ANNOTATED AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL
Tuesday, June 9, 2020
4:00 P.M.
JESSE ARREGUIN, MAYOR
Councilmembers:
DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL AVILA
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://us02web.zoom.us/j/89047645600. 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: 890 4764 5600. 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 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: 4:02 p.m.

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

Absent: None

Action: M/S/C (Arreguin/Robinson) to accept temporary rules for the conduct of the meeting related to public comment and Council discussion.

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

Ceremonial Matters:

1. Adjourned in memory of George Floyd and all those that are victims of police violence
2. Adjourned in memory of all victims of COVID-19
3. Adjourned in memory of Erik Salgado, victim of California Highway Patrol shooting

City Manager Comments:

The City Manager announced that she will be hosting a Town Hall meeting for the community on Thursday, June 11, 2020 at 7:00 p.m.

Action Calendar

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

1. Accept an urgency item from Councilmember Kesarwani pursuant to Government Code Section 54954.2(b)(2) entitled Budget Referral to Establish Structure and Framework for an Office of Racial Equity.
2. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Black Lives Matter and Ohlone Recognition.
3. Accept an urgency item from Councilmember Harrison pursuant to Government Code Section 54954.2(b)(2) entitled Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess.
4. Accept an urgency item from Mayor Arreguin pursuant to Government Code Section 54954.2(b)(2) entitled Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic.
5. Accept an urgency item from Councilmember Hahn pursuant to Government Code Section 54954.2(b)(2) entitled Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews.
6. Accept supplemental material from the City Manager on Item 1.

Vote: All Ayes.
Budget Referral to Establish Structure and Framework for an Office of Racial Equity

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation: Refer to the FY 2020-21 Budget Process the one-time allocation of $150,000 to establish a structure and framework for an Office of Racial Equity consisting of a Racial Equity Officer and a supporting Specialist. The purpose of the Office of Racial Equity is to: (1) establish a common vision for racial equity across all City departments, (2) create mechanisms for measuring racial inequities in the delivery of all City programs and services; and (3) initiate efforts by all City departments to implement best practices related to metrics, policies, and procedures to close racial inequities in the allocation and delivery of all City programs and services.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action: 24 speakers. M/S/C (Hahn/Wengraf) to approve the recommendation amended to include that the Office of Racial Equity should be seated in the Office of the City Manager, and that the programs and services delivered by the Planning and Development Department and the Transportation Division should be included among the Citywide programs and services to be considered by the Office of Racial Equity.

Vote: All Ayes.

Black Lives Matter and Ohlone Recognition

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

Recommendation:
1. In solidarity with the Mayor of Washington, D.C. and the Black Lives Matter movement, direct the City Manager to immediately paint the words "Black Lives Matter" on Martin Luther King Jr Way in front of Old City Hall, between Center Street and Allston Way, with the text to be read from the eastern sidewalk of Martin Luther King Jr Way.
2. In recognition of the fact that Berkeley is situated on Ohlone territory, paint the words "Ohlone Territory" on Milvia Street in between Center Street and Allston Way, with the text read from the west sidewalk of Milvia Street.
3. The City Manager is encouraged to work with local artists to render the paintings. In addition, the City Manager should take care not to interfere with other street markings that are necessary for safety of pedestrians, bikes, or vehicles, or otherwise necessary.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: 4 speakers. M/S/C (Hahn/Droste) to approve the recommendation with the following amendments: 1) the locations for the words to be painted are suggestions for the City Manager’s consideration; 2) the City Manager is encouraged to work with the community to render the paintings; and 3) the paintings should not pose challenges to bicycle infrastructure.

Vote: All Ayes.
Action Calendar

**Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess**

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

**Recommendation:** Adopt an Urgency Resolution directing the Police Review Commission ("PRC") and City Manager to:

1. Finalize revisions to the use of force policy as referred by Council in 2017 and drafted by the department for PRC review in January, 2020;
2. Submit revised Use of Force Policy directly to the full City Council for the Council to review and adopt before the 2020 Summer recess;
3. Incorporate revisions included the October 31, 2017 Council referral and all outstanding “8 Can't Wait” use of force policy reforms.

**Financial Implications:** Staff time

**Action:** 59 speakers. M/S/C (Harrison/Davila) to adopt Resolution No. 69,438–N.S. amended to add the following resolved clauses:

*BE IT FURTHER RESOLVED* that the City Council directs the Police Review Commission to review the use of control holds.

*BE IT FURTHER RESOLVED* that the City Council directs the City Manager to allow anonymized access to records about use of force to the Police Review Commission to inform deliberation of the use of force general order.

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

Recess: 6:21 p.m. – 6:26 p.m.
Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic

From: Mayor Arreguin (Author), Councilmember Harrison (Author), Councilmember Robinson (Author)

Recommendation: Adopt a motion to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

Financial Implications: See report

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

Action: 23 speakers. M/S/Failed (Wengraf/Kesarwani) to establish an official City of Berkeley policy prohibiting the use of tear gas (CS gas), pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition. And, to refer the item to the Public Safety Policy Committee and the Police Review Commission for the consideration of a permanent ban of these chemical agents.

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

Action: M/S/Carried (Davila/Harrison) to establish an official City of Berkeley policy 1) prohibiting the use of tear gas by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, and 2) prohibiting the use of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic, until such time that the City Council removes this prohibition.

Vote: All Ayes.
Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Mayor Arreguin (Co-Sponsor)

Recommendation:
1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following with respect to the declaration of a Local Emergency:
   a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
   b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), Council ratification of such action occurs at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
   c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallys, marches, demonstrations and assemblies of all kinds (“First Amendment Curfews”), as enumerated (1-8) under the “Background” section of this item, below.
3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: M/S/C (Arreguin/Wengraf) to continue Items 3, 4, 5, 6, and the urgency item regarding Local Emergency Declarations and First Amendment Curfews, to the June 16, 2020 regular City Council meeting.

Vote: All Ayes.
1. **Fiscal Year 2021 Proposed Budget Update Public Hearing #2 (Continued from June 2, 2020)**

   **From:** City Manager
   **Recommendation:** Conduct a public hearing regarding the FY 2021 Proposed Budget Update.
   **Financial Implications:** See report
   **Contact:** Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

   **Action:** M/S/C (Arreguin/Robinson) to continue Items 1, 2, and the supplemental material for Item 1 from the City Manager, to a special meeting called by Mayor Arreguin for June 16, 2020 at 2:30 p.m.
   **Vote:** All Ayes.

2. **FY 2020 Mid-Year Budget Update (Continued from June 2, 2020)**

   **From:** City Manager
   **Contact:** Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
   **Action:** Item 2 continued to June 16, 2020 special meeting.

3. **Presentation and Discussion of Community Survey Results and Direction About Next Steps for Possible Ballot Measure Development (Item Contains Supplemental Material) (Continued from June 2, 2020)**

   **From:** City Manager
   **Recommendation:** Discuss results of the community survey and provide direction to the City Manager about the drafting of possible measures for inclusion on the November 2020 ballot.
   **Financial Implications:** See report
   **Contact:** David White, City Manager's Office, 981-7000
   **Action:** Item 3 continued to June 16, 2020 regular meeting.

4. **Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers (Continued from June 2, 2020)**

   **From:** City Manager
   **Recommendation:**
   1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
   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:** None
   **Contact:** Mark Numainville, City Clerk, (510) 981-6900
   **Action:** Item 4 continued to June 16, 2020 regular meeting.
5. **Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral** *(Continued from June 2, 2020)*

*From: Energy Commission*

**Recommendation:** The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

**Financial Implications:** See report.

*Contact:* Billi Romain, Commission Secretary, (510) 981-7400

**Action:** Item 5 continued to June 16, 2020 regular meeting.


*From: City Manager*

**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, revising Section 13.99.040 to reinstate the exemption for youth job training programs, and freezing the youth wages at $14.50 per hour for FY21, then increase the wage annually according to the Consumer Price Index as will occur with the Berkeley Minimum wage.

**Financial Implications:** See report

*Contact:* Lisa Warhuus, Housing and Community Services, (510) 981-5400

**Action:** Item 6 continued to June 16, 2020 regular meeting.

Recess: 9:49 p.m. – 10:00 p.m.

Councilmember Wengraf absent at 9:49 p.m.

**Adjournment**

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

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

Adjourned at 10:02 p.m.

**Communications**

- None

**Supplemental Communications and Reports 1**

- None

**Supplemental Communications and Reports 2**

*Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2*

1. 19 similarly-worded form letters
2. Sharon Negri  
3. Era Goel  
4. Catie  
5. Andrew Graves  
6. Kate Gingold  
7. David Noriega  
8. Robert Hurley  
9. Russbumber  
10. Lauren Hermele  
11. Ella Hass  
12. Fiona Hass  
13. Emilie Reaves  
14. Ryan Thayer  
15. Amanda Ho  
16. Julia Bleier  
17. Nirali Patel  
18. Chimney Lee  
19. Sage Lenier  
20. Terry Taplin  
21. Riley Hellinger  

Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral  
22. John Arens  

Supplemental Communications and Reports 3  

Urgency Item: Urgency Resolution: Directing the Police Review Commission and City Manager to Submit Revised Berkeley Police Department Use of Force Policy for Council Review and Approval Before the 2020 Summer Recess  
23. Urgency item, submitted by Councilmember Harrison, Mayor Arreguin, Councilmembers Davila and Bartlett  
24. Che Garcia  
25. Yaritza Cruz  
26. Mariana Duarte  
27. Arev Walker  
28. Melody Joliff  
29. Jesica Ender  
30. Haleigh Fleming  
31. Arjun Mayur  
32. Jenn Guitart  
33. Sal Levinson  
34. Bella Lynch  
35. Bob Martin  
36. Rafael Gonzalez  
37. Erwan Illien  
38. Benjamin Pierias  
39. LeeAnn Dowd (2)  
40. Danielle Royston-Lopez  
41. Racial and Criminal Justice Reform Group  
42. Carole Marasovic
43. Jill Suttie
44. Ryan Grant
45. Sheridan Pauker
46. Sarah Pieper

**Urgency Item: Prohibiting the use of Chemical Agents for Crowd Control during the COVID-19 pandemic**
47. Urgency item, submitted by Mayor Arreguin, Councilmembers Harrison and Robinson
48. Shawn Beckman (2)
49. Chimey Lee
50. Moni Law
51. Kimiye Owens

**Urgency Item: Black Lives Matter and Ohlone Recognition**
52. Urgency item, submitted by Councilmember Hahn
53. Liza Lutzker, on behalf of Walk Bike Berkeley
54. Corinna Gould
55. Moni Law (2)

**Urgency Item: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews**
56. Urgency item, submitted by Councilmember Hahn
57. Madeline King
58. Thomas Lord
59. Friends of Adeline (2)
60. Carol Denney
61. Bryce Nesbitt
62. Elisa Mikiten
63. Chimey Lee
64. Kara O’Malley

**Urgency Item: Budget Referral to Establish Structure and Framework for an Office of Racial Equity**
65. Urgency item, submitted by Councilmember Kesarwani
66. Amanda Prufer
67. Stephanie Prufer
68. Caroline Yunker
69. Marianne Lagarias (2)

**Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2**
70. Christina Romak
71. Megan Raymond
72. Aimee Trujillo
73. Ashley Johnson
74. Alex Thomson
75. Anna McFall
76. Elena Vann Cleave
77. Tommy Chung
78. Erika Schultz
79. Rose Soffa Clarke
80. Diana Bohn
81. Celia Ford
82. Nick Nold
83. Becky Sotello
84. Noor
85. Jane Francis
86. Heather Hardison
87. Susan Saadat
88. Lilith Gamer
89. Mary Gilg
90. Kate Mather
91. Alfred Twu
92. Rachael Cornejo
93. Steve KoneffKlatt
94. Juliana Schwartz
95. Rachel Shipps
96. Alicia Roy
97. Natasha Geiling
98. Dana Perls
99. Alisdair Broshar
100. Orly Suveda
101. Alix Vadot
102. Eliza Smith
103. Ryan Gorelik
104. Ben Pierias (2)
105. Kayla Moore
106. Sarah Bancroft
107. Angela Clapp
108. Samuel Kaplan
109. Heather and Luke Ball
110. Dewi Zarni
111. Portal Finder
112. Catherine O’Hare
113. Theodora Gibbs-Plessl
114. Taj Herzer-Baptiste
115. Michaela Reilly
116. Julia Sen
117. Ellen McClure
118. Martin Lenarz-Geisen
119. Katrina Lapira
120. Ariella Cooley
121. Natasha Huey
122. Noelle Fa-Kaji
123. Jessica Barber
124. Jean Caiani
125. Lucia Brosgart
126. Tia Bottger
127. Allyson Bogie
128. Michelle Chung
129. Karen Shimoda
130. Jessica Brownell
131. Sanya Sehgal
132. Angela Ames
133. Ace Chen
134. Ryan Hall
135. Maya Sen
136. Dylan Campopiano
137. Allison Zau
138. Firdausi Sudarmadj
139. Judy Grether
140. Zaynab At-Taras
141. Jackie Kennedy
142. Logan Falley
143. Nahkoura Mahnassi
144. Madelyn Weiss
145. Sophia Mahoney-Rohrl
146. Madeleine Muscari
147. Christopher Lin
148. Francie Maguire
149. Laurel Chen
150. Reyna Fa-Kaji
151. Marcelo Felipe Garzo Montalvo
152. Re Nor
153. Chloe Novak
154. Kat Kott
155. Katie Cording
156. Christine Tseng
157. Celia Alter
158. Zoe Westbrook
159. Julian Dennis
160. Daniel Kim
161. Loan Pham
162. Colin Piethe
163. Elizabeth Ferguson
164. Chelsea Lee
165. Maxine Schoefer-Wulf
166. Jessica Olson
167. Daniel Milutin
168. Olivia Neville
169. Bryanna Perez
170. Kei McHale
171. Diane
172. Jordan Mickens
173. Voulette Hattar
174. Emily Haan
175. Christine Schwartz
176. Emily Yao
177. Manduhaib Baatar
178. Kacei Conyers
179. Ella Hass
180. Logan Rimel
181. Andrew Lynch
Item #2: FY 2020 Mid-Year Budget Update
210. Angela Jernigan (2)
211. Niels Teunis
212. Leah Naomi Gonzales (2)
213. Councilmember Davila
214. Valerie Kratzer

Item #5: Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in Response to the Fossil Fuel Free Berkeley Referral
215. Michael Katz

Action Calendar – Public Hearings

Item #1: Fiscal Year 2021 Proposed Budget Update Public Hearing #2
216. Supplemental Material, submitted by City Manager’s Office