

**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING  
Tuesday, April 23, 2019  
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

## **Preliminary Matters**

**Roll Call:** 6:35 p.m.

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

**Absent:** None

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of Stiles Hall Berkeley Scholars to Cal
2. Recognition of Osha Neumann
3. Holocaust Remembrance Day Event – April 28, 2019, 11:30am, 2121 Allston Way
4. Presentation: Alameda County Mosquito Abatement District
5. Adjourned in Memory of Sue Hone, Former Berkeley City Councilmember

**City Manager Comments: None**

### **City Auditor Comments:**

The City Auditor noted Item 5 and the importance of contracting for the needed expertise to complete the FUND\$ replacement project; Noted the progress made on audit recommendations by the IT Dept., Fire Dept., and City Manager's Office.

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Public Comment on Consent Calendar and Information Items Only:** 30 speakers.

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

**Vote:** All Ayes.

# Consent Calendar

## 1. Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code

### From: City Manager

**Recommendation:** Adopt second reading of Ordinance Nos. 7,645-N.S., 7,646-N.S., 7,647-N.S., 7,648-N.S., and 7,649-N.S., amending the Berkeley Municipal Code (BMC) which would:

1. Clarify cannabis business operational standards and development standards, such as quotas and buffers, for all cannabis business types;
2. Revise ordinance language to reflect State regulations;
3. Create a path to allow a new business type (Retail Nursery Microbusinesses); and
4. Protect youth by restricting cannabis advertising within the city.

The ordinances would adopt BMC Chapters 12.21 and 20.40, amend Chapters 12.22, and 23C.25, Sub-Titles 23E and 23F, and repeal Chapters 12.23, 12.25 and 12.27.

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

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

**Action:** M/S/C (Arreguin/Davila) to accept revised material from staff on Item 1

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

Councilmember Wengraf absent 8:40 p.m. – 8:44 p.m.

Councilmember Droste absent 8:40 p.m. – 8:51 p.m.

**Action:** Moved to Action Calendar. 5 speakers. M/S/C (Arreguin/Davila) to:

- 1) Adopt the second reading of Ordinance No. 7,646–N.S. (Add BMC Chapter 20.40); Ordinance No. 7,648–N.S. (Amend BMC Sub-Title 23.E); and Ordinance No. 7,649–N.S. (Amend BMC Sub-Title 23F);
- 2) Adopt the first reading of Ordinance No. 7,645-N.S. (Amend BMC Title 12) and Ordinance No. 7,647–N.S. (Amend BMC Chapter 23C.25) with the amendments listed below.

12.22.040.H.2 (Deliveries)

~~j. A manifest must be created for each delivery or series of deliveries prior to departure from the Retailer or Delivery-Only Retailer, and the employee may not make any unnecessary stops between deliveries or deviate substantially from the manifest route, unless a stop is necessary for personal safety.~~

kj. All orders to be delivered shall be packaged ~~at the Retailer or Delivery-only Retailer~~ by the name or identification number of the Customer for whom the delivery is intended.

lk. The person responsible for making deliveries shall have a copy of the record of all delivery requests while making deliveries.

## Consent Calendar

m. All Retailers that provide delivery service shall maintain at all times Commercial General Liability insurance providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Comprehensive Automobile Liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000). The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for immediate suspension of the privilege of providing delivery service.

