

# ANNOTATED AGENDA BERKELEY CITY COUNCIL MEETING

Tuesday, April 21, 2020  
6:00 PM

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

## **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://zoom.us/j/257156624>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **257 156 624**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

**Roll Call:** 6:12 p.m.

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

**Absent:** None

### Ceremonial Matters:

1. Adjourn in memory of Joe Engbeck, Local Activist
2. Adjourn in memory of all the victims of the COVID-19 pandemic.

**Action:** M/S/C (Arreguin/Hahn) to suspend certain rules related to comments from Councilmembers and the public and to adopt new rules for the meeting of April 21, 2020.

**Vote:** All Ayes.

### City Manager Comments:

The City Manager provided an update on Emergency Operations Center items. The Health Officers order requiring masks/face coverings in public spaces is effective at 8:00 a.m. on April 23, 2020. This week, City efforts have been focused on supporting local businesses during the pandemic.

**Public Comment on Non-Agenda Matters:** 7 speakers.

## Consent Calendar

**Action:** M/S/C (Arreguin/Hahn) to add an urgent item to the agenda entitled Resolution Urging Action on Business Interruption Insurance pursuant to Government Code 54954.2(b)(2). Councilmembers Harrison and Hahn added as co-sponsors.

**Vote:** All Ayes.

Recess 6:53 p.m. – 7:00 p.m.

**Action:** M/S/C (Hahn/Wengraf) to accept revised materials on Item 8 from Councilmember Harrison.

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

Councilmember Davila absent 7:06 p.m. – 7:07 p.m.

**Public Comment on Consent Calendar and Information Items Only:** 0 speakers.

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

**Vote:** All Ayes.

**Resolution Urging Action on Business Interruption Insurance**

**From: Mayor Arreguin (Author)**

**Recommendation:**

1. Adopt a Resolution Urging the California Insurance Commissioner to appropriately recognize the material physical impacts of COVID-19 on Businesses and to
2. Send a copy of the Resolution to Insurance Commissioner Ricardo Lara, Assemblymembers Wicks and Bonta, Senator Skinner and Governor Newsom.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** 1. Adopted Resolution No. 69,364–N.S. and 2. Approved recommendation.

**1. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

**From: City Manager**

**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020 and initially ratified by the City Council on March 10, 2020.

**Financial Implications:** See report

Contact: Farimah Brown, City Attorney, (510) 981-6950

**Action:** Adopted Resolution No. 69,365–N.S.

**2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 21, 2020**

**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:** Mental Health Services Fund - \$192,276

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

**Action:** Approved recommendation.

## Consent Calendar

- 3. Contracts: On-Call Landscape Architectural Services for Capital Improvement Projects**  
**From: City Manager**  
**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architectural services for capital improvement projects, for contract periods of May 1, 2020 through April 30, 2023:

  1. BASE Landscape Architecture, for an amount not to exceed \$300,000.
  2. PGA Design, Inc., for an amount not to exceed \$300,000.
  3. RRM Design Group, for an amount not to exceed \$300,000.

**Financial Implications:** See report.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,366–N.S. (BASE); Resolution No. 69,367–N.S. (PGA); Resolution No. 69,368–N.S. (RRM).
  
- 4. Fiscal Year 2021 Street Lighting Assessments – Initiating Proceedings**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions describing proposed improvements to be used to in determine the annual assessments levied for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District No. 2018, and ordering the preparation of Engineer’s Reports.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,369–N.S. (District No. 1982-1); Resolution No. 69,370–N.S. (District No. 2018).

## Council Consent Items

- 5. Send a letter to CA Assemblymember Buffy Wicks in support of AB 1851 “Faith-based organization affiliated housing development projects: parking requirements”**  
**From: Councilmember Bartlett (Author), Mayor Arreguin (Author), Councilmember Davila (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Buffy Wicks expressing the City of Berkeley’s support for AB 1851, which would allow for the elimination of residential parking requirements on faith-based properties for density bonus qualifying housing development projects.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Approved recommendation.

