

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 28, 2021
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82143975247>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and enter Meeting ID: **821 4397 5247**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. 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: 6:03 p.m.

Present: Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Kesarwani, Taplin, Bartlett

Councilmember Taplin present at 6:04 p.m.

Councilmember Kesarwani present at 6:09 p.m.

Councilmember Bartlett present at 6:15 p.m.

Ceremonial Matters:

1. Recognition of Berkeley Fire for Efforts to Save Echo Lake Camp
2. Recognition of Loren Jones, Local Activist
3. Adjournment in Memory of Professor Leon Litwack, UC Berkeley Professor
4. Adjournment in Memory of Gene Poschman, Former Planning Commissioner
5. Adjournment in Memory of Frank Darr, Local Activist
6. Recognition of September as Childhood Cancer Month

City Manager Comments:

City Manager showed a video from the Fire Department regarding wildfire evacuation. The Fire Department is holding practice evacuations on October 8 and October 9.

Public Comment on Non-Agenda Matters: 10 speakers.

Public Comment on Consent Calendar and Information Items Only: 40 speakers.

Consent Calendar

Action: M/S/C (Arreguin/Robinson) to accept an urgency item from Mayor Arreguin pursuant to Government Code Section 54954.2(b)(2) entitled Re-Establishing a COVID-19 Business Damage Mitigation Fund. Councilmember Robinson added as a co-sponsor.

Vote: All Ayes.

Action: M/S/C (Arreguin/Robinson) to accept an urgency item from the City Attorney pursuant to Government Code Section 54954.2(b)(2) entitled Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference.

Vote: All Ayes.

Action: M/S/C (Arreguin/Harrison) to accept revised and supplemental materials on Item 16 (City Manager), Item 18 (Harrison), and Item 23 (Taplin).

Vote: All Ayes.

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

Vote: All Ayes.

Recess 9:12 p.m. – 9:22 p.m.

Urgency Item: Re-Establishing a COVID-19 Business Damage Mitigation Fund

From: Mayor Jesse Arreguín (Author)

Recommendation: Refer to the City Manager to re-establish the COVID-19 Business Damage Mitigation Fund in an amount up to \$50,000 to provide one-time grants to small businesses who experience property damage due to vandalism and other problematic behavior during this COVID-19 local State of Emergency. Authorize the City Manager to appropriate funding for the Mitigation Fund from Berkeley Relief Fund donations received through the East Bay Community Foundation.

Action: Approved recommendation.

Urgency Item: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

From: Farimah Faiz Brown, City Attorney

Recommendation: Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference.

Action: Adopted Resolution No. 70,030–N.S.

Recess Items

- Contract No. 32100192 Amendment: California Constructores for Construction of Pedestrian Improvements at California Street/Dwight Way Intersection**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to amend Contract No. 32100192 with California Constructores for work on the Fiscal Year 2020 Sidewalk Repairs Project, Specification No. 20-11409-C, to perform safety-related pedestrian improvements at the California Street/Dwight Way intersection, increasing the current contract amount by up to \$175,900, for a total amount not to exceed \$2,175,900.
Financial Implications: General Fund - \$175,900
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,031–N.S.

Consent Calendar

- 2. Amendments to Berkeley Municipal Code Section 19.44.020 (Housing Advisory Commission)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,782–N.S. amending Berkeley Municipal Code Chapter 19.44.020 to include oversight of Measure O bond-funded housing initiatives as established by Resolution No. 68,703-N.S. and future voter-approved bonds and measures dedicated to affordable housing.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted second reading of Ordinance No. 7,782-N.S.
- 3. Transfer of Two Property Parcels to the State of California for the Ashby-San Pablo Intersection Improvements Project**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,783-N.S. authorizing the City Manager to execute the attached Grant Deed for Parcel No. 63719 and Quitclaim Deed for easement on Parcel No. 63720-1 with the State of California, Department of Transportation (“Caltrans”) and any associated documents as necessary for the transfer of the property interests in these two parcels of property to Caltrans, for the Ashby-San Pablo Intersection Improvements Project (“Project”), Specification No. 18-11182-C.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted second reading of Ordinance No. 7,783-N.S.
- 4. Contract No. 9712A Amendment: QuickCaption, Inc. for Real-Time Closed Captioning Stenography Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 9712A with QuickCaption, Inc. for the provision of real-time closed captioning stenography services, including captioning virtual meetings, at all work sessions, regular and special meetings of the City Council and Successor Agency to the former Redevelopment Agency, increasing the contract by \$120,000 for a total not to exceed amount of \$321,900.
Financial Implications: General Fund - \$120,000
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 70,032–N.S.