### 23C.25.040.B (Retail Nursery Microbusinesses)

#### 2. Retail Nursery Microbusinesses

- a. ~~Two existing nurseries are permitted to convert to a Retail Nursery Microbusiness, regardless of the number of Retailers and Cultivators in the City. For purposes of this Section, "Existing Nursery" means a plant nursery in the City of Berkeley as of the effective date of the ordinance.~~
- b. ~~These businesses~~ A maximum of two Existing Nurseries are permitted to convert to Retail Nursery Microbusiness, either: 1) by right with a Zoning Certificate in C- and M-prefixed ~~zonings districts~~, if they comply with the development standards set forth in the Zoning Ordinance and in this Chapter for each activity conducted on the premises; or 2) subject to the requirement to obtain a Use Permit as set forth in Chapter 23B.32 for
- c. ~~If the existing nursery is located entirely or partially in an R-prefixed district, conversion to a Retail Nursery Microbusiness will be subject to requirements for substantial expansion or change in character to non-conforming uses in R-prefixed districts (Section 23C.04.060.B). The Zoning Certificates and/or Use Permits shall be approved notwithstanding the number of Retailers and Cultivators in the City.~~
- dc. Zoning Certificates and/or Use Permits shall be issued to Existing Nurseries on a first-come, first-served basis. The right to retain one of the allocated Zoning Certificates shall be determined based on the date of issuance of a concurrent Business License and establishing and continuously operating the business or, if a Use Permit is required, on the date the application for the Use Permit is deemed complete so long as the Use Permit is implemented with a Business License within 30 days of approval and establishing and continuously operating the business.
- ed. The 600-foot retail buffer shall not apply between Storefront Retailers and Retail Nursery Microbusinesses.

**Vote:** All Ayes.

## Consent Calendar

- 2. Contract: Masayuki Nagase for North Berkeley Senior Center Measure T1 Public Art Commission**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract for an amount not to exceed \$100,000, and any amendments thereto, with Masayuki Nagase for a public art commission for North Berkeley Senior Center.  
**Financial Implications:** Public Art Fund - \$100,000  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Adopted Resolution No. 68,811–N.S.
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 23, 2019**  
**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 - \$5,680,000  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.
- 4. Purchase Orders for Crayon Inc.: Using Riverside County’s Joint Volume Licensing Program to Renew Microsoft’s Enterprise Agreement**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year renewal of the City’s “Enterprise Agreement” (EA) for Microsoft licenses purchased through Crayon Inc., utilizing a cooperative purchasing agreement established by the County of Riverside’s joint volume licensing program for the period beginning May 1, 2019 through April 30, 2022 for an amount not-to-exceed (NTE) \$2,968,000.  
**Financial Implications:** Various Funds - \$2,968,000  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 68,812–N.S.
- 5. Contract No. 118499-1 Amendment: Civic Makers, LLC for FUND\$ Replacement Change Management Support Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 118499-1 with Civic Makers, LLC for extension of FUND\$ Replacement related Change Management Support Services, increasing the amount by \$400,000, for a total not to exceed \$529,025 from December 1, 2017 to June 30, 2021.  
**Financial Implications:** FUND\$ Replacement Fund - \$400,000  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 68,813–N.S.

## Consent Calendar

- 6. Donation: Memorial Bench at Cesar Chavez Park in memory of Julio Costa Furtado**  
**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 at the Berkeley Marina in memory of Julio Costa Furtado.  
**Financial Implications:** Marina Fund - \$3,400 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,814–N.S.
- 7. Donation: Memorial Bench at Cesar Chavez Park in memory of Barry Wofsy**  
**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 at the Berkeley Marina in memory of Barry Wofsy.  
**Financial Implications:** Marina Fund - \$3,400 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,815–N.S.
- 8. Donation: Information Display Case at the Berkeley Rose Garden**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a donation of an information display case valued at \$7,429 from the Friends of the Berkeley Rose Garden.  
**Financial Implications:** \$7,429 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,816–N.S.
- 9. Grant Application: Cosco Busan Round 2 Grant Program from the National Fish and Wildlife Foundation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: submit a grant application in the amount of \$182,000 to the National Fish and Wildlife Foundation for the Cosco Busan Round 2 Grant Program; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,817–N.S.

## Consent Calendar

- 10. Contract No. 9668 Amendment: Serological Research Institute for DNA Testing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9668 and any necessary future amendments with Serological Research Institute (SERI) for the Police Department, increasing the contract amount by \$250,000 for a total not to exceed amount of \$750,000 and a contract term extension for three additional years until June 30, 2022.  
**Financial Implications:** State Proposition 172 Fund - \$250,000  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 68,818–N.S.
- 11. Contract: Bay Cities Paving & Grading, Inc. for Street Rehabilitation & Surface Seals FY 2019 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Street Rehabilitation & Surface Seals Project, Specification No. 19-11271-C; accepting the bid of Bay Cities Paving & Grading, Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$5,688,307.  
**Financial Implications:** Various Funds - \$5,688,307  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,819–N.S.
- 12. Contract No. 10276A Amendment: Interface Engineering, Inc. for On-Call Electrical Engineering Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Interface Engineering, Inc., Contract No. 10276A, for on-call electrical engineering consulting services, increasing the contract amount by \$90,000, for an amount not-to-exceed \$220,000, and extending the contract from June 30, 2019 to June 30, 2020.  
**Financial Implications:** Various Funds - \$90,000  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,820–N.S.

