

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, February 11, 2020

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of Mansour Id-Deen
2. Recognition of Berkeley Community Media
3. Adjourn in memory of Ove Wittstock, Berkeley Commissioner and Activist

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder*

of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

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.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Approving a Partial Assignment and Third Amendment to the Disposition and Development Agreement, Ground Leases, and Certain Related Documents for 2012 Berkeley Way**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,684-N.S. approving a Partial Assignment and Third Amendment to the Disposition and Development Agreement for 2012 Berkeley Way, the three ground leases outlined in the Disposition and Development Agreement, and two Reciprocal Easement, Maintenance and Joint Use Agreements required for project operations.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Consent Calendar

2. Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F

From: City Manager

Recommendation: Adopt second reading of five ordinances (1. Ordinance No. 7,686-N.S. amending BMC Title 12 (Health and Safety); 2. Ordinance No. 7,687-N.S. amending BMC Chapter 20.40 (Cannabis Business Signs and Cannabis Product Advertising); 3. Ordinance No. 7,688-N.S. amending BMC Chapter 23C.25 (Cannabis Uses); 4. Ordinance No. 7,689-N.S. amending BMC Sub-Title 23E (Provisions Applicable in All Non-Residential Districts); 5. Ordinance No. 7,690-N.S. amending BMC Sub-Title F (Definitions)) to amend the Berkeley Municipal Code which would:

- A. Allow new business types (Delivery-Only Retailers, Consumption Lounges);
- B. Allow Retailers to continue to operate as Microbusinesses;
- C. Clarify cannabis business operational standards and development standards, such as quotas and buffers, for Storefront Retailers;
- D. Allow more opportunities for Commercial Cultivation by expanding location options; and
- E. Protect the health of the general public and youth with additional advertising, signage and sales regulations.

First Reading Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

3. Appointment of Director of Health, Housing, and Community Services Department

From: City Manager

Recommendation: Adopt a Resolution confirming the appointment of Lisa Warhuus as the Director of the Health, Housing and Community Services Department (HHCS) to be effective March 9, 2020 at an annual salary of \$188,000

Financial Implications: Various Funds - \$188,000

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 11, 2020

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 - \$12,528,300

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

5. Contract No. 9649 Amendment: Sloan Sakai LLP for Continued Chief Labor Negotiator Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9649 increasing the contract amount by \$235,000 with Sloan Sakai LLP for Chief Labor Negotiator services, for a revised total contract amount not to exceed \$450,000.

Financial Implications: General Fund - \$235,000

Contact: LaTanya Bellow, Human Resources, (510) 981-6800

6. Funding Application: State of California Department of Housing and Community Development for CalHome Funds

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager, or her designee, to submit an application to the State of California Department of Housing and Community Development (HCD) for a minimum of \$1,000,000 and up to \$5,000,000 in funding under the CalHome Owner-Occupied Rehabilitation Program, and if awarded, execute the Standard Agreement, and any subsequent amendments or modifications thereto.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

7. Jointly Apply for Infill Infrastructure Grant Funding for Projects Seeking City Funding through the 2019 Housing Trust Fund Request for Proposals

From: City Manager

Recommendation: Adopt two resolutions that enable affordable housing development projects that applied for City funding through the 2019 Housing Trust Fund Request for Proposals to access State of California Infill Infrastructure Grant (IIG) funds by:

1. Authorizing the City Manager to prepare and submit a joint application with each of the following developers proposing to use IIG funds: a. Satellite Affordable Housing Associates (for Blake Apartments at 2527 San Pablo); b. Resources for Community Development (for Maudelle Miller Shirek Community at 2001 Ashby); and
2. Authorizing the City Manager to take actions needed for the City's participation in the IIG program by adopting state-required terms about submitting applications, entering into the State's Standard Agreement and other documents.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Consent Calendar

8. **Contract No. 19F-4404: Community Services Block Grant Discretionary Funding for June 1, 2019 – May 31, 2020**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to modify the scope and deliverables for Community Services Block Grant (CSBG) Contract Number 19F-4404 and execute any resultant agreements and amendments to provide services to low-income people for the period June 1, 2019 – May 31, 2020. Instead of providing short-term rental assistance, CSBG funds will be used for a mobile shower program operated by Project We Hope's Dignity on Wheels.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Council Consent Items