Consent Calendar

- 5. Grant from the William and Flora Hewlett Foundation**
From: City Manager
Recommendation: Adopt a Resolution accepting a \$10,525 grant from the William and Flora Hewlett Foundation, which augments a prior grant of \$20,000 awarded and accepted in 2019 for an assessment of arts space affordability challenges, displacement risks and possible strategies to protect affordable spaces for arts organizations, artists and cultural workers in Berkeley.
Financial Implications: \$10,525 (Grant)
Contact: Dave White, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 70,033–N.S.
- 6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 28, 2021**
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 - \$6,675,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.
- 7. Contract: Genasys for Citywide Outdoor Warning System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a contract with Genasys, Inc. for consulting, planning, construction, installation, software hosting, and implementation of a Citywide Outdoor Warning System (OWS), for a total amount not to exceed \$1,974,457.
Financial Implications: Measure FF - \$1,974,457
Contact: Abe Roman, Fire, (510) 981-3473
Action: Adopted Resolution No. 70,034–N.S.
- 8. Grant Application: Funding from FEMA's Assistance to Firefighters Grant to Support a Regional Fire Service Leadership Development Academy**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to apply for and accept a grant, and any amendments, from the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program in the amount of \$168,272 to fund a Regional Fire Service Leadership Development Academy (LDA), and to accept grant funds and execute resulting grant agreements.
Financial Implications: See report
Contact: Abe Roman, Fire, (510) 981-3473
Action: Adopted Resolution No. 70,035–N.S.

Consent Calendar

- 9. Contract No. 31900132 Amendment: Building Opportunities for Self-Sufficiency for Representative Payee Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract amendment with vendor Building Opportunities for Self-Sufficiency (BOSS) to provide Representative Payee services. The amendment will add \$100,000 to the current contract and extend it through June 30, 2022 for a total contract not to exceed amount of \$300,000.
Financial Implications: Mental Health Service Act Fund - \$100,000
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,036–N.S.
- 10. Contract: Berkeley Free Clinic for Laboratory Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments or extensions with the Berkeley Free Clinic (BFC) for laboratory services, in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024.
Financial Implications: General Fund - \$150,000
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,037–N.S.
- 11. Memorandum of Understanding with Alameda County Behavioral Health Care Services for Wellness Center Operations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to adopt a Memorandum of Understanding between the City of Berkeley and Alameda County Behavioral Health Care Services for the term July 1, 2021 through June 30, 2023 for an expenditure of up to \$491,933 to fund the operational costs of a Mental Health Wellness Center located in Berkeley.
Financial Implications: Mental Health Service Act Fund - \$491,933
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,038–N.S.
- 12. Donation: Memorial Bench at Cesar Chavez Park in Memory of Nancy Park**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park in memory of Nancy Park.
Financial Implications: \$3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,039–N.S.

Consent Calendar

- 13. Donation: Memorial Bench at Greg Brown Park in memory of Michael, Anna, and John Wyman**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Greg Brown Park in memory of Michael, Anna, and John Wyman.
Financial Implications: \$3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,040–N.S.
- 14. Donation: Memorial Bench at the Jane Hammond Softball Field at Corodonicos Park in memory of Dixie Lewis**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Jane Hammond Softball Field at Codornices Park in memory of Dixie Lewis.
Financial Implications: \$3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,041–N.S.
- 15. Donation: Memorial Bench at Shorebird Park at the Berkeley Marina in Memory of Shay M. Finnegan**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Shorebird Park in memory of Shay M. Finnegan.
Financial Implications: \$3,400 (donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,042–N.S.