## Action Calendar – Public Hearings

6. **Electric Bike Share Program Franchise Amendment** *(Continued from March 10, 2020)*

**From: City Manager**

**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** M/S/C (Arreguin/Robinson) to hold over the item to May 26, 2020.

**Vote:** All Ayes.

## Action Calendar – Continued Business

- A. **Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis** (*Continued from April 14, 2020*)

**From: Councilmember Davila (Author), Councilmember Harrison (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**

**Recommendation:**

1. Adopt a resolution opposing the Alameda County Sheriff's proposal to receive an additional \$85 million annually to dramatically increase the Sheriff's Office budgets, especially for Santa Rita Jail; and
2. Send copies of this resolution to the Alameda County Board of Supervisors prior to their next Board meeting where the proposal will be voted on April 21, 2020.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

**Action:** 10 speakers. M/S/C (Davila/Harrison) to:

1. Adopt Resolution No. 69,371–N.S. as revised here:

*New Title:*

*A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY REQUESTING THAT THE ALAMEDA COUNTY BOARD OF SUPERVISORS DELAY VOTING ON THE ALAMEDA COUNTY SHERIFF PROPOSAL TO RECEIVE AN ADDITIONAL \$85 MILLION ANNUALLY TO DRAMATICALLY INCREASE THE SHERIFF'S OFFICE BUDGET FOR SANTA RITA JAIL DURING A PANDEMIC CRISIS*

*New resolved clauses:*

*NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Berkeley that it hereby requests that the Alameda County Board of Supervisors delay voting on Sheriff Ahern's budget increase request until the Board is able to appropriately examine the details of the request, alternative methods of delivering mental health services in the jail and in the community, and other community priorities particularly in light of COVID-19; and*

*BE IT FURTHER RESOLVED, We also urge full transparency and reiterate our support for an independent audit of the Sheriff's office and reinvestment into our communities; and*

*BE IT FURTHER RESOLVED, After reviewing the proposal by the County Sheriff, the Berkeley City Council finds that this funding request is inappropriate and lacks documentation to substantiate the requested funding and staffing increase for the Sheriff's Office and the jail; and*

*BE IT FURTHER AND FINALLY RESOLVED, that the Berkeley City Council will send this resolution to the Board of Supervisors prior to their next Board meeting on April 28, 2020.*

2. Approve recommendation.

**Vote:** All Ayes.

Recess 8:58 p.m. – 9:10 p.m.

## Action Calendar – Continued Business

- B. Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic** *(Continued from April 14, 2020)*

**From: Councilmember Davila (Author)**

**Recommendation:**

1. Adopt a resolution establishing a moratorium on enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.
2. Direct the City Manager and/or designee to implement the moratorium.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

**Action:** 27 speakers. M/S/C (Hahn/Arreguin) to support the City Manager's decision to make enforcement a low priority; to continue enabling staff's ability to take action if needed to protect life and safety; and to support staff's actions to assist the homeless population during the COVID-19 pandemic.

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

Councilmember Davila absent 10:50 p.m. – 10:57 p.m.

## Council Action Items

- 7. Adopt a Resolution to Upgrade Residential and Commercial Customers to 100% Greenhouse Gas Emissions-Free Electricity Plan and Municipal Accounts to 100% Renewable Plan** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
- From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**
- Recommendation:** Adopt a Resolution to: a. Opt up Berkeley's municipal accounts to Renewable 100 (100% renewable and 100% greenhouse gas-free) electricity service, and refer the estimated increased cost of \$100,040 to the June 2020 budget process. b. Upgrade current and new Berkeley residential and commercial customer accounts from Bright Choice (>85% GHG-free) to Brilliant 100 (100% GHG-free), except for residential customers in low income assistance programs. The transition would be effective October 1, 2020 for residential customers and January 1, 2021 for commercial customers. c. Provide for yearly Council review of the City's default municipal, residential, and commercial plans.
- Financial Implications:** See report
- Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- Action:** Referred to the Agenda & Rules Committee for future scheduling.

