

# AGENDA



## BERKELEY CITY COUNCIL MEETING

**Tuesday, April 2, 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

*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, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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:**

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

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## Consent Calendar

- 1. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 2, 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 Fund - \$7,265,675  
Contact: Henry Oyekanmi, Finance, 981-7300
- 2. Contract No. 9863 Amendment: Arup North America, Ltd. for Construction Support Services for the Shattuck Reconfiguration and Pedestrian Safety Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9863 with Arup North America, Ltd. for Construction Support Services for the for the Shattuck Reconfiguration and Pedestrian Safety Project, increasing the contract by \$50,000, for a total amount not to exceed \$763,800, and extending the term of the contract from June 30, 2019 to June 30, 2021.  
**Financial Implications:** Capital Improvement Fund - \$50,000  
Contact: Phillip Harrington, Public Works, 981-6300

## Council Consent Items

- 3. Budget Referral: Opening the West Campus Pool Year-Round**  
**From: Mayor Arreguin and Councilmembers Davila and Hahn**  
**Recommendation:** Refer to the FY2020 Budget Process at least \$213,000 and up to \$481,745 to reinstate the year-round opening of the West Campus Pool.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100
- 4. Co-Sponsorship and Budget Referral for the 2019 Bay Area Book Festival**  
**From: Mayor Arreguin, and Councilmembers Wengraf, Harrison, and Davila**  
**Recommendation:**  
1. Adopt a Resolution approving official City of Berkeley co-sponsorship of the non-profit Bay Area Book Festival to be held from May 4-5, 2019 in Downtown Berkeley; and  
2. Refer an allocation of \$50,000 for the Bay Area Book Festival to the FY 2020/2021 Budget Process.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100
- 5. Opposition to Eliminating Settlement Conferences for Unlawful Detainer Cases**  
**From: Mayor Arreguin, and Councilmembers Bartlett, Harrison, and Robinson**  
**Recommendation:** Adopt a Resolution urging the Alameda County Superior Court to rescind its proposal to eliminate settlement conferences for half of all unlawful detainer cases. Send a copy of the Resolution to the Presiding Judge of the Alameda County Superior Court.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100
- 6. Women's Daytime Drop-In Center: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Davila, Hahn, Harrison, and Wengraf**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to the Women's Daytime Drop-In Center, for their 31st Annual Chance for Change on May 4, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$150  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120

## Council Consent Items

- 7. Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification**  
**From: Councilmembers Harrison, Davila, Robinson, and Hahn**  
**Recommendation:** Refer to Berkeley's Energy Commission to hold four separate special public outreach and educational meetings regarding electrification in new buildings:

  1. A meeting with community members;
  2. A meeting with building professionals and labor (buildings trades, contractors, architects, engineers etc.);
  3. A meeting with affordable housing developers;
  4. A meeting with market-rate developers.

**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140
  
- 8. Proclamation in Honor of Holocaust Remembrance Day**  
**From: Councilmembers Wengraf, Robinson, and Hahn, and Mayor Arreguin**  
**Recommendation:** Adopt the Holocaust Remembrance Day Proclamation for the 17th annual Holocaust Remembrance Day program.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
  
- 9. Berkeley World Music Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Councilmembers Robinson and Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Robinson, to the Berkeley World Music Festival to assist with payment to artist fees, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
  
- 10. Support for AB-969 (Collective Bargaining: Legislature)**  
**From: Councilmembers Robinson, Harrison, and Davila**  
**Recommendation:** Send a letter to Senator Skinner and Assemblymembers Wicks and Gonzalez supporting AB-969, which would provide employees of the state legislature the right to participate in employee organizations for the purpose of collective bargaining and other aspects of employer-employee relations.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Council Consent Items

11. **Support for SCA-1: Public Housing Projects**  
**From: Councilmember Robinson, Mayor Arreguin, and Councilmembers Harrison and Droste**  
**Recommendation:** Adopt a resolution supporting SCA-1, which repeals Article 34 of the state constitution, requiring a citywide vote for construction of publicly funded low income housing projects. Copies of the resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Bill Allen, and Senator Scott Weiner.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
  
12. **Adopt a Spot Initiative**  
**From: Councilmembers Droste and Kesarwani**  
**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 Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*

13. **Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018**  
**From: Rent Stabilization Board**  
Contact: Jay Kelekian, Rent Stabilization Board, 981-7368

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

### 14. **New Marina Fee – South Cove Parking Lots**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving a new Marina Fee Schedule to include a new parking fee in the South Cove Parking lot, and rescinding Resolution No. 68,415-N.S. and all amendatory resolutions.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

## Action Calendar

### 15. **Draft Supplemental Environmental Impact Report for Upper Hearst Development and Amendment to 2020 Long Range Development Plan**

**From: Mayor Arreguin and Councilmember Wengraf**

**Recommendation:** Discuss the draft Supplemental Environmental Impact Report (SEIR) for the Upper Hearst Development and Minor Amendment to the 2020 Long Range Development Plan. Provide direction to the City Manager on formal comments to the Upper Hearst SEIR. Comments to be submitted to UC Berkeley by the April 8, 2019 deadline.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

## Action Calendar – Public Hearings

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

*(Continued from March 12, 2019)*

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, provide direction regarding proposed ordinance language alternatives and adopt the first reading of five ordinances 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);
4. Protect youth by restricting cannabis advertising within the city; and
5. Allow temporary cannabis events at Cesar Chavez Park.

