

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING**

Tuesday, January 30, 2018

6:00 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 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – LORI DROSTE

Preliminary Matters

Roll Call: 6:04 p.m.

Present: Bartlett, Droste, Hahn, Harrison, Maio, Wengraf, Worthington, Arreguin

Absent: Davila

Councilmember Davila present at 6:09 p.m.

Ceremonial Matters:

1. Proclamation recognizing the 45th Anniversary of Roe v. Wade
2. Proclamation recognizing J. Ruth Gendler, Local Author
3. Proclamation recognizing Harriet Tubman Tenants Council
4. Proclamation recognizing Pizza Lover Month – February 2018
5. Announcement: Community Forum on Alta Bates, 2/3/18, 11am-1pm at Ed Roberts Campus

City Manager Comments:

1. Community Meeting on the North Berkeley Senior Center Renovations, 2/15/18, 2pm – 4pm, at North Berkeley Senior Center

Public Comment on Non-Agenda Matters: 10 speakers.

Public Comment on Consent Calendar and Information Items Only: 6 speakers.

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

Vote: All Ayes.

Consent Calendar

- 1. Referral Response: City Council Rules of Procedure and Order**
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to amend Chapter III, Section C and Chapter III, Section E to authorize the Agenda Committee to reorder the agenda as needed, and rescinding any preceding amendatory resolutions.
Financial Implications: None
Contact: Dee Williams-Ridley, City Manager, 981-7000
Action: Adopted Resolution No. 68,309–N.S.
- 2. Contract No. 8949C Amendment: Intermedix for Ambulance Billing Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 8949C with Intermedix, extending the contract from March 31, 2018 to June 30, 2018 and increasing the contract amount by \$189,000, for a total amended amount not to exceed \$1,389,000, to provide ambulance billing services.
Financial Implications: General Fund - \$189,000
Contact: David Brannigan, Fire, 981-3473
Action: Adopted Resolution No. 68,310–N.S.
- 3. Appointment of Health Officer**
From: City Manager
Recommendation: Adopt a Resolution to appoint Lisa B. Hernandez, M.D. as the Health Officer for the City of Berkeley.
Financial Implications: See report
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 68,311–N.S.
- 4. Designating City’s Labor Negotiator under Govt. Code Section 54957.6**
From: City Manager
Recommendation: Adopt a Resolution establishing a standing list of representatives of the City of Berkeley designated to participate in closed sessions with the City Council to discuss labor negotiations with certain unions and rescinding Resolution No. 67,803-N.S.
Financial Implications: None
Contact: Margarita Zamora, Human Resources, 981-6800
Action: Adopted Resolution No. 68,312–N.S.

Consent Calendar

- 5. Contract: Third Wave Corporation for ERP Replacement Project's Enterprise Modules Needs Assessment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Third Wave Corporation for ERP Replacement Project: Enterprise Modules Needs Assessment, for a total not to exceed \$400,000 from February 15, 2018 to June 30, 2020.
Financial Implications: FUNDS Replacement Fund - \$400,000
Contact: Savita Chaudhary, Information Technology, 981-6500
Action: Adopted Resolution No. 68,313–N.S.
- 6. Grant Application: Land and Water Conservation Fund – San Pablo Park Restroom Renovation Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the federal Land and Water Conservation Fund (LWCF) in an amount not to exceed 50% of the San Pablo Park Restroom Renovation total project cost of \$450,000.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
Action: Adopted Resolution No. 68,314–N.S.

Council Consent Items

Council Consent Items

7. **Immediate Measures to Address Fire Safety and Prevention**

From: Councilmembers Hahn, Wengraf, and Harrison

Recommendation: Refer to the City Manager to study and evaluate, in consultation with relevant Commissions, the following fire safety and prevention measures on a priority basis. After study and evaluation, implement or, where additional resources may be required, recommend implementation and sources of funding. 1. Complete the Berkeley Fire Department's comprehensive Evacuation Plan and publicize evacuation routes and protocols on a priority basis. 2. Increase outreach efforts to sign up residents for the Alameda County Emergency Alert program. 3. Review and update the City's existing Fire Safety ordinances, including BMC 12.50 Fire Inspection Program. 4. Consider implementation of a siren warning system, similar to Oakland's Emergency Siren system. 5. Review and, as necessary, strengthen coordination and communication with Oakland, East Bay Regional Parks (EBRP), Alameda County, Contra Costa and other neighboring Fire Department and emergency response service providers. 6. Expand programs and practices to reduce fire hazards and fuel loads and ensure clearance for utility lines on both public and private property as outlined in the report.

