

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
TUESDAY, OCTOBER 30, 2012
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 WOZNIAK

Preliminary Matters

Roll Call: 7:23 p.m. All present.

Ceremonial Matters:

1. Stephanie Anne Johnson Day, October 30, 2012.

City Manager Comments:

1. Halloween Activities at City of Berkeley Recreation Centers.
2. Traffic Advisory: Friday, November 2nd Cal Bears football game at 6:00 p.m.
3. Berkeley Project Day, Saturday, November 3, 2012.

Public Comment on Non-Agenda Matters: 1 speaker.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Consent Calendar

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

Vote: All Ayes.

1. **Amendment to Affidavit of Residency Requirement for City Commissioners**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,260-N.S. amending Berkeley Municipal Code Section 2.04.145 to modify the enforcement procedure for non-filing of the Affidavit of Residency by City commissioners.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Mark Numainville, Acting City Clerk, 981-6900
Action: Adopted second reading of Ordinance No. 7,260–N.S.

Consent Calendar

- 2. Amendment: FY 2013 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the FY 2013 Annual Appropriations Ordinance No. 7,254-N.S. for fiscal year 2013 based upon recommended re-appropriation of committed FY 2012 funding and other adjustments authorized since July 1, 2012, in the amount of \$59,102,317 (gross) and \$52,866,832 (net).
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
Action: Adopted first reading of Ordinance No. 7,261–N.S. Second reading scheduled for November 13, 2012.
- 3. Revised Conflict of Interest Code**
From: City Manager
Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 65,786-N.S.
Financial Implications: None
Contact: Mark Numainville, Acting City Clerk, 981-6900
Action: Adopted Resolution No. 65,921–N.S.
- 4. Donation to the Animal Shelter from the Ting Tsung and Wei Fong Chao Foundation**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation from the Ting Tsung and Wei Fong Chao Foundation in the sum of \$5,000, at the direction of Elizabeth Chao.
Financial Implications: Donation - \$5,000
Contact: William Rogers, City Manager's Office, 981-7000
Action: Adopted Resolution No. 65,922–N.S.
- 5. Lease of City Van to 100 Black Men of the Bay Area Community School**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to lease a surplus City vehicle to 100 Black Men of the Bay Area Community School for official school purposes, including the transport of students to the Oakland campus.
Financial Implications: See report
Contact: William Rogers, City Manager's Office, 981-7000
Action: Adopted first reading of Ordinance No. 7,262–N.S. Second reading scheduled for November 13, 2012.
- 6. Renewal of the Solano Avenue Business Improvement District for 2013**
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving a report and preliminary budget on proposed improvements in the District for 2013;
2. Declaring the Council's intent to levy an assessment to finance improvements in the District for 2013; and

Consent Calendar

3. Directing the City Clerk to schedule a public hearing on the renewal of the assessment for December 11, 2012.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

Action: Adopted Resolution No. 65,923–N.S.

7. **Abandoned Vehicle Abatement Program**

From: City Manager

Recommendation: Adopt a Resolution approving the extension of the Abandoned Vehicle Abatement Program until May 31, 2023, and directing the City Manager to take any actions necessary, including executing any resultant agreements, to extend this Program and secure related funding.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: Adopted Resolution No. 65,924–N.S.

8. **Memorandum of Understanding: Winter Homeless Shelter Programs**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Memorandum of Understanding with the City of Oakland, Department of Human Services, in an amount not to exceed \$76,000 for operation of the Winter Shelter Program at the Oakland Army Base.

Financial Implications: General Fund - \$76,000

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: Adopted Resolution No. 65,925–N.S.

9. **Revenue Contract: Abode Services to Expand the Square One Program**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a revenue contract and any resultant agreements with Abode Services for funding in the amount of \$70,560 to expand the capacity of the Square One Program by providing five tenant-based rental subsidies to chronically homeless individuals.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Action: Adopted Resolution No. 65,926–N.S.

