

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 16, 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/86284941257>. 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: **862 8494 1257**. 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.

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 to discuss leases for three tenants in Marina. No final action was taken.

Roll Call: 6:04 p.m.

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

Absent: Kesarwani

Ceremonial Matters:

1. Presentation: Study to Achieve Equity in City Contracting - "Berkeley Inclusion in Opportunity Index"

City Manager Comments:

The City Manager provided an update on the recruitment for the Police Chief and an update on the Homeless Response Team.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 17 speakers.

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

Vote: All Ayes.

Consent Calendar

- 1. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted Resolution No. 70,104–N.S.
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 16, 2021**
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: \$15,120,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.
- 3. Authorizing Acceptance of California Department of Public Health California Equitable Recovery Initiative Grant Award**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to California Department of Public Health (CDPH) to accept an award of California Equitable Recovery Initiative (CERI) grant funds, and to execute any resultant revenue agreements and amendments in order to support health equity efforts in response to the COVID19 pandemic.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,105–N.S.

Consent Calendar

- 4. ONTRACK Program Resources Inc. - Support Services for African American Community Members**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with ONTRACK Program Resources Inc., funded through State of California Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) dollars, for support services for African American community members, for an initial contract not to exceed \$75,000 through June 30, 2022.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,106–N.S.
- 5. Salary Adjustment to Market Median for Department Heads**
From: City Manager
Recommendation: Adopt a Resolution to amend Resolution No. 69,998-N.S. (Classification and Salary Resolution for classifications in Representation Unit Z-1 Confidential and Executive Management Employees) to increase the salary of the department heads of Finance (\$19,332 to \$21,133), Human Resources (\$19,332 to \$20,179), Information Technology (\$19,332 to \$21,451), Parks, Recreation and Waterfront (\$20,152 to \$20,987), Planning (\$19,332 to \$19,634), Public Works (\$20,152 to \$21,432), and Fire Chief (\$20,439 to \$21,626) be increased per month effective November 14, 2021, to bring their salaries in line with the median of the salaries of City/County department heads in comparable jurisdictions in the Bay Area.
Financial Implications: See report
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 70,107–N.S.
- 6. Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission**
From: City Manager
Recommendation: Adopt an Ordinance repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Item 6 continued to November 30, 2021.

Consent Calendar

- 7. Amendment to the Agreement for Maintenance of State Highways in the City between the California Department of Transportation and City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the Agreement with the California Department of Transportation (Caltrans) for maintenance of the State highways within the City of Berkeley. The amendment will address two new traffic signals; 1) the new traffic signal at the intersection of San Pablo Avenue and Parker Street which will be constructed by Kaiser Permanente as part of their project's mitigation measure, and 2) the new traffic signal constructed by Caltrans at the intersection of San Pablo Avenue and Bancroft Way.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,108–N.S.
- 8. Vision 2050: A Year of Progress to Creating Sustainable and Resilient Infrastructure for Berkeley**
From: City Manager
Recommendation: Accept the progress report on the 1-year anniversary of the Council's adoption of the Vision 2050 framework report.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Accepted the report.
- 9. Contract No. 31900031 Amendment: Downtown Streets Team**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 31900031 with Downtown Streets Team to add additional scope to address enhanced needs for services around encampments and neighborhoods, and increase the contract by \$355,000 for a new not to exceed amount of \$1,275,304, through June 30, 2022.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,109–N.S.
- 10. Purchase Order: Atlantic Machinery, Inc. for One Ravo Sweeper**
From: City Manager
Recommendation: Adopt a Resolution satisfying the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell contract bid procedures and authorizing the City Manager to execute a purchase order with Atlantic Machinery, Inc. for one (1) Ravo Sweeper in an amount not to exceed \$285,000.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,110–N.S.