Financial Implications: Staff time

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

Action: Moved to Action Calendar. 4 speakers. Councilmember Droste added as a co-sponsor. M/S/C (Maio/Hahn) to consider the previously adopted item from Councilmember Bartlett, the item from January 30, and the future item from the Commission as a single package and to acknowledge the work done by the commission and by staff; item amended to revise recommendation 6.f. to read "Taking into account the same considerations as a and b above, establish..."

Vote: All Ayes.

8. **Request that the City Manager Write a Letter to Navigation Service Providers to Help Mitigate Increased Neighborhood Traffic Volume and Unsafe Driving**

From: Councilmembers Wengraf, Maio, Droste, and Mayor Arreguin

Recommendation: Request that the City Manager write a letter to navigation service providers such as Waze, Google, and Apple, reporting that their apps have led to an inappropriate increase in traffic volumes and speeds on many local residential streets, and requesting specific adjustments to assumptions that guide their algorithms. The goal of the letter is to help mitigate increased traffic volume on neighborhood streets and unsafe driving in the City of Berkeley.

Financial Implications: Staff time

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Action: Approved recommendation.

Council Consent Items

9. **Referral to the City Manager and the Housing Commission to Consider Creating a Dedicated Revenue Stream from Campus Area Projects to Fund Housing for Homeless and Extremely Low Income Students, and Drafting a Letter Encouraging Exploration of University Funding Streams for Student Housing**

From: Councilmembers Worthington and Bartlett

Recommendation: Referral to the City Manager & the Housing Commission to consider creating a dedicated revenue stream from campus area projects to fund housing for homeless and extremely low income students, and drafting a letter encouraging exploration of University funding streams for student housing.

Financial Implications: Minimal

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

Action: Moved to Action Calendar. 7 speakers. Councilmember Harrison and Mayor Arreguin added as co-sponsors. M/S/C (Harrison/Wengraf) to approve the recommendation as written below.

Refer to the City Manager and Housing Commission to consider in partnership with the proposed density bonus in the campus area and other policies directed at increasing student housing, creating a dedicated revenue stream to fund housing for homeless and extremely low income students using methods of identifying eligible students based on one or more of the following criteria: EOP, FAFSA, Pell Grant, Work Study qualified, family income or other verifiable status as well as similar categories applicable to graduate students.

Vote: All Ayes.

Recess 8:18 p.m. – 8:27 p.m.

Action Calendar – Continued Business

- Aa. **Proposed Ordinance: Surveillance Technology Use and Community Safety**
(Continued from January 23, 2018. Item contains supplemental materials.)

From: Police Review Commission

Recommendation: Adopt first reading of an ordinance governing the approval, acquisition, and use of surveillance technology by the City of Berkeley.

Financial Implications: Staff time

Contact: Katherine Lee, Commission Secretary, 981-4950

Action Calendar – Continued Business

Ab. Companion Report: Proposed Ordinance: Surveillance Technology and Community Safety *(Continued from January 23, 2018)*

From: City Manager

Recommendation: Refer this item to the City Council Agenda Committee for scheduling to return to the City Council no later than January 30, 2018 to allow additional time for City staff to resolve differences with the Police Review Commission's recommendations or develop alternative recommendations for the City Council to consider.

Financial Implications: Staff time

Contact: Andrew Greenwood, Police, 981-5900 and David Brannigan, Fire, 981-3473

Action: 12 speakers. M/S/C (Droste/Worthington) to hold over the proposals from the Commission, the City Manager, and the Mayor (from Supplemental Packet #2) to the March 13, 2018 agenda and agendize the items as "a, b, and c" items.

Vote: All Ayes.

Action Calendar – Old Business

10. Berkeley Way Housing Development Update *(Continued from December 19, 2017)*

From: City Manager

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

Action: 8 speakers. M/S/C (Harrison/Arreguin) to direct the City Manager to provide an off-agenda memo to the Council on the parking issues by February 15, 2018 and to submit an item on the March 13, 2018 agenda for Council action on the parking issue including the following components.

- Effect of including parking in the project on competitiveness of securing cap and trade funds
- Time and cost to redesign the project under each parking scenario, including a zero parking scenario
- Analysis of cost implications for each parking scenario, and potential sources of funds if parking revenue falls short
- Building height options and construction type

Vote: All Ayes.

