

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 20, 2022
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 captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/88667906480>. 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: **886 6790 6480**. 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

Roll Call: 6:27 p.m.

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

Absent: Bartlett

Councilmember Bartlett present at 6:59 p.m.

Ceremonial Matters:

1. Recognition of September as National Service Dog Month
2. Recognition of the 10th Anniversary of the Berkeley South Asian Radical History Walking Tour

City Manager Comments: None

Public Comment on Non-Agenda Matters: 5 speakers.

Report from Closed Session

On September 19, 2022, the City Council met in closed session and approved a settlement of the matter of People v. Leonard Felton Powell (Alameda County Superior Court Case No. RG15762567) for \$95,000 and a full release of claims. The City has also agreed to a common-sense improvement to its communication with property owners in the event that the City Council approves a petition for receivership in the future, namely that the City will compile a list of free or low-cost legal providers. In addition, the City Council will consider adopting a policy requiring notice during code enforcement proceedings regarding the receivership process. It is also important to note that as of June 11, 2019, it is the policy of the City that receivership should only be used when the property is a danger to the public, and as a last resort, and only upon approval of the Council. This settlement puts an end to protracted litigation, and Mr. Powell agrees that the City did not act beyond the scope of the Court's orders or engage in misconduct or mismanagement of the Receivership estate, and further agrees that this is an amicable resolution of his claims against the City.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 9 speakers.

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

Vote: All Ayes.

Consent Calendar

1. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

From: City Manager

Recommendation: Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, and July 26, 2022.

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

Action: Adopted Resolution No. 70,526–N.S.

2. 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, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, and August 23, 2022.

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

Action: Adopted Resolution No. 70,527–N.S.

3. Establish 2023 City Council Meeting Schedule

From: City Manager

Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2023, with starting times of 6:00 p.m.

Financial Implications: None

Contact: Mark Numainville, City Clerk, (510) 981-6900

Action: Adopted Resolution No. 70,528–N.S.

Consent Calendar

- 4. 2023 Tax Rate: Transportation Network Company User Tax**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the 2023 tax rate (effective January 1, 2023) for the transportation network company at the following rates: 53.775 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 26.249 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopt first reading of Ordinance No. 7,834–N.S. Second reading scheduled for October 11, 2022.
- 5. Contract No. 084349-1 Amendment: AMCS Group Inc. for Zero Waste PC Scale Software Maintenance and Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 084349-1 with AMCS Group, Inc. to provide additional maintenance support and professional services for the Public Works Department's Zero Waste Scale House in an amount \$45,000 for a total contract amount not to exceed \$261,282 and extending the term from July 1, 2022 through June 31, 2025.
Financial Implications: See report
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 70,529–N.S.
- 6. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$250,000 through December 31, 2023.
Financial Implications: Total FY 2023 Professional Services - \$250,000
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 70,530–N.S.

Consent Calendar

7. **Contract No. 105921-1 Amendment: TruePoint Solutions, LLC for Accela Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$195,000, for a total not-to-exceed amount of \$1,047,200 and extending the term by two years for the term beginning June 1, 2015 to June 30, 2024.
Financial Implications: See report
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 70,531–N.S.
8. **Contract: SCS Engineers for Landfill Post Closure Maintenance and Monitoring Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with SCS Engineers, in an amount not to exceed \$714,022, to provide engineering, maintenance, and monitoring services for the landfill to meet mandatory compliance requirements at Cesar Chavez Park, from January 1, 2023, to June 30, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,532–N.S.
9. **Contracts: Davey Resource Group, Inc., and HortScience Bartlett Consulting for On-Call Arborist Services**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call arborist services for capital improvement projects, each for a period of November 1, 2022, through December 31, 2025:
1. Davey Resource Group, Inc. for an amount not to exceed \$125,000.
2. HortScience Bartlett Consulting for an amount not to exceed \$125,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,533–N.S. (Davey); and Resolution No. 70,534–N.S. (HortScience).