## Consent Calendar

- 13. Authorize Negotiation in the Open Market for the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project, Specification 18-11183-C**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. accepting staff report that no bids were received when Specification No. 18-11183-C, FY2018 Measure M Low Impact Development Woolsey Street Project was re-advertised; and 2. authorizing the City Manager to negotiate in the open market in accordance with Article XI, Public Works and Supplies, Section 67(a.) of the City Charter.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,821–N.S.
- 14. Resources for Community Development’s 2001 Ashby Avenue Predevelopment Loan Application**  
**From: Housing Advisory Commission**  
**Recommendation:** Authorize funding for the Resources for Community Development (RCD) predevelopment loan application for \$368,000 for its proposed development at 2001 Ashby Avenue.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400  
**Action:** Approved recommendation.
- 15. Senate Constitutional Amendment 1 and Assembly Bill 10**  
**From: Housing Advisory Commission**  
**Recommendation:** Endorse Senate Constitutional Amendment (SCA) 1 and Assembly Bill (AB) 10.  
**Financial Implications:** See report  
Contact: Amy Davidson, Commission Secretary, 981-5400  
**Action:** Approved recommendation revised to remove references to SCA 1 which was previously endorsed by the City Council.

## Council Consent Items

- 16. Authorize Sending a Letter of Support for AB-953 “Cannabis: state and local taxes: payment by digital asset” to Assemblymember Phil Ting**  
**From: Councilmember Bartlett**  
**Recommendation:** That the City Council authorize sending a letter of support for AB-953 to Assemblymember Ting. AB-953 will allow state and local tax authorities to collect cannabis-generated taxes via stable digital currencies. This will help to address legal cannabis businesses’ underbanking problem.  
**Financial Implications:** Minimal  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Moved to Action Calendar. 0 speakers. M/S/C (Arreguin/Robinson) to approve the recommendation.  
**Vote:** All Ayes.

## Council Consent Items

17. **The Center for Food, Faith, and Justice and Green the Church: Relinquishment of Council Office Budget Fund to General Fund and Grant of Such Funds From: Councilmembers Bartlett and Davila**  
**Recommendation:** Adopt a resolution approving the expenditure of an amount not to exceed \$500 per council member, including \$500 from Councilmember Bartlett, to the “Black, Green, and Traumatized: Environmental Trauma and Mental Health” event hosted by The Center for Food, Faith, and Justice and Green the Church on April 27th from 10am-3pm at McGee Avenue Baptist Church, 1640 Stuart Street, Berkeley, CA 94703. The funds will be relinquished to the city’s general fund for this purpose from the discretionary council office budget of Councilmember Ben Bartlett and any other council members who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$500  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Adopted Resolution No. 68,822–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Hahn - \$100; Councilmember Harrison - \$100; Councilmember Davila - \$250; Councilmember Robinson - \$100; Councilmember Wengraf - \$100.
18. **Black Repertory Group Theater: Relinquishment of Council Office Budget Fund to General Fund and Grant of Such Funds From: Councilmembers Bartlett and Davila**  
**Recommendation:** Adopt a resolution approving the expenditure of an amount not to exceed \$3,000 per council member, including \$3,000 from Councilmember Bartlett, to the Black Repertory Group, with funds relinquished to the city’s general fund for this purpose from the discretionary council office budget of Councilmember Ben Bartlett and any other council members who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$3,000  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Adopted Resolution No. 68,823–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Hahn - \$100; Councilmember Davila - \$250; Councilmember Robinson - \$100.
19. **U1 Funds for Predevelopment Costs of Proposed Development at 2001 Ashby Avenue From: Councilmember Bartlett and Mayor Arreguin**  
**Recommendation:** Adopt a Resolution allocating \$368,000 of General Funds from Measure U1 tax receipts to Resources for Community Development (RCD) for predevelopment costs at 2001 Ashby Avenue.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Adopted Resolution No. 68,824–N.S.