9. **Support of HR 5038 – Farm Workforce Modernization Act of 2019**
From: Mayor Arreguin and Councilmember Bartlett
Recommendation: Adopt a Resolution supporting House Resolution (HR) 5038 – the Farm Workforce Modernization Act of 2019. Send a copy of the Resolution to Representatives Zoe Lofgren and Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Donald Trump.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
10. **Support of HR 5609 - Homelessness Emergency Declaration Act**
From: Mayor Arreguin and Councilmembers Hahn, Bartlett, and Harrison
Recommendation: Adopt a Resolution supporting House Resolution (HR) 5609, the Homelessness Emergency Declaration Act. Send a copy of the Resolution to Representatives Josh Harder and Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Trump.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
11. **Excused Absence for Vice-Mayor Sophie Hahn**
From: Mayor Arreguin
Recommendation: Excuse Vice-Mayor Sophie Hahn from the January 28, 2020 Council meeting due to illness.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 12. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**
(Continued from November 12, 2019. Item contains revised material.)
From: Mayor Arreguin and Councilmembers Harrison, Droste, and Hahn
Recommendation: Adopt first reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 13. Installation of William Byron Rumford Plaque**
From: Councilmembers Davila and Bartlett
Recommendation: Adopt a Resolution authorizing the installation of a plaque to honor William Byron Rumford in the public right of way.
Financial Implications: \$2,000
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 14. Referral: Electric Moped Ride-Share Franchise Agreement** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee)*
From: Councilmembers Robinson, Bartlett, and Harrison
Recommendation: Refer to the City Manager to rename the existing One-Way Car Share Program as the One-Way Vehicle Share Program and to amend the Program to include administrative requirements and parking permit fees for motorized bicycles that are affixed with license plates and require a driver's license for individuals to operate them (mopeds), in coordination with the City of Oakland.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

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 line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Old Business

15. Recommendations Related to Code Enforcement and Receivership Actions

(Continued from January 21, 2020.)

From: Health, Life Enrichment, Equity, and Community Committee

Recommendation: On November 25, 2019, the Health, Life Enrichment, Equity & Community Committee took action to send an item to Council with a positive recommendation that for purposes of understanding the issues and identifying potential changes to the City's codes, policies, and procedures the committee recommends the following:

- a. That the City Manager provide an information session to the City Council regarding the various ways in which code enforcement issues have been brought to the attention of the City over the last 5 years;
- b. How various code enforcement issues at residential properties are currently handled;
- c. Timeframe and mechanisms for achieving code compliance at residential properties;
- d. Any existing assistance programs available to support property owners found to have code violations;
- e. Specific learnings/changes in City practices resulting from the Leonard Powell receivership case;
- f. Other information deemed relevant and appropriate to understand the City's current code enforcement practices for residential properties

Additionally, the Policy Committee requests that the Mayor call a special meeting of the City Council for purposes of a forum based on the recommendations provided by Councilmember Bartlett as the draft plan for a public meeting on receivership.

And third, the Committee requests from the City Manager a specific reply on creating a mechanism to provide legal and technical assistance by an independent third party for individuals who are facing City of Berkeley initiated receivership, and that the reply also include a process for the individual to pick legal and technical representatives of their choice. This response should also include a recommendation from the City Manager and a budget referral.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150, Rashi Kesarwani, Councilmember, District 1, (510) 981-7110, Cheryl Davila, Councilmember, District 2, (510) 981-7120

16. Disposition of City-Owned, Former Redevelopment Agency Property at 1631

Fifth Street *(Reviewed by the Land Use, Housing & Economic Development Committee. Continued from January 28, 2020.)*

From: City Manager

Recommendation: Adopt a Resolution authorizing the sale of the City-owned, former Redevelopment Agency property at 1631 Fifth Street at market rate and authorizing the City Manager to contract with a real estate broker to manage the sale.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Action Calendar – Old Business

17. **Resolution for Safe Recreational Vehicle (RV) Parking at Designated City-Owned Parking Lots During Overnight Non-Business Hours** *(Continued from January 28, 2020. Item contains revised material.)*
From: Councilmember Kesarwani, Mayor Arreguin, and Councilmembers Harrison and Hahn
Recommendation: Adopt a resolution to allow recipients of a three-month “Grace Period” permit for safe RV parking to park overnight during non-business hours in designated City-owned parking lots pursuant to California Vehicle Code Section 22519. Section 22519 states: “Local authorities may by ordinance or resolution prohibit, restrict or regulate the parking, stopping or standing of vehicles on any offstreet parking facility which it owns or operates. No such ordinance or resolution shall apply until signs giving notice thereof have been erected.”
This resolution identifies appropriate City-owned parking lots for overnight safe RV parking – selected in consultation with the City Manager and relevant City staff -- with consideration for safe ingress and egress, accessibility of restroom facilities, and other health and safety considerations.
Financial Implications: See report
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action Calendar – New Business

