

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, July 9, 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.*

1. Adjourn in Memory of Diane Woolley-Bauer, Former Berkeley Councilmember

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. FY 2020 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,669-N.S. adopting the FY 2020 Annual Appropriations Ordinance (AAO) in the amount of \$525,856,809 (gross appropriations) and \$460,146,093 (net appropriations).
First Reading Vote: All Ayes.
Financial Implications: See Report
Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000
- 2. Contract No. 9691 Amendment: FileTrail, Inc. for Records Management Software System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9691 with FileTrail, Inc. for an additional \$44,163 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed \$127,799 and extending the term from July 1, 2019 to June 30, 2024.
Financial Implications: General Fund - \$44,163
Contact: Mark Numainville, City Clerk, 981-6900

Consent Calendar

- 3. Purchase Order: Life Assist, Inc. for Emergency Medical Supplies**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with Life Assist, Inc. to purchase emergency medical supplies and equipment for the Fire Department from July 1, 2019 to June 30, 2020, with an option to extend for an additional period up to a maximum of five years, in an amount not to exceed \$1,451,000.
Financial Implications: See report
Contact: David Brannigan, Fire, 981-3473
- 4. Approve Waiver of the Nuclear Free Berkeley Act (NFBA) per BMC Section 12.90.070(A) to Enter into an Expenditure Contract with the University of California, Berkeley**
From: City Manager
Recommendation: Adopt a Resolution 1. waiving the contract requirements of the Nuclear Free Berkeley Act, pursuant to Resolution No. 60,840-N.S. and Chapter 12.90.070 of the Berkeley Municipal Code, in order to contract with the University of California Berkeley; and 2. authorizing the City Manager to execute a contract with the University of California, Berkeley for services evaluating the Sugar-Sweetened Beverage Tax Program.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 5. Contract: The Eikenberg Institute for Relationships for Cultural Humility Training Consultant, Specification Number 18-11230-C**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with The Eikenberg Institute for Relationships for the term of 2 years or 24 months from start of contract, with an expenditure of \$75,000 to fund the Cultural Humility Training Consultant position with Dr. Kenneth Hardy.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 6. Grant Application: The PCA Grant Program for the Marina Blvd Bay Trail Shoreline Vulnerability Public Access Improvement Project**
From: City Manager
Recommendation: Adopt a Resolution: 1. Authorizing the City Manager or her designee to submit a funding application to the Priority Conservation Area (PCA) grant program for \$2 million in federal funds for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project; 2. Committing local City matching funds in the amount of \$260,000; and 3. Stating the City's assurance as to its ability and intent to complete the project.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

Consent Calendar

- 7. Contract: Kitchell for Construction Management Services for the Berkeley Tuolumne Camp Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Kitchell in an amount not to exceed \$3,800,000 to provide construction management services for the Berkeley Tuolumne Camp Project for the period July 1, 2019 through December 31, 2022.
Financial Implications: Camps Fund - \$3,800,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 8. Contract No. 9488C Amendment for Berry Brothers Towing for Towing Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9488C with Berry Brothers Towing, to provide towing services for Department of Public Works Equipment Maintenance Division; increasing the contract amount by \$70,000 for an amended total not to exceed \$180,000 and extending the contract term to June 30, 2021.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 9. Gender Pay Equity Salary Negotiation Workshop**
From: Commission on the Status of Women
Recommendation: Adopt a Resolution authorizing the Commission on the Status of Women to sponsor a gender pay equity salary negotiation workshop, and provide \$900 in funding for the event.
Financial Implications: \$900
Contact: Shallon Allen, Commission Secretary, 981-7000

Council Consent Items

- 10. City Sponsored Protest of Conditions for Children in Federal Detention Centers**
From: Councilmembers Kesarwani, Wengraf, and Harrison
Recommendation: Request Berkeley City Council support for a protest over conditions for children in federal detention centers at our southern borders. The protest will be held on Saturday, July 13th at noon in Civic Center Park.
Financial Implications: None
Contact: Rashi Kesarwani, Councilmember, District 1, 981-7110