11. Endorsement of the 2018 Affordable Housing Act State Ballot Initiative *(Continued from December 19, 2017)*

From: Councilmembers Worthington, Harrison, Bartlett and Davila

Recommendation: That the Council encourages citizens to sign the 2018 Affordable Housing Act State ballot initiative and that the City of Berkeley endorses the Act.

Financial Implications: Minimal

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

Action: Moved to Consent Calendar as written in Supplemental Reports Packet #1.

Action Calendar – New Business

12a. Cesar Chavez Off-Leash Dog Park, Limit Number of Dogs Per Person

From: Animal Care Commission

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 10.04, Section 120 (B), Dogs In Public Playgrounds And Parks Prohibited--Impoundment Required—Exception, to change the maximum number of dogs permitted in any “dog park” or “off leash” area set aside and designated as such by the City Council from four (4) dogs to eight (8) dogs per owner/guardian, or per responsible party at any one time.

Financial Implications: See report

Contact: Amelia Funghi, Commission Secretary, 981-6600

12b. Companion Report: Cesar Chavez Off-Leash Dog Park, Limit Number of Dogs Per Person

From: City Manager

Recommendation: Consider requesting a written report from the Parks and Waterfront Commission regarding the number of “off leash” dogs per person at Cesar Chavez Off-Leash Dog Park, prior to considering adoption of the recommendation from the Animal Care Commission.

Financial Implications: None

Contact: Jovan Grogan, City Manager's Office, 981-7000

Action: Moved Item 12b to the Consent Calendar with the amendment to also refer the item back to the Animal Care Commission.

Council Action Items

13. Amending BMC Chapter 9.04: Tax Rate for Non-Medical Cannabis Businesses

From: Mayor Arreguin

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 9.04 to modify the business license tax rate for Non-Medical Cannabis Businesses to \$50/\$1,000 gross receipts (or 5%).

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, 981-7100

Action: 12 speakers. M/S/C (Arreguin/Wengraf) to continue the item to February 13, 2018.

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

Councilmember Worthington absent 10:44 p.m. – 11:00 p.m.

Council Action Items

14. **Direction and Referral to the City Manager Regarding “Premier Cru” Property From: Councilmember Hahn, Mayor Arreguin, and Councilmembers Maio and Harrison**

Recommendation: 1. Adopt a Resolution re-affirming that the Premier Cru property (Real Property at 1001, 1007 and 1011 University Avenue and at 1925 Ninth Street, collectively) was purchased for and will be used by the City of Berkeley to develop affordable housing. 2. Refer to the City Manager to take the following actions to initiate the process of developing Affordable Housing at Premier Cru, and report back to Council at or before the June 12, 2018 Council Meeting: a. Create a preliminary term sheet outlining the full development potential of the parcel, including maximum allowable parcel buildout with a density bonus, either as a single or two/multi-phased project. Include rough estimates of number of units possible, allowing for a mix of unit sizes from small studios to multi-bedroom family units and space for anticipated on-site services, and demonstrate possible massing options that would maximize height on the San Pablo and other commercial frontages. Explain the status of the historic central building at 1007 University Ave and consider possible use or adaptation that preserves the building and conforms to historic preservation standards. b. Provide an estimated timeline for development of the site. 3. The Berkeley Way Affordable Housing Project is the City’s top affordable housing priority. Premier Cru, as a City property, to be developed for affordable housing falls under the “High Priority” on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to move Premier Cru forward as a High Priority initiative: a. Based on recommendations from Health, Housing and Community Services and other Departments, the Housing Advisory Commission, and on consultation with local affordable housing providers, and taking into consideration requirements and restrictions associated with potential funding sources, create a recommendation or recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in the proposed project or projects. b. Based on the above analyses and recommendations, and on Council direction, develop and issue an RFQ or RFP to affordable housing developers for proposals to develop affordable housing at the site. 4. Provide direction to the City Manager on appropriate interim uses for the property during the planning, funding and approvals process for affordable housing, until the property must be vacated to commence development of affordable housing.

Financial Implications: Staff time

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

Action: 16 speakers. M/S/C (Worthington/Wengraf) to:

1. Adopt Resolution No. 68,315–N.S.
2. Approve recommendations #2 amended to change “San Pablo” to “University”
3. Approve recommendation #3
4. Request that the City Manager expeditiously create a process for finding appropriate for-profit and non-profit interim uses; Continue conversations with the Berkeley Food Network for possible use of a portion of the site; Refer the scheduling of a Worksession or presentation on the use of the site to the Agenda Committee

Vote: All Ayes.