Consent Calendar

10. **Contracts: On-Call Civil Engineering Services, CSW Stuber-Stroeh Engineering Group, Inc., HDR Engineering, Inc., LCC Engineering & Surveying, Inc., Mark Thomas & Company, Inc., Park Engineering, Inc., Pavement Engineering Inc., and SCI Consulting Group.**

From: City Manager

Recommendation: Adopt seven Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call civil engineering services for capital improvement projects, each for a period of November 1, 2022 through December 31, 2025:

1. CSW Stuber-Stroeh Engineering Group, Inc. for an amount not to exceed \$750,000.
2. HDR Engineering, Inc. for an amount not to exceed \$750,000.
3. LCC Engineering & Surveying, Inc. for an amount not to exceed \$1,500,000.
4. Mark Thomas & Company, Inc. for an amount not to exceed \$750,000.
5. Park Engineering, Inc. for an amount not to exceed \$1,500,000.
6. Pavement Engineering Inc. for an amount not to exceed \$1,500,000.
7. SCI Consulting Group for an amount not to exceed \$150,000.

Financial Implications: See report.

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

Action: Adopted Resolution No. 70,535–N.S. (CSW Stuber-Stroeh); Resolution No. 70,536–N.S. (HDR Engineering); Resolution No. 70,537–N.S. (LCC Engineering); Resolution No. 70,538–N.S. (Mark Thomas); Resolution No. 70,539–N.S. (Park Engineering); Resolution No. 70,540–N.S. (Pavement Engineering); and Resolution No. 70,541–N.S. (SCI Consulting).

11. **Contract No. 10350 (112199-1) Amendment: Technology, Engineering, and Construction, Inc. for Tank Maintenance and Certification Services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or designee to execute an amendment to Contract No. 10350 with Technology, Engineering and Construction, Inc. for the provision of tank maintenance and certification services, extending the contract term to June 30, 2024 and increasing the amount by \$100,000 for a total contract amount not to exceed \$250,000.

Financial Implications: See report

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

Action: Adopted Resolution No. 70,542–N.S.

Consent Calendar

- 12. Contract No. 31900085 Amendment: Syntech Systems, Inc. for a Fuel Management System and Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900085 with Syntech Systems, Inc. to provide ongoing service and support of infrastructure and software for the City's Fleet Fueling Program, increasing the contract amount by \$45,000 for a new not to exceed amount of \$231,472 and extending the contract term through June 30, 2025.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,543–N.S.
- 13. Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project**
From: City Manager
Recommendation: Adopt a Resolution: 1. Pursuant to City Charter Article XI Section 67.2 requirements, accepting the California Multiple Award Schedule (CMAS) bid procedures; 2. Approving the CMAS Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building; 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed \$177,218.68, which includes a contingency of \$23,115.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,544–N.S.

Council Consent Items

- 14. Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer to the City Attorney and City Manager to draft a HARD HATS Ordinance based on the policy terms outlined below and bring the Ordinance back to Council for action on December 13, 2022.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Approved recommendation.

Action Calendar – Public Hearings

15. Zoning Ordinance Amendments Making Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance containing technical edits, corrections and other non-substantive amendments to the following sections of the Zoning Ordinance:

- BMC Section 23.204.050 (C-C Zoning District)
- BMC Section 23.204.080 (C-E Zoning District)
- BMC Section 23.204.090 (C-NS Zoning District)
- BMC Section 23.204.130 (C-DMU District)
- BMC Section 23.206.050 (Protected Uses)
- BMC Section 23.304.030 (Setbacks)
- BMC Section 23.304.090 (Usable Open Space)
- BMC Section 23.322.030 (Required Parking Spaces)
- BMC Section 23.406.070 (Design Review)

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

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

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to adopt first reading of Ordinance No. 7,835–N.S. Second reading scheduled for October 11, 2022.