## Council Consent Items

- 20. Budget Referral: Good Government Ombudsman**  
**From: Councilmembers Harrison and Davila**  
**Recommendation:** Refer to the 2019/2020 budget process to establish a Good Government Ombudsman to facilitate enforcement of Berkeley's good government laws through the City Clerk and City Attorney's Office.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Approved recommendation.
- 21. Support for Zero Emission Bills**  
**From: Councilmembers Harrison, Davila, Hahn, and Robinson**  
**Recommendation:**  
1. Adopt a resolution of support for two bills that will move California towards eliminating greenhouse gas emissions from the transportation sector: AB 40, which calls for all cars sold in California to be zero-emission by 2040, and AB 1418, which calls for all public school buses in California to be zero-emission by 2030.  
2. Send letter of support to Senator Skinner and Assemblymember Wicks.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** 1. Adopted Resolution No. 68,825–N.S. 2. Approved recommendation.
- 22. Adopt an Ordinance Adding Chapter 13.104 to the Berkeley Municipal Code Establishing a Prohibition on Contracting with Vendors Acting as U.S. Immigration and Customs Enforcement (ICE) Data Brokers, or Those Providing Extreme Vetting Services to ICE (Reviewed by the Agenda and Rules Committee)**  
**From: Councilmembers Harrison, Davila, and Bartlett**  
**Recommendation:** That the City Council adopt the attached Sanctuary Contracting Ordinance as amended. This ordinance prohibits the award of city contracts to vendors acting as U.S. Immigration and Customs Enforcement data brokers, or those providing extreme vetting services.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted first reading of Ordinance No. 7,650–N.S. Second reading scheduled for May 14, 2019.
- 23. Resolution in Support of a Public Bank**  
**From: Councilmembers Harrison, Davila, and Robinson, and Mayor Arreguin**  
**Recommendation:** Adopt a resolution affirming Berkeley's support for public banking and send that resolution to Governor Newsom, Senator Skinner, and Assemblymember Wicks urging state legislation to enable local agencies to create public banks.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted Resolution No. 68,826–N.S. as revised in Supplemental Communications Packet #2 to include references to AB 857.

## Council Consent Items

24. **Letters In Support of SB 54 (Allen) and AB 1080 (Gonzalez)**  
**From: Councilmember Wengraf, Mayor Arreguin, and Councilmembers Hahn and Bartlett**  
**Recommendation:** Send a letter of support for SB 54 (Allen) and AB 1080 (Gonzalez) to Senator Ben Allen and Assemblywoman Lorena Gonzalez with copies to Senator Skinner, Assembly Member Wicks and Governor Newsom  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation.
25. **Co-Sponsor the Screening of "Near Normal Man"**  
**From: Councilmember Wengraf, Mayor Arreguin, and Councilmembers Bartlett and Hahn**  
**Recommendation:** That the City of Berkeley become an official co-sponsor of the screening and discussion of "Near Normal Man" on April 29th at Berkeley City College  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation.
26. **Support for SB 188 (Hairstyle Anti-Discrimination Law)**  
**From: Councilmembers Robinson, Davila, and Bartlett**  
**Recommendation:** Send a letter to Senator Mitchell, Senator Skinner, and Assemblymember Wicks supporting SB 188, which would amend the California Fair Employment and Housing Act to prohibit racial discrimination on the basis of hairstyle.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Approved recommendation.
27. **Support for ACA-1: Local Government Financing: Affordable Housing and Public Infrastructure: Voter Approval**  
**From: Councilmembers Robinson, Bartlett, and Harrison**  
**Recommendation:** Adopt a resolution supporting ACA-1, which would allow local governments to raise property taxes to fund bonds for the purposes of financing public infrastructure and affordable housing projects, as well as reducing the required vote threshold to authorize certain local special taxes for the purpose of funding public infrastructure and affordable housing. Copies of the resolution to be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Assemblymember Aguiar-Curry.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Councilmember Droste added as a co-sponsor. Adopted Resolution No. 68,827–N.S.