Consent Calendar

11. **Filling Vacancies Among the Elected Representatives of the Poor**
From: Human Welfare and Community Action Commission
Recommendation: Adopt a Resolution confirming the appointments of Mr. George Lippman (District 3) as elected representatives of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC July 21, 2021 meeting, and that his term expire November 28, 2022.
Financial Implications: None
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400
Action: Adopted Resolution No. 70,111–N.S.

Council Consent Items

12. **Salary Adjustment for City Manager**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution to amend Resolution No. 69,998-N.S. (Classification and Salary Resolution for classifications in Representation Unit Z-1 Confidential and Executive Management Employees) to increase the salary of the City Manager from \$25,119 per month to \$32,180 per month effective November 14, 2021 to bring her salary in line with the median of the salaries of City/County Managers and Administrators in comparable jurisdictions in the Bay Area.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,112–N.S.
13. **Condemning Facebook/Meta for its Role in the Rise of Hate Crimes**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution condemning Facebook and its parent company Meta for failing to address mitigating hate speech while censoring efforts to promote awareness around hate crimes.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Revise the recommendation to read: “Adopt a Resolution condemning Facebook and its parent company Meta for giving hate speech a megaphone while censoring efforts to promote awareness around hate crimes.” Adopt Resolution No. 70,113–N.S. amended to add a resolved clause to state:

BE IT FURTHER AND FINALLY RESOLVED, that the Berkeley City Council calls on Facebook/Meta to update its policies to address hate speech and the proliferation of misinformation.

Council Consent Items

14. **Budget Referral: Curtis Street Traffic Diverters**
From: Councilmember Taplin (Author)
Recommendation: Refer to the November Annual Appropriation Ordinance the funding of traffic diverters at the following intersections: 1. Curtis Street and Channing Way and 2. Curtis Street and Addison Street.
Financial Implications: \$100,000
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation.

Action Calendar – Public Hearings

15. **Renewal of the Elmwood Avenue BID for Calendar Year 2022**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2021-22 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- Public Testimony:** The Mayor opened the public hearing. 0 speakers.
M/S/C (Arreguin/Wengraf) to close the public hearing.
Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.
- Councilmember Droste absent 9:13 p.m. – 9:17 p.m.
- Action:** M/S/C (Arreguin/Wengraf) to adopt Resolution No. 70,114-N.S. confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2021-22 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.
Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.

Action Calendar – Public Hearings

16. Renewal of the Solano Avenue BID for Calendar Year 2022

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2021-2022 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Financial Implications: See Report

Contact: Eleanor Hollander, Commission Secretary, (510) 981-7530

Public Testimony: The Mayor opened the public hearing. 0 speakers.
M/S/C (Hahn/Harrison) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,115-N.S. confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2021-2022 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Vote: All Ayes.

17. Fees: Vital Records

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adopting the Vital Records fee schedule adding a \$2.00 increase to the current fee for the issuance of each birth, death, and fetal death certificate. This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 2 speakers.
M/S/C (Arreguin/Hahn) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to adopt Resolution No. 70,116-N.S.

Vote: All Ayes.

Action Calendar – Public Hearings

18. Opt-In to Countywide Organics Reduction and Recycling Ordinance

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a first reading of an Ordinance adding Chapter 12.35 to the Berkeley Municipal Code opting in to the Alameda County Waste Management Authority's Organics Reduction and Recycling Ordinance with an effective date of January 1, 2022. This Ordinance will bring the City into compliance with the regulations of Senate Bill 1383: Short-lived Climate Pollutants Act of 2016.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

Public Testimony: The Mayor opened the public hearing. 0 speakers. M/S/C (Arreguin/Harrison) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Wengraf/Hahn) to adopt first reading of Ordinance No. 7,790-N.S. Second reading scheduled for November 30, 2021.

Vote: All Ayes.