Vote: All Ayes.

Action Calendar – Old Business

16. Restoring and Improving Access to City of Berkeley Website and Archival Materials *(Continued from July 26, 2022) (Item contains revised materials)*

From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation:

1. Accept the report outlining results from consultation with the City Manager after introduction of this item and thank City Staff for their consideration.
2. As a means to support transparency and improve ease of access to historical/archival government records for policymakers, the press, and the general public, request that the City Manager continue developing and implementing measures that support efficient and effective searching, sorting, and identification of responsive materials through Records Online.
3. To support transparency and ease of access to government records, consider creating and disseminating a “style guide” with standards/conventions/protocols for accurately referencing and attaching City materials so they can be properly linked to or easily accessed in Records Online (or a successor/alternative program/database), allowing such materials to be referenced consistently by Councilmembers, Staff, members of the press, and other authors.

Action Calendar – Old Business

4. Refer to the November 2022 Budget Update up to \$50,000 for staff support for Council/Mayor offices to locate documents previously accessed via now-expired links, and request that the City Manager consult Councilmembers and the Mayor to offer the scope of assistance available and identify potential needs.
5. As a means to support transparency and restore ease of access to City materials referenced/attached via now-broken links in City reports, plans, items, and other documents created prior to launch of the new City website, request that the City Manager consider updating key plans, programs and reports by creating and linking PDFs of previously linked documents and/or substituting broken links with footnotes/references in a standard format allowing referenced and attached materials to be quickly/directly located through Records Online (or a successor/alternative program/database).
6. To better fulfill the requirements of the City of Berkeley's Open Government Ordinance, request the City Manager retain materials such as Council, Committee, and Commission agendas, minutes, recordings, and other official documents on the website for a period at least 4 years, and preferably longer, before retiring them to Records Online.

Financial Implications: Staff time

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: Moved to Consent Calendar. Approved recommendation.

Action Calendar – New Business

17. Extending Community Agency Contracts for One Year at Existing Levels and Postponing the Community Agency Request for Proposal (RFP) Process Until Fiscal Year 2024

From: City Manager

Recommendation: Adopt a Resolution that extends all existing community agency contracts under the community agency Request for Proposal (RFP) process for one year, at current baseline one-year funding, and postpone the four-year Community Agency's RFP process for one fiscal year, to FY2024, with new contracts to start in FY2025.

Financial Implications: See report

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

Action: Moved to Consent Calendar. Adopted Resolution No. 70,545–N.S.

18. Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight

From: City Manager

Contact: Peter Radu, City Manager's Office, (510) 981-7000

Action: Moved to Consent Calendar. Received and filed.

Information Reports

19. Update on the Implementation of Fair and Impartial Policing Task Force Recommendations

From: City Manager

Contact: Jennifer Louis, Police, (510) 981-5900

Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 0 speakers.

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.

Councilmember Droste absent 8:07 p.m. – 8:08 p.m.

Adjourned at 8:08 p.m.

Communications

Transfer Station

1. David Lerman

IKE Kiosks

2. Cecilia Mayer
3. Allen Mayer
4. Cynthia Whiting
5. Jinny Wong

King and West Campus Pool

6. Pamela Michaud (2)

People's Park

7. Martha Vognar
8. Miranda Winther

Wildfire Prevention

9. Bruce Feingold

Poet Laureate Position

10. Rafael Jesus Gonzalez
11. Sharon Coleman

Problem Fraternity House at 2344 Fulton Street

12. Dan Auten

72-Hour Parking Rule Complaint

13. Kris Ho

Heat Wave and Seniors

14. David Lerman (2)

15. Tanya Bustamante, Manager of Aging Services Division

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

- None

Supplemental Communications and Reports 3

Item #3: Establish 2023 City Council Meeting Schedule

16. Barbara Gilbert

Item #14: Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral

17. Igor Tregub, on behalf of the Alameda County Democratic Party