

**ANNOTATED AGENDA**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, April 28, 2020**  
**6:00 PM**

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

**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://zoom.us/j/96207688419>. 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** and enter Meeting ID: **962 0768 8419**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*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.*

*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:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin

**Absent:** Droste

Councilmember Droste present at 6:10 p.m.

### Ceremonial Matters:

1. Adjourn in memory of all the victims of the COVID-19 pandemic.

### City Manager Comments:

The City Manager provided an update on the efforts of the Emergency Operations Center with regards to the unhoused population and local businesses.

**Action:** M/S/C (Arreguin/Hahn) to suspend certain rules related to comments from Councilmembers and the public and to adopt new rules for the meeting of April 28, 2020.

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

**Public Comment on Non-Agenda Matters:** 5 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 3 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

### 1. **Amendment: FY 2020 Annual Appropriations Ordinance**

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,694-N.S. amending the FY 2020 Annual Appropriations Ordinance No. 7,682-N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments in the amount of \$28,565,263 (gross) and \$15,378,568 (net).

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** Adopted second reading of Ordinance No. 7,694-N.S.

## Consent Calendar

- 2. Lease Agreement with 200 Marina Blvd, LLC for the Doubletree Hotel**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,695-N.S. 1. Authorizing the City Manager to execute the Ground Lease with 200 Marina Blvd, LLC, the owner/ground lessee of the Doubletree Hotel located at the Berkeley Marina for a 60-year term effective from May 14, 2020 through December 31, 2080; and 2. Approving a related Capital Contribution Agreement that 200 Marina Blvd, LLC contribute \$3 million to Marina street improvements.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted second reading of Ordinance No. 7,695-N.S.
- 3. Zoning Ordinance Amendments for Family Daycare Homes to comply with Senate Bill 234; Amending Berkeley Municipal Code Title 23**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,696-N.S. amending Berkeley Municipal Code (BMC) Title 23 (Zoning Ordinance) to comply with Family Daycare Home regulations recently enacted by Senate Bill 234 (SB 234); and  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted second reading of Ordinance No. 7,696-N.S.
- 4. Amending Tenant Screening Fees Ordinance for Existing Tenancies; Amending Berkeley Municipal Code Chapter 13.78**  
**From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor) (Reviewed by the Land Use, Housing & Economic Development Committee)**  
**Recommendation:** Adopt second reading of Ordinance No. 7,697-N.S. amending Berkeley Municipal Code Chapter 13.78 (Tenant Screening Fees) to add subsections to prohibit additional fees for existing tenancies and lease terminations.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted second reading of Ordinance No. 7,697-N.S.
- 5. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of March 10, 2020 (special closed, and regular), and March 17, 2020 (special).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.

## Consent Calendar

**6. Citizens Redistricting Commission Implementation Ordinance; Adding BMC Chapter 2.10**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance establishing regulations and procedures for the Berkeley Citizens Redistricting Commission to supplement the existing provisions of the City Charter related to redistricting, and adding Berkeley Municipal Code Chapter 2.10.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

**Action:** Adopted first reading of Ordinance No. 7,699–N.S. Second reading scheduled for May 12, 2020. Referred to the City Manager to explore the feasibility of completing the redistricting process as early as possible.

**7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 28, 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:** Sanitary Sewer Operations Fund - \$500,000

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

**Action:** Approved recommendation.

**8. Contract: City Data Services for Streamlined Community Agency Contract Administration and Monitoring**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Authorizing the City Manager to enter into a contract with City Data Services (CDS) to continue to provide its online data management system to the Department of Health, Housing, and Community Services for the period July 1, 2020 through June 30, 2021 for \$32,160, and; 2. Authorizing the City Manager to extend the contract for an additional three years (FY22, FY23 & FY24), and execute any amendments with CDS for ongoing maintenance of the community agency online applications and reporting systems for an annual service fee of \$32,160 for a total contract not to exceed amount of \$128,640.

**Financial Implications:** Various Funds - \$128,640

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 69,372–N.S.

