

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, January 31, 2017

7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 2 – CHERYL DAVILA

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – VACANT

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 8 – LORI DROSTE

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, 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: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. 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 speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker 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 Councilmember 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.

Consent Calendar

1. **Contract Amendments: Winter Shelter and Extended Warming Center Activities** **From: City Manager**

Recommendation: Adopt four Resolutions:

1. Authorizing the City Manager to execute an amendment to Contract No. 10000B with Dorothy Day House to add \$30,000 to expand the existing Berkeley Emergency Storm Shelter (BESS) and operate a nightly winter shelter at two locations for up to 81 nights through February 28, 2017 for a total contract amount not to exceed \$192,648; and
2. Should Council approve an extension of the BESS to continue to operate through April 15, 2017, add an additional \$50,000 for an additional 46 nights at two locations, for a total contract amount not to exceed \$242,648; and
3. Authorizing the City Manager to execute an amendment to Contract No. 10030B with Building Opportunities for Self-Sufficiency (BOSS) to add \$4,200 to provide additional warming center hours at 1931 Center Street and 2140 Dwight Way for a total contract amount not to exceed \$731,536; and
4. Authorizing the City Manager to execute an amendment to Contract No. 9990B with Berkeley Food and Housing Project (BFHP) to add \$5,000 to add additional warming center hours at 1931 Center Street for a total contract amount not to exceed \$3,457,258; and
5. Authorizing the City Manager to execute an amendment to Contract No. 9982A with the Alameda County Network of Mental Health Clients for the Berkeley Drop-in Center (BDIC) to add \$4,840 to add additional warming center hours at 3234 Adeline Street for a total contract amount not to exceed \$184,474.

Financial Implications: See report

Paul Buddenhagen, Housing and Community Services, 981-5400

2. **Contract: Recology Blossom Valley Organics - North for Hauling and Processing of Compostable Materials**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Recology Blossom Valley Organics – North for hauling and processing compostable materials, in an amount not to exceed \$13,061,930 for the five year period March 1, 2016 to March 1, 2021.

Financial Implications: Zero Waste Fund - \$13,061,930

Contact: Phillip Harrington, Public Works, 981-6300

Council Consent Items

3. **Opposing the Repeal of the Affordable Care Act** **From: Mayor Arreguin and Councilmember Hahn**

Recommendation: Adopt a Resolution opposing the repeal or roll back of the Affordable Care Act. Send a copy of the Resolution to President Donald Trump, U.S. Senators Dianne Feinstein and Kamala Harris, and Congresswoman Barbara Lee.

Financial Implications: None

Contact: Jesse Arreguin, Mayor, 981-7100

Council Consent Items

4. **Public Process for Implementation of Measure T1**

From: Mayor Arreguin

Recommendation: Direct the City Manager to establish a delineated and robust public process for the implementation of Measure T1 that would include two (2) Lead Commissions (Public Works and Parks), affected commissions, and the public based on the following guidelines: 1. A minimum of three joint meetings for the general public and participating commissions to provide input on criteria and projects. Public meetings should be held in workshop format, to allow citizens to engage with commissions and staff to provide input on criteria and project priorities. Staff and commissions will engage in robust public outreach, including online forums to gather comments from residents. 2. An agreement from all participants of project ranking criteria that would include, but not be limited to: complexity (“shovel ready” to master plan), safety, environmental impact, equity in outcomes and impact across all city neighborhoods, cost/matching fund/grant availability, and resiliency. 3. A program-based development approach to maximize the benefit of phasing larger projects or multiple project implementation. 4. Opportunity to review staff recommendations and suggest modifications based on matching criteria and public input. 5. Development of a long-term plan for projects that will extend beyond the funding capacity of T1, including possible future funding mechanisms. 6. An ongoing oversight and reporting process including timelines for financial reassessment.

The proposed public process would supplement the City Manager’s proposed timeline for implementation of Measure T1.

Financial Implications: Staff time

Contact: Jesse Arreguin, Mayor, 981-7100

5. **City Maintained Below Market Rate Units (BMR) Online Resource**

From: Councilmembers Maio, Hahn, and Mayor Arreguin

Recommendation: Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the % of median income qualification levels for the units, the HUD published income guidelines for % of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current.

Financial Implications: None

Contact: Linda Maio, Councilmember, District 1, 981-7110

Council Consent Items

- 6. Berkeley Partners for Parks to the Friends of the Rose Garden: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds From: Councilmember Wengraf**
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Susan Wengraf, to the Berkeley Partners for Parks with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Susan Wengraf and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - \$250
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 7. Supporting HR 5 and SR 9 in Support of Planned Parenthood From: Councilmembers Wengraf, Maio, and Hahn**
Recommendation: Adopt a Resolution in support of HR 5 (Burke & Garcia) and SR 9 (Jackson) and send a letter of support to the California Assembly and Senate members.
Financial Implications: Minimal
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Action Calendar

The public may comment on each 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 items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

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.