## Council Consent Items

- 28. Support for AB 273 and AB 44: Prohibit Fur Trapping and Sales**  
**From: Councilmembers Robinson and Harrison**  
**Recommendation:** Adopt a resolution supporting Fish and Game Code amendment AB 273, which prohibits the trapping of fur-bearing and nongame mammals for recreational or commercial purposes, and AB 44, which amends the Fish and Game Code to prohibit the sale of fur products statewide.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1.
- 29. Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee** *(Reviewed by the Land Use, Housing & Economic Development Committee)*  
**From: Councilmembers Robinson and Hahn, Mayor Arreguin, and Councilmember Droste**  
**Recommendation:** Refer to the City Manager, the Planning Commission, and the Housing Advisory Commission to consider possible reforms to the Affordable Housing Mitigation Fee, including adopting a per-square-foot fee structure, potentially on a geographic basis.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Approved recommendation.
- 30. Relinquishment of Council Office Budget Funds: “Post-Memory: A Decade of Art and Activism in Berkeley,” an art exhibit in honor of Zachary Cruz**  
**From: Councilmembers Droste, Davila, and Robinson**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per sponsoring Councilmember, with funds relinquished from the discretionary Council Office Budgets of Councilmember Droste and any other Councilmembers who would like to contribute. Funds would go to cover the costs of the art exhibit “Post-Memory: A Decade of Art and Activism in Berkeley” at UC Berkeley. 2019 marks the ten year anniversary of the death of Zachary Cruz who died from road violence on Berkeley streets. The art exhibit will honor Zachary and raise awareness about road safety and Vision Zero in Berkeley. Additional details about the exhibit are attached. Donations will go to A to Z Families for Safe Streets, c/o Los Angeles Walks, 830 Traction Ave 3rd Floor, Los Angeles, CA 90013.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Lori Droste, Councilmember, District 8, 981-7180  
**Action:** Adopted Resolution No. 68,828–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Droste - \$250; Councilmember Hahn - \$100; Councilmember Davila - \$100; Councilmember Robinson - \$100; Councilmember Wengraf - \$100.

Recess 8:30 p.m. – 8:40 p.m.

## Action Calendar – Public Hearings

**31. ZAB Appeal: 1722 Walnut St** *(Continued from March 26, 2019)*

**From:** City Manager

**Recommendation:** Conduct a public hearing, and upon conclusion adopt a Resolution to affirm the Zoning Adjustments Board decision to deny Use Permit/Variance #ZP2018-0021 to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building, and dismiss the appeal.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, 981-7400

**Public Testimony:** The Mayor opened the public hearing. 5 speakers. M/S/C (Hahn/Arreguin) to close the public hearing.

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

**Action:** M/S/C (Bartlett/Kesarwani) to reconsider the vote to close the public hearing.

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

**Action:** M/S/C (Hahn/Arreguin) to close the public hearing.

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

**Action:** M/S/C (Hahn/Davila) to adopt Resolution No. 68,829–N.S. affirming the Zoning Adjustments Board decision to deny Use Permit/Variance #ZP2018-0021 to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building, and dismiss the appeal with the following conditions:

- Active enforcement for removal of the dwelling unit will not commence for six months from the date of issuance of the Notice of Decision to allow time for the property owner to find an alternative off-site location for the structure.
- The current tenant is permitted to remain for the duration of their current lease.
- After the current tenancy ends, the structure may not be occupied or rented in any manner.

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

## Action Calendar – Old Business

32. **Missing Middle Housing Report** *(Continued from March 26, 2019. Item contains revised and supplemental material.)*

**From: Councilmembers Droste, Bartlett, Robinson, and Kesarwani**

**Recommendation:** Refer to the City Manager to prepare a report to the Council of examining methods, including potential revisions to the zoning code, that may foster a broader range housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, and community outreach and engagement. Council requests that staff initiate this work as soon as possible.

