

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL**

Tuesday, December 19, 2017

6:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – LORI DROSTE

Preliminary Matters

Roll Call: 6:26 p.m.

Present: Bartlett, Davila, Droste, Harrison, Maio, Worthington, Arreguin

Absent: Hahn, Wengraf

Councilmember Wengraf present at 6:27 p.m.

Ceremonial Matters:

1. Recognition of Hung Liu, Local Artist
2. Adjournment in Memory of San Francisco Mayor Ed Lee

City Auditor Comments:

The City Auditor provided an update on the positive outcomes from the cash handling audit and the audit on business license tax (Items 44 and 45).

City Manager Comments: None.

Public Comment on Non-Agenda Matters: 6 speakers.

Public Comment on Consent Calendar and Information Items Only: 8 speakers.

Consent Calendar

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

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin:
Noes – None; Abstain – None; Absent – Hahn.

Consent Calendar

- 1. Supplementary Retirement and Income Plan I, II, and III; Amending BMC Chapters 4.36, 4.38, and 4.39**
From: City Manager
Recommendation: Adopt second reading of three Ordinances:
1. Ordinance No. 7,583-N.S. amending Berkeley Municipal Code Chapter 4.36, Supplementary Retirement and Income Plan I (SRIP I) by repealing and reenacting Sections 4.36.103 (Compensation), 4.36.402(A).C (Adjustments on Account of Excessive Credits), 4.36.402(A).D (Code Section 415 Compensation Definition), and 4.36.602 (Time of Distribution); and
2. Ordinance No. 7,584-N.S. amending Berkeley Municipal Code Chapter 4.38, Supplementary Retirement and Income Plan II (SRIP II) by repealing and reenacting Sections 4.38.103 (Compensation), 4.38.402(A).C (Adjustments on Account of Excessive Credits), 4.38.402(A).D (Code Section 415 Compensation Definition), and 4.38.602 (Time of Distribution); and
3. Ordinance No. 7,585-N.S. amending Berkeley Municipal Code Chapter 4.39, Supplementary Retirement and Income Plan III (SRIP III) by repealing and reenacting Sections 4.39.403(B) (Adjustments on Account of Excessive Credits), 4.39.403(C) (Code Section 415 Compensation Definition), and 4.39.603 (Distribution of Death Benefits).
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Margarita Zamora, Human Resources, 981-6800
Action: Adopted second reading of Ordinance No. 7,583-N.S. (SRIP I), Ordinance No. 7,584-N.S. (SRIP II), and Ordinance No. 7,585-N.S. (SRIP III).
- 2. Referral Response: Conversion of Loading Zones on Telegraph Avenue between Bancroft Way and Dwight Way into Regular Metered Parking with Morning Commercial Loading Hours; Amending BMC Title 14**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,586-N.S. amending Berkeley Municipal Code Title 14 Vehicles and Traffic, to authorize metered parking on Telegraph Avenue between Bancroft Way and Dwight Way.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted second reading of Ordinance No. 7,586-N.S.

Consent Calendar

3. **Amendment: FY 2018 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,587-N.S. amending the FY 2018 Annual Appropriations Ordinance No. 7,563-N.S. for fiscal year 2018 based upon recommended re-appropriation of committed FY 2017 funding and other adjustments since July 1, 2017 in the amount of \$94,031,404 (gross) and \$78,307,317 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
Action: Adopted second reading of Ordinance No. 7,587-N.S.
4. **Adopt an Ordinance Amending BMC 12.27 to Allow Existing Berkeley Licensed Medical Cannabis Businesses Into the New State Adult Use Regulation and Taxation System**
From: Councilmember Worthington, Mayor Arreguin, and Councilmembers Bartlett and Davila
Recommendation: Adopt second reading of Ordinance No. 7,582-N.S. amending BMC 12.27 to allow existing Berkeley licensed medical cannabis businesses into the new state adult use regulation and taxation system.
First Reading Vote: Ayes – Davila, Bartlett, Harrison, Hahn, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Maio and Wengraf.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted second reading of Ordinance No. 7,582-N.S. as amended in Supplemental Reports #2 to correctly reflect the action taken on the first reading by Council on December 5, 2017.

