

**ANNOTATED AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, July 31, 2018

6:00 P.M.

COUNCIL CHAMBERS – 2134 MARTIN LUTHER KING JR. WAY, BERKELEY, CA
TELECONFERENCE LOCATION – 1000 SUNRISE HWY, ROCKVILLE CENTER, NY

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: 6:05 p.m.

Present: Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington, Arreguin

Absent: Harrison

Councilmember Harrison present at 6:42 p.m.

City Manager Comments:

1. Announcement regarding traffic circle maintenance, visibility, and safety.

Public Comment on Traffic Circles: 10 speakers.

Public Comment on Consent Calendar and Information Items Only: 5 speakers.

Consent Calendar

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

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

Councilmember Harrison absent 6:05 p.m. – 6:42 p.m.

Consent Calendar

1. Revision to the 2018 City Council Meeting Schedule

From: City Manager

Recommendation: Adopt a Resolution revising the City Council regular meeting schedule for 2018, with starting times of 6:00 p.m.

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

Action: Adopted Resolution No. 68,579–N.S.

2. Memorandum of Understanding: Berkeley Fire Fighters Association/I.A.F.F. Local 1227

From: City Manager

Recommendation: Adopt two Resolutions: 1) approving a new three (3) year Memorandum of Understanding (hereafter referred to as “MOU”) with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 (hereafter referred to as the “Association”) with a term of June 18, 2017 through June 27, 2020 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU; and 2) approving a new salary resolution for Representation Unit B to implement the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 67,209–N.S.

Financial Implications: See report

Contact: LaTanya Bellow, Human Resources, 981-6800

Action: Adopted Resolution No. 68,580–N.S. (MOU), and Resolution No. 68,581–N.S. (Salary).

3. Memorandum of Understanding: Berkeley Police Association

From: City Manager

Recommendation: Adopt two Resolutions: 1) approving a new three (3) year Memorandum of Understanding (hereafter referred to as “MOU”) with the Berkeley Police Association (hereafter referred to as the “Association”) with a term of July 1, 2017 through June 30, 2020 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU; and 2) approving a new salary resolution for Representation Units E and F that implement the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 67,187–N.S. Also, authorize the City Manager to make non substantive edits to the format and language of the Memorandum of Understanding in alignment with Council Direction, the tentative agreement and conforming to legal requirements.

Financial Implications: See report

Contact: LaTanya Bellow, Human Resources, 981-6800

Action: Adopted Resolution No. 68,582–N.S. (MOU), and Resolution No. 68,583–N.S. (Salary).

Action Calendar

A. Urgency Ordinance to Authorize the City Manager to Issue Rules for Street Events without Permits

From: City Manager

Recommendation: Adopt an Urgency Ordinance adding a new Chapter 13.45 to the Berkeley Municipal Code Title 13 (Public Peace, Morals and Welfare) to authorize the City Manager to issue rules for unpermitted street events.

Financial Implications: See report

Contact: Farimah Brown, City Attorney, 981-6950

Action: 15 speakers. M/S/C (Arreguin/Maio) to adopt Ordinance No. 7,623–N.S. with the following amendments:

- 13.45.020 amended to add “This authorization does not extend to facial coverings.” as the second to last sentence in that section.
- Add Section 13.45.110 to read “Notice of the restrictions shall be placed on the City's website at least 24 hours prior to the effective date of the restrictions.”
- Re-number the sunset clause to 13.45.120.

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila.

Action Calendar

4. Placing a General Obligation Bond Measure for Affordable Housing on the November 6, 2018 Ballot

From: City Manager

Recommendation:

1. Adopt a Resolution determining public interest and necessity for issuing a general obligation bond in the amount of \$135 million to acquire, rehabilitate, preserve or construct affordable housing, submitting to the Berkeley electorate on the November 6, 2018 ballot a measure to authorize a general obligation bond in that amount, and rescinding Resolutions Nos. 68,515-N.S. and 68,516-N.S.

2. Determine whether to designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282(b).

Financial Implications: See report

Contact: Farimah Brown, City Attorney, 981-6950

Action: M/S/C (Arreguin/Maio) to accept supplemental material from Mayor Arreguin on Item 4.