**Financial Implications:** See report

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

**Action:** M/S/C (Hahn/Arreguin) to accept revised material from Councilmember Harrison on Item 32.

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

**Action:** Moved to Consent Calendar. Adopted the recommendation with the revisions noted below.

The Reports should include, but is (are) not limited to:

1. Identifying where missing middle housing may be optimal [and the increase in density that may occur.](#)<sup>20</sup>
3. Evaluating Berkeley's residential areas with consideration of areas susceptible to catastrophic fire and earthquake events.
14. Identify barriers in the Zoning Ordinance, Municipal Code, and Rent Ordinance to creating Missing Middle housing.

Given the range of requests included in this referral, it is expected that responding to the referral will require a combination of field research, consultation with design professionals and other cities and agencies, ~~and community outreach and engagement.~~

## Action Calendar – Old Business

In the 1,000 Person Plan to Address Homelessness, Berkeley's Health, Housing and Community Services staff also recommend that Council prioritizes "implementing changes to Berkeley's Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness." [In the short run, to produce housing that will be immediately be affordable to rehouse the homeless and to house other very low, low, and moderate income individuals, changes to Berkeley's "Land Use, Zoning, Development Review Requirements" should prioritize measures that support the creation or retention of reserved affordable or rent controlled housing.](#)

While this legislation aims to address the former, by definition and design, missing middle housing [will always seeks to](#) be less expensive than comparable single family homes in the same neighborhood, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.2 million dollars, which is out of reach for the majority of working people. Approximately half of Berkeley's housing stock consists of single family units and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, only wealthy households can afford [homes to newly enter the housing market](#) in Berkeley.

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### ALTERNATIVE ACTIONS CONSIDERED

We considered an urgency ordinance but after consultation with City of Berkeley staff, we are recommending a report to explore the possibility of on fostering a variety of housing types to inform [future policy decisions and the General Plan Update, as opposed to zoning revisions, the General Plan Update and any new zoning which may flow therefrom.](#)

### IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

[Not applicable as this item requests an analytical report. Any future implementation, administration, and enforcement should be determined by the City Manager and guided by Council policy direction. To ensure the report is accepted by policy makers and the public as a useful tool, it should be undertaken by a consulting firm selected through an RFP.](#)

### FINANCIAL IMPLICATIONS

[Costs for consultants to provide a missing middle scan or an in-depth analysis range from \\$25,000-\\$65,000. If feasible, staff should consider adding components of this Council referral to the city's density standard study in order to accelerate the referral response, as long as it doesn't displace or delay the density standard project. Costs for hiring consultants to complete the study should be developed during the RFP.](#)

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

## Action Calendar – Old Business

33. **Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces** *(Continued from April 2, 2019)*  
**From: Councilmembers Droste, Kesarwani, and Bartlett**  
**Recommendation:** Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.  
**Financial Implications:** Staff time  
Contact: Lori Droste, Councilmember, District 8, 981-7180  
**Action:** 1 speaker. M/S/C (Arreguin/Droste) to adopt the item with the amended title, “Adopt a Spot Initiative for Volunteer Stewardship of Public Spaces,” from the Council action on April 2, 2019.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

## Action Calendar – New Business

34. **Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers** *(Reviewed by the Agenda and Rules Committee)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900
- Action:** M/S/C (Davila/Arreguin) to suspend the rules and extend the meeting to 11:15 p.m.  
**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Robinson, Droste, Arreguin; Noes – Wengraf; Abstain – Hahn.
- Action:** 1 speaker. M/S/C (Arreguin/Wengraf) to adopt Resolution No. 68,830–N.S. amended to a new Paragraph 1 (below) in the Resolved clause and renumber the existing paragraphs.
- Except as specifically provided for in this resolution, the regulations, requirements, policies, and duties of Berkeley City Council Standby Officers are governed by California Government Code Sections 8635 – 8644, as they may be amended from time to time.*
- Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

