

**ANNOTATED AGENDA  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, December 8, 2020**

**4:00 P.M.**

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 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/82201220671>. 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: **822 0122 0671**. 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](mailto: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:** 4:03 p.m.

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

**Absent:** Kesarwani

Councilmember Kesarwani present at 4:04 p.m.

**Action:** M/S/C (Harrison/Bartlett) to accept an urgency item from Councilmember Harrison pursuant to Government Code Section 54954.2(b)(2) entitled Resolution Establishing Local Law Enforcement Policy Pursuant to the November 19, 2020 California Department of Public Health Limited Stay At Home Order and the December 3, 2020 Regional Stay At Home Order.

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

**Action:** M/S/C (Arreguin/Robinson) to accept revised materials from Councilmember Harrison on Item 1.

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

## Action Calendar

1. **Updates to the COVID-19 Emergency Response Ordinance** (*Continued from November 17, 2020. Item contains revised material.*)

**From:** 4x4 Joint Task Force Committee on Housing

**Recommendation:**

1. Adopt first reading of an ordinance (effective February 1) amending Berkeley Municipal Code 13.110, Title 13, "The COVID-19 Emergency Response Ordinance," to enhance emergency tenant protections consistent with recently adopted Alameda County laws, action in other jurisdictions, and consultation with community stakeholders representing marginalized groups.
2. Adopt a resolution, directing the City Manager to promptly issue a written statement, pursuant to Alameda County Municipal Code 6.120.110, affirming or declaring in writing that the City of Berkeley intends to "opt-out" of the County ordinance, enumerating the specific provisions of the County's ordinance from which the City intends to opt out, and including a finding that the City ordinance is stronger.

**Financial Implications:** See report

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

**Action:** 20 speakers. M/S/C (Harrison/Arreguin) to adopt Ordinance No. 7,743-N.S. as written in the revised materials submitted by Councilmember Harrison at the meeting with amendments in Section 13.110.040.B.1 (reference to state law), Section 13.110.050 (remove Ellis Act exemption), Section 13.110.050.C (intent to damage credit rating), and Section 13.110.080.B (changing "tenant" to "resident"). Second reading scheduled for December 15, 2020.

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

### **Urgency Item: Resolution Establishing Local Law Enforcement Policy Pursuant to the November 19, 2020 California Department of Public Health Limited Stay At Home Order and the December 3, 2020 Regional Stay At Home Order**

**From:** Councilmember Harrison

**Recommendation:** State Health officials have recently issued two vaguely worded Stay At Home Orders that closely resemble curfews. The State's Orders lack critical specificity regarding enforcement procedures and mechanisms. The Orders, if enforced vigorously, could disproportionately impact low-income people, unhoused people, and people of color, and have the potential to increase the frequency of interactions between law enforcement and marginalized and vulnerable communities.

The December 3, 2020 order was issued after the deadline for Council items and has the potential to immediately impact community members. In addition, the November 19, 2020 Order is currently in effect and warrants immediate Council action.

Data analyses suggest that the June 2020 curfew correlated with significant increases law enforcement racial disparities within Berkeley. Across the Bay Area, certain law enforcement leaders, including police chiefs and sheriffs, have stated they do not intend to indiscriminately and unconstitutionally stop people encountered away from home merely on suspicion of violating the State's curfew orders. It is in the public interest for the Council and City to adopt a similar policy.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Droste) to continue the item to December 15, 2020.

**Vote:** All Ayes.

## **Adjournment**

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

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

Councilmember Kesarwani absent at 6:00 p.m. – 6:02 p.m.

Adjourned at 6:02 p.m.

## **Communications**

### **Item #1: Updates to the COVID-19 Emergency Response Ordinance**

1. Matthew Lewis, on behalf of the Berkeley Tenants Union

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

**Resolution Establishing Local Law Enforcement Policy Pursuant to the November 19, 2020 California Department of Public Health Limited Stay At Home Order and the December 3, 2020 Regional Stay At Home Order**

2. Late agenda material, submitted by Councilmember Harrison

## **Supplemental Communications and Reports 3**

### **Item #1: Updates to the COVID-19 Emergency Response Ordinance**

3. Supplemental material, submitted by Councilmember Harrison
4. 13 similarly worded form letters
5. Mathew Lewis
6. Jane Doe
7. Moni Law
8. Sakura Sakura
9. Jeffrey Carter
10. Alfred Twu
11. Marc Janowitz
12. Judy MacLean
13. Barbara Stebbins
14. Kirsten Rose
15. Nancy Stark
16. Elsa Ramos

**Urgency Item: Resolution Establishing Local Law Enforcement Policy Pursuant to the November 19, 2020 California Department of Public Health Limited Stay At Home Order and the December 3, 2020 Regional Stay At Home Order**

17. Kitty Calavita