Consent Calendar

16. Exclusive Negotiating Agreement with Innovation Properties Group for 199 Seawall Drive

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an Exclusive Negotiating Agreement with Innovation Properties Group to develop a pre-development agreement that could lead to a long-term lease of City property at 199 Seawall Drive and a short-term license for a portion of the adjacent parking lot.

Financial Implications: None

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted Resolution No. 70,043–N.S. as amended in the supplemental materials from the City Manager with a revision in Section 8.e. of Exhibit A, the agreement, to read:

e. Labor Peace. IPG understands that it is the City's expectation that any future Master Lease, and any potential sublease agreements, would include provisions that a hospitality operation at the 199 Seawall Drive property shall be required to provide evidence satisfactory to the City that it is party to a labor peace agreement that protects the City's proprietary interest in the property.

17. Contract No. 10508 Amendment: Ben Noble, City and Regional Planning for Zoning Ordinance Revision Project (ZORP)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10508 with Ben Noble, City and Regional Planning, to develop objective standards in the Zoning Ordinance as ZORP Phase 2, increasing the contract amount by \$125,000 to a new total not-to-exceed contract amount of \$425,000, and extending the contract period to December 31, 2023.

Financial Implications: General Fund - \$125,000

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action: Adopted Resolution No. 70,044–N.S.

Consent Calendar

18. Lease Agreement with Motorola Solutions for Public Safety Radios

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to enter into an initial seven-year lease and any future amendments with seven annual payments estimated at \$920,000 and not to exceed \$6.5 million dollars total for public safety radios with Motorola Solutions.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900, Abe Roman, Fire, (510) 981-3473

Action: 1) Adopted Resolution No. 70,045–N.S. authorizing the City Manager to enter into an initial seven-year lease and any future amendments with seven annual payments estimated at \$920,000 and not to exceed \$6.5 million dollars total for public safety radios with Motorola Solutions.

2) Adopt the following policy: It is the policy of the Berkeley City Council that the City of Berkeley, including the Berkeley Police Department and Berkeley Fire Department, will continue its practice of the primary channel being used in an unencrypted manner and shall only use encrypted public safety radio channels during Special Response Team operations, special patrol and investigative operations, prolonged critical incidents, execution of search warrants, or to transmit Criminal Justice Information and Personally Identifiable Information related to the California Law Enforcement Telecommunications System and pursuant to California Department of Justice Information Bulletin No. 20-09-CJIS. In accordance with the First Amendment and in spirit of transparency, all other public safety radio transmissions shall be unencrypted and thereby transmittable to the news media and public through scanners or other relevant technology.

3) Provide direction to the City Manager that before the contract is executed the City Manager will present an item for the sanctuary policy waiver to the Council on a future agenda.

Vote: Ayes – Kesarwani, Taplin, Wengraf, Robinson, Droste, Arreguin; Noes – Bartlett, Harrison; Abstain – Hahn.

19. Purchase Orders: Bruce's Tire, Inc. for New Automobile and Truck Tires

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute yearly purchase orders for new tires for City owned vehicles and equipment with Bruce's Tire, Inc. in an amount not to exceed \$2,900,000 for FY 2022 through FY 2026.

Financial Implications: Equipment Maintenance Fund - \$2,900,000

Contact: Liam Garland, Public Works, (510) 981-6300

Action: Adopted Resolution No. 70,046–N.S.

Consent Calendar

20. Extending the Requirements for Telestaff Time Reporting

From: Disaster and Fire Safety Commission

Recommendation: The Disaster and Fire Safety Commission (DFSC) recommends that the Berkeley Fire Department require that all overtime recorded for Fire Suppression be coded properly in the Telestaff application to show the reason for the overtime. Further, to assist determining what overtime is eligible to be charged to Measure GG as “Minimum Staffing” that overtime must be properly coded as supporting minimum staffing. (Currently, this would be code 00FS10 and 00FS11). This would not affect charges for Measure GG approved time or overtime. In addition, we recommend that in any future reports to the DFSC on Measure GG budget that the report include a breakdown of the time by labor purpose of both regular and overtime.

