



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, February 27, 2024

6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, 94708

TELECONFERENCE LOCATION – 301 WEST 17TH STREET, AUSTIN, TX 98701

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 – VACANT

DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. 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/1614329714>. 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: **161 432 9714**. 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.*

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 public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

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.*

1. Presentation: State of Public Health in Berkeley

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.

Consent Calendar

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. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of January 16, 2024 (regular), January 17, 2024 (closed), January 22, 2024 (special) January 23, 2024 (closed and special) and January 30, 2024 (regular)
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 2. Contract No. 31900184 Amendment: Alcor Solutions, Inc. to Expand Services for Intranet Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900184 with Alcor Solutions, Inc., to expand scope to include intranet services.
Financial Implications: None
Contact: Kevin Fong, Information Technology, (510) 981-6500
- 3. Contract No. 105921-1 Amendment - TruePoint Solutions, LLC for Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$250,000, for a total not-to-exceed amount of \$1,297,200 and extending the term by one year for the term beginning June 1, 2015 to June 30, 2025.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

- 4. Donation: Memorial Bench at Cesar Chavez Park in memory of Charlie Pollack**
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 Charlie Pollack.
Financial Implications: Revenue - \$3,400
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 5. Contract: West Coast Arborists, Inc. for Tree Removal and Pruning Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with West Coast Arborists, Inc. for tree removal and pruning services in an amount not to exceed \$1,500,000 over a period of three years, with an option to renew for two additional years at \$500,000 per year, for a total contract amount not to exceed \$2,500,000.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 6. Contract: Rincon Consultants for Environmental Justice Element, Safety Element Update, and Equitable Climate and Resilience Metrics**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments, extensions, or change orders with Rincon Consultants, Inc. in an amount not-to-exceed \$634,000 over a three-year period, to update Berkeley's General Plan Safety Element, develop a new General Plan Environmental Justice (EJ) Element, and create an Equitable Climate and Resilience Monitoring and Evaluation Strategy and Dashboard.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 7. Contract No. 32300057 Amendment: Association for Energy Affordability for Pilot Climate Equity Fund**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or designee to amend Contract No. 32300057 with Association for Energy Affordability for the Pilot Climate Equity Fund, increasing the amount by \$43,556, to a new total contract amount not to exceed \$126,890, and extend the contract through May 30, 2025.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Consent Calendar

- 8. Accept Energy Efficiency and Conservation Block Grant Program Equipment Voucher**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to submit an application and an Energy Efficiency and Conservation Strategy to the U.S. Department of Energy (DOE), execute any related revenue agreements and amendments, and accept funds for an equipment voucher from the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program of up to \$174,290 for the two-year period of February 13, 2024 through February 13, 2026.
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300
- 9. Contract: (Specification No. 24-11529-C) JJR Construction Inc. for FY 2024 Sidewalk Repair Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) Approving plans and specifications for the FY 2024 Sidewalk Repair Project; 2) Accepting the bid of JJR Construction Inc. as the lowest responsive and responsible bidder; and 3) 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 \$4,246,955.
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300
- 10. Contract: (Specification No. 24-11621-C): Bay Pacific Pipeline, Inc. for Virginia Street, Russell Street, et al. Sanitary Sewer Rehabilitation Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) Approving plans and specifications for the Sanitary Sewer Project located on Virginia Street, Russell Street, et al., and 2) Accepting the bid of the lowest, responsive and responsible bidder, Bay Pacific Pipeline, Inc., and 2) 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 \$4,828,002, which includes a 10% contingency of \$438,909.
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300

Consent Calendar

11. **Contract (Specification. No. 24-11645-C): Koios Engineering, Inc. for Urgent Sewer Repair FY2024 Project**
From: City Manager
Recommendation: Adopt a Resolution: 1) Approving plans and specifications for the Urgent Sewer Repair FY2024 Project; 2) Accepting the bid of the lowest responsive and responsible bidder, Koios Engineering, Inc.; and 3) 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 \$465,187, which includes a 10% contingency of \$42,289.
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300

12. **Reject Bids – FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to reject bids and direct staff to re-advertise the work associated with the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C.
Financial Implications: See report.
Contact: Andrew Murray, Public Works, (510) 981-6300

Council Consent Items

13. **Resources to Plan for Future Health Care Access for Berkeley Residents**
From: Mayor Arreguin (Author), Councilmember Hahn (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Allocate \$300,000 from the General Fund for legal and/or other technical expertise as may be needed to identify/evaluate existing or potential opportunities to secure the future of healthcare and hospital access for the people of Berkeley.
Funds should be used to broadly explore healthcare needs of the entire Berkeley community, now and in the coming decades, including the needs of low income communities and communities of color, the elderly, youth, women, and other groups that have lower health and life-expectancy outcomes and/or have specialized healthcare needs; and healthcare facilities, programs, and other assets that are and/or can be accessible to Berkeley residents in the coming years
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