## Council Action Items

### 8. Urgency Ordinance: Commercial Rent Increase Restrictions During the COVID-19 Emergency

**From: Councilmember Harrison (Author), Councilmember Davila (Co-Sponsor)**

**Recommendation:**

1. Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, The COVID-19 Emergency Response Ordinance, limiting commercial rent increases to 10% through and including six months after the local state of emergency has been declared over.

2. Send correspondence to the following:

i. The District Attorney of Alameda County Nancy O'Malley asking that the District Attorney 1) investigate and take action pursuant to Business and Professions Code 17200, et seq. against any commercial real property owner or agent of such who seeks a rent increase of more than that permitted by this ordinance, or seeks a rent increase that has the effect of constructively evicting any commercial tenant; and 2) authorize the Berkeley City Attorney to use Business and Professions Code 17200, et seq. to take actions against any violator of this ordinance or who seeks a rent increase that has the effect of constructively evicting any commercial tenant.

ii. Governor Gavin Newsom, asking for the Governor to take appropriate action against commercial landlords who seek rent increases that have the effect of constructively evicting commercial tenants during the course of this emergency and for a reasonable time after the end of the emergency.

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**Action:** 4 speakers. Mayor Arreguin added as a co-sponsor. M/S/C (Harrison/Davila) to:

1. Adopt Ordinance No. 7,698-N.S. as revised in the supplemental materials provided at the meeting to clarify language in findings; clarify that rent increase restrictions are effective upon lease expiration; and clarify that impacted businesses or nonprofits include those unable to accept customers at their location and only open for limited virtual services.

2. Send correspondence as listed in the recommendation.

**Vote:** All Ayes.

**Public Comment – Items Not Listed on the Agenda - 4 speakers.**

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 10:58 p.m.



## **Communications**

### **Evictions & Rent Payments During the COVID-19 Pandemic & Shelter in Place**

1. Bill Bogert
2. Ian Winters, on behalf of the Northern California Land Trust
3. Linda Blair

### **Construction During the Pandemic**

4. Tina Hand, on behalf of the Bay East Association of Realtors
5. Rachel Rosekind
6. Gene Turitz

### **FEMA Trailers**

7. Thomas Lord
8. Margy Wilkinson

### **COVID-19 General Communications**

9. Janice Murota
10. Beth Gerstein, on behalf of Councilmember Kesarwani
11. Jason Meggs (3)
12. Russbumper
13. David Lerman
14. William Rosen
15. Cynthia Larson
16. Victoria Gu, on behalf of Compassionate Bay
17. Walter Wood
18. Kirsten MacDonald, John Caner and Barbara Hillman, on behalf of the Berkeley Chamber, the Downtown Berkeley Association and Visit Berkeley
19. Regina DiMaggio
20. Jacob Steinhardt
21. Bryce Nesbitt

### **Encampments**

22. Sally Sommer
23. Liz Wiener
24. Margy Wilkinson
25. Marcia Poole
26. Diana Bohn
27. Councilmember Harrison
28. Tajmal Payne
29. Thomas Lord