Financial Implications: See report

Contact: Keith May, Commission Secretary, (510) 981-3473

Action: Approved the City Manager’s recommendation:

The City Manager concurs with the content and recommendations of the Disaster and Fire Commission’s Report. At the time of this report, details regarding how the information was being transferred from the Telestaff program and added to Enterprise Resource Management Application (ERMA) was not fully realized by the Disaster and Fire Safety Commission.

Telestaff records all overtime of personnel with various codes that relates to specific reasons that personnel are being hired to work. Those codes are noted and assigned in ERMA when payroll is being completed by finance staff. The Commission’s recommendation is a standard practice when staff is completing payroll procedures.

21. Appointment of Tommy Escarcega to Mental Health Commission

From: Mental Health Commission

Recommendation: Adopt a Resolution appointing: Tommy Escarcega as a representative of the Special Public Interest, Consumer Category, to complete her first 3-year term beginning September 29, 2021 and ending September 28, 2024.

Financial Implications: None

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Action: Adopted Resolution No. 70,047–N.S.

Council Consent Items

22. **Referral to Strengthen Public Health and Environmental Impact Mitigation for Industrial Facilities in the Manufacturing Zone**
From: Councilmember Kesarwani (Author), Councilmember Taplin (Co-Sponsor), Councilmember Droste (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Refer to the City Manager to: Establish a procedure for enhanced review of use permits in the manufacturing zone for industrial facilities—upon initial submission or upon submission of an amended use permit—in order to ensure public health and environmental impacts are appropriately mitigated as a condition of the use permit. Further, if appropriate, consider mitigation that includes the use-permit applicant contracting with a certified third-party to install air quality monitoring device(s) that can enable periodic reporting on pollutants relevant to the particular industrial process proposed in the initial or amended use permit. Explore feasibility of increasing penalty fee schedule as a deterrence for use-permit violations related to public health and environmental impacts, such as air, noise, and water pollution.
Financial Implications: Staff time
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
Action: Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Kesarwani to add Councilmembers Droste, Taplin and Wengraf as cosponsors. Also, to add limited refinements to the recommendation specifying ongoing monitoring and reporting of pollutants associated with the particular process proposed in the initial or amended use permit; and adds soil pollution to the list of potential environmental impacts.

Council Consent Items

23. Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets

From: Councilmember Taplin (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.070 to add 3-ton commercial truck weight limits on:

1. Ninth Street between Dwight Way and Heinz Avenue
2. Addison Street between San Pablo Avenue and Sixth Street;
3. Allston Way between San Pablo Avenue and Sixth Street;
4. Bancroft Way between San Pablo Avenue and Sixth Street;
5. Channing Way between San Pablo Avenue and Fourth Street;
6. Dwight Way between San Pablo Avenue and Sixth Street;
7. Camelia Street between Eighth Street and Ninth Street;
8. Eighth Street between Jackson Street and Camelia Street;
9. Ninth Street between Camelia Street and Cedar Street;
10. Virginia Street between Sacramento Street and Martin Luther King Jr. Way;
11. Virginia Street between Shattuck Avenue and Euclid Avenue;
12. Channing Way between Martin Luther King Jr. Way and Piedmont Avenue;
13. Heinz Avenue between Ninth Street and San Pablo Avenue;
14. Russell Street between San Pablo Avenue and Shattuck Avenue;
15. Russell Street between Telegraph Avenue and Claremont Avenue;
16. California Street between Hopkins Street and University Avenue;
17. California Street between Dwight Way and Russell Street;
18. King Street between Russell Street and Stanford Avenue;
19. Milvia Street from Dwight Way to Russell Street;
20. Bowditch Street from Bancroft Way to Dwight Way;
21. Hillegass Avenue from Dwight Way to Woolsey Street

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: Adopted first reading of Ordinance No. 7,784–N.S. as revised in Supplemental Communications Packet #2 and Packet #3 from Councilmember Taplin to add several at-risk streets in neighborhoods experiencing through truck traffic, add Councilmember Hahn as a co-sponsor, and add exemptions for qualifying vehicles. Second reading scheduled for October 12, 2021.