12.27.130 Operating Standards for All-Collectives.

F. ~~The seven duly registered residential collectives, Cannabis Manufacturing and Processing businesses, and Manufacturing and Wholesale of Cannabis product businesses with valid cannabis business licenses are authorized to conduct adult-use cannabis operations exactly to the extent they can do for medical cannabis, if they meet following requirements:~~

- a. *Compliance with all requirements set forth in their existing business license*
- b. *Obtainment of State licenses (temporary) for both Medical and Adult Use commercial sales*
- c. *Obtainment of a City of Berkeley Temporary License. Temporary Adult Use Cannabis licenses are valid until such time as the City of Berkeley adopts comprehensive Cannabis regulations in compliance with State law.*

Consent Calendar

- 5. Annual Commission Attendance and Meeting Frequency Report**
From: City Manager
Recommendation: Adopt a Resolution approving a revised commission meeting frequency schedule and to accept the annual attendance report.
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900
Action: Adopted Resolution No. 68,258–N.S.
- 6. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of November 14, 2017 (special closed and regular), November 27, 2017 (special closed) and November 28, 2017 (regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, 981-6900
Action: Approved minutes as submitted.
- 7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 19, 2017**
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 - \$4,100,000
Contact: Henry Oyekanmi, Finance, 981-7300
Action: Approved recommendation.
- 8. ***Removed from Agenda by City Manager*** Mental Health Adult Clinic Renovation – Allocation of Measure T1 Funds**
From: City Manager
Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
- 9. Contract No. 10515 Amendment: Tyler Technologies, Inc. for New World CAD and Fire RMS**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10515 with Tyler Technologies, Inc. for an additional New World CAD and RMS module, increasing the amount by \$23,520, for a total not to exceed \$1,187,730 from March 31, 2017 to June 30, 2020.
Financial Implications: General Fund - \$23,520
Contact: Savita Chaudhary, Information Technology, 981-6500
Action: Adopted Resolution No. 68,259–N.S.

Consent Calendar

- 10. Contract No. 8884B Amendment: St. Vincent de Paul for Mattress Recycling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8884B with St. Vincent de Paul to accept mattresses collected from community members for refurbishing and recycling at the City's Solid Waste Management and Transfer Station. This amendment will increase the Contract \$50,000 for a new total contract amount not to exceed \$406,000 and will extend the contract expiration to June 30, 2018.
Financial Implications: Zero Waste Fund - \$50,000
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,260–N.S.
- 11. Contract No. 9114D Amendment: Stockton Tri Industries, Inc. to Clean, Paint, and Repair Refuse and Recycling Debris Bins**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9114D with Stockton Tri Industries, Inc. to clean, paint, and repair refuse, recycling and green/food waste metal bins, and to increase the contract \$30,000 for a total contract amount not to exceed \$130,000 through the Contract's expiration date of June 30, 2018.
Financial Implications: Zero Waste Fund - \$30,000
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,261–N.S.
- 12. Purchase Order: Stockton Tri Industries Inc. for Solid Waste Metal Containers**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept the bid received from Stockton Tri Industries, Inc. and execute a Purchase Order to provide solid waste metal containers for an amount not to exceed \$322,646.
Financial Implications: Zero Waste Fund - \$322,646
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,262–N.S.
- 13. Contract: Container Pros Professional Waste Services for Solid Waste Metal Container and Plastic Cart Placement Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a three-month contract with Container Pros Professional Waste Services for solid waste metal container and plastic cart placement services in an amount not to exceed \$100,000.
Financial Implications: Zero Waste Fund - \$100,000
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,263–N.S.