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

Councilmember Wengraf absent 7:23 p.m. – 7:28 p.m.

Councilmember Droste absent 7:24 p.m. – 7:28 p.m.

Action: 2 speakers. M/S/C (Arreguin/Maio) to:

1. Adopt Resolution No. 68,584–N.S. as revised below:

- a. Remove all references from the measure related to reimbursing the City for the purchase of property at 1001, 1007, 1011 University, and 1925 Ninth Street.
- b. Adding a new Whereas clause after the first Whereas clause to state, “Whereas, the City Council has adopted a goal of achieving at least 10% reserved affordable housing by 2030; and”
- c. In the first Whereas clause add “students” after “homeless”
- d. Adopting the revised ballot question stated here:

Shall the measure to issue \$135 million in general obligation bonds to create and preserve affordable housing for low-income households, working families, and individuals including teachers, seniors, veterans, the homeless, and persons with disabilities; subject to citizen oversight and independent audits, be adopted?

Financial Implications: Annual cost over projected 36-year period bonds are outstanding is approximately \$23 for every \$100,000 or \$97 for the average assessed home value of \$425,000; raising approximately \$7,500,000/year.

2. Designate Mayor Arreguin and Councilmembers Hahn, Harrison, and Maio to author ballot arguments on behalf of the City Council.

Vote: All Ayes.

Action Calendar

5. **Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Pay for General Municipal Services Including Funding Homeless Services** (*Continued from July 24, 2018. Item contains revised and supplemental materials.*)

From: City Manager

Recommendation:

1. Adopt a Resolution submitting a general tax ordinance measure on the November 6, 2018 general municipal ballot to increase the transfer tax from 1.5% to 2.5% on properties that sell for over \$1 million to pay for general municipal services, including homeless services, including shelters, rental subsidies, and supportive services, and staffing to implement these programs.
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: See report

Contact: Mark Numainville, City Clerk, 981-6900

Action: M/S/C (Arreguin/Wengraf) to accept supplemental material from Councilmember Wengraf on Item 5.

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

Councilmember Worthington absent 7:59 p.m. – 8:07 p.m.

Councilmember Droste absent 8:00 p.m. – 8:08 p.m.

Recess 8:37 p.m. – 8:50 p.m.

Action: 22 speakers. M/S/Failed (Wengraf/Droste) to adopt a tiered tax rate and adopt the remainder of the measure as-is.

Vote: Ayes – Wengraf, Droste; Noes – Bartlett, Harrison, Hahn, Worthington, Arreguin; Abstain – Maio, Davila.

Action: M/S/Carried (Arreguin/Harrison) to:

1. Adopt Resolution No. 68,585–N.S. as written in Supplemental Reports Packet #2 with the amendments and revised ballot question below.
 - a. Section L of the findings amended to read, in part, "...of Alameda County, State, and Federal resources..."
 - b. Add a sentence to Section 7.52.040.B to read, "For purposes of this paragraph, the rebate available under Section 7.52.060.K shall be limited to the rebate that would be available based on the tax rate imposed pursuant to Paragraph A."
 - c. Authorize the City Manager to make any required technical modifications to the measure or the ballot question.
 - d. Amend the ballot question to read as follows:

Shall an ordinance raising funds for general municipal purposes such as navigation centers, mental health support, rehousing and other services for the homeless, including homeless seniors and youth; increasing the real property transfer tax for ten years from 1.5% to 2.5% for property sales and transfers over \$1,500,000, adjusted annually to capture the top approximately 33% of transfers; generating an estimated \$6,000,000 - \$8,000,000 annually; and

Action Calendar

establishing the Homeless Services Panel of Experts to recommend homeless services, be adopted?

2. Designate Mayor Arreguin and Councilmembers Harrison, Hahn, and Maio to submit ballot arguments on behalf of the City Council.

Vote: All Ayes.