## Council Action Items

35. **Paid Family Leave Policy in Berkeley to Supplement California Paid Family Leave Program**  
**From: Councilmembers Bartlett, Hahn, Harrison, and Davila**  
**Recommendation:** That the City Council adopt this policy and refer to the City Manager and City Attorney to amend the proposed ordinance based on the recommendations of the Paid Family Leave (PFL) Subcommittee and to conform to legal and code consistency requirements.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Moved to Consent Calendar with the additional request that the City Manager conduct a legal analysis of the proposed ordinance.
36. **Allocate \$400,000 from the Street and Open Space Improvement Fund for the Design and Construction of a Protected Milvia Bikeway Pilot Project between University Avenue and Allston Way**  
**From: Councilmember Harrison and Mayor Arreguin**  
**Recommendation:** Adopt a Resolution allocating \$400,000 from the Street and Open Space Improvement Fund (SOSIF) to design and construct a protected Milvia Bikeway pilot project between University Avenue and Allston Street.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Moved to Consent Calendar. Adopt Resolution No. 68,831–N.S. with the amendment for the funds to be allocated from Measure BB funds.

## Information Reports

37. **Ethical Climate Audit Status Report**  
**From: City Manager**  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000  
**Action:** Received and filed.
38. **Ambulance Billing Follow-up Audit Status Report**  
**From: City Manager**  
Contact: David Brannigan, Fire, 981-3473  
**Action:** Received and filed.
39. **Status Report: City at Crossroads as Long-Standing Need for Structured Approach to Line of Business Experts Function Intersects with ERP Implementation**  
**From: City Manager**  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Received and filed.



## Information Reports

40. **LPO NOD: 2300 Shattuck Avenue, #LMSAP2019-0001**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
41. **LPO NOD: 1414 Walnut Street/#LMSAP2018-0005 for the Former Garfield School**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 2 speakers.**

## Adjournment

**Action:** M/S/C (Robinson/Kesarwani) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:03 p.m.

## Communications

### **Item #1: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

1. Sameen Ahmad, on behalf of High Times
2. Adria-Ann McMurray

### **Item #36: Allocate \$400,000 from the Street and Open Space Improvement Fund for the Design and Construction of a Protected Milvia Bikeway Pilot Project between University Avenue and Allston Way**

3. Tom Buoye

### **RV Ordinance**

4. Colin Palmquist
5. Jessica Behrman
6. Patricia and Lee Hustead

### **Housing**

7. Karen Westmont
8. Friends of Adeline
9. Donald Goldmacher
10. Russbumper

### **BART**

11. Sharon Simburg
12. North Berkeley Neighborhood Alliance

13. Barbara Fisher

**Encampments**

- 14. Bernice Gross
- 15. Virginia Burton
- 16. Liz Ruhland

**5G**

- 17. Ben Burch
- 18. Vivian Warkentin
- 19. Phoebe Anne Sorgen
- 20. Susan Brinchman
- 21. Annamarta Dostourian

**Budget and Finance**

- 22. Kelly Hammargren
- 23. Barbara Gilbert
- 24. Isabell Gaston (2)
- 25. Janice Greenberg (3)
- 26. Jessica Behrman

**Berkeley Marina Liveaboard**

- 27. Christina Lisac

**Help Needed on Francisco Street**

- 28. Mathew Rogers

**Berkeley Green Monday**

- 29. Amy Halpern-Laff

**Lake Merritt Pollution**

- 30. Richard Bailey

**East Bay Community Energy Meetings**

- 31. East Bay Community Energy

**Bay Area Poor People's Hearing**

- 32. Amanda Baldiga (2)

