

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 1, 2016
7:00 P.M.**

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR
Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – LORI DROSTE

Preliminary Matters

Roll Call: 7:20 p.m.

Present: Arreguin, Capitelli, Droste, Maio, Moore, Wengraf, Worthington, Bates.

Absent: Anderson, Droste.

Councilmember Droste present at 7:21 p.m.

Ceremonial Matters:

1. Adjourn the meeting in memory of Edith Monk Hallberg, Local Activist
2. Adjourn the meeting in memory of Dayle Bartlett, former City employee

City Manager Comments: None

Public Comment on Non-Agenda Matters: 10 speakers.

Public Comment on Consent Calendar and Information Items Only: 10 speakers.

Consent Calendar

Action: M/S/C (Capitelli/Droste) to accept supplemental material from city staff on Item #4 to correct the table related to square footage limitations.

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

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

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

Consent Calendar

- 1. Reserving Very Low-Income In Lieu Units for Households Holding Section 8 Vouchers and Shelter + Care Certificates; Amending BMC Section 22.20.065**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,506-N.S. amending Section 22.20.065.C.2. of the Berkeley Municipal Code to require that all Very Low-Income units provided in lieu of payment of the affordable housing mitigation fee be reserved for holders of Section 8 vouchers.
First Reading Vote: All Ayes.
Financial Implications: Minimal
Contact: Zach Cowan, City Attorney, 981-6950
Action: Moved to Action Calendar. 6 speakers. M/S/C (Arreguin/Moore) to adopt second reading of Ordinance No. 7,506-N.S.
Vote: Ayes – Maio, Moore, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – None; Abstain – None; Absent – Anderson.
- 2. Awarding Three Non-Exclusive Rubbish Hauling Franchises**
From: City Manager
Recommendation: Adopt second reading of three Ordinances granting non-exclusive franchises for rubbish collection and transportation:
1. Ordinance No. 7,509-N.S. for Berkeley Sanitary Service, Inc. dba Republic Services;
2. Ordinance No. 7,510-N.S. for Biagini Waste Reduction Systems, Inc.; and
3. Ordinance No. 7,511-N.S. for Waste Management of Alameda County, Inc.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted second reading of Ordinance No. 7,509-N.S. (Berkeley Sanitary Service); Ordinance No. 7,510-N.S. (Biagini Waste Reduction); and Ordinance No. 7,511-N.S. (Waste Management).
- 3. Amending BMC Chapter 12.26 Regarding Recreational Cannabis Businesses**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,512-N.S. adding Section 12.26.035 to the Berkeley Municipal Code to require City Council approval of a licensing process and standards for recreational cannabis businesses prior to approval of any such businesses.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Carol Johnson, Planning and Development, 981-7400
Action: Adopted second reading of Ordinance No. 7,512-N.S.

Consent Calendar

- 4. Referral Response: Modify Numeric Limitations (“Quotas”) in the Elmwood (C-E) Commercial District; Amending BMC Chapters 23E.44 and 23F.04**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,513-N.S. amending Chapters 23E.44 and 23F.04 of the Berkeley Municipal Code to modify numeric limitations (“Quotas”) in the Elmwood (C-E) Commercial District.
First Reading Vote: Ayes – Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Droste, Bates; Noes – Maio; Abstain – None; Absent – None.
Financial Implications: None
Contact: Carol Johnson, Planning and Development, 981-7400
Action: Adopted second reading of Ordinance No. 7,513-N.S as written in the supplemental material submitted by staff to correct the square footage limitations in accordance with the action taken on October 18, 2016.
- 5. Authorizing the City Manager to Sign Telegraph Property and Business Improvement District Petition and Ballot on Behalf of the City**
From: City Manager
Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to approve and sign the “Petition to the City of Berkeley to Renew the Telegraph Property and Business Improvement District” document on behalf of City-owned properties in the proposed Telegraph Property and Business Improvement District area; and 2. In the event the petition is successful in triggering a ballot process to renew the Telegraph Property and Business Improvement District, authorizing the City Manager to vote YES on any ballots on behalf of City-owned properties in the proposed Telegraph Property and Business Improvement District area.
Financial Implications: See report
Contact: Michael Caplan, Economic Development, 981-7530
Action: Adopted Resolution No. 67,723–N.S.
- 6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 1, 2016**
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 - \$5,089,374
Contact: Henry Oyekanmi, Finance, 981-7300
Action: Approved recommendation.