24. Resolution in Support of Afghan Refugees

From: Councilmember Taplin (Author), Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor)

Recommendation: Adopt a Resolution in support of refugees from Afghanistan.

Financial Implications: None

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: Adopted Resolution No. 70,048–N.S.

Council Consent Items

25. **Accessible Recreation Center for Ashby BART East Parking Lot** (*Item contains revised materials*)
From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Refer to the City Manager to explore the feasibility of incorporating an accessible recreation center as part of the development of the Ashby BART East Parking Lot.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: Item withdrawn by request of the author.
26. **Adopt a Resolution Renewing and Re-Affirming Wildfire Prevention and Safety**
From: Councilmember Wengraf (Author), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Request that the Berkeley City Council adopt a resolution re-affirming that wildfire prevention and safety is a top priority in the City of Berkeley.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted Resolution No. 70,049–N.S. as revised in Supplemental Communications Packet #1 from Councilmember Wengraf to add mention of AP News analysis reporting Berkeley Hills zip code 94708 in the worst 1% of state for wildfire evacuation, the article and map showing 94708 location.
27. **Amending BMC Section 14.56.040 to Reduce the Commercial Weight Limit on Marin Ave**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.040 to reduce the commercial vehicle weight limit from four tons gross weight to three tons gross weight on Marin Avenue between Grizzly Peak Boulevard and The Marin Fountain Circle.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted first reading of Ordinance No. 7,785–N.S. Second reading scheduled for October 12, 2021.

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak use the "raise hand" function 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 Calendar – Public Hearings

Action items may be reordered at the discretion of the Chair with the consent of Council.

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 use the "raise hand" function 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. 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.

28. **ZAB Appeal: 2943 Pine Avenue, Use Permit #ZP2020-0107**

From: City Manager

Recommendation: Conduct a public hearing, and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2020-0107 to construct a 729 square-foot, second-story addition to an existing one-story 1,822 square-foot single-family dwelling, with an average height of 23 feet 1 inch, add a fifth bedroom, and legalize an existing 10-foot fence at the rear and left side, on a lot that is existing non-conforming for lot coverage, and dismiss the appeal.

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Testimony: The Mayor opened the public hearing. 12 speakers. M/S/C (Arreguin/Wengraf) to close the public hearing.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste (Recused – lives within 500 feet of subject property).

Action: M/S/C (Hahn/Harrison) to adopt Resolution No. 70,050–N.S. affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2020-0107 to construct a 729 square-foot, second-story addition to an existing one-story 1,822 square-foot single-family dwelling, with an average height of 23 feet 1 inch, add a fifth bedroom, and legalize an existing 10-foot fence at the rear and left side, on a lot that is existing non-conforming for lot coverage, and dismiss the appeal.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste (Recused – lives within 500 feet of subject property).

Action: M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:30 p.m. to hear Items 30 and 32 and stating the intent to call a special meeting to hear Item 31.

Vote: All Ayes.

Action Calendar – Public Hearings

29. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04 *(Continued from July 13, 2021)*

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action: Item continued to October 12, 2021 including Supplemental material in Supplemental Communications Packet #1 from Councilmember Harrison.

30. Adopt a Resolution and Ordinance for a Shared Electric Micromobility Permit Program

From: City Manager

Recommendation: Conduct a public hearing and upon its conclusion:

1. Adopt a Resolution approving a Shared Electric Micromobility Permit Program, establishing fees for the program, and designating the City Manager as custodian of the program; and
2. Adopt the first reading of an Ordinance adding Berkeley Municipal Code Chapter 14.63 and amending Chapter 14.68 to establish the Shared Electric Micromobility Permit Program and related parking regulations.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

Public Testimony: The Mayor opened the public hearing. 6 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.