Action Calendar – Public Hearings

8. Public Hearing on 2702, 2704, and 2706 Shasta Road

From: City Manager

Recommendation: Conduct a public hearing on the Zoning Adjustments Board decisions for 2702, 2704, and 2706 Shasta Road.

Financial Implications: None

Contact: Carol Johnson, Planning and Development, 981-7400

a. ZAB Appeal: 2702 Shasta Road

From: City Manager

Recommendation: Upon conclusion of the agendaized public hearing, adopt a Resolution approving Use Permit No. ZP2016-0022 to construct a new, approximately 3,136 square-foot, three-story, single-family dwelling with a 264 square-foot attached garage and an average building height of 23 feet on an existing 7,656 square foot, vacant parcel, and to reduce the rear yard setback from 20 feet to seven feet, and dismiss the appeal.

Financial Implications: None

Contact: Carol Johnson, Planning and Development, 981-7400

b. ZAB Appeal: 2704 Shasta Road

From: City Manager

Recommendation: Upon conclusion of the agendaized public hearing, adopt a Resolution approving Use Permit No. ZP2016-0023 to construct a new, approximately 2,840 square-foot, three-story, single-family residence with a 600 square-foot attached garage and an average building height of 28 feet on an existing vacant parcel, and to reduce the rear yard setback from 20 feet to 11.5 feet, and dismiss the appeal.

Financial Implications: None

Contact: Carol Johnson, Planning and Development, 981-7400

c. ZAB Appeal: 2706 Shasta Road

From: City Manager

Recommendation: Upon conclusion of the agendaized public hearing, adopt a Resolution approving Use Permit No. ZP2016-0024 to construct a new, approximately 2,720 square-foot, three-story, single-family residence with a 300 square-foot attached garage and an average building height of 28 feet on an existing vacant parcel, and to reduce the rear yard setback from 20 feet to 8.5 feet, and dismiss the appeal.

Financial Implications: None

Contact: Carol Johnson, Planning and Development, 981-7400

Action Calendar – Public Hearings

9. **Extend Residential Preferential Parking Program on Sections of Harper Street, Allston Street, Grant Street, and Claremont Avenue**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25M, 25C, and 25L by adding subsections to extend the Residential Preferential Parking Program on four city blocks.

Financial Implications: General Fund - \$2,079

Contact: Phillip Harrington, Public Works, 981-6300

Action Calendar – New Business

10a. **Medical Cannabis Ordinance Revisions and Cultivation Application Process**

From: Medical Cannabis Commission

Recommendation:

1. Adopt first reading of an Ordinance amending the BMC by creating a new Chapter 12.25: Medical Cannabis Cultivation;
2. Adopt first reading of an Ordinance amending the BMC by creating a new Chapter 12.23: Medical Cannabis General Regulations, including MCC recommendations (Alternative A);
3. Adopt first reading of an Ordinance amending BMC Section 12.26.030: Patients Access to Medical Cannabis Act of 2008, Definitions;
4. Adopt first reading of an Ordinance amending the BMC by amending BMC Chapter 12.27: Medical Cannabis Dispensaries and Collectives; and
5. Affirm, deny or revise the Medical Cannabis Commission's recommendation regarding a selection process.

Financial Implications: See report

Contact: Elizabeth Greene, Commission Secretary, 981-7400

10b. **Medical Cannabis Ordinance Revisions and Cultivation Application Process**

From: City Manager

Recommendation:

1. Adopt first reading of an Ordinance amending the BMC by creating a new Chapter 12.25: Medical Cannabis Cultivation;
2. Adopt first reading of an Ordinance amending the BMC by creating a new Chapter 12.23: Medical Cannabis General Regulations, including staff recommendations (Alternative B);
3. Adopt first reading of an Ordinance amending BMC Section 12.26.030: Patients Access to Medical Cannabis Act of 2008, Definitions;
4. Adopt first reading of an Ordinance amending the BMC by amending BMC Chapter 12.27: Medical Cannabis Dispensaries and Collectives; and
5. Revise the Medical Cannabis Commission's recommendation regarding a selection process.

Financial Implications: See report

Contact: Carol Johnson, Planning and Development, 981-7400

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/CalendarEventWebcastMain.aspx> 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.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

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 City Hall 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:

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.



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.

I hereby certify that the agenda for this 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 January 19, 2017.



Mark Numainville, City Clerk

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

Item 8: Public Hearing on 2702, 2704, and 2706 Shasta Road

1. David & Diane WeberShapiro (2)
2. Alissa McLean (3)

Amendment to Leafblower Ordinance

3. Carol Denney

Accessibility at North Branch Library

4. Barbara Gilbert
5. Thuyen Nguyen
6. Leona Rubinoff

Air Pollution

7. Charlene Woodcock

Berkeley Post Office

8. Unknown

Supplemental Communications and Reports

Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.

- **Supplemental Communications and Reports 1**
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**
Available by 5:00 p.m. the day of the meeting.
- **Supplemental Communications and Reports 3**
Available by 5:00 p.m. two days following the meeting.