Consent Calendar

- 14. Purchase Order: National Auto Fleet Group for Two Front End Loading Refuse Trucks**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Sections 67.2 allowing the City to participate in National Joint Powers Alliance contract bid procedures, and authorizing the City Manager to execute a purchase order for two front end loading refuse trucks with National Auto Fleet Group in an amount not to exceed \$740,000.
Financial Implications: Zero Waste Fund - \$740,000
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,264–N.S.
- 15. Contract No. 10552 Amendment: Revel Environmental Manufacturing, Inc. for On-Call Storm Water Maintenance Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10552 with Revel Environmental Manufacturing, Inc. for on-call storm water maintenance services, increasing the current \$50,000 contract by \$225,000 for a total contract amount not to exceed \$275,000.
Financial Implications: Zero Waste Fund - \$225,000
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,265–N.S.
- 16. Appointment of Amy Roth to the Board of Library Trustees**
From: Board of Library Trustees
Recommendation: Adopt a Resolution appointing Amy Roth to the Board of Library Trustees for a term of four years beginning January 4, 2018.
Financial Implications: None
Contact: Elliot Warren, Commission Secretary, 981-6100
Action: Adopted Resolution No. 68,266–N.S.
- 17. Response to Referral to Community Environmental Advisory Committee (CEAC) and the Berkeley Energy Commission to Evaluate Phasing-out Natural Gas**
From: Energy Commission
Recommendation: Send a letter to California state energy agencies requesting policy support for phasing out fossil fuels by electrifying natural gas applications in response to referral directing CEAC and the Energy Commission to develop and evaluate a proposal to phase-out natural gas for heating and cooking.
Financial Implications: None
Contact: Billi Romain, Commission Secretary, 981-7400
Action: Approved recommendation.

Consent Calendar

18. Endorse and Sponsor The Boys Who Said No!

From: Peace and Justice Commission

Recommendation: Adopt a Resolution allowing the Berkeley Peace and Justice Commission to endorse and sponsor the film, The Boys Who Said No!

Financial Implications: None

Contact: Shallon Allen, Commission Secretary, 981-5400

Action: Adopted Resolution No. 68,267–N.S.

19. Declaring Berkeley's Opposition to Fascism

From: Peace and Justice Commission

Recommendation: Adopt a Resolution declaring the Council of the City of Berkeley opposes fascism, white supremacy, anti-Semitism, and any individuals or organizations promoting fascism and/or committing violent attacks on people in Berkeley or anywhere else. Request City Clerk to send copies of this resolution to Senator Dianne Feinstein, Senator Kamala Harris, and Representative Barbara Lee.

Financial Implications: None

Contact: Shallon Allen, Commission Secretary, 981-5400

Action: Moved to Action Calendar. 14 speakers. M/S/C (Arreguin/Wengraf) to adopt Resolution No. 68,268–N.S. amended as written in the revised item in Supplemental Reports Packet #2 with the amendment to retain the 6th Whereas clause and amend as written below.

WHEREAS, the 2012 NDAA enables any President to point a finger of suspicion and accusation, with no evidence, at anyone, and have them arrested, not by the sheriff, but by the military, and have them disappeared with no acknowledgement that they were taken, and subjects them to indefinite detention, enhanced interrogation, and execution, while denying them the right to trial or counsel; and

Vote: Ayes – Maio, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin: Noes – None; Abstain – Davila; Absent – Hahn.

Consent Calendar

20. Opposition to the US Military Helipad Construction and Training Operations in Takae, Okinawa

From: Peace and Justice Commission

Recommendation: Adopt a Resolution opposing the U.S. military helipad construction and training operations in Takae, Okinawa.

Financial Implications: None

Contact: Shallon Allen, Commission Secretary, 981-5400

Action: Moved to Action Calendar. 3 speakers. M/S/C (Worthington/Arreguin) to adopt Resolution No. 68,269–N.S. with the 11th Whereas clause, 12th Whereas clause, and the first Resolved clause to be revised as below.

WHEREAS, that Resolution stated, “as former members of the US military feel shame and outrage that the US military is complicit in this blatantly discriminatory treatment of the Okinawan people; Now therefore, be it resolved that Veterans for Peace condemns the renewed helipad construction at Takae, and urges the US Government, and in particular the US military, to communicate to the Japanese government that the US wants no part of this shameful, anti-democratic and discriminatory action, and that it does not want new bases at such a price”;^{xii} and

WHEREAS, approximately 4,000 hectares (9,900 acres) of the NTA were returned to Okinawa in December 2016;^{xiii} and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it opposes the Takae helipad construction and training operation and support the Okinawa Chapter of Veterans for Peace Resolution.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Council Consent Items

