



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, October 3, 2023

6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

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 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1600539994> 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 **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 053 9994**. 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 meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. 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:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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 attending the meeting in-person and 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.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move 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. Utility Easement: Bolivar Drive – East Bay Municipal Utility District**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,883–N.S. authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.
First Reading Vote: Vote: All Ayes.
Financial Implications: None
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 2. 2024 Tax Rate: Transportation Network Company User Tax**
From: City Manager
Recommendation: Adopt a second reading of an Ordinance No. 7,886–N.S. setting the 2024 tax rate (effective January 1, 2024) for the transportation network company at the following rates: 56.162 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 27.424 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.
First Reading Vote: Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. Authorizing a Lease of 830 University Avenue to Lifelong Medical Care**
From: City Manager
Recommendation: Adopt a second reading of an Ordinance No. 7,887–N.S. authorizing the City Manager to enter into a lease for 830 University with Lifelong Medical Care (Lifelong).
First Reading Vote: Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 4. Police Accountability Board – Appointment of New Member**
From: City Manager
Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Robinson.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 5. Revenue Contract with City of Emeryville for Animal Care Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a revenue contract and all necessary amendments with the City of Emeryville for a term of 33 months (Oct 6, 2023 – June 30, 2026) at a total amount not to exceed \$235,548.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 3, 2023**
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: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. Contract No. 9791 Amendment: Environmental Systems Research Institute, Inc. (ESRI) for Enterprise Graphical Information Systems (GIS) Software License Maintenance and Support**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9791 with Environmental Systems Research Institute, Inc. (Esri) for Enterprise GIS software license maintenance and support, increasing the amount by \$279,750 for a not-to-exceed total of \$900,750 for the period of July 1, 2023 through June 30, 2026.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

8. **Contract No. 114382-1 Amendment: M.C. Dean for UPS Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 114382-1 with M.C. Dean, Inc. for Uninterrupted Power Supply (UPS) maintenance, increasing the amount by \$115,016 for a total not to exceed \$261,922 from July 1, 2014 to June 30, 2026.
Financial Implications: IT Cost Allocations Fund - \$115,016.
Contact: Kevin Fong, Information Technology, (510) 981-6500

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

Action Calendar – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, 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.

When applicable, 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.

Action Calendar – Public Hearings

9. **Ambulance Transport Fee Increase**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County’s approved ambulance user fee schedule made effective July 1, 2023, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 70,726–N.S.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

10. **Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**
(Continued from September 19, 2023) (Item contains revised and supplemental material)
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – Old Business

11. **Status Report - Berkeley’s Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention** *(Continued from June 27, 2023)*
From: City Manager
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

Information Reports

12. **Sanctuary City Contracting Compliance Report for FY 2023**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300

13. **Update on the Implementation of Fair and Impartial Policing Task Force Recommendations**
From: City Manager
Contact: Jennifer Louis, Police, (510) 981-5900

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.*

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

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 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 <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman 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 September 21, 2023.*



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](#).*

### **Garbage Rates**

1. Melanie Lawrence and John Smail

### **2274 Shattuck**

2. Melanie Lawrence

### **Tool Lending Library**

3. David Lerman

### **Ohlone Park**

4. Walter Wood

### **Police Matters**

5. Janice Schroeder

### **Berkeley Marina**

6. Peter Kuhn

### **Berkeley Commissioners**

7. Cameron Woo

### **BART**

8. Jack Kurzweil
9. Melinda Howard-Herrarte, on behalf of the Sierra Club

### **Staff Shortages**

10. Eric Friedman

### **Lights and Paving**

11. Kathleen Davis



**BioTech Labs**

12. Ryian Adam Matthews

**Senior Citizen**

13. Sharon Turnoy

**Marina Dock Replacement**

14. Camille Antinori

**United Artist Theater**

15. Allen Michaan

**Gasoline Leaf Blowers**

16. Nina Sprecher

**Berkeley Diversity**

17. Sacha

**Longfellow School**

18. Anthony Vidal

19. Mara Greenaway

20. Liz Linden

21. James Angus

**Ohlone Greenway**

22. Mary Behm-Steinberg

**Hopkins Corridor**

23. Robion Kirby

**McGee Avenue and Allston Way**

24. Cheng Zhang

**Landlords**

25. Diana Bohn

**Waterfront Specific Plan**

26. Jim McGrath

**Youth Peace**

27. Youth Peace Program

**Fight Inequity**

28. Sylvia Mendez

**Berkeley Flag**

29. Aditya Prathap

**URL's Only**

30. Vivian Warkentin

**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.