Consent Calendar

- 7. Proposed Change to Community Development Block Grant (CDBG) Community Facility Improvement Request for Proposal (RFP) Process**
From: City Manager
Recommendation: Direct the City Manager to shift the Community Development Block Grant (CDBG) Community Facility Improvement Program Request for Proposals (RFP) process from an annual RFP to a rolling application process to be released in July 2017 with a minimum threshold of \$100,000 per project.
Financial Implications: See report
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Approved recommendation.
- 8. Contract Amendments: Plan Check Services**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to execute contract amendments for an additional amount of \$500,000 each, to new total amounts not to exceed \$1,500,000 for each contract, for plan checking and related services with:
1. West Coast Code Consulting, Contract No. 9420
2. Telesis Engineers, Contract No. 9437
Financial Implications: See report
Contact: Carol Johnson, Planning and Development, 981-7400
Action: Adopted Resolution No. 67,724–N.S. (West Coast Code); and Resolution No. 67,725–N.S. (Telesis Engineers).
- 9. Final Map of Tract 8183 - 800 University Avenue**
From: City Manager
Recommendation: Adopt a Resolution approving the final map of Tract Map 8183, a fifty-nine (59) unit condominium project consisting of fifty-eight (58) residential units and one (1) commercial unit, located at 800 University Avenue.
Financial Implications: None
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 67,726–N.S.
- 10. Phasing Out Natural Gas for Heating and Cooking**
From: Community Environmental Advisory Commission
Recommendation: Direct the Community Environmental Advisory Commission (CEAC) and the Energy Commission (EC) to develop and evaluate a proposal for requiring installations of new cooking, water heating, and/or building heating systems to use technologies which do not burn natural gas. The proposal should consider an educational component, navigating Title 24 requirements, mitigating increased costs for low-income households, and other challenges with the transition.
Financial Implications: Staff time
Contact: Nabil Al-Hadithy, Commission Secretary, 981-7400
Action: Approved recommendation revised to add direction that the commissions evaluate the proposal in a manner that is consistent with the policies and timing in the Climate Action Plan.

Consent Calendar

11. **Retain Full Hospital-based Emergency Medical Services Capabilities in Berkeley**
From: Disaster and Fire Safety Commission
Recommendation: Adopt a Resolution ensuring continuation of a full-service acute care hospital with emergency services in Berkeley and join other cities in our region to encourage Sutter Health to do so at Alta Bates Hospital in Berkeley.
Financial Implications: See report
Contact: David Brannigan, Commission Secretary, 981-3473
Action: Adopted Resolution No. 67,727–N.S.

Council Consent Items

12. **Excuse Councilmember Anderson from Attendance at Council Meeting Due to Illness**
From: Mayor Bates
Recommendation: Excuse Councilmember Anderson from attendance at the City Council meeting on September 27, 2016 as a result of illness.
Financial Implications: See report
Contact: Tom Bates, Mayor, 981-7100
Action: Approved recommendation.
13. **Proclamation Recognizing Sara and Harvard Holmes for Their Years of Service with Friends of the Fountain and Walk**
From: Councilmember Capitelli
Recommendation: Adopt a proclamation recognizing and honoring Sara and Harvard Holmes for their years of service with Friends of the Fountain and Walk.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Adopted proclamation.
14. **Establish a 90 Day Deadline to Either Collect Over \$641,000 Owed in Lien or to Bring Owner in Compliance with Agreement**
From: Councilmember Worthington
Recommendation: Establish a 90 day deadline to require the owner of the lot on the corner of Haste Street and Telegraph to pay over \$641,000 owed to the City in lien or to bring the owner in compliance with the agreement to use the lot to provide affordable housing for the community, as well as a public restroom.
Financial Implications: See report
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Item held over to November 29, 2016.

Council Consent Items

15. City Manager Referral: Increasing Transparency in City Public Record Act Responses

From: Councilmember Worthington

Recommendation: City Manager Referral: Increasing Transparency in City Public Record Act Responses, including limiting use of denying information through deliberative process privilege.

Financial Implications: Minimal

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

Action: Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.

16. A Night of Music for Camp It Up: Relinquishment of Council Office Budget Funds and Grant of Such Funds

From: Councilmember Droste

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Droste to sponsor A Night of Music for Camp it Up, to support increasing access to camp for queer families in need and to expand youth leadership development programs, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Droste and any other Councilmember who would like to contribute.