10. **Supplementary Retirement and Income Plan I, II, and III; Amending BMC Chapters 4.36, 4.38 and 4.39**

From: City Manager

Recommendation: Adopt the first reading of three separate Ordinances:

1. Amending Berkeley Municipal Code (BMC) Chapter 4.36, Supplementary Retirement and Income Plan I (SRIP I) by repealing and reenacting Sections 601 (Method of distribution), 604 (Payment of small benefits) and adding Section 605 (Rollover); and
2. Amending Berkeley Municipal Code (BMC) Chapter 4.38, Supplementary Retirement and Income Plan II (SRIP II) by repealing and reenacting Sections 106 (Employee), 107 (Employer), 108 (Fiduciary), 601 (Method of distribution), 604 (Payment of small benefits), 801 (General purpose), 803 (Limitation upon the right to amend); adding Section 605 (Rollover) and Section 606 (Purchase of Permissive Service Credit); and

Consent Calendar

3. Amending Berkeley Municipal Code (BMC) Chapter 4.39, Supplementary Retirement and Income Plan III (SRIP III) by repealing and reenacting Sections 604 (Payment of small benefits); adding Section 605 (Rollover) and Section 606 (Purchase of Permissive Service Credit).

The amendments to these Ordinances are intended to bring SRIP I, SRIP II, and SRIP III into compliance with technical changes to the Internal Revenue Code and other Federal laws, rules, and regulations.

Financial Implications: None

Contact: David Hodgkins, Human Resources, 981-6800

Action: Adopted first reading of Ordinance No. 7,263–N.S. (BMC 4.36); Ordinance No. 7,264–N.S. (BMC 4.38) and Ordinance No. 7,265–N.S. (BMC 4.39). Second reading scheduled for November 13, 2013.

11. Contract Amendment: CalPERS 3% at Age 55 Retirement Formula for Police Safety Employees and 3 Year Highest Average Compensation Earnable

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 provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with "final compensation" calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local police employees only; and
2. Adopt first reading of an Ordinance amending the City's contract with CalPERS to provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with "final compensation" calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local sworn police employees only to be effective December 28, 2012.

Financial Implications: See report

Contact: David Hodgkins, Human Resources, 981-6800

Action: 1. Adopted Resolution No. 65,927–N.S.; 2. Adopted first reading of Ordinance No. 7, 266–N.S. Second reading scheduled for November 27, 2012.

12. Contract: Chrisp Company for Roadway Thermoplastic Markings

From: City Manager

Recommendation: Adopt a Resolution:

1. Rejecting the bid of \$1,138,090 by Chrisp Company received on May 31, 2012; and
2. Authorizing the City Manager to renegotiate bid items quantities, contracts and any amendments with Chrisp Company in an amount not to exceed \$750,000 to provide and install thermoplastic roadway markings for a period of 3 years.

Financial Implications: Special Gas Tax Improvement Fund - \$750,000

Contact: Andrew Clough, Public Works, 981-6300

Action: Adopted Resolution No. 65,928–N.S.

Consent Calendar

13. **Donation from Friends of Fountain Walk**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation of up to \$40,000 from the Friends of Fountain Walk for repairs to the historic balustrades and railings along Fountain Walk from Marin Circle to Del Norte Street.
Financial Implications: Donation up to \$40,000
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted Resolution No. 65,929–N.S.
14. **Sewer Easement Deed Agreement at 459/465 Boynton Avenue**
From: Public Works
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to accept an Easement Deed Agreement for relocation of sewer pipe facilities with Ms. Susan Beauchamp and Mr. Robin Beauchamp of 459/465 Boynton Avenue, Berkeley.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted first reading of Ordinance No. 7,267-N.S. Second reading scheduled for November 13, 2012.
15. **Sewer Easement Deed Agreement at 2705 Walker Street**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to accept an Easement Deed Agreement for relocation of sewer pipe facilities with Ms. Maudelle Shirek of 2705 Walker Street, Berkeley.
Financial Implications: None
Contact: Andrew Clough, Public Works, 981-6300
Action: Adopted first reading of Ordinance No. 7,268-N.S. Second reading scheduled for November 13, 2012.