## Consent Calendar

**9. Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$217,000. This will extend the existing contract by one year and add in \$117,000 for case management services at the Tiny Homes Village.

**Financial Implications:** See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

**Action:** Moved to Action Calendar. 4 speakers. M/S/C (Arreguin/Hahn) to hold the item over to June 2, 2020.

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

Recess 7:58 p.m. – 8:10 p.m.

**10. Contract: ENGEO for Testing and Inspection Services for Berkeley Tuolumne Camp Construction Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ENGEO in an amount not to exceed \$500,000 to provide construction testing and inspection services (including Geotechnical inspections) for the Berkeley Tuolumne Camp Project for the period May 1, 2020 through July 1, 2022.

**Financial Implications:** Camps Fund - \$500,000

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

**Action:** Adopted Resolution No. 69,373–N.S.

**11. Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project; accepting the bid of the lowest responsive and responsible bidder, Andes Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$556,292, which includes a 10% contingency of \$50,572.

**Financial Implications:** Sanitary Sewer Fund - \$556,292

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,374–N.S.

## Consent Calendar

- 12. Contract Amendments: On-Call Civil Engineering and Construction Management Services, LCC Engineering & Surveying, Inc. and Pavement Engineering Inc.**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute amendments to
1. Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022, and
  2. Contract No. 31900047 with Pavement Engineering Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$2,500,000 and extending the term of the contract from June 30, 2021 to June 30, 2022.
- Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,375–N.S. (LCC Engineering) and Resolution No. 69,376–N.S. (Pavement Engineering).
- 13. Approving Proposed Projects Anticipated to be Paid for by the State’s Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2021**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California’s Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,377–N.S.
- 14. Filling a Vacancy among the Elected Representatives for the Poor**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution confirming the appointment of Mr. Carlos Hill (District 1), as an elected representative of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the commission members at the HWCAC February 19, 2020 meeting, and that his term expires November 18, 2020.  
**Financial Implications:** None  
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400  
**Action:** Adopted Resolution No. 69,378–N.S.

## Action Calendar – Public Hearings

- 15. General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00) (Continued from April 14, 2020)**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and upon conclusion:  
1. Adopt a Resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;  
2. Adopt first reading of an Ordinance amending the Zoning Map for portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and  
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Removed from the agenda by the City Manager.
- 16. Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing on the 2020-2025 Consolidated Plan, including the Program Year (PY) 2020 Annual Action Plan (AAP), and upon conclusion, adopt a Resolution:  
1. Approving proposed funding allocations under the PY20 Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and Home Investment Partnerships Program (HOME); and  
2. Authorizing the execution of resultant agreements and amendments with community agencies for the above-mentioned funds; and  
3. Allocating approximately 85% of the PY20 HOME funds to the Housing Trust Fund, up to 5% for Community Housing Development Organization (CHDO) operating funds, and 10% for program administration; and  
4. Authorizing the City Manager to submit the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice (AI), to the federal Department of Housing and Urban Development (HUD), and addressing any public comments.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400  
**Action:** 0 speakers. M/S/C (Hahn/Robinson) to adopt Resolution No. 69,379–N.S.  
**Vote:** All Ayes.

## Action Calendar – New Business

### 17. 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 should the City Council wish to undertake one.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, (510) 981-7000

**Action:** 7 speakers. M/S/C (Arreguin/Hahn) to provide direction to the City Manager to conduct one community survey on the following subjects:

- Three Versions of the Fire/Emergency Services Revenue Measure (1. Fire and Emergency Services; 2. Fire and Emergency Services plus Public Health Emergency Response; and 3. Fire and Emergency Services, Public Health Response, and Wildfire Safety)
- Citywide Wildfire Prevention Parcel Tax (including fire safety, evacuation, and emergency siren)
- Climate Action Fund – funded by either a tax on gas and diesel fuel wholesale distributors or by an increase in Utility Users Tax from 7.5% to 10%.
- Questions on the impacts of COVID-19
- Designated the Mayor to work with city staff on survey questions.