Financial Implications: Councilmember's Discretionary Funds - \$250

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

Action: Councilmembers Moore, Worthington, and Maio added as co-sponsors. Adopted Resolution No. 67,728–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Moore - \$100; Councilmember Maio - \$100; Councilmember Droste - \$250; Councilmember Wengraf - \$150; Councilmember Capitelli - \$100; Mayor Bates - \$100.

Action Calendar – Public Hearings

17. Referral Response: Private Parking Lot Regulations

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance adopting a new Chapter 9.92 of the Berkeley Municipal Code, regulating off-street parking lots.

2. Adopt first reading of an Ordinance amending Chapter 13.52 of the Berkeley Municipal Code relating to parking of vehicles on private property.

Financial Implications: See report

Contact: Zach Cowan, City Attorney, 981-6950

Action: Moved to Consent Calendar. Public Hearing will be held over to December 13, 2016 and re-noticed.

Action Calendar – New Business

Action Calendar – Old Business

18. **City Manager Referral: Consider Mitigations for Minimum Wage Increases to Support Small Businesses and Non-Profits by Addressing Parking, Permit and High Rents Issues** *(Continued from October 18, 2016)*

From: Councilmember Worthington

Recommendation: Refer to the City Manager to consider mitigations for minimum wage increases to support small businesses and non-profits by attempting to address parking, permits and high rents issues. The timeline goal for Phase One improvements would be October 1, 2017. The timeline goal for Phase Two improvements would be October 1, 2018.

Financial Implications: Minimal

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

Action: Approved revised recommendation as written below.

Refer to the City Manager to consider mitigations for minimum wage increases to support small businesses and non-profits by attempting to address parking and permits. Request that the Office of Economic Development report on other methods to mitigate the impacts of minimum wage increases on small businesses.

19. **Berkeley's Participation in the East Bay Community Choice Aggregation Program**

From: City Manager

Recommendation:

1. Adopt a Resolution accepting the "Technical Study for Community Choice Aggregation Program in Alameda County".
2. Adopt a Resolution approving the East Bay Community Energy Authority Joint Powers Agreement in order to participate in a Community Choice Aggregation Joint Powers Authority for East Bay municipalities.
3. Adopt first reading of an Ordinance authorizing the implementation of a Community Choice Aggregation Program.

Financial Implications: See report

Contact: Timothy Burroughs, City Manager's Office, 981-7000

Action: Moved to Consent Calendar.

1. Adopted Resolution No. 67,729–N.S. accepting the "Technical Study for Community Choice Aggregation Program in Alameda County".
2. Adopted Resolution No. 67,730–N.S. Adopt a Resolution approving the East Bay Community Energy Authority Joint Powers Agreement in order to participate in a Community Choice Aggregation Joint Powers Authority for East Bay municipalities.
3. Adopted first reading of Ordinance No. 7,514–N.S. authorizing the implementation of a Community Choice Aggregation Program. Second reading scheduled for November 15, 2016.

Action Calendar – New Business

20. Housing Action Plan

From: City Manager

Recommendation: Direct the City Manager to identify funding for an additional staff position to work on housing policy and a consultant to begin preliminary work on a housing action plan. Tasks will include reviewing Council's 49 housing referrals and best practices from other cities, identifying those strategies with the greatest potential to impact Berkeley's housing affordability crisis, presenting solutions to Council to prioritize, and developing workplans and budgets for the top priorities.

Financial Implications: See report

Contact: Paul Buddenhagen, Housing and Community Services, 981-5400; Carol Johnson, Planning and Development, 981-7400

Action: Moved to Consent Calendar. Approved recommendation.

Action Calendar – New Business

21. Contract Amendment: CalPERS Cost Share under Government Code 20516 for Employees Represented by the SEIU Local 1021 Community Services & Part-Time Recreation Leaders Association

From: City Manager

Recommendation:

1. Adopt a Resolution of Intention to amend the City's contract with the California Public Employees Retirement System (hereinafter "CalPERS") to include a mandatory monthly employee contribution of 8.0% of salary as provided under Government Code Section 20516, applicable to all members (Miscellaneous employees, both Classic and New Members) represented by the Service Employees International Union (SEIU) Local 1021 Community Services & Part-Time Recreation Leaders Association (hereinafter "SEIU Local 1021-CSU/PTRLA").
2. Adopt first reading of an Ordinance amending the City's contract with CalPERS to provide the mandatory monthly employee contribution of 8.0% of salary as provided under Government Code Section 20516, applicable to all members (Miscellaneous employees, both Classic and New Members) represented by the SEIU Local 1021-CSU/PTRLA.