### **Street Cleaning**

30. James D'Albora

## **Cannabis Dispensaries**

31. James Wood

## **People's Park Bathroom**

32. Sheila Mitra Sarkar (5)

33. Councilmember Davila

34. Andrea Prichett

35. Christopher Kohler

36. Arthur Fonseca

## **Supplemental Communications and Reports 1**

### **Item #A: Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis**

37. Merle Lustig

38. Glen Hauer

39. Paul Kivel

40. Sally Nelson

41. Rivka Polatnick (2)

42. Judy Grether

43. Katrina Wehrheim

44. Tom Luce

45. MJ Baumann

46. Dave Peattie & Tanya Grove

47. Carol Sanders

48. Lisa Grosch

49. Laura Magnani

50. Donald Goldmacher

51. Maxina Ventura

52. Friends of Adeline

53. Iris Starr

54. Giuliana Blasi

55. Laura Redmond

56. Geraldine Slevin

57. Talia Lowery

58. Nicole McIntyre

59. Barbette & Bruce Jackson

60. Jenna Hackman

61. Sarah Maslov

62. Ariadne Wolf

63. Elena Pinsky

64. Sylvie Stein

65. Ivar Diehl

66. Penina Eiberg-Schwartz

67. Ysh Schwartz

68. Ken Yale

- 69. Alex Early
- 70. Christina Robinson
- 71. Marcy Rein
- 72. Chimey Lee

**Item #B: Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic**

- 73. 339 identical form letters
- 74. Rachel Perea
- 75. Raul Delarosa
- 76. Kenshi Husted
- 77. Barbara Brust
- 78. Sheila Mitra-Sarkar
- 79. Anna Steiner
- 80. Finn Black
- 81. Anika Grover
- 82. Noel Lamour
- 83. June Whitehorse
- 84. Cora Leigh Moss
- 85. David Simkin
- 86. Ivar Diehl

**Item #8: Urgency Ordinance: Commercial Rent Increase Restrictions During the COVID-19 Emergency**

- 87. Revised material, submitted by Councilmember Harrison
- 88. Summer Brenner
- 89. Michael Katz
- 90. Bruce Bagnell
- 91. Negeene Mosaed
- 92. Kerrie Hein
- 93. Robert Perl
- 94. Diane Gerstler
- 95. Cambria Lowe
- 96. Erica Etelson
- 97. Roberta Stern
- 98. Allen Kanner
- 99. Jane Hargrave

## **Supplemental Communications and Reports 2**

**Item #A: Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis**

- 100. Nicole Evan McIntyre

**Item #B: Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking**

**and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic**

- 101. 14 identical form letters
- 102. Anjali Vadhri
- 103. Ian Rogers
- 104. Austine Peng
- 105. Margy Wilkinson
- 106. Veronica Van Gough
- 107. Jessica Mcginley
- 108. Jorge Maya
- 109. Noel Lamour
- 110. Anna Steiner
- 111. Anika Grover
- 112. Charles Clarke

**Item #8: Urgency Ordinance: Commercial Rent Increase Restrictions During the COVID-19 Emergency**

- 113. Revised material, submitted by Councilmember Harrison

**Supplemental Communications and Reports 3**

**Item #1: Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**

- 114. Barbara Gilbert.

**Item #5: Electric Bike Share Program Franchise Amendment**

- 115. Chimey Lee

**Item #A: Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis**

- 116. Chris Taaffe
- 117. Jean Caiani
- 118. Chimey Lee

**Item #B: Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic**

- 119. 31 identical form letters
- 120. John Caner, on behalf of the Downtown Berkeley Association
- 121. Alex Know, on behalf of the Telegraph Business Improvement District
- 122. Christine Schwartz
- 123. Adam Stemmler
- 124. Kelly Hammargren
- 125. Dandy Harris (2)
- 126. Councilmember Robinson
- 127. Kirsten MacDonald (2)

- 128. Anika Grover
- 129. Chimey Lee
- 130. Kathryn Collins
- 131. Barbara Hillman
- 132. Deborah LeVeen
- 133. Marcia Poole
- 134. Sophia DeWitt
- 135. Simone Arpaio
- 136. Ingrid Chen
- 137. Diana Bohn
- 138. Dino Sammakieh

**Item #8: Urgency Ordinance: Commercial Rent Increase Restrictions During the COVID-19 Emergency**

- 139. Revised material, submitted by Councilmember Harrison
- 140. Eric Etelson
- 141. Diane Gerstler
- 142. Chimey Lee (2)
- 143. Igor Tregub

**Urgent Item: Resolution Urging Action on Business Interruption Insurance**

- 144. Urgency Item, submitted by Mayor Arreguin