Vote: All Ayes.

Action: M/S/C (Robinson/Arreguin) to 1. Adopt Resolution No. 70,051–N.S.; 2. Adopt first reading of Ordinance No. 7,786–N.S.; 3. Amend the Terms and Conditions document to raise the speed limit for e-bikes to 20 mph; and 4. Refer to the City Manager to develop a process for micromobility operators to request and pay the City to convert on-street vehicle parking spaces to shared micromobility parking, especially in high use areas downtown, near campus, and along commercial corridors. Second reading scheduled for October 12, 2021.

Vote: All Ayes.

Action Calendar

31. **Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department**
From: Police Accountability Board and Director of Police Accountability
Recommendation: Approve Interim Regulations to be used by the Police Accountability Board and Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department under City Charter Article XVIII, Section 125 (Measure II). The City Council is asked to choose between the Board's modified proposal, conditioned upon City Attorney approval, or the Interim Director's preferred version.
Financial Implications: None
Contact: Katherine Lee, Interim Director of Police Accountability, (510) 981-4950
Action: Item 31 continued to a special meeting of the City Council at a date to be determined by the Mayor.

Action Calendar – Public Hearing

32. **Adoption of the Baseline Zoning Ordinance (BZO)** *(Continued from September 14, 2021) (Item contains supplemental material)*
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance rescinding the current Berkeley Municipal Code (BMC) Title 23 and adopting the new Baseline Zoning Ordinance (BZO) as BMC Title 23 with an effective date of December 1, 2021.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- Public Testimony:** The Mayor opened the public hearing. 1 speaker. M/S/C (Arreguin/Wengraf) to close the public hearing.
Vote: All Ayes.
- Action:** M/S/C (Hahn/Wengraf) to adopt first reading of Ordinance No. 7,787–N.S. as presented in Supplemental Communications Packet #2 from the City Manager. Second reading scheduled for October 12, 2021.
Vote: All Ayes.

Action Calendar

33. **Objective Standards Recommendations for Density, Design and Shadows From: Joint Subcommittee for the Implementation of State Housing Laws** *(Continued from September 14, 2021) (Item contains supplemental material)*
Recommendation: Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.
Financial Implications: See report
Contact: Alene Pearson, Commission Secretary, (510) 981-7400
Action: Item 33 continued to October 12, 2021.

Information Reports

34. **Sanctuary City Contracting Compliance Report for FY 2020**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Received and filed.
35. **Financial First Aid Kit: A Guide to Emergency Financial Preparedness for Berkeley Residents**
From: Auditor
Contact: Jenny Wong, Auditor, (510) 981-6750
Action: Received and filed.

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

Adjournment

Adjourned at 11:40 p.m.

Communications

Item #26: ZAB Appeal: 2943 Pine Avenue, Use Permit #ZP2020-0107

1. Anne Nachtwey
2. Everett and Shannon Hartwell

Tent Encampments - Homelessness

3. Jae Wheeler, oh behalf of Music Lovers, Inc. (2)
4. Charles Clarke
5. Jed Waldman

BART Housing

6. Ann Einkelstein
7. Theo Posselt
8. Serena Lim

9. Elliot Parrish
10. Matthew Wadlund
11. Tyson Miklebost
12. Forest Kaser
13. Laura Stevens
14. Jane Scantlebury
15. Ariella Granett
16. Betsy Thagard
17. Donna Graves
18. Sean Kennedy
19. Laura Klein
20. Marcia Freedman

Masks – Vaccines – COVID-19

21. Wise Queen
22. Alfred Manning
23. Snowsu2t3@
24. Vivian Warkentin

Satellite Affordable Housing Associates (SAHA)