**14. Referral to the City Attorney: Eminent Domain Feasibility Analysis for 2902 and 2908 Adeline Street Properties and Abandoned House on 1946 Russell Street
From: Councilmember Bartlett (Author)**

Recommendation: Refer the City Attorney to conduct an analysis and report to the Council on the feasibility of using eminent domain to enable the City to purchase the blighted commercial properties on 2902 and 2908 Adeline Street, as well as the adjacent abandoned house on 1946 Russell Street for the purposes of developing mixed-use affordable housing.

Financial Implications: See report

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

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 line up at the podium, or use the "raise hand" function in Zoom, 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. 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

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.

15. ZAB Appeal: 2924 Russell Street, Administrative Use Permit #ZP2023-0081

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2023-0081 to install an unenclosed hot tub in the rear yard.

Financial Implications: Nione

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

16. Zoning Amendments for Berkeley Business; Amending Berkeley Municipal Code Title 23

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of an ordinance amending Title 23 of the Berkeley Municipal Code to streamline and clarify the permitting process for small businesses in commercial districts (“C-Prefixed”), select manufacturing (“M-Prefixed”) districts, and the Residential BART Mixed Use (R-BMU) and Residential Southside Mixed Use (R-SMU) zoning districts.

Financial Implications: See report

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

Information Reports

17. FY 2024 First Quarter Investment Report: Ended September 30, 2023

From: City Manager

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

18. State of Public Health in Berkeley Summary Report

From: City Manager

Contact: Anju Goel, Health, Housing, and Community Services, (510) 981-5400

19. LPO NOD: 2113-2115 Kittredge Street/#LMSAP2022-0011

From: City Manager

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

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.

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 February 15, 2024.



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](#).

Item #15: ZAB Appeal: 2924 Russell Street, Administrative Use Permit #ZP2023-0081

1. Homayoon Kazerooni

ZAB Appeal: 2113-2115 Kittredge Street

2. Adams Broadwell Joseph & Cardozo

United Artist Theater at 2274 Shattuck

3. Deborah Chalfie
4. Kay Weinstein
5. David Brandon
6. Stuart Hyde
7. Elizabeth LaBarre

Crime and Police Matters

8. Sunwalk10@
9. Shellie Wharton
10. Miles Morris Walker

Council Chambers/Councilmembers

11. Rod Gutierrez
12. Kelsi Pertual
13. Justin Lee
14. Vivian Pisano

Tree Removal

15. Ken Jung, Transportation Department
16. Carol Denney

Property Taxes

17. Pauline Wallace (2)

PG&E Rate Increases

18. Patrick Golier

Pedestrian Safety

19. Sophie Johnson

McNair's Donated Items Taken

20. Moni Law

21. Paul Kealoha Blake

Fulton-Woolsey Bike Boulevard

22. Charles Siegel (2)

23. Ken Jung, Transportation Department (2)

24. Councilmember Harrison

25. Megan Wachspress

26. David Hoffman (5)

27. Justin Baldwin

28. Matt Weber

29. Dan A.

30. Emily McAfee

31. Ben Hays

Restaurant Inspections

32. David Lerman

Berkeley Marina

33. Tahirah Rasheed

Refuse Services Blocking Driveway

34. Dan Bristol

Middle Housing

35. Jonathan Singh

36. D. Scott Phoenix

37. Amanda Le

Chavez Park Air Quality

38. Martin Nicolaus, on behalf of the Chavez Park Conservancy

39. Carol Denny

Berkeley Unified School District

40. Dorothea Dorenz

Street Paving

41. Barbara Gilbert

Anti-Discrimination Ordinance

42.6 similarly-worded form letters

Golden Duplex Rent Control

43. Lauren Schiller

People's Park

44. Moni Law (2)

Gaza and Israel

45. Micky Duxbury

46. Jon Jackson

47. Rainbow Alvarez

48. Naz Akbaroff

49. Nazanin Badakhsh

50. Dena Al-Adeeb

51. Michael Fullerton

52. Kelsi Pertula

53. Aaron Kalter

54. Anna Henry

55. Russbumper (2)

56. Nikki Roach

57. Anna Henry

58. Barbara Erickson

59. Gregory Kalkanis

60.6 similarly-worded form letters

URL's Only

61. 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.