Action Calendar

6. **Placing a Measure on the November 6, 2018 Ballot Amending the Rent Ordinance—Berkeley Municipal Code Chapter 13.76** *(Continued from July 24, 2018. Item contains supplemental materials.)*

From: Rent Stabilization Board

Recommendation:

1. Select a timeframe between 12 and 15 years as the rolling period of exemption for newly constructed rental units. (Section 13.76.130.I)
2. Adopt a Resolution placing the proposed amendments to the Rent Stabilization and Eviction for Good Cause Ordinance on the ballot of the November 6, 2018 General Municipal Election.
3. 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: See report

Contact: Jay Kelekian, Rent Stabilization Board, 981-7368

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

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Maio/Arreguin) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: Ayes – Maio, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – Davila; Abstain – Hahn.

Action: M/S/C (Hahn/Maio) to suspend the rules and extend the meeting to 12:30 a.m.

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

Councilmember Worthington absent 11:15 p.m. – 11:54 p.m.

Action: M/S/C (Hahn/Maio) to suspend the rules and extend the meeting to 1:00 a.m.

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

Action: M/S/Failed (Arreguin/Maio) on the severed portion to set the rolling exemption in the measure at 18 years.

Vote: Ayes – Hahn, Arreguin; Noes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste.

Action Calendar

Action: 29 speakers. M/S/C (Droste/Maio) to:

1. Adopt Resolution No. 68,586–N.S. placing the measure on the ballot as recommended by the Rent Board, and including revisions from the City Attorney, with the following amendments:

a. Setting the rolling exemption to 20 years.

b. Inserting amended language for Section 13.76.050.N as written below.

N. A rental unit in a residential property containing a lawfully established and fully permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence. This subsection (13.76.050N) shall only apply to properties containing a single Accessory Dwelling Unit, shall only apply to units compliant with all applicable requirements of Chapter 23C.24 (“Accessory Dwelling Units”), and shall only apply to tenancies created after November 7, 2018.

Vote: Ayes – Maio, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Bartlett, Harrison, Worthington.

Action: M/S/C (Arreguin/Maio) to designate Mayor Arreguin and Councilmember Maio to submit ballot arguments on behalf of the City Council.

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

7. Placing a Charter Amendment relating to the Police Review Commission on the November 6, 2018 Ballot *(Continued from July 24, 2018. Item contains supplemental material.)*

From: Mayor Arreguin and Councilmember Davila

Recommendation:

1. Adopt a Resolution submitting a measure on the November 6, 2018 general municipal ballot to amend the City Charter to add Article XVIII, relating to the Police Review Commission, to establish an Independent Police Auditor.

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: See report

Contact: Jesse Arreguin, Mayor, 981-7100

Action: No action taken. If a special meeting is called prior to August 10, 2018, this item will appear on that agenda. If no meeting is called, the item will be referred to the Agenda Committee.

Action Calendar

- 8. Resolution creating a ballot measure which establishes a 50-cents per ride tax on Transportation Network Companies** *(Continued from July 24, 2018. Item contains revised material.)*
From: Councilmember Worthington
Recommendation: City Council submit to the voters of the City, at the November 6, 2018 election, the ordinance and ballot measure set forth in this item. This ordinance proposes to adopt a tax of up to 50 cents per ride on passengers of Transportation Network Company (TNCS) trips originating in the City of Berkeley, if a majority of all qualified voters voting on the ballot measure vote in favor thereof.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: No action taken. If a special meeting is called prior to August 10, 2018, this item will appear on that agenda. If no meeting is called, the item will be referred to the Agenda Committee.
- 9. Lobbyists Registration and Regulation Ordinance; Amendments to existing Revolving Door Ordinance** *(Continued from July 24, 2018. Item contains revised material.)*
From: Open Government Commission
Recommendation: Adopt first reading of an ordinance requiring the registration of lobbyists and regulating lobbying activity in the City of Berkeley, and an amendment to the existing Revolving Door Ordinance.
Financial Implications: Will require staff time to registrar and enforce the ordinance. Registration fees and penalties may offset some costs.
Contact: Jessica Mar, Commission Secretary, 981-6950
Action: M/S/C (Arreguin/Worthington) to hold over Item 9 and Item 11 to September 13, 2018 including supplemental and revised materials.
Vote: Ayes – Maio, Davila, Bartlett, Harrison, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – Hahn.
- 10. Direction to the City Manager Regarding the Community Service In Lieu of Parking Penalties Program** *(Continued from July 24, 2018.)*
From: Councilmembers Bartlett, Davila, Harrison, and Hahn
Recommendation: Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle).
Financial Implications: Staff time
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
Action: Moved to Consent Calendar. Approved recommendation.

