

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, January 29, 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

Preliminary Matters

Roll Call: 6:06 p.m.

Present: Bartlett, Davila, Droste, Hahn, Harrsion, Kesarwani, Robinson, Wengraf, Arreguin.

Absent: None.

Ceremonial Matters:

1. Proclamation recognizing Roe v Wade
2. Proclamation recognizing Max Dreskin

City Manager Comments: None

City Auditor Comments:

The City Auditor noted Item 20, the Code Enforcement Audit, and the significant progress made on the recommendations. The City Auditor also noted that Item 7 Guidelines for City Council Items is a positive step related to the audit recommendations that more analysis of staffing impacts is warranted for new programs and ordinances.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 6 speakers.

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

Vote: All Ayes.

Consent Calendar

- 1. Authorize Participation in State of California No Place Like Home Competitive Funding and Commit Mental Health Services for Future Tenants of the Proposed Berkeley Way Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing and directing the City Manager to submit applications to the State of California's No Place Like Home (NPLH) housing program's competitive application and enter into the program's required agreements, and committing to providing mental health services for residents of the funded units for at least 20 years.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 68,747–N.S.
- 2. Authorizing Acceptance of Mental Health Services Oversight and Accountability Commission Mental Health Triage Children's Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a grant agreement with the Mental Health Services Oversight and Accountability Commission (MHSOAC) and any amendments in the amount of \$216,099 and authorize the use of Medi-Cal and Early Periodic Screening, Detection and Treatment (EPSDT) matching funds of \$145,996 to staff crisis services at Berkeley High School for the period 2/1/2019 through 1/30/2022.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 68,748–N.S.
- 3. Memorandum of Understanding with Alameda County Behavioral Health Care Services to Fund Construction Costs for Wellness Center**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to adopt a Memorandum of Understanding (MOU) between the City of Berkeley and Alameda County Behavioral Health Care Services (ACBHCS) for the term February 1, 2019 through June 30, 2020 for an expenditure of up to \$750,000 to fund the constructions costs of a Mental Health Wellness Center (Wellness Center) located in the City of Berkeley.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
Action: Adopted Resolution No. 68,749–N.S.

Consent Calendar

- 4. Contract No. 6096F Amendment: IBM Hardware and Software Lease**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 6096F with ESI Group for leasing, maintenance, technical support, and consulting services for International Business Machines (IBM) hardware lease and software maintenance and support, increasing the current contract by \$352,000, for a total not to exceed \$2,034,769 from June 2, 2003 through June 30, 2021.
Financial Implications: See report
Contact: Savita Chaudhary, Information Technology, 981-6500
Action: Adopted Resolution No. 68,750–N.S.
- 5. Contract: Pacific Trenchless, Inc. for Sanitary Sewer Rehabilitation and Replacement at Various Locations**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project, located on Bancroft Way, Allston Way, Byron Street, West Street, Masonic Avenue, Santa Fe Avenue, Fifth Street, and Le Conte Avenue; accepting the bid of the lowest responsive and responsible bidder, Pacific Trenchless, Inc. (Pacific Trenchless); and 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 approved plans and specifications, in an amount not to exceed \$2,434,400.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,751–N.S.
- 6. Contract: B-Bros Construction Inc. for Adult Mental Health Services Center Renovation Project at 2640 Martin Luther King Jr Way**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for the Adult Mental Health Services Center Renovation Project, Specification No.19-11267-C; 2. Accepting the bid of B-Bros Construction Inc. as the lowest responsive and responsible bidder; and 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 approved plans and specifications, for an amount not to exceed \$4,886,293.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
Action: Adopted Resolution No. 68,752–N.S.

Council Consent Items

7. Guidelines for Developing and Writing Council Agenda Items

From: Councilmember Hahn and Mayor Arreguin

Recommendation: Adopt a Resolution amending the City Council Rules of Procedure and Order to include “Appendix B. Guidelines for Developing and Writing Council Items.”

Financial Implications: None

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

Action: Moved to Action Calendar. 3 speakers. M/S/C (Arreguin/Hahn) to:

- 1) Adopt Resolution No. 68,753–N.S. with Appendix B revised as noted below:
 - Section 3 modified to strike “to be taken” and added a new bullet to read, “Refer to a Council policy committee”
 - Section 8 added a new bullet to read, “If an ordinance is to be adopted the City Attorney should be consulted as to form and legality.”
 - Section 12 added “...and potential sources of funding.”
- 2) Referred to the Agenda and Rules Committee to consider amendments to the Guidelines related to opportunity costs and amendments to the Rules of Procedure related to automatic referrals of ordinances to policy committees.

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

8. Support for SB 24 (Public University Student Health Centers)

From: Councilmembers Droste, Kesarwani, Wengraf and Hahn

Recommendation: That the Berkeley City Council send a letter supporting SB 24, which will require student health care centers on California State University and University of California campuses to offer abortion by medication techniques by 2023.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Approved recommendation.

9. Support for SB 42 (Getting Home Safe Act)

From: Councilmembers Droste, Hahn, Kesarwani and Bartlett

Recommendation: That the Berkeley City Council send a letter supporting SB 42, the Getting Home Safe Act, which would address dangerous, late night releases from county jails.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Approved recommendation.

Council Consent Items

10. Support for AB 68 (Accessory Dwelling Units)

From: Councilmembers Droste and Bartlett

Recommendation: That the Berkeley City Council send a letter supporting AB 68, Accessory Dwelling Units, authored by Assemblymember Phil Ting which seeks to streamline Accessory Dwelling Units, also known as granny flats or in-law units, in order to encourage new housing units across the state.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Item 10 removed from the agenda by Councilmember Droste

11. Support for AB 69 (Accessory Dwelling Units)

From: Councilmembers Droste and Bartlett

Recommendation: That the Berkeley City Council send a letter supporting AB 69, Accessory Dwelling Units, authored by Assemblymember Phil Ting which will create a Small Home Building Standard Code to provide guidelines for the construction of ADUs.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Item 11 removed from the agenda by Councilmember Droste

Council Consent Items

**12. Vision Zero: eliminating pedestrian, bicyclist and traffic injuries and fatalities
From: Councilmembers Droste, Kesarwani, Wengraf and Mayor Arreguin
Recommendation:**

1. Create an official Vision Zero Task Force (or Leadership Committee) to lead the planning and implementation effort for Vision Zero. The Task Force should include, at a minimum, representatives from the City Manager's office, Police, Public Works (Transportation and Engineering Divisions), Fire, and Public Health (visionzeronetwork.org).
2. Request that the City Manager hold community events to encourage equitable outcomes, cooperation and collaboration from community stakeholders to set shared goals and focus on coordination and accountability. Representatives from various commissions, including but not limited to Transportation, Disability, Aging, and Health, should be encouraged to attend and provide input.
3. Request that the City Manager hold a worksession where a Vision Zero Action Plan is presented for eliminating fatal and severe traffic injuries. Subsequent to the worksession, request that biannual informational updates on Vision Zero progress are reported to Council. The Action Plan should establish clear strategies, owners of each strategy, interim targets, timelines, & performance measures (visionzeronetwork.org).

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action: Approved recommendation as revised in Supplemental Communications Packet #2 to add the following language to