- 21. Amending Open Government Ordinance Regarding Submission of Revised or Supplemental Agenda Material**
From: Mayor Arreguin and Councilmembers Droste, Wengraf, and Hahn
Recommendation: 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 2.06.070.E to require the submission of revised or supplemental agenda material by noon the day prior to the City Council meeting at which the item will be considered.
2. Adopt a Resolution revising the City Council Rules of Procedure and Order, Section III.4 to: a) require the submission of revised or supplemental agenda material by 12:00 p.m. the day prior to the City Council meeting at which the item will be considered; b) requiring that revised reports must reflect a comparison with the original item using track changes formatting; c) requiring that copies of revised reports must be delivered to the City Clerk for distribution at the meeting.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Moved to Action Calendar. 2 speakers. M/S/C (Worthington/Maio) to adopt first reading of Ordinance No. 7,588-N.S. Second reading scheduled for January 23, 2018; adopted Resolution No. 68,270–N.S. with an amendment to recommendation 2.c. to state that the copies submitted to the Clerk are for distribution to the City Council.
Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.
- 22. Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley**
From: Mayor Arreguin and Councilmembers Bartlett, Hahn, and Davila
Recommendation: Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.
Financial Implications: Unknown
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Approved recommendation.
- 23. Establishing Council Budget Committee**
From: Mayor Arreguin and Councilmember Harrison
Recommendation: Establish a City Council Budget Committee, consisting of Mayor Jesse Arreguin and Councilmembers Kate Harrison, Sophie Hahn, and Susan Wengraf. The Budget Committee will be a standing committee of the City Council and will conduct its meetings in accordance with the Brown Act, Open Government Ordinance and other applicable city policies.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Approved recommendation.

Council Consent Items

- 24. Referral to Planning Commission: Reclassification of 1050 Parker Street/2621 Tenth Street**
From: Mayor Arreguin
Recommendation: Pursuant to Berkeley Municipal Code Section 23A.20.020.B.1: Refer to the Planning Commission the reclassification of the existing MULI zoned portion of 1050 Parker Street/2621 Tenth Street (APN 054 176300103) to C-W West Berkeley Commercial District. Request that the Planning Commission submit its recommendation to the City Council on the reclassification request by March 27, 2018.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Approved recommendation.
- 25. Send Letter to Presiding Judge of Alameda County Superior Court Regarding Delaying Scheduled Evictions during Winter Months**
From: Mayor Arreguin and Councilmembers Davila and Harrison
Recommendation: Send a letter on behalf of the Berkeley City Council to the Honorable Judge Morris Jacobson, Presiding Judge of the Alameda County Superior Court, requesting that the court adjust its schedules to delay eviction proceedings until after winter months, from December through March, to include issuing unlawful detainers and writs of possession.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Approved recommendation.
- 26. Seventh Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**
From: Mayor Arreguin and Councilmembers Davila, Bartlett, and Hahn
Recommendation: Adopt two Resolutions:
1. Co-sponsoring the 7th Annual Martin Luther King Jr. Celebration Breakfast on January 15, 2018; and
2. Approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Mayor Arreguin, to the Berkeley Chamber of Commerce Foundation, the fiscal sponsor of the 7th Annual Martin Luther King Jr. celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Funds - \$250
Contact: Jesse Arreguin, Mayor, 981-7100
Action: Adopted Resolution No. 68,271–N.S. (Co-sponsoring) and Resolution No. 68,272–N.S. (Expenditure) amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Maio \$250; Councilmember Davila \$100; Councilmember Droste \$250; Councilmember Wengraf \$500; Mayor Arreguin \$250.

Council Consent Items

27. Prohibiting Discrimination on the Basis of Relationship Structure

From: Councilmember Maio

Recommendation: Refer the proposed language to the City Manager requesting that the City amend Chapter 13.31 as proposed to prohibit discrimination on the basis of relationship structure in regard to Employment, Real Estate Transactions, Business Practices, City Facilities and Services or Education on the Basis of Relationship Structure.

Financial Implications: Staff time

Contact: Linda Maio, Councilmember, District 1, 981-7110

Action: Councilmember Bartlett added as a co-sponsor. Approved recommendation.

28. Personal Delivery Service Franchise Agreements

From: Councilmember Bartlett

Recommendation: Referral to the City Manager's Office to develop a program that would enable the City to consider franchise applications for personal delivery service companies involving personal delivery devices.

Financial Implications: Staff time

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Action: Approved recommendation.