**"Bordertown" Berkeley/Oakland**

- 33. Janice Greenburg

**Opportunity Zones**

- 34. Barbara Gilbert

**Healthy City for All**

35. Suzanne Lennard

**Fund Rebuilding Together and Inter-City Services**

36. Thomas Lord

**Rail Safety and Rail Transit Related Problems**

37. Beth Gerstein, Legislative Aid for Councilmember Kesarwani

**Global Banks and Fossil Fuels**

38. Donald Goldmacher

**Community Activism Ideas**

39. David Dixon

**Reality**

40. Steve Kromer

**Hit and Run at Durant and Telegraph**

41. Max Ventura

42. Jonah Markowitz (2)

43. Christopher Kohler

**Council Meeting Broadcasts**

44. Janice Greenberg

45. Barbara Gilbert

**City Real Estate Transfer Tax**

46. Paul Weir and Maria Gimenez Cacho

**Berkeley Parks Closed**

47. Noah Nathan

**West Campus Pool**

48. Tobie Lurie

49. Francine and Gary Foltz

50. Donna Mickleson

51. Erica Buhmann and Ron Drucker

**Marina Parking**

52. Jonathan Love and Satya Robinson

53. Joshua Morrill

54. Mayo & Robyn Ryan

**Toxic Fire Fighting Foam**

55. David Lerman

## **Public Health**

56. Carol Denney

## **EV Charging**

57. Elisa Mikiten

## **Boards and Commissions Publishing Minutes**

58. Kelly Hammargren

## **BPD Report on Stop Data**

59. Elliot Halpern

## **Supplemental Communications and Reports 1**

### **Item #28: Support for AB 273 and AB 44: Prohibit Fur Trapping and Sales**

60. Revised material, submitted by Councilmember Robinson

### **Item #32: Missing Middle Housing Report**

61. Supplemental material, submitted by Councilmember Hahn

62. Barbara Gilbert

### **Holocaust Remembrance Day**

63. Councilmember Wengraf

## **Supplemental Communications and Reports 2**

### **Item #22: Adopt an Ordinance Adding Chapter 13.104 to the Berkeley Municipal Code Establishing a Prohibition on Contracting with Vendors Acting as U.S. Immigration and Customs Enforcement (ICE) Data Brokers, or Those Providing Extreme Vetting Services to ICE**

64. Igor Tregub, Chairperson, Peace and Justice Commission

65. Brian Hofer, Executive Director of Secure Justice

### **Item #23: Resolution in Support of a Public Bank**

66. Revised material, submitted by Mayor Arreguin

### **Item #32: Missing Middle Housing Report**

67. Revised material, submitted by Councilmember Droste

68. George Porter, Chair, Commission on Aging

69. Angie Chan, on behalf of Associated Students of the University of California

70. Teresa Clarke, on behalf of South Berkley NOW

### **Item #33: Adopt a Spot Initiative**

71. Kelly Hammargren

### **Item #34: Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers**

72. Kelly Hammargren

**Item #36: Allocate \$400,000 from the Street and Open Space Improvement Fund for the Design and Construction of a Protected Milvia Bikeway Pilot Project between University Avenue and Allston Way**

- 73. Tom Lent
- 74. Betsy Thagard
- 75. Charles Siegel
- 76. Liza Lutzker

**Supplemental Communications and Reports 3**

**Item #1: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

- 77. Revised material, submitted by Planning and Development

**Item #22: Adopt an Ordinance Adding Chapter 13.104 to the Berkeley Municipal Code Establishing a Prohibition on Contracting with Vendors Acting as U.S. Immigration and Customs Enforcement (ICE) Data Brokers, or Those Providing Extreme Vetting Services to ICE**

- 78. Councilmember Harrison
- 79. Phyllis Willett
- 80. Theo Ferguson
- 81. Sandra Rodriguez
- 82. Megan Prier (2)
- 83. Cecile Pineda

**Item #28: Support for AB 273 and AB 44: Prohibit Fur Trapping and Sales**

- 84. Unknown

**Item #31: ZAB Appeal: 1722 Walnut St.**

- 85. Presentation, submitted by Planning and Development
- 86. Alfred Twu

**Item #32: Missing Middle Housing Report**

- 87. Councilmembers Droste, Bartlett, Robinson and Kesarwani
- 88. Helen Guerrant Toy
- 89. Max Heninger
- 90. Sara Abdesahian

**Item #36: Allocate \$400,000 from the Street and Open Space Improvement Fund for the Design and Construction of a Protected Milvia Bikeway Pilot Project between University Avenue and Allston Way**

- 91. Tom Lent
- 92. Lori Hines
- 93. Igor Tregub
- 94. Bike East Bay

**Berkeley Drop-In Center**

95. Alameda County Network of Mental Health Clients

**South Berkeley**

96. SFROW Community Project

**Holocaust Remembrance Day**

97. Unknown