Action Calendar

11. **Accessory Dwelling Unit Ordinance Updates** *(Continued from July 24, 2018. Item contains revised material.)*
From: Councilmembers Hahn, Wengraf, and Harrison
Recommendation: Refer to the Planning Commission to consider additional elements for Berkeley's Accessory Dwelling Unit Ordinance (BMC 23C.24), on an expedited basis, and refer to the Disaster and Fire Safety Commission bullet point #5, relating to potential obstruction of emergency vehicles, and request that their recommendations be sent directly to the Planning Commission to inform the Planning Commission's review and recommendations.
Financial Implications: None
Contact: Sophie Hahn, Councilmember, District 5, 981-7150
Action: Item held over to September 13, 2018 including revised materials.
12. **Ordinance Allowing Currently Permitted Non-Cannabis Nurseries in Specified Areas to Become Commercial Cannabis Retail Nurseries** *(Continued from July 24, 2018. Item contains supplemental material.)*
From: Councilmembers Worthington, Davila, and Harrison
Recommendation: That the Council adopt an ordinance amending nursery zoning policies to allow medical and/or adult-use cannabis cultivation in the area bounded by University Avenue, San Pablo Avenue, Dwight Way, and Sixth Street specifically for currently permitted nursery-only cultivation sites, subject to compliance with state regulations.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Moved to Consent Calendar. Adopted revised recommendation to refer the item to the City Manager and City Attorney to evaluate if the policy needs to be considered by the Planning Commission, and if it does, to send the item to the Commission; if it does not need to be considered by the Planning Commission, bring the item back to Council in September or October 2018 as appropriate.

Adjournment

Action: M/S/C (Arreguin/Bartlett) to adjourn the meeting in memory of:

1. Ronald V. Dellums, Former Congressman

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

Councilmember Davila absent 12:28 a.m. – 12:29 a.m.

Councilmember Harrison absent 12:28 a.m. – 12:29 a.m.

Adjourned at 12:29 a.m.

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #A: Urgency Ordinance to Authorize the City Manager to Issue Rules for Street Events without Permits

1. Tracy Rosenberg

Item #4: Placing a General Obligation Bond Measure for Affordable Housing on the November 6, 2018 Ballot

2. Supplemental materials, submitted by Mayor Arreguin and Councilmember Hahn

Item #5: Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Pay for General Municipal Services Including Funding Homeless Services

3. Supplemental materials, submitted by Mayor Arreguin and Councilmembers Hahn, Harrison and Maio

Item #6: Placing a Measure on the November 6, 2018 Ballot Amending the Rent Ordinance—Berkeley Municipal Code Chapter 13.76

4. Supplemental materials, submitted by Councilmember Hahn.
5. Julia Cato
6. Carol Denney
7. Cameron Woo
8. Claudia Kawczynska
9. Berkeley Tenants Union

Item #9: Lobbyists Registration and Regulation Ordinance; Amendments to existing Revolving Door Ordinance

10. Supplemental materials, submitted by Councilmember Harrison

Supplemental Communications and Reports 3

Item #A: Urgency Ordinance to Authorize the City Manager to Issue Rules for Street Events without Permits

11. National Lawyers Guild

Item #4: Placing a General Obligation Bond Measure for Affordable Housing on the November 6, 2018 Ballot

12. Laura Menard
13. Christine Schwartz
14. Robert Krumme
15. No name

Item #5: Placing a Measure on the November 6, 2018 Ballot to Increase the Transfer Tax on Property Sales to Pay for General Municipal Services Including Funding Homeless Services

16. Supplemental materials, submitted by Councilmember Wengraf
17. Barbara Gilbert

Item #6: Placing a Measure on the November 6, 2018 Ballot Amending the Rent Ordinance—Berkeley Municipal Code Chapter 13.76

- 18. Rent Stabilization Board
- 19. Jesse Townley
- 20. Bryce Nesbitt
- 21. Shang-Mei Lee
- 22. Mary Canavan

Misc. Communications

Traffic Circles

- 23. Unknown