25. Sabina McMurtry

UA Homes

26. Benjamin Hubbell

Drinking Water in Berkeley

27. David Lerman

East Bay Community Energy

28. EBCE

1740 San Pablo Ave New Construction – Funding Application

29. Kate Traynor, on behalf of BRIDGE

Support for Affordable Housing Overlay

30. BNHCA Steering Committee

Free Speech at Council Meetings

31. Barbara Gilbert
32. Eric Friedman

Ashby Garden at 1376 Ashby - Land Purchase Proposal

33. Bonnie Borucki

Supplemental Communications and Reports 1

Re-Establishing a COVID-19 Business Damage Mitigation Fund

34. Urgent item, submitted by Mayor Arreguin

Item #26: Adopt a Resolution Renewing and Re-Affirming Wildfire Prevention and Safety

35. Revised material, submitted by Councilmember Wengraf

Item #28: ZAB Appeal: 2943 Pine Avenue, Use Permit #ZP2020-0107

36. Linda Yen

Item #29: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

37. Supplemental material, submitted by Councilmember Harrison

38. Jenniffer Hamilton

39. Ben Obriecht

40. Claudia Kawczynska

41. Debra Sanderson, Co-chair, ADU Task Force

Item #31: Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department

42. Zipporah Collins

Item #32: Adoption of the Baseline Zoning Ordinance (BZO)

43. Supplemental material, submitted by Planning

Supplemental Communications and Reports 2

Item #22: Referral to Strengthen Public Health and Environmental Impact Mitigation for Industrial Facilities in the Manufacturing Zone

44. Revised material, submitted by Councilmember Kesarwani

Item #23: Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets

45. Supplemental material, submitted by Councilmember Taplin

46. Igor Tregub

Item #28: ZAB Appeal: 2943 Pine Avenue, Use Permit #ZP2020-0107

47. Rena Rickles Law Office (5)

48. Linda Yen

Item #29: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

49. George Porter

Item #30: Adopt a Resolution and Ordinance for a Shared Electric Micromobility Permit Program

50. Ben Gerhardstein, on behalf of Walk Bike Berkeley

Item #31: Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department

- 51. Revised material, submitted by the Police Accountability Board
- 52. Sally Nelson
- 53. Margot Smith

Item #32: Adoption of the Baseline Zoning Ordinance (BZO)

- 54. Supplemental material, submitted by Planning

Supplemental Communications and Reports 3

Re-Establishing a COVID-19 Business Damage Mitigation Fund

- 55. Supplemental material, submitted by Mayor Arreguin

Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

- 56. Urgent item, submitted by the City Attorney's Office

Item #16: Exclusive Negotiating Agreement with Innovation Properties Group for 199 Seawall Drive

- 57. Revised material, submitted by Parks, Recreation and Waterfront

Item #18: Lease Agreement with Motorola Solutions for Public Safety Radios

- 58. Supplemental material, submitted by Councilmember Harrison
- 59. Maryann O'Sullivan
- 60. Yael Platt
- 61. Elana Auerbach
- 62. Negeene Mosaed
- 63. Romeo Channer
- 64. Michael Freeman

Item #22: Referral to Strengthen Public Health and Environmental Impact Mitigation for Industrial Facilities in the Manufacturing Zone

- 65. Igor Tregub, on behalf of the Sierra Club

Item #23: Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets

- 66. Supplemental material, submitted by Councilmember Taplin

Item #28: ZAB Appeal: 2943 Pine Avenue, Use Permit #ZP2020-0107

- 67. Presentation, submitted by Planning
- 68. Rena Rickles

Item #29: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 69. Lisa and Tim Goodman
- 70. Henson Jones

Item #30: Adopt a Resolution and Ordinance for a Shared Electric Micromobility Permit Program

- 71. Ben Gerhardstein, on behalf of Walk Bike Berkeley
- 72. Rowan Naldoo, on behalf of Independent Medical Supplies
- 73. Bob Walsh, on behalf of Government Partnerships
- 74. Luis and Orellana, on behalf of Golden Gate Park Activities Center

Item #31: Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department

- 75. Holly Scheider
- 76. Cindy Shamban
- 77. Elizabeth Ferguson
- 78. Julianna Dickey
- 79. Catherine Huchting
- 80. Debbie Perkins (2)
- 81. Mary Elieisar
- 82. Tony Wilkinson