

# ANNOTATED AGENDA

## SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

Tuesday, October 5, 2021  
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/83878881991>. 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** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **838 7888 1991**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*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.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*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

### Report from Closed Session

The City Council met in closed session and authorized the City Attorney to settle Nathan Spencer v. City of Berkeley, Alameda County Superior Court, Case No. RG 19036980 for \$38,700.

The City Council met in closed session and authorized the City Attorney to settle Yenny Ung v. City of Berkeley, Alameda County Superior Court, Case No. RG19047098 for \$95,000.

**Roll Call:** 6:04 p.m.

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

**Absent:** Kesarwani, Taplin

Councilmember Kesarwani present at 6:07 p.m.

Councilmember Taplin present at 6:07 p.m.

### Consent Calendar

#### A. Waiver of Sanctuary City Ordinance for Motorola Solutions Lease

**From:** City Manager

**Recommendation:** Adopt a Resolution waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a Public Safety Radio System lease with Motorola Solutions, Incorporated.

**Financial Implications:** See report

Contact: Jennifer Louis, Police, (510) 981-5900, Abe Roman, Fire, (510) 981-3473

**Action:** Moved to Action Calendar. 24 speakers. M/S/C (Arreguin/Taplin) to adopt Resolution No. 70,052–N.S. waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a Public Safety Radio System lease with Motorola Solutions, Incorporated.

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

Councilmember Hahn absent 7:07 p.m. – 9: 23 p.m.

Recess 7:53 p.m. – 8:03 p.m.

## Action Calendar

1. **Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department** *(Continued from September 28, 2021) (Item contains supplemental material)*

**From: Police Accountability Board and Director of Police Accountability**

**Recommendation:** Approve Interim Regulations to be used by the Police Accountability Board and Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department under City Charter Article XVIII, Section 125 (Measure II). The City Council is asked to choose between the Board's modified proposal, conditioned upon City Attorney approval, or the Interim Director's preferred version.

**Financial Implications:** None

Contact: Katherine Lee, Interim Director of Police Accountability, (510) 981-4950

**Action:** M/S/Failed (Taplin/Droste) to approve the Interim Regulations as proposed by the Director of Police Accountability with an amendment to require written permission of aggrieved party for an eye witness to file a complaint.

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

**Action:** 19 speakers. M/S/C (Harrison/Hahn) to approve Interim Regulations as proposed by the Police Accountability Board including the items listed below.

- Adding Eyewitnesses to the definition of "Complainant" which reads as follows, "Aggrieved Parties, as well as Eyewitnesses to alleged police misconduct who file a complaint with the Office of the Director of Police Accountability."
- Amending Section II.A.2. Who may file, to read, "Only Aggrieved Parties, as well as Eyewitnesses to alleged police misconduct, may file a complaint. Complaints may also be initiated by the Board upon a vote of five Board members to authorize an investigation."
- Extending filing deadline for complaints to 180 days.
- Definition of "Eyewitness(es)" added to Section I.A. to include description as a "percipient witness."

Consideration of amendments to how testimony is taken at hearings is deferred until the required legal process is completed.

**Vote:** All Ayes.

## Adjournment

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

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

Councilmember Hahn absent 10:15 p.m. – 10:16 p.m.

Adjourned at 10:16 p.m.

## **Communications**

- None

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

### **Item #A: Waiver of Sanctuary City Ordinance for Motorola Solutions Lease**

1. Diana Bohn

## **Supplemental Communications and Reports 3**

### **Item #A: Waiver of Sanctuary City Ordinance for Motorola Solutions Lease**

2. Diana Bohn
3. Catherine Huchting
4. Margot Smith
5. Linda Franklin
6. Terry Paris

### **Item #1: Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department**

7. Linda Franklin