Financial Implications: See report

Contact: Sarah Reynoso, Human Resources, 981-6800

Action: 0 speakers. M/S/C (Worthington/Arreguin) to:

1. Adopt Resolution No. 67,731–N.S. to amend the City's contract with the California Public Employees Retirement System (hereinafter "CalPERS") to include a mandatory monthly employee contribution of 8.0% of salary as provided under Government Code Section 20516, applicable to all members (Miscellaneous employees, both Classic and New Members) represented by the Service Employees International Union (SEIU) Local 1021 Community Services & Part-Time Recreation Leaders Association (hereinafter "SEIU Local 1021-CSU/PTRLA").
2. Adopted first reading of Ordinance No. 7,515–N.S. amending the City's contract with CalPERS to provide the mandatory monthly employee contribution of 8.0% of salary as provided under Government Code Section 20516, applicable to all members (Miscellaneous employees, both Classic and New Members) represented by the SEIU Local 1021-CSU/PTRLA. Second reading scheduled for November 29, 2016.

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

Council Action Items

Council Action Items

22. City Plan for Emergency Shelter During Winter Season

From: Councilmembers Capitelli, Maio, Moore, and Arreguin

Recommendation: Update from the ad hoc subcommittee on possible locations for a sanctioned encampment.

Financial Implications: None

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150; Linda Maio, Councilmember, District 1, 981-7110; Darryl Moore, Councilmember, District 2, 981-7120; Jesse Arreguin, Councilmember, District 4, 981-7140

Action: 18 speakers. Report from ad hoc subcommittee. Discussion held.

Information Reports

23. Settlement of First American Title Insurance Company v. City of Berkeley Alameda County Superior Court Case No. RG15788697

From: City Manager

Contact: Zach Cowan, City Attorney, 981-6950

Action: Received and filed.

24. Referral Response: Comprehensive Report on Homeless Services

From: City Manager

Contact: Paul Buddenhagen, Housing and Community Services, 981-5400

Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 2 speakers.

Adjournment

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

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

Adjourned at 9:20 p.m.

Communications

Item 22: Title City Plan for Emergency Shelter During Winter Season

1. Margy Wilkinson
2. Daniel McMullan
3. Linda Franklin

Public Comment Procedure

4. Cynthia Johnson

Respiratory Concerns

5. Maris Arnold

Berkeley Asphalt

6. Rhiannon

Library Concerns

7. Mike Hall

Berkeley Animal Rights Center

8. Vera Yakovleva

9. 17 online petitions (Available for viewing in the City Clerk's Office)

Supplemental Communications and Reports 1

Item 17: Referral Response: Private Parking Lot Regulations

10. Supplemental materials, submitted by City Attorney

Item 22: City Plan for Emergency Shelter During Winter Season

11. Carolyn Scarr

12. Shang-Mei Lee

13. Diana Bohn

14. Rachel Egenhoefer

15. Angela

Supplemental Communications and Reports 2

Item 1: Reserving Very Low-Income In Lieu Units for Households Holding Section 8 Vouchers and Shelter + Care Certificates; Amending BMC Section 22.20.065

16. Human Welfare & Community Action Commission

Item 19: Berkeley's Participation in the East Bay Community Choice Aggregation Program

17. Jessica Tovar, on behalf of the East Bay Clean Power Alliance

Item 22: City Plan for Emergency Shelter During Winter Season

18. Kyle Jennings (2)

19. Margy Wilkinson (2)

20. Jane Ashley

21. Diana Bohn

Supplemental Communications and Reports 3

Item 4: Referral Response: Modify Numeric Limitations ("Quotas") in the Elmwood (C-E) Commercial District; Amending BMC Chapters 23E.44 and 23F.04

22. Revised materials, submitted by Planning & Development

Item 19: Berkeley's Participation in the East Bay Community Choice Aggregation Program

23. Luis Amezcua, on behalf of the Sierra Club, SF Bay Chapter

Item 22: City Plan for Emergency Shelter During Winter Season

24. Presentation, submitted by City Manager's Office

25. Supplemental materials, submitted by Councilmembers Maio, Moore, Arreguin and Capitelli

Town Square Proposal

26. Jurgen Aust