

**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