Council Consent Items

- 11. Resolution in Support of AB 392 California Act to Save Lives**
From: Councilmembers Davila, Harrison, and Mayor Arreguin
Recommendation: Adopt a resolution in support of AB 392 by Assemblymember Shirley Weber that would bring California Law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and direct the city clerk or designee to send a letter to our state representatives.
Financial Implications: None
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 12. Local Construction Workforce Development Policy** *(Reviewed by the Land Use, Housing & Economic Development Committee)*
From: Councilmember Bartlett, Mayor Arreguin, and Councilmembers Harrison and Davila
Recommendation: Policy Recommendation: That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
- 13. Resolution in Support of SB 347 – Sugar-Sweetened Beverages Safety Warning Act**
From: Councilmember Harrison, Mayor Arreguin, and Councilmembers Bartlett and Davila
Recommendation: Adopt a resolution in support of Senate Bill 347, which requires all sugary beverages to have an English-only health warning label IF an amendment is made to the bill requiring pictorial and multilingual health warning labels instead of the proposed English-only label. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, 981-7140

Council Consent Items

- 14. Opposition to SB 386 (California Renewables Portfolio Standard Program: irrigation districts)**
From: Councilmembers Robinson and Harrison
Recommendation: Send a letter to Senator Caballero, Senator Skinner, and Assemblymember Wicks opposing SB 386, which would allow certain irrigation districts to count specific large hydroelectric resources toward compliance requirements under the California Renewables Portfolio Standard Program, undermining the state's climate change prevention efforts.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
- 15. Support for SB 14: Higher Education Facilities Bond**
From: Councilmembers Robinson and Bartlett
Recommendation: Adopt a resolution supporting SB 14, which places an \$8 billion bond on the March 2020 ballot for the construction, reconstruction, and remodeling of facilities at California's public universities.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

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.

Action Calendar – Old Business

- 16. Mental Health Commission 2018 Annual Report (Continued from June 25, 2019)**
From: Mental Health Commission
Contact: Karen Klatt, Commission Secretary, 981-5400

Action Calendar – New Business

- 17a. Equal Pay Independent Audit of City Employees**
From: Commission on the Status of Women
Recommendation: Adopt a Resolution providing \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley city employee workforce.
Financial Implications: \$12,500.
Contact: Shallon Allen, Commission Secretary, 981-7000
- 17b. Companion Report: Equal Pay Independent Audit of City Employees**
From: City Manager
Recommendation: Continue to implement the City's existing compensation system that addresses concerns raised by the Commission on the Status of Women.
Financial Implications:
Contact: Dave White, City Manager's Office, 981-7000
- 18a. Law Enforcement Use of Restraint Devices in the City of Berkeley**
From: Mental Health Commission
Recommendation: Adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment like N95 masks or an equivalent substitute. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.
Financial Implications: None
Contact: Karen Klatt, Commission Secretary, 981-5400
- 18b. Companion Report: Law Enforcement Use of Restraint Devices in the City of Berkeley**
From: City Manager
Recommendation: Continue current policy to provide City of Berkeley Police and Fire personnel protection from individuals whose unlawful and assaultive spitting or biting actions may spread infectious diseases during a lawful detention or arrest.
Financial Implications: None
Contact: Kelly Wallace, Housing and Community Services, 981-5400; Andrew Greenwood, Police, 981-5900
- 19a. Resolution Assigning Socially Responsible Investment and Procurement advisory role to the Peace and Justice Commission**
From: City Manager
Recommendation: Adopt resolution assigning socially responsible investment and procurement advisory role to the Peace and Justice Commission.
Financial Implications: None
Contact: Bre Slimick, Commission Secretary, 981-7000

Action Calendar – New Business

- 19b. Companion Report to Peace and Justice Commission’s Resolution Asking to be an Assigned Advisory Role in Consulting on Socially Responsible Investments and Procurement**
From: City Manager
Recommendation: Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.
Financial Implications: See report
Contact: Dave White, City Manager's Office, 981-7000

