

**ANNOTATED 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

## **Preliminary Matters**

**Roll Call:** 7:00 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington, Arreguin

**Absent:** None

### **Ceremonial Matters:**

1. Adjourn in Memory of Roger Hanna Morash and Valerie Morash, Local Residents

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 4

**Public Comment on Consent Calendar and Information Items Only:** 2 speakers.

## **Consent Calendar**

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

**Vote:** All Ayes.

## 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

**Action:** Adopted Resolution No. 67,823–N.S. (Dorothy Day); Resolution No. 67,824–N.S. (BOSS) revised to state the correct dollar amount of \$4,200 in the resolved clause; Resolution No. 67,825–N.S. (BFHP); Resolution No. 67,826–N.S. (AC Network)

### 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

**Action:** Adopted Resolution No. 67,827–N.S.

## 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

**Action:** Councilmembers Droste and Davila added as co-sponsor. Adopted Resolution No. 67,828–N.S.

### 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

**Action:** Moved to Action Calendar. 1 speaker. M/S/C (Worthington/Wengraf) to approve the recommendation as revised in Supplemental Reports Packet #1.

**Vote:** All Ayes.

## Council Consent Items

- 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  
**Action:** Councilmember Droste added as a co-sponsor. Approved recommendation.
- 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  
**Action:** Adopted Resolution No. 67,829–N.S.
- 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:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 67,830–N.S.

## 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

**Public Testimony:** The Mayor opened the public hearing. 15 speakers. M/S/C (Droste/Maio) to close the public hearing.

**Vote:** All Ayes.

#### a. ZAB Appeal: 2702 Shasta Road

**From:** City Manager

**Recommendation:** Upon conclusion of the agendized 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

**Action:** M/S/C (Maio/Droste) to adopt Resolution No. 67,831–N.S. 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.

**Vote:** All Ayes.

#### b. ZAB Appeal: 2704 Shasta Road

**From:** City Manager

**Recommendation:** Upon conclusion of the agendized 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

**Action:** M/S/C (Maio/Droste) to adopt Resolution No. 67,832–N.S. 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.

**Vote:** Ayes – Maio, Bartlett, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – Davila.

## Action Calendar – Public Hearings

### 8c. ZAB Appeal: 2706 Shasta Road

**From:** City Manager

**Recommendation:** Upon conclusion of the agendized 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:** M/S/C (Maio/Droste) to adopt Resolution No. 67,833–N.S. 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.

**Vote:** Ayes – Maio, Bartlett, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – Davila.

### 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

**Public Testimony:** The Mayor opened the public hearing. 4 speakers.

M/S/C (Maio/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Bartlett/Droste) to adopt Resolution No. 67,834–N.S. as revised in Supplemental Reports Packet #1.

**Vote:** All Ayes.

## 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

**Action:** 4 speakers. M/S/C (Worthington/Droste) to:

1. Adopt first reading of Ordinance No. 7,529–N.S. Second reading scheduled for February 14, 2017.
2. Adopt first reading of Ordinance No. 7,530–N.S. amended to include the recommendation from the Medical Cannabis Commission for Section 12.23.030.F.4. and the recommendation from the City Manager for Section 12.23.020.K. Second reading scheduled for February 14, 2017.
3. Adopt first reading of Ordinance No. 7,531–N.S. Second reading scheduled for February 14, 2017.
4. Adopt first reading of Ordinance No. 7,532–N.S. Second reading scheduled for February 14, 2017.

## Action Calendar – New Business

5. Amend each ordinance listed above to include language that the ordinance will not be effective until a Zoning Ordinance is in effect to limit cultivation sites to six locations.

6. Request that the Planning Commission consider the six location limit on an expedited basis and the use a first-come/first served application process.

7. Request that the City Manager provide an information report to Council with analysis of the questions presented by Councilmember Hahn.

**Vote:** Ayes – Maio, Davila, Bartlett, Worthington, Droste, Arreguin; Noes – Hahn; Abstain – None; Absent – Wengraf.

Councilmember Wengraf absent 9:21 p.m. – 10:15 p.m.

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

### Adjournment

**Action:** M/S/C (Maio/Worthington) to adjourn the meeting.

**Vote:** Ayes – Maio, Davila, Bartlett, Hahn, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Wengraf.

Adjourned at 10:15 p.m. in memory of Roger Hanna Morash and Valerie Morash, Berkeley Residents

## Communications

### 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 1

### Item 4: Public Process for Implementation of Measure T1

9. Revised materials, submitted by Mayor Arreguin

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

- 10. Elaine Chan
- 11. Paul Newacheck
- 12. Susan Nunes
- 13. Ira Lapidus & Brenda Webster

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

- 14. Revised materials, submitted by Public Works
- 15. Enythe Green
- 16. Dennis & Vivien Tuma

**Supplemental Communications and Reports 2**

**Item 4: Public Process for Implementation of Measure T1**

- 17. Olga Bolotina, on behalf of the Sierra Club

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

- 18. Judith Bloom
- 19. Shirley Dean
- 20. Dan McDunn

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

- 21. Lisa Caplan
- 22. Austin Hastings
- 23. Donald Oppenheim

**Item 10: Medical Cannabis Ordinance Revisions and Cultivation Application Process**

- 24. Matthew Witemyre, on behalf of Solidarity Nursery Cooperative

**Supplemental Communications and Reports 3**

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

- 25. Presentation, submitted by Planning & Development Department
- 26. Matthew Wadlund
- 27. Dan & Shirley Dean
- 28. Shasta Neighbors Against the Shasta Road Projects

**Item 10b: Medical Cannabis Ordinance Revisions and Cultivation Application Process**

- 29. Presentation, submitted by Planning & Development Department

**Election Commentary**

- 30. Unknown

**Redwood Gardens/HUD Article**

- 31. Wendy Knox Carr