Council Action Items

Action: M/S/Failed (Worthington/Wengraf) to suspend the rules and extend the meeting to 11:30 p.m. to hear Item 13.

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

Councilmember Hahn absent 10:40 p.m. – 10:50 p.m.

Information Reports

15. **Status Report – Performance Audit of the Payroll Audit Division**

From: Auditor

Contact: Ann-Marie Hogan, Auditor, 981-6750

Action: Received and filed.

Public Comment – Items Not Listed on the Agenda: 1 speaker

Adjournment in memory of:

1. Victims of the Montecito mudslides
2. Helen Rippier Wheeler, Ph.D, Local Activist and Educator
3. Ursula Le Guin, Local Author
4. Mary Marks, Local Artist

Adjourned at 11:00 p.m.

Communications

Immigration Commentary

1. Blair Beekman

Berkeley Police

2. Susana Wani and Richard Mansfield
3. Matt Chaney
4. Dale Phillips

Ohlone Park

5. David Lerman

Soup Kitchens / Shelters

6. Avram Gur Arye (2)

NCRIC / UASI / Urban Shield

7. Linda Franklin
8. Cindy Shamban

Save Alta Bates Community Forum

9. S. Omowale Fowles

Harriet Tubman Terrace Concerns

10. Harriet Tubman Tennant Council Steering Committee (3)
11. Jamie Garcia
12. Leonard Berdan

Supplemental Communications and Reports 1

Item 11: Endorsement of the 2018 Affordable Housing Act State Ballot Initiative

13. Revised materials, submitted by Councilmember Worthington

Item 13: Amending BMC Chapter 9.04: Tax Rate for Non-Medical Cannabis Businesses

14. Cannabis Commission

Item 14: Direction and Referral to the City Manager Regarding “Premier Cru” Property

15. Supplemental materials, submitted by Councilmember Worthington

Supplemental Communications and Reports 2

Item 9: Referral to the City Manager and the Housing Commission to Consider Creating a Dedicated Revenue Stream from Campus Area Projects to Fund Housing for Homeless and Extremely Low Income Students, and Drafting a Letter Encouraging Exploration of University Funding Streams for Student Housing

16. Revised materials, submitted by Councilmember Worthington
17. Christine Schwartz
18. East Bay for Everyone

Item Aa: Proposed Ordinance: Surveillance Technology Use and Community Safety

19. Supplemental materials, submitted by Mayor Arreguin
- 20.5 ‘in support of’ form letters

Item 10: Berkeley Way Housing Development Update

21. Kirsten Rose
22. Phoebe Sorgen
23. Katharine Bierce
24. Sophia DeWitt
25. Jeanne Clinton
26. Sarah Herbold
27. Housing Advisory Commission
28. Paolo Laverde
29. Ellen Chen
30. Daniel Newman
31. Luis Amezcua, on behalf of the Sierra Club

- 32. East Bay for Everyone
- 33. Doug Smith

Item 12b: Companion Report: Cesar Chavez Off-Leash Dog Park, Limit Number of Dogs Per Person

- 34. Claudia Kawczynska

Item 13: Amending BMC Chapter 9.04: Tax Rate for Non-Medical Cannabis Businesses

- 35. Zachary Michelson
- 36. Sabrina Fendrick, on behalf of Berkeley Patients Group

Item 14: Direction and Referral to the City Manager Regarding “Premier Cru” Property

- 37. Supplemental communications, submitted by Councilmember Worthington
- 38. Sara Webber, on behalf of Berkeley Food Network
- 39. East Bay for Everyone

Supplemental Communications and Reports 3

Item 9: Referral to the City Manager and the Housing Commission to Consider Creating a Dedicated Revenue Stream from Campus Area Projects to Fund Housing for Homeless and Extremely Low Income Students, and Drafting a Letter Encouraging Exploration of University Funding Streams for Student Housing

- 40. East Bay Young Democrats
- 41. Berkeley Student Cooperative

Item 10: Berkeley Way Housing Development Update

- 42. Nancy Kates
- 43. Elizabeth Ferguson
- 44. Hadiyah Abdul-Mu'min
- 45. Cathy Blankespoor
- 46. Stephanie Thomas

Item 14: Direction and Referral to the City Manager Regarding “Premier Cru” Property

- 47. Supplemental materials, submitted by City Clerk’s Office
- 48. Chrise de Tournay Birkhahn

Picture

- 49. Margy Wilkinson