18. **Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election**
From: City Manager
Recommendation: Discuss possible ballot measures for November 2020, and provide direction to the City Manager about which issues to include in a community survey.
Financial Implications: See report
Contact: Dave White, City Manager’s Office, (510) 981-7000
19. **Electric Bike Share Program Franchise Amendment**
From: City Manager
Recommendation: Adopt a Resolution declaring the Council’s intention to set a public hearing for March 10, 2020, at 6:00 p.m., to consider whether to grant a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, (510) 981-6300

Council Action Items

20. **Discourage the Use of Cell Phones, Email, Texting, Instant Messaging, and Social Media by City Councilmembers during Official City Meetings** *(Reviewed by the Agenda & Rules Committee)*

From: Councilmember Davila

Recommendation: Adopt a Resolution Discouraging the Use of Cell Phones, Email, Texting, Instant Messaging, and Social Media by City Councilmembers during Official City Meetings. The Brown Act prohibits a majority of members of a legislative body from communicating outside of a public meeting on a matter on the agenda for their consideration.

In order to ensure the full attention of the Council to the public and each other, the use of cell phones with access to email, text-messaging, instant messaging, and social media should be limited as much as possible during City Council meetings. The use of digital technologies outside of the City-provided equipment, upon which Agenda Items and notes can be stored, is distracting, and disrespectful to the democratic process.

The use of cellphones and telecommunications should explicitly be prohibited during City Council Closed Sessions meetings, as they are confidential. All council meetings require the full and utmost attention of attendees.

The City Manager is recommended to submit an item to the Council to amend the Council Rules of Procedure and Order to include a moratorium on the use of cell phones by Councilmembers on the dais during council meetings.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

21. **2-Lane Option on Adeline St. between MLK Way and Ward St.**

From: Councilmember Bartlett

Recommendation: Refer to the City Manager to analyze the potential for a major redesign of the section of Adeline St. between MLK Way and Ward St., to improve the public space to increase safety for pedestrians, cyclists, and people living with disabilities, while also meeting the needs of public transit and emergency vehicles. The analysis should prioritize a 2-lane option that reduces the width of the street and creates many benefits for our community. Refer \$250,000 to the budget process to fund this important project.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Information Reports

22. **Commission on Disability FY 2019-20 Annual Workplan**

From: Commission on Disability

Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue
West Branch – 1125 University
North Branch – 1170 The Alameda
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 30, 2020.*



Mark Numainville, City Clerk

## **Communications**

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

### **5G/Cell Towers**

1. Tom Luce
2. Marilla Arguelles
3. Kate Waffner
4. Emily Benner
5. Darlene Pratt
6. Marge Turngren

### **2211 Harold Way**

7. Rob Wrenn
8. Erin Diehm
9. Kelly Hammargren

### **Police Matters**

10. David Lerman (2)
11. David Fielder

### **Stop SB 50 – Elimination of Residential Single-Family Zoning**

12. Vivian Warkentin

### **Southside Subcommittee**

13. Avram Gur Arye

### **Housing**

14. Erwan Illian
15. Sheila Goldmacher

### **Environment**

16. Vivian Warkentin

### **Gas Powered Leaf Blowers**

17. David Lerman

### **Homelessness/Encampments**

- 18. Mary Ann Brewin
- 19. James Mattson
- 20. Ellen Pasternack
- 21. Diana

### **Seismic Safety**

- 22. Nancy Caruso

### **East Bay Community Energy – Using Nuclear Power**

- 23. Janice Schroeder
- 24. Christopher Kroll

### **Healthy Checkout Ordinance**

- 25. John Maa, on behalf of the American Heart Association

### **Okinawa**

- 26. Margy Wilkinson

### **Animal Welfare**

- 27. Aja Duniven

### **Live Oak Park Issues**

- 28. Marc Bodian

### **Telecom Ordinance Revision**

- 29. Isis Feral

### **Supplemental Communications and Reports**

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

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