Action Calendar – Continued Business

A. Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances *(Continued from November 9, 2021)*

From: Parks and Waterfront Commission

Recommendation: That Council adopt a Resolution adopting a policy that all Transient Occupancy Taxes (TOT hotel tax) generated at the Berkeley Waterfront be allocated to the City's Marina Enterprise Fund. All other property, sales, utility users, and parking taxes; as well as business license and franchise fees, would continue to be allocated to the City's General Fund.

Policy Committee Recommendation: Send the item to Council with a negative recommendation and additionally request a referral to the Budget & Finance Policy Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.

Financial Implications: See report

Contact: Roger Miller, Commission Secretary, (510) 981-6700

Action: 4 speakers. M/S/C (Arreguin/Harrison) to adopt the Policy Committee recommendation to refer to the Budget & Finance Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.

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

Councilmember Droste absent 9:55 p.m. – 10:55 p.m.

Public Comment – Items Not Listed on the Agenda - 1 speaker.

Adjournment

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

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

Adjourned at 10:55 p.m.

Communications – November 16, 2021

Vision Zero

1. 26 similarly-worded form letters

Automated License Plate Readers (ALPR)

2. 5 similarly-worded form letters
3. Elliot Halpern

Accessory Dwelling Unit

4. Jill Bond
5. Nancy Kates
6. Gene Meyers
7. Carla and Dolph Rempp
8. Sara Cox
9. Rocky Offner
10. Tom Hutcheson
11. Linda Polsby
12. Kenneth Yip
13. Pranab Bardhan
14. Cameron Woo
15. Russ Mitchell

BART Housing

16. 13 similarly-worded form letters
17. North Berkeley Neighborhood Alliance (2)
18. Paul Bickmore
19. Jeffrey Wescott
20. Gary Miguel
21. David Soffa
22. Teresa Clarke (2)

Building Electrification

23. Daniel Tahara
24. Igor Tregub, on behalf of Sierra Club

Bayer Development Agreement

25. Jennifer Lovvorn, secretary of the Civic Arts Commission

26. Kathryn Reasoner

27. Kim Anno

Berkeley Asphalt Company

28. Christopher Kroll (2)

29. Councilmember Kesarwani

30. Pear Michaels

31. Meryl Siegal

Plastic Bag Ordinance

32. Dexter Griffin

Vandalism in the Downtown Business District

33. Susie Kooyman

Fossil-Fuel Non-Proliferation Treaty

34. Martin Bourque, on behalf of the Ecology Center

Access to Drinking Water

35. David Lerman

Hope Center and Berkeley Way Apartments

36. John Parman

Violation of First Amendment

37. Nilang Gor

Intent to File Restraining Order

38. Mellissa Cheatwood

EV Charging

39. Tom Lent

40. Councilmember Harrison

Homeless Altercations with Business'

41. Haakon Thallaug, on behalf of Viking Trader

Downtown Berkeley Ambassadors

42. John Caner, CEO, Downtown Berkeley Association

Nevada Cares Campus Briefing

43. John Caner, CEO, Downtown Berkeley Association

Hazardous State of Berkeley Streets and Sidewalks

44. Sabina McMurtry

Surging Gun Violence in America

45. Paul Kealoha Blake

Climate News

46. Thomas Lord

Violation of Sanctuary Contracting Ordinance

47. Elana Auerbach

Grizzly Peak Traffic Speed

48. Joshua Bloom

Hopkins Street Proposals

49. Elsa Tranter

URL's Only

50. Vivian Warkentin

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

Item #12: Salary Adjustment for City Manager

51. Margot Smith

52. Kelly Hammargren

Supplemental Communications and Reports 3

Item #6: Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission

53. Benjamin Otten

Item #12: Salary Adjustment for City Manager

54. Berkeley Citizens Action

55. Linda Franklin

56. Phoebe Anne Sorgen

Item #A: Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

57. Gordon Wozniak, Chair, Parks & Waterfront Commission

City Manager Comments

Update on the Homeless Response Team

58. Presentation, submitted by the City Manager's Office