Council Action Items

- 20. Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley’s Affordable Housing**
From: Mayor Arreguin, and Councilmembers Hahn, Harrison, and Robinson
Recommendation: Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley’s affordable housing policies, programs and projects through 2030.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, 981-7100
- 21. Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: Councilmembers Harrison, Davila, Bartlett, and Hahn
Recommendation:
1. Adopt an ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.
2. Refer to the November 2019 budget process for consideration of up to \$273,341 per year to fund a new career position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, 981-7140

Information Reports

- 22. 2019 Disaster and Fire Safety Commission Work Plan**
From: Disaster and Fire Safety Commission
Contact: Keith May, Commission Secretary, 981-3473

Information Reports

23. **Fair Campaign Practices Commission 2019 - 2020 Work Plan**
From: Fair Campaign Practices Commission
Contact: Emma Soichet, Commission Secretary, 981-6950
24. **Open Government Commission 2019 - 2020 Work Plan**
From: Open Government Commission
Contact: Emma Soichet, Commission Secretary, 981-6950
25. **Annual Report – Open Government Commission**
From: Open Government Commission
Contact: Emma Soichet, Commission Secretary, 981-6950

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

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 June 27, 2019.*

A handwritten signature in black ink that reads "Mark Numainville".

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 #21: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

1. John Gilman
2. Matt Gough, on behalf of the Sierra Club (2)
3. Tom Kelly

### **Pilot Cannabis Event at Cesar Chavez Park**

4. Claudia Kawczynska

### **5G**

5. Vivian Warkentin
6. Phoebe Anne Sorgen (2)
7. Stephanie Thomas
8. Lloyd Morgan (2)
9. Patricia Burke
10. Soula Culver
11. Doug Minkler

12. Galen Cranz
13. Margot Smith
14. M. Meade Glaser
15. Theresa
16. Arnold Passman
17. Sandra Decker
18. Cynthia Larson
19. Susan Nunes Fadley
20. B. Dudley

**Leonard Powell**

21. Patty Hirota

**Artificial Intelligence**

22. Fred Dodsworth
23. Cricket

**Climate Emergency**

24. Kelly Hammargren
25. Fred Dodsworth
26. Margy Wilkinson
27. Karl Knobler
28. Tom Lent
29. Donald Goldmacher
30. James McFadden

**Traffic Circle at 62<sup>nd</sup> and King**

31. Eric Perney
32. Tracey Brieger
33. Heather McWhinney
34. Brian LaFranchi
35. Emily Modde
36. Hillary Winters
37. Joe
38. Sarah Jo Zaharako
39. Joel

**Berkeley Marina**

40. Erwan Illian (2)

**Train Noise**

41. Edward Izett

**Anti-Displacement Funding**

42. Christine Schwartz

**McCaffrey Demand Letter**

43. Asher Waite-Jones, on behalf of the East Bay Community Law Center

**Berkeley Food and Housing Project (BFHP)**

44. Terrie Light, on behalf of BFHP

**RV's**

45. Diana Bohn

46. Fran Haselsteiner

**Homelessness**

47. Genevieve Wilson

**Yellow Pedestrian Crossing Light at Henry and Berryman**

48. Alexandra Ballard

**Hotel Construction at University and Sacramento**

49. Jesse Goldberg (2)

50. Roxana Andrade-Lizarzaburu of HHCS

51. Jordan Klein, on behalf of the Office of Economic Development.

**Correction of Errors in Resolution 68,941-N.S.**

52. Greenfire Law, PC

**Drug Dealing and Encampments**

53. Eric Friedman

**Affording a Rental Home**

54. Gerry Tierney

**Eviction Defense Center Endorsement**

55. Steven Smith

56. Floyd Toliver

57. Shun Suzuki

**Commission on Aging: Wildfire-Safety Related Power Outages**

58. George Porter, chair of Commission on Aging

**Terrible Refuse Service**

59. Paula Bradford

**Bankruptcy Court: Precision Technical Coatings**

60. Unknown

**Bumper Dialogue**

61. Russbumper (21)

## **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.