**29. Requesting Amendments to AB 626 California Retail Food Code:
Microenterprise Home Kitchen Operations**

From: Councilmember Hahn

Recommendation: Send an "oppose unless amended" letter regarding AB 626 to Assemblymember Tony Thurmond, Senator Nancy Skinner, Assembly Speaker Anthony Rendon, Senate President Pro-Temp Kevin de Leon, Assembly Appropriations Chair Lorena Gonzalez Fletcher, and Governor Jerry Brown, urging that the bill be amended to promote food safety and economic opportunity for home cooks, and to ensure that tech platforms do not wield excessive control over our rapidly changing food system.

Financial Implications: None

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

Action: Councilmember Davila added as a co-sponsor. Approved recommendation as revised in Supplemental Reports Packet #1.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Arreguin: Noes – None; Abstain – Droste; Absent – Hahn.

Council Consent Items

- 30. The Berkeley Public Library Foundation 16th Annual Authors Dinner: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**
From: Councilmembers Wengraf, Droste, Harrison, and Maio
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Councilmembers Wengraf, Droste and Harrison to the Berkeley Public Library Foundation's 16th Annual Authors Dinner with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmembers Wengraf, Droste, Harrison, and any other Councilmembers who would like to contribute.
Financial Implications: Councilmembers' Discretionary Funds - \$500
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
Action: Adopted Resolution No. 68,273–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Maio \$500; Councilmember Davila \$100; Councilmember Droste \$500; Councilmember Wengraf \$500; Mayor Arreguin \$500; Councilmember Harrison - \$500; Councilmember Bartlett - \$250.
- 31. Opposition to H.R. 620: The ADA Education and Reform Act of 2017**
From: Councilmember Worthington
Recommendation: Adopt a Resolution opposing H.R. 620 - "The ADA Education and Reform Act of 2017."
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Adopted Resolution No. 68,274–N.S.
- 32. Save the Graduate Student Waiver and Oppose H.R. 1, Tax Cuts and Jobs Act**
From: Councilmember Worthington
Recommendation: Oppose H.R. 1, Tax Cuts and Jobs Act, and send a letter of opposition to Speaker of the House Paul Ryan and Senate Majority Leader Mitch McConnell.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Councilmember Davila added as a co-sponsor. Approved recommendation.
- 33. State Implementation of "The 21st Century CURES Act Section 12006"**
From: Councilmember Worthington
Recommendation: Urge the state to implement an Electronic Visit Verification System that respects the privacies of consumers and minimizes the burden on individual caregivers.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Approved recommendation.

Council Consent Items

34. **Alta Bates Forum Facility Rental: Relinquishment of Council Office Budget Funds**

From: Councilmembers Droste, Harrison, and Hahn

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember for the Alta Bates Forum facility rental with funds relinquished from the discretionary Council Office Budget of Councilmembers Droste and Harrison, and any other councilmembers who would like to contribute. The total rental cost for the Ed Roberts facility is \$1250.

Financial Implications: Councilmembers' Discretionary Funds - \$250

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Mayor Arreguin added as a co-sponsor. Adopted Resolution No. 68,275–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Maio \$100; Councilmember Wengraf \$175; Councilmember Droste \$250; Councilmember Bartlett \$100; Mayor Arreguin \$250.

35. **Membership Fee for the Association of California Commissions for Women (ACCW): Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

From: Councilmembers Droste, Bartlett, and Wengraf

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$25 per Sponsoring Councilmember for the membership dues requested by Berkeley's Commission on the Status of Women to join the Association of California Commissions for Women for fiscal year 2018-2019, with funds relinquished from the discretionary Council Office Budgets of Councilmember Droste, Councilmember Bartlett, and any other Councilmembers who would like to contribute.

Financial Implications: Councilmembers' Discretionary Funds - \$25

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Adopted Resolution No. 68,276–N.S. amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Maio \$25; Councilmember Droste \$25; Councilmember Wengraf \$25.

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

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.

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that

Action Calendar – Public Hearings

persons wishing to speak, line up at the podium 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.

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.

36. Annual Monitoring Fee for Multi-Family Housing Developments Providing Below Market Rate Units

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new monitoring fee of \$432 per Below Market Rate (BMR) unit per year for existing and new multi-family housing developments providing BMR units under BMC Chapters 22.20.065 and 23C.12.

Financial Implications: See report

Contact: Paul Buddenhagen, Housing and Community Services, 981-5400

Public Testimony: The Mayor opened the public hearing. 5 speakers.