Council Consent Items

16. **Referral to the Community Environmental Advisory Commission Regarding the Fire at the Chevron Richmond Refinery of August 21, 2012 and the Resulting Health Advisory Communications with the City of Berkeley**
From: Councilmember Capitelli
Recommendation: Request that the Community Environmental Advisory Commission (CEAC) research the aftermath of the recent fire at the Chevron Richmond Refinery of August 21, 2012 and the Bay Area Air Quality Management District's response to, and communications with the City of Berkeley regarding its citizens' alert system. Subsequent to those findings, CEAC is requested to report back to the City Council with recommendations for improved communications and/or procedures for future health advisories, if necessary.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
Action: Amended to include referral to the Community Health Commission. Approved recommendation.

Action Calendar – Old Business

17. **Residential Preferential Parking (RPP): Vehicle Registration Requirements**
(Continued from October 16, 2012)
From: Councilmember Arreguín
Recommendation: Refer to the City Manager and the Transportation Commission to evaluate and bring back for Council discussion alternatives to the requirement that vehicles must be registered at an address within an RPP area to qualify for a permit.
Financial Implications: Unknown; possible increased revenue from additional permits issued.
Contact: Jesse Arreguín, Councilmember, District 4, 981-7140
Action: Item removed from agenda by Councilmember Arreguín.
18. **Coro Center for Civic Leadership: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds** (Continued from October 16, 2012)
From: Councilmember Worthington
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including an amount not to exceed \$1,000 from Councilmember Worthington, to the Coro Center for Civic Leadership with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$1,000
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Item removed from agenda by Councilmember Worthington.

Action Calendar – New Business

19. **Consideration of Revisions to Policy Regarding Immigration Detainers in the Berkeley Jail**
From: City Manager
Recommendation: Review and comment on an amended policy drafted pursuant to the Council's direction at its June 19, and September 18, 2012 meetings regarding Immigration Detainers (General Order J-1 [139]).
Financial Implications: See report
Contact: Michael Meehan, Police, 981-5900
Action: 8 speakers. M/S/C (Maio/Arreguin) to establish a City of Berkeley policy as follows:
 "The role of the City of Berkeley Police Department is to reduce crime and protect public safety while respecting civil rights and liberties.
 The Berkeley Police Department will follow its normal rules and procedures irrespective of the immigration status of the people with whom it has contact.
 The Berkeley Police Department will not honor requests by the United States Immigration and Customs Enforcement (ICE) to detain a Berkeley jail inmate for suspected violations of federal civil immigration law."
Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes - None.

Action Calendar – New Business

20. Watershed Management Plan

From: City Manager

Recommendation: Adopt a Resolution adopting the proposed Mitigated Negative Declaration for the Watershed Management Plan, and adopting the Watershed Management Plan.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

Action: 0 speakers. M/S/C (Maio/Moore) to adopt Resolution No. 65,930–N.S. adopting the proposed Mitigated Negative Declaration for the Watershed Management Plan, and adopting the Watershed Management Plan.

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes - None.

Information Reports

21. Community Health Commission Accomplishments and Membership

From: Community Health Commission

Contact: Tasha Tervalon, Commission Secretary, 981-5400

Action: Received and filed.

Public Comment – Including Items Not Listed on the Agenda – 1 speaker.

Adjournment in memory of:

1. Randy Engle, Professor, District 4 resident

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

Vote: Ayes - Maio, Moore, Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak, Mayor Bates; Noes - None.

Adjourned at 9:33 p.m.

Communications

Community Input on Proposed Projects

1. Steve Martinot

San Rafael's Smoking Laws

2. Carol Denney - Referred to City Manager by Councilmember Worthington and Councilmember Anderson

Municipal Bonds Article

3. Barbara Gilbert – Referred to City Manager by Councilmember Wozniak

Supplemental Communications and Reports 1

-None

Supplemental Communications and Reports 2

Item 17: Residential Preferential Parking (RPP): Vehicle Registration Requirements

4. Beverly Doane, on behalf of the Claremont-Elmwood Neighborhood Association (CENA)
5. Kathy Dittmer

Item 19: Consideration of Revisions to Policy Regarding Immigration Detainers in the Berkeley Jail

6. Julia Mass
7. The Coalition for a Safe Berkeley

Supplemental Communications and Reports 3

-None