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

### 18. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers

**From:** City Manager

**Recommendation:**

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

**Action:** 5 speakers. M/S/C (Hahn/Harrison) to hold the item over to June 2, 2020.

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



## Action Calendar – New Business

**19. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral**

**From: Energy Commission**

**Recommendation:** The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

**Financial Implications:** See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

**Action:** 0 speakers. M/S/C (Arreguin/Robinson) to hold over the item to June 2, 2020.

**Vote:** All Ayes.

## Council Action Items

**20. Placing a Measure on the November 3, 2020 Ballot to Introduce Term Limits for the Mayor and City Councilmembers**

**From: Councilmember Davila (Author)**

**Recommendation:** Adopt a Resolution to draft an Amendment to Article V, Section 14 and 15 of the City Charter for the November 3, 2020 General Municipal Election, limiting the terms of service for the Mayor and City Councilmembers to no more than three consecutive four-year terms or twelve years, with a required two-year hiatus in order to serve additional terms.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:10 p.m.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:20 p.m.

**Vote:** All Ayes.

**Action:** 5 speakers. M/S/C (Arreguin/Kesarwani) to take no action on Item 20.

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

## Information Reports

**21. FY 2020 Mid-Year Budget Update**

**From: City Manager**

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

**Action:** Held over to May 12, 2020.

## Information Reports

### 22. Eight Previous Referrals To The Planning Department Which Can Be Tracked As Fulfilled

**From: City Manager**

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

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda** 4 speakers.

## Adjournment

**Action:** M/S/C (Davila/Wengraf) to adjourn the meeting.

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

Councilmember Droste absent 11:18 p.m. – 11:19 p.m.

Adjourned at 11:19 p.m.

## Communications

### COVID-19 General

1. David Lerman (2)
2. Diana Diaz Morales
3. Jason Meggs
4. Margots999
5. Jurgen Aust
6. Thomas Lord

### Rental Protection & Evictions

7. Saki Bailey, on behalf of Bay Area Community Land Trust
8. Lisa Camasi
9. Darinxoso Oyamasela

### Encampments

10. Osha Neumann
11. Christopher Kohler
12. Margy Wilkinson (2)
13. Marcia Poole
14. Janice Schroeder
15. Rivka Polatnick
16. Erica Etelson
17. Starchild
18. David Schroeder

19. Christopher Kohler
20. Andrea Henson
21. Esther Dane
22. Diana
23. Steve Gilmartin

### **Berkeley's Mayor Webpage**

24. David Lerman

### **1533 Beverly Place – Appeal of ZAB Decision**

25. Rena Rickles, on behalf of client

### **Street Space + Beg Button for Walking and Biking**

26. Liza Lutzker
27. Dee Williams-Ridley
28. Ben Gerhardstein
29. John Kenney
30. Farid Javandel
31. Charles Siegel (2)

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

### **Item #16: Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice**

32. David Kellogg

### **Item #19: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral**

33. Igor Tregub, on behalf of the Sierra Club Northern Alameda County Group

## **Supplemental Communications and Reports 3**

### **Item #3: Zoning Ordinance Amendments for Family Daycare Homes to comply with Senate Bill 234: Amending Berkeley Municipal Code Title 23**

34. Bryce Nesbitt

### **Item #16: Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice**

35. Presentation, submitted by HHCS
36. Carole Marasovic

**Item #17: Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election**

37. Presentation, submitted by the CMO

**Item #18: Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers**

38. Marcia Poole

39. Carole Marasovic

**Item #19: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral**

40. 8 form letters, all similarly worded

41. Kaethe Weingarten

42. Jack Litewka

43. Jessica Woodard

44. Igor Trebug, on behalf of the Sierra Club

45. David Lee Cook

46. Kate Bancroft

47. Ben Gerhardstein

48. Terry Fletcher

**Item #20: Placing a Measure on the November 3, 2020 Ballot to Introduce Term Limits for the Mayor and City Councilmembers**

49. Carole Marasovic

**Miscellaneous Communications – Not on the Agenda**

50. Carole Marasovic