

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 22, 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://us02web.zoom.us/j/89880085934>. 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: **898 8008 5934**. 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: 6:36 p.m.

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

Absent: None

Ceremonial Matters:

1. Recognition of the 50th year of the Ecology Center
2. Adjourn in memory for Supreme Court Justice Ruth Bader Ginsberg
3. Adjourn in memory of the 200,000 victims of COVID-19 in the United States and all victims worldwide.

City Auditor Comments:

The City Auditor noted that September is Suicide Prevention Month. The City Auditor noted the revisions in Item 8 regarding Measure FF. The City Auditor noted the importance of receiving data and documentation from departments in a timely manner and that recent meetings with the Police Department and the City Manager indicate that requested information from BPD should be available soon. The City Auditor also noted the addition of needed staff and the gradual resumption of regular audit activities.

City Manager Comments:

The City Manager noted the request of the Auditor and the City's commitment to work collaboratively. The City Manager announced that due to health and safety reasons the prohibition on overnight camping in City parks will be enforced citywide.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 13 speakers.

Action: M/S/C (Arreguin/Harrison) to accept revised materials from Mayor Arreguin regarding Item 8.

Vote: All Ayes.

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

Vote: All Ayes.

Consent Calendar

1. **Resolution Reviewing and Ratifying the Proclamation of 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, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020 and July 28, 2020.

Financial Implications: See report

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

Action: Adopted Resolution No. 69,565–N.S.

2. **Contract No. 32000282 Amendment: AG Witt, LLC for COVID-19 Emergency Operations Cost Recovery Consultant**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000282 with AG Witt, LLC for COVID-19 Emergency Operations Cost Recovery Consulting increasing the amount by \$100,000 to a not to exceed amount of \$150,000.

Financial Implications: General Fund - \$100,000

Contact: Dave White, City Manager's Office, (510) 981-7000

Action: Adopted Resolution No. 69,566–N.S.

3. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 22, 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: Various Funds - \$5,510,000

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

Action: Approved recommendation.

Consent Calendar

4. Revenue Grant Agreement: Federal COVID19 Funding Support from Centers for Disease Control and Prevention – Epidemiology and Laboratory Capacity Enhancing Detection Grant

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to California Department of Public Health to accept this COVID19 response grant, and to execute any resultant revenue agreements and amendments; which enables us to conduct and implement mitigation strategies in response to COVID19 for the following revenue agreement: HHCS Health Officer Unit's Communicable Disease Prevention and Control Program (CDPCP) COVID-19 Crisis Response's projected allocation of \$2,159,041 for FY 2021-2022.

Financial Implications: See report

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

Action: Adopted Resolution No. 69,567–N.S.

5. Revenue Contracts: FY 2021 Aging Services Programs

From: City Manager

Recommendation: Adopt five Resolutions authorizing the City Manager or her designee to execute any resultant revenue agreements and amendments with Alameda County to provide congregate and home-delivered meals, family caregiver support, senior center activities and information and assistance services to seniors for the following programs for Fiscal Year 2021: 1) Congregate Meals in the amount of \$43,695; 2) Home Delivered Meals in the amount of \$50,954; 3) Family Caregiver Support Program in the amount of \$39,499; 4) Senior Center Activities in the amount of \$22,840; and 5) Information and Assistance Services in the amount of \$49,548.

Financial Implications: See report

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

Action: Adopted Resolution No. 69,568–N.S. (Congregate Meals); Resolution No. 69,569–N.S. (Home Delivered Meals); Resolution No. 69,570–N.S. (Family Caregiver); Resolution No. 69,571–N.S. (Senior Center); and Resolution No. 69,572–N.S. (Information and Assistance).

6. Contract No. 31900042 Amendment: CivicPlus, Inc. for Software Maintenance and Professional for the CivicRec Application

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 31900042 with CivicPlus, Inc. for software maintenance and professional services for the Recreation Division's online registration and reservation system, to increase the contract amount by \$73,756, for a total not to exceed amount of \$116,756, and to extend the contract for three (3) years until November 30, 2025.

Financial Implications: See report

Contact: Savita Chaudhary, Information Technology, (510) 981-6500

Action: Adopted Resolution No. 69,573–N.S. amended to correct the contract term to five (5) years.

Consent Calendar

7. **Contract Amendment: for Marken Mechanical Services Contract 10142 now MSR Mechanical LLC for on-call heating, air conditioning, and ventilation services for the City**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an Amendment to Contract No. 10142, with Marken Mechanical Services to; document the company's ownership and name change to MSR Mechanical LLC; to increase the contract in an amount not to exceed \$30,000 for a total contract amount not to exceed \$80,000; and to extend the term through June 30, 2022.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 69,574–N.S.

Council Consent Items

8. **Designating the Disaster and Fire Safety Commission as the Citizens' Oversight Committee for Expenditure of the Proceeds of the Fire, Emergency Services and Wildfire Prevention Tax (Measure FF)**
From: Mayor Arreguin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Adopt a resolution designating the Disaster and Fire Safety Commission as the citizens' oversight committee for the expenditure of proceeds from the Fire, Emergency Services and Wildfire Prevention Tax (Measure FF). Should Measure FF pass on the November 3 ballot, the Disaster and Fire Safety Commission shall function as the citizens' oversight committee for expenditure of the proceeds of the Fire, Emergency Services and Wildfire Prevention Tax (Measure FF). For this purpose, in addition to its other powers, the Commission may: 1) request detailed expenditure plans for tax proceeds annually, which shall be provided to it as early in the budget process as feasible; 2) make recommendations to the City Manager and the City Council as to the rate at which the tax should be set and how any tax proceeds should be spent; and 3) obtain a report on actual expenditures. The City Manager shall cooperate with the Disaster and Fire Safety Commission in providing the information it requests. All expenditures also will be subject to an annual independent financial audit to confirm that expenditures are consistent with the intent of the measure.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 69,575–N.S. as revised in the materials accepted at the meeting from Mayor Arreguin with the further revision to remove the final resolved in the revised materials related to independent audits.

Council Consent Items

9. Providing our Unhoused Communities in the City of Berkeley with Potable Water and addressing Water Insecurity

From: Councilmember Davila (Author)

Recommendation:

1. Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$500 from Councilmember Cheryl Davila, to help pay for the procurement of water bottles to be given to our unhoused residents and communities, using funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.
2. Refer to City Manager to include an allocation in the upcoming AAO budget to use existing homeless services to fund Berkeley Free Clinic's program to address water insecurity among Berkeley's unhoused communities. This program will initially require \$10,000 to construct and maintain a large tank with a foot pump for dispensing water from a spout that can be used for drinking or handwashing.

Financial Implications: None

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

Action: Added Councilmember Harrison as a co-sponsor. 1. Adopted Resolution No. 69,576–N.S. revised to state the not to exceed amount as \$500 for all councilmembers and to include contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$500; Councilmember Harrison - \$500; Councilmember Bartlett - \$200; Councilmember Kesarwani - \$200; Councilmember Robinson - \$250; Mayor Arreguin - \$250; Councilmember Hahn - \$250; Councilmember Wengraf - \$250. 2. Approved recommendation.

10. Resolution to Incorporate the Practice of 1 Minute and 46 seconds of Mindfulness into City Council Meetings *(Reviewed by the Agenda & Rules Committee)*

From: Councilmember Davila (Author)

Recommendation: Adopt a resolution to amend the City Council Meeting Agendas and Council Rules of Procedures to include one minute and forty-six seconds of silence to adopt mindfulness into Council meetings to remember the loss of lives due to police violence.

(On August 31, 2020, the Agenda and Rules Committee made a Qualified Positive Recommendation to the City Council to observe one minute and forty-six seconds of silence at the September 22, 2020 regular meeting to remember the loss of lives due to police violence; and further remind Councilmembers that moments of reflection, recognition, or celebration are requested through the Mayor's office for inclusion on the ceremonial calendar.)

Financial Implications: None

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

Action: Approved recommendation of the Agenda and Rules Committee.

Council Consent Items

11. **Resolution in Support of California Proposition 17, Restores Right to Vote After Completion of Prison Term, Legislative Constitutional Amendment**
From: Councilmember Hahn (Author), Councilmember Robinson (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt a Resolution in support of California Proposition 17, Restores Right to Vote After Completion of Prison Term, Legislative Constitutional Amendment, on the November 3, 2020 ballot, to amend the State Constitution to eliminate disenfranchisement for people on parole, restoring voting rights upon release from prison.
Financial Implications: None
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
Action: Adopted Resolution No. 69,577–N.S.
12. **Support for SB-1079 Residential Property: Foreclosure**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Send a resolution in support of SB-1079 Residential Property: Foreclosure (Skinner) to Senator Skinner, Assemblymember Wicks, and Governor Gavin Newsom. This bill proposes a trio of provisions intended to mitigate against blight, vacancy, and the transfer of residential property ownership from owner occupants to corporate landlords in the event that California experiences a wave of foreclosures.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted Resolution No. 69,578–N.S.

Observed 1 minute and 46 seconds of mindfulness in honor of the victims of police violence.

Recess 8:16 p.m. – 8:26 p.m.

Action Calendar – Continued Business

- A. **Annual Housing Pipeline Report** (*Item contains revised and supplemental materials. Continued from September 15, 2020*)
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: 7 speakers. Report presented and discussion held. No action taken.

Action: M/S/C (Arreguin/Harrison) to continue Items 13, 15, 17, and 18 to October 13, 2020.

Vote: All Ayes.

Action Calendar – Old Business

13. **Proposed Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley** (*Continued from March 10, 2020*)
From: Commission on Disability
Recommendation: Receive a presentation on the Navigable Cities Framework for Ensuring Access and Freedom-of-Movement for People with Disabilities in Berkeley.
Financial Implications: See report
Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300
Action: Item 13 continued to October 13, 2020.

Action Calendar – New Business

14. **Adoption - Civic Center Vision and Implementation Plan**
From: City Manager
Recommendation: Adopt a Resolution approving Berkeley’s Civic Center Vision and Implementation Plan, and declaring Council’s intention to support the vision and preferred design concepts articulated in the plan
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 12:00 a.m.
Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – Davila; Abstain – None; Absent - Wengraf.
- Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 12:15 a.m.
Vote: Ayes – Kesarwani, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – Davila, Bartlett; Abstain – None; Absent - Wengraf.
- Councilmember Wengraf absent 11:00 p.m. – 12:15 a.m.
- Action:** 8 speakers. M/S/C (Robinson/Droste) to adopt Resolution No. 69,579–N.S. amended to strike the reference to the “preferred design concept.”
Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Davila, Wengraf.
- Councilmember Davila absent 11:57 p.m. – 12:15 a.m.

Action Calendar – Old Business

15. 2019 Crime Report and Five Year Use of Force Report

From: City Manager

Recommendation: Review and discuss the presentation on Crime Report for 2019 and Use of Force Report for 2015-2019.

Financial Implications: None

Contact: Andrew Greenwood, Police, (510) 981-5900

Action: Item 15 continued to October 13, 2020 including supplemental material from Councilmember Hahn.

Council Action Items

16. Healthy Checkout Ordinance *(Reviewed by the Health, Life Enrichment, Equity & Community Committee. Item contains revised materials)*

From: Councilmember Harrison (Author), Councilmember Hahn (Author)

Recommendation:

1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.
3. Refer to the Sugar Sweetened Beverage Product Panel of Experts to consider recommending funding allocations, and to work with City staff to develop protocols for, implementation, education, and enforcement.

Financial Implications: See report

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

Action: 15 speakers. Councilmembers Kesarwani and Davila added as co-sponsors. M/S/C (Hahn/Harrison) to:

1. Adopt first reading of Ordinance No. 7,734-N.S. with amendments in Section 9.82.060 to change the effective date to March 1, 2021 and the enforcement date to January 1, 2022. Second reading scheduled for October 13, 2020.
2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.
3. Refer to the Sugar Sweetened Beverage Product Panel of Experts to consider recommending funding allocations, and to work with City staff to develop protocols for, implementation, education, and enforcement.

Vote: All Ayes.

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

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

Council Action Items

17. Support Community Refrigerators

From: Councilmember Davila (Author)

Recommendation:

1. Adopt a Resolution to create an allocation of the homeless budget towards the purchasing of community refrigerators to be distributed in Council districts to provide access to food for those who have no refrigeration or may be food insecure.
2. Allocate \$8,000 of the budget for the purchasing of the refrigerators.

Financial Implications: See report

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

Action: Item 17 continued to October 13, 2020.

18. Request the United States House of Representatives and/or Senate to introduce “The Breathe Act”

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

Recommendation:

1. Adopt a resolution requesting the United States House of Representatives and Senate to introduce legislation known as “The Breathe Act”
2. Send copies of this resolution to United States Congresswoman Barbara Lee, Alexandria Ocasio-Cortez, Pramila Jayapal, Rashida Tlaib, Ayanna Pressley and Senator Bernie Sanders.

Financial Implications: None

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

Action: Item 18 continued to October 13, 2020.

Public Comment – Items Not Listed on the Agenda - 0 speakers.

Adjournment

Adjourned at 12:15 a.m.

Communications

Item #16: Healthy Checkout Ordinance

1. Holly Scheider (3)

Item #17: Support Community Refrigerators

2. Gargi Nigam
3. Vishaal Kuna
4. Kavin Kumaravel
5. Vivian Kuang

Berkeley Marina Drugs/Homelessness/Defecation

6. Daniel Hernandez

COVID-19 Related

7. Isaac Pastor-Chermak

8. Mark Gottlieb
9. Vivian Warkentin

BART Stations

10. Rick Lewis

Fossil Fuels

11. Leah Redwood

Water Insecurity

12. 23 form letters

Large-Scale Development at 600 Addison - Aquatic Park

13. Charlene Woodcock

Climate Emergency

14. Thomas Lord

Fire Prevention

15. Jeanette Franzone

Homelessness and Trash

16. Rachel Gorham

Berkeley Mutual Aid – Memorandum to the City of Berkeley

17. David Peattie, on behalf of the Berkeley Disaster Prep Neighborhood Network

Supplemental Communications and Reports 1

Item #11: Resolution in Support of California Proposition 17, Restores Right to Vote After Completion of Prison Term, Legislative Constitutional Amendment

18. Daisy Chavez, on behalf of Initiate Justice

Item #14: Adoption – Civic Center Vision and Implementation Plan

19. Carrie Olson, on behalf of the Berkeley Architectural Heritage Association
20. John Caner, on behalf of the Downtown Berkeley Association
21. Michael Fullerton

Item #16: Healthy Checkout Ordinance

22. David Vliet, on behalf of LifeLong Medical Care
23. Nefer Kelley and HOPS Advocates
24. Joseph Friedman
25. Antoinette Marie Rossi
26. Pauline Bondonno
27. Laura Miller

Supplemental Communications and Reports 2

Item #14: Adoption – Civic Center Vision and Implementation Plan

28. John Caner

Item #15: 2019 Crime Report and Five Year Use of Force Report

29. Supplemental material, submitted by Councilmember Hahn

Item #16: Healthy Checkout Ordinance

30. Virginia Turner, on behalf of the Berkeley Youth Alternatives

31. Nefer Kelley Farias, on behalf of the Bay Area Community Resource

32. Matt Weimar

33. Pauline Bondonno, on behalf of the Community Health Education Institute

34. Laura Miller

35. Simone

Supplemental Communications and Reports 3

Item #9: Providing our Unhoused Communities in the City of Berkeley with Potable Water and Addressing Water Insecurity

36. 25 similarly worded form letters

Item #11: Resolution in Support of California Proposition 17, Restores Right to Vote After Completion of Prison Term, Legislative Constitutional Amendment

37. Brittany Stonesifer, on behalf of the ACLU

Item #A: Annual Housing Pipeline Report

38. Presentation, submitted by Planning

Item #14: Adoption – Civic Center Vision and Implementation Plan

39. Presentation, submitted by the Office of Economic Development

40. Kelly Hammargren

41. Berkeley Neighborhood Council Executive Committee

42. Steven Finacom

43. Shirley Dean

44. Councilmember Harrison

45. John Caner

46. George Petty

Item #16: Healthy Checkout Ordinance

47. Dan Colegrove

48. Nefer Kelley

49. Laura Miller

50. Sukhmony Brar

51. Blythe Young, on behalf of the American Heart Association (2)

52. Glomax@

53. Emily Pham

54. Sonia H

55. Monique Blodgett

56. John Caner, on behalf of the Downtown Berkeley Association

Miscellaneous Communications

Three-Way Pandemic

57. Negeene Mosaed