M/S/C (Wengraf/Worthington) to close the public hearing.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Action: M/S/C (Worthington/Arreguin) to adopt Resolution No. 68,277–N.S.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Recess 8:23 p.m. – 8:42 p.m.

Action Calendar – Old Business

37. Endorsement of the 2018 Affordable Housing Act State Ballot Initiative

(Continued from November 28, 2017)

From: Councilmembers Worthington, Harrison, Bartlett, and Davila

Recommendation: That the Council encourages citizens to sign the 2018 Affordable Housing Act State ballot initiative and that the City of Berkeley endorses the Act.

Financial Implications: Minimal

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action: Item held over January 30, 2018.

Action Calendar – Old Business

38. **Budget Priorities for Expenditure of Short-Term Rental Taxes** *(Continued from December 5, 2017. Item contains revised materials.)*

From: Councilmember Harrison, Mayor Arreguin, and Councilmember Bartlett

Recommendation: Adopt a Resolution allocating the revenue collected from short-term rental taxes to programs supporting affordable housing and the arts.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

Action: 4 speakers. M/S/C (Worthington/Wengraf) to adopt Resolution No. 68,278–N.S. as amended in Supplemental Reports Packet #2 and modify the following clauses as they are written below.

WHEREAS, in accordance with BMC Section 23C.23.050 developers must either “Include On-Site Publicly Accessible Art valued at 1.75% of the Construction Cost” or “Pay an in-lieu fee of 0.80% of the Construction Cost to the City”; and

WHEREAS, the city will generate revenue to support administrative costs through the 2% monthly enforcement fee and from penalties imposed on violators of the provisions set forth in BMC 23C.22;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that starting in FY2019, the City Manager shall allocate the 2% monthly enforcement fee and revenue generated from any associated penalties to staff costs; and

NOW THEREFORE, BE IT RESOLVED that starting in FY2019, staff costs as approved by the City Council that exceed the above enforcement fees and penalties shall be appropriated from the short term rental taxes collected pursuant to BMC Section 23C.22.050, Section H, with primary allocation of the rental tax to the purposes listed below:

- 1. Two thirds (66.7%) allocated to the Affordable Housing Trust Fund.*
- 2. One third (33.3%) allocated to the Civic Arts Grant Fund.*

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

39. **City Council Referral Process – 2018 Interim Update** *(Continued from December 5, 2017)*

From: City Manager

Contact: Mark Numainville, City Clerk, 981-6900

Action: Moved to Consent Calendar with the changes noted in Supplemental Reports Packet #2 to change the status from “completed” to “started” for the following referrals: 2016-8, 2017-34, 2016-33, 2016-18, 2016-48, and 2016-73.

Action Calendar – New Business

40a. Repealing the Revised Oleoresin Capsicum (Pepper Spray) Policy Passed September 12, 2017

From: Police Review Commission

Recommendation: Adopt a Resolution repealing the recent change in the Berkeley Police Department's use of Oleoresin Capsicum (OC, or pepper spray).

Financial Implications: None

Contact: Katherine Lee, Commission Secretary, 981-4950

40b. Companion Report: Repealing the Revised Oleoresin Capsicum (Pepper Spray) Policy Passed September 12, 2017

From: City Manager

Recommendation: Keep in place current Council policy allowing the use of Oleoresin Capsicum (pepper spray) in specific circumstances upon specific individuals engaged in violent activity in a crowd situation.

Financial Implications: See report

Contact: Andrew Greenwood, Police, 981-5900

Action: 21 speakers. M/S/C (Maio/Arreguin) to adopt Item 40b as written.

Vote: Ayes – Maio, Bartlett, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Worthington, Abstain – None; Absent – Hahn.

41a. Public Works Commission Recommendation for the Five-Year Paving Plan

From: Public Works Commission

Recommendation: Adopt a Resolution recommending approval of the first year (2018) of the Five-Year Paving Plan (2018-2019) as proposed by staff.

Financial Implications: Unknown

Contact: Nisha Patel, Commission Secretary, 981-6300

Action Calendar – New Business

41b. Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan

From: City Manager

Recommendation: Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

Action: M/S/C (Arreguin/Worthington) accept supplemental material from Councilmember Maio on Item 41.

Vote: Ayes – Maio, Davila, Bartlett, Wengraf, Worthington, Arreguin; Noes – None; Abstain – None; Absent – Harrison, Hahn, Droste.

Action: M/S/C (Arreguin/Worthington) to suspend the rules and extend the meeting to 11:30 p.m.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Worthington, Droste, Arreguin; Noes – Wengraf; Abstain – None; Absent – Hahn.

Councilmember Droste absent 10:13 p.m. – 10:15 p.m.

Councilmember Harrison absent 10:13 p.m. – 10:17 p.m.

Action: 0 speakers. M/S/C (Maio/Worthington) to 1) adopt Resolution No. 68, 279–N.S. amended to include the projects in FY 2018 and FY 2019; and 2) Request that staff coordinate with the Public Works Commission on the items listed below.

1. Address all elements of the City of Berkeley's paving policy such that our Paving Plan clearly identifies and implements integrated solutions.

Such approaches would address the multiple demands on the street infrastructure that are designed for safety, environmentally sustainable and are economically efficient over the long run. Posited solutions would be consistent with:

- a. the City's General Plan policy of encouraging use of forms of transportation other than automobiles;*
- b. the Regional Water Quality Control Board (RWQCB) goals regarding water quality, the Bay, flooding potential and particularly runoff control;*
- c. the City's Measure G goal of an 80% reduction of greenhouse gas emissions by 2050. A broad scope would include consideration of reducing global warming (for example, dark vs. lighter paving materials).*

2. Return with a 2019-22 Plan that directs 15% of available funds to Discretionary and Demonstration Projects with specific projects that address life cycle costs, pavement longevity, watershed impacts.

3. The 2019-22 Plan would reflect the following policies:

Action Calendar – New Business

- a. *Long-term cost effectiveness, long-term street pavement durability and aesthetics are important for priority setting and repair methodology selection;*
- b. *Street rehabilitation shall be coordinated with utility, sewer and other activities associated with addressing water contamination runoff, and with other underground activities to minimize the cost and maximize the effectiveness of rehabilitation and improve the environment.*

4. *Identify and work with consultants who have accomplishments and a track record in long-lasting, innovative, watershed integrative paving technologies.*

5. *Report back to Council with revisions that address the above and provide for multiple benefit, durable demonstration projects on at least 15% of available funding for the 2019-22 projects by June 2018.*

6. *Develop a process that incorporates life cycle cost analysis.*

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Council Action Items

42. Expediting the Planning Application Process for Bridge/Berkeley Food and Housing Project to Seek to Meet No Place Like Home and Alameda County A1 Grant Deadlines

From: Councilmembers Worthington and Hahn

Recommendation: Expedite the planning application process, to make this project eligible for No Place Like Home, Alameda County A1, and other regional, state and federal funding streams.

Financial Implications: See report

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action: Moved to Consent Calendar. Approved recommendation.

Information Reports

43. Referral Response: Voter Registration Forms in All City Buildings that Are Accessible to the Public

From: City Manager

Contact: Mark Numainville, City Clerk, 981-6900

Action: Received and filed.

44. Audit Update - \$52,000 Theft: More Can Be Expected Without Citywide Changes in Culture and Procedures

From: City Manager

Contact: Henry Oyekanmi, Finance, 981-7300

Action: Received and filed.

- 45. **Audit Update - Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues**
From: City Manager
 Contact: Henry Oyekanmi, Finance, 981-7300
Action: Received and filed.

- 46. **Berkeley Way Housing Development Update**
From: City Manager
 Contact: Paul Buddenhagen, Housing and Community Services, 981-5400
Action: Moved to Consent Calendar to hold the item over to January 30, 2018.

- 47. **Referral Response: Feasibility of Acquiring a High-Capacity Scanner for Multiple City Departments**
From: City Manager
 Contact: Savita Chaudhary, Information Technology, 981-6500
Action: Received and filed.

- 48. **FY 2018 Work Plan**
From: Housing Advisory Commission
 Contact: Amy Davidson, Commission Secretary, 981-5400
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 0 speakers.

Adjournment in memory of:

Action: M/S/C (Maio/Wengraf) to adjourn the meeting in memory of:

- 1. San Francisco Mayor Ed Lee

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Hahn.

Adjourned at 11:29 p.m.

Communications

Immigration Commentary

- 1. Blair Beekman

Homeless Observations

- 2. Autumn Moon
- 3. Mike Lee

Cannabis Article

- 4. Barbara Gilbert

Gentrification/Displacement Article

- 5. David Goldmacher

Dangerous Intersections

6. Holly Scheider
7. Steven Schuyler

Construction Noise

8. Jane Kitchel

Encampment on Adeline St. Median

9. Jay Primus

Live/Work Conversions

10. Maulin Chokshi

Supplemental Communications and Reports 1

Item 29: Requesting Amendments to AB 626 California Retail Food Code: Microenterprise Home Kitchen Operations

11. Revised materials, submitted by Councilmember Hahn

Item 38: Budget Priorities for Expenditure of Short-Term Rental Taxes

12. Revised materials, submitted by Councilmember Harrison

Supplemental Communications and Reports 2

Item 4: Adopt an Ordinance Amending BMC 12.27 to Allow Existing Berkeley Licensed Medical Cannabis Businesses Into the New State Adult Use Regulation and Taxation System

13. Revised materials, submitted by City Clerk's Office

Item 10: Contract No. 8884B Amendment: St. Vincent de Paul for Mattress Recycling

14. Christine Schwartz

Item 19: Declaring Berkeley's Opposition to Fascism

15. Supplemental materials, submitted by Mayor Arreguin

Item 21: Amending Open Government Ordinance Regarding Submission of Revised or Supplemental Agenda Material

16. Brad Smith

Item 29: Requesting Amendments to AB 626 California Retail Food Code: Microenterprise Home Kitchen Operations

17. Christina Oatfield

Item 38: Budget Priorities for Expenditure of Short-Term Rental Taxes

18. Revised materials, submitted by Councilmember Harrison
19. Kathy Labriola
20. Rob Wrenn
21. Donald Goldmacher
22. S. Meridian
23. Sheila Goldmacher
24. Alan Snitow
25. David Fielder

26. Ying Lee
27. Judith White
28. Margot Smith
29. Bobbie & Larry Steinhart
30. Benita Smith
31. Karl Knobler (2)
32. Judy Turley
33. Bernard Marszalek
34. Kathy Kahn
35. Gary Hicks
36. John Selawsky
37. David Blake
38. Julia Cato
39. Phoebe Sorgen
40. Summer Brenner
41. Kitty Calavita
42. Miriam Berg
43. Ken Knabb
44. Gael Alcock
45. Zipporah Collins
46. Erin Diehm
47. Richard Walker
48. Patrick Kehoe
49. Allen Barth
50. S. Omowale Fowles
51. Linda Franklin
52. Shauna Haines
53. Sophia DeWitt, on behalf of East Bay Housing Organizations

Item 39: City Council Referral Process – 2018 Interim Update

54. Revised materials, submitted by the City Clerk's Office

Item 40a: Repealing the Revised Oleoresin Capsicum (Pepper Spray) Policy Passed September 12, 2017

55. Carol Denney

Item 46: Berkeley Way Housing Development Update

56. Housing Advisory Commission
57. Carol Denney
58. Donald Goldmacher
59. Matthew Lewis
60. Gramma Grass
61. Beth Montano
62. Elisa Batista
63. East Bay for Everyone
64. Karen Rusiniak
65. Elizabeth Ferguson
66. Negeene Mosaed

- 67. Sierra Club
- 68. Alan Tobey
- 69. Martin Nicolaus
- 70. J.W. Blish

Item 22: Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley

- 71. 82 Communications submitted via Berkeley Considers, includes summary information.

Supplemental Communications and Reports 3

Item 36: Annual Monitoring Fee for Multi-Family Housing Developments Providing Below Market Rate Units

- 72. Presentation, submitted by Health, Housing & Community Services
- 73. Moni Law (2)

Item 40: Repealing the Revised Oleoresin Capsicum (Pepper Spray) Policy Passed September 12, 2017

- 74. David Mateer
- 75. Barbara Gilbert
- 76. Unknown

Item 41a: Public Works Commission Recommendation for the Five-Year Paving Plan

- 77. Presentation, submitted by Public Works Commission
- 78. Supplemental materials, submitted by Councilmember Maio

Item 41b: Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan

- 79. Presentation, submitted by Public Works

Item 46: Berkeley Way Housing Development Update

- 80. Rent Stabilization Board
- 81. Angelee Kumar

Street Spirit Article – Elisa Cooper

- 82. Moni Law