-emergency number. Police officers are often busy with crimes that are violent or serious priorities such as homicide, assault, robbery, breaking-and-entering, theft, etc., which are given a higher priority than noise complaints.

One possible solution is to add a non-sworn (civilian) employee to investigate these noise complaints. This could be for either 8 or 16 hours that the Environmental Health employee is not on duty. The employee would have a lower pay rate than a sworn officer, meaning that it would be cheaper to have them investigate than having a police officer investigate. The community would benefit since there would be an employee dedicated specifically to noise complaints for longer hours than currently available.

City Auditor's Police Staffing Audit of 4/30/2002:

"A number of reports over the years have recommended that more positions in the Berkeley Police Department be civilianized...Since a significant number of these tasks do not require peace officer powers, it is appropriate to examine the rationale traditionally used to justify the use of peace officers in administrative and clerical positions."

### FINANCIAL IMPLICATIONS

Additional cost of a civilian staff position and potential opportunity cost savings to BPD by having police officers not spend so much time on noise complaints.

### CONTACT PERSON

Councilmember Kriss Worthington  
 Poojan Dave

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### INFORMATION CALENDAR

March 11, 2014

To: Honorable Mayor and Members of the City Council  
 From: Kriss Worthington, District 7, Berkeley City Council  
 Subject: Governor Jerry Brown Presents the HERO Program with the Governor's Environmental and Economic Leadership Award ("GEELA")

#### INTRODUCTION

The HERO Program was recently awarded the Governor's Environmental and Economic Leadership Award for their work to make California more energy efficient.

The 2013 Governor's Environmental and Economic Leadership Awards stated that, "The Western Riverside Council of Governments, in just 16 months, has implemented the largest Property Assessed Clean Energy Program in the nation. The initiative, known as the Home Energy Renovation Opportunity (HERO) Program, provides financing through local governments to residential and business property owners for the installation of energy efficient, renewable energy and water conservation improvements on existing properties. The high up-front costs of retrofits that were once a barrier for homeowners are eliminated because financing for the upgrades are repaid through the monthly property tax bill. More than 4,000 property owners in Western Riverside, representing over \$200 million in financing, have been approved, adding local jobs, reducing energy use and curbing the impacts of climate change through greenhouse gas reductions."

Jeff Stone, who is the WRCOG Executive Committee Chair, said, "The HERO Program is a great example of how a public/private sector partnership can work to improve properties, create jobs, save energy, lower utility costs and reduce greenhouse gases. It's a 'win' for the economy and for the environment."

#### CURRENT SITUATION AND EFFECTS

On September 10, 2013, the Council referred to the City Manager to review the HERO program and potential agreements for commercial properties.

The City can increase the effectiveness the Climate Action Plan by continuing to promote sound environmental policy such as solar and energy retrofit in commercial areas. Since 2000, the City has reduced community-wide emissions by 8%. Our City goal is to have an additional 15% reduction by 2020. In order to achieve this goal, the

City should proceed to develop and implement programs to reduce our carbon emissions.

Currently, there are at least 24 cities that have followed through with the HERO program and 69 cities that have implemented the PACE program. These programs provide alternative benefits to each city as a whole because local businesses can participate in clean energy retrofits, and residents have more options to affordable clean energy.

#### BACKGROUND

HERO is a Property Assessed Clean Energy (PACE) program. PACE programs provide financing for solar installations and energy and water upgrades and enable the homeowner to repay the cost of the financing on their property tax bill. PACE financing is an innovative and effective tool for lowering the upfront cost of energy upgrades and amortizing the cost over time. It is an important tool that can assist communities to achieve their energy and climate action goals.

The California Environmental Protection Agency Press Release December 10, 2013:

<http://www.calepa.ca.gov/PressRoom/Releases/2013/GEELAAward.pdf>

2013 Governor's Environmental and Economic Leadership Awards Program:

<http://www.calepa.ca.gov/Awards/GEELA/>

#### FISCAL IMPACTS

None.

#### CONTACT PERSON

Councilmember Kriss Worthington

510-981-7170

| Upcoming Workshops |                                                      |
|--------------------|------------------------------------------------------|
| Scheduled Dates    |                                                      |
| February 25        | FY 2014 Mid-Year Budget Report and CalPERS Update    |
| March 11           |                                                      |
| March 25           | Crime Report                                         |
| April 1            | 1. Drone Policy<br>2. First Community Survey Results |
| April 29           |                                                      |
| May 6              | FY 2015 Budget Presentation                          |
| May 20             | Climate Action Plan/Precautionary Principles         |
| June 10            | Telegraph / OED Update                               |

| CITY CLERK DEPARTMENT<br>WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                    |                                                          |                                    |       |  |
|------------------------------------------------------------------------------------------------------|----------------------|--------------------|----------------------------------------------------------|------------------------------------|-------|--|
| Address                                                                                              | Board/<br>Commission | Appeal Period Ends | Council Date for<br>Determination on<br>Appeal Submitted | Council Date for<br>Public Hearing | Notes |  |
| <b>NOD – Notices of Decision</b>                                                                     |                      |                    |                                                          |                                    |       |  |
| 1515 Dwight Way (single family dwelling)                                                             | ZAB                  | 3/6/2014           |                                                          |                                    |       |  |
| 2190 Bancroft Way (Great China Rest., expand alcohol service)                                        | ZAB                  | 3/6/2014           |                                                          |                                    |       |  |
| 2124 Eighth St. (single family dwelling)                                                             | ZAB                  | 3/6/2014           |                                                          |                                    |       |  |
| 2495-2497 Valley St (new single family house)                                                        | ZAB                  | 3/6/2014           |                                                          |                                    |       |  |
| <b>Appeals Submitted</b>                                                                             |                      |                    |                                                          |                                    |       |  |
| 2635 Ashby Ave (establish full service restaurant)                                                   | ZAB                  |                    | 3/25/2014                                                |                                    |       |  |
| 404 Vermont Ave (enlarge single family residence)                                                    | ZAB                  |                    | TBD                                                      |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
| <b>Public Hearings Scheduled</b>                                                                     |                      |                    |                                                          |                                    |       |  |
| 3001 Telegraph Ave (coffee shop)                                                                     | ZAB                  |                    |                                                          | 3/11/2014                          |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
| <b>Remanded to ZAB or LPC</b>                                                                        |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
| *90 day deadline                                                                                     |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |
|                                                                                                      |                      |                    |                                                          |                                    |       |  |

Last Updated: 2/20/14

<sup>1</sup>Dates for public hearings as directed by the City Council.