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.

**Financial Implications:** See report.

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

## Action Calendar

### 17. Short-term referral to City Manager and budget referral for creation of a “vehicle dweller program” in Berkeley

**From: Councilmembers Davila and Harrison**

**Recommendation:** Create a comprehensive program to support those living in their vehicles, including but not limited to RVs, to stay in Berkeley without fear of being criminalized, harassed, displaced, fined or having their vehicles confiscated, and with the support needed to have minimal impact on the neighborhoods in which they reside. The program could include: -Issuing 3-6 month permits for vehicles in running order with an option to renew if no validated complaints have been filed. -Creating a registration process that identifies any additional support needed. -Specifying a consistent, clear and transparent process for investigating complaints to determine validity and issuing warnings. -Distributing permits equally across all parking permit districts and identifying any restrictions on parking (i.e. near schools given bus access, etc.). -Creating an affordable sliding scale permit structure based on size of vehicle, weight, number of wheels, etc. -Providing pump-out services, waste disposal and social services as needed. -Creating a pump-out station for use by RVs within the City of Berkeley. -Creating a program for up to \$3,000 per a vehicle for mechanical and sanitation repairs as well as registration and offering a grace period to get vehicles into compliance for a permit. -Piloting a Safe Parking program modeled after Oakland’s pilot: 4-8 sites with 6-10 vehicles parked at business, school, community or faith-based site parking lots, including support and sanitation services.

Vehicles with permits are exempt from Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

## Action Calendar

### 18a. Effective Enforcement of Safe Lead-Paint Practices

#### **From: Community Environmental Advisory Commission**

**Recommendation:** Direct the City Manager to prepare two ordinances as described below and return them for vote of the City Council within two months, so that when passed the city staff can effectively intervene when painters ignore safe practices they have agreed to uphold in removing lead paint from structures built before 1978:

1. An ordinance adding safe lead-paint practices (already mandated by the state and federal governments) to the City Code so that such practices can be regularly enforced as part of code enforcement; [this ordinance could follow the wording of an ordinance proposed in the City of Emeryville in 2017.

2. An ordinance in accord with California law that allows the city to be reimbursed for costs (staff time) for enforcement efforts (thus making it cost-effective for the City staff to engage in enforcement) and to automatically add fines up to \$1,000 for each day of failing to comply with orders to cease unlawful practices. This ordinance could apply generally to all municipal code violations, in addition to lead paint cleanup, to fund and reimburse stronger enforcement efforts by the City.

**Financial Implications:** See report

Contact: Viviana Garcia, Commission Secretary, 981-7460

### 18b. Companion Report: Effective Enforcement of Safe Lead-Paint Practices

#### **From: City Manager**

**Recommendation:** Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to:

- Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement;
- Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices;
- Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and
- Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, 981-7400; Kelly Wallace, Housing and Community Services, 981-5400

## Public Comment – Items Not Listed on the Agenda

## Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 21, 2019.***



Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.*

### **Item #16: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code**

1. Liz Williams (2)
2. Carol Denney

### **Fair Chance Ordinance**

3. Paola Laverde, Chair, Rent Stabilization Board

### **Blanket Upzoning**

4. Zelda Bronstein

### **Rosa Parks 5<sup>th</sup> Grade Mock Trial**

5. Ty Alper

### **Abe's Military Base Plan for Okinawa**

6. Breanne Slimick, on behalf of the Peace and Justice Commission

### **Investing in the City of Berkeley**

7. Dmitri Kaminski

### **North Berkeley BART**

8. Barbara Angle

### **Eastbay Community Energy Default Option**

9. Alan Gould

### **5G**

10. Vivian Warkentin (2)

**Climate Change**

11. Thomas Lord
12. Olga Bolotina

**SB 50 Bonus Densities**

13. Avram Gury Arye (3)

**Fiscal Responsibility**

14. Bob Flasher

**2701 Shattuck**

15. Daniel Jurnover

**Berkeley Recycling**

16. Barbara Gilbert

**Berkeley City Council Broadcasts**

17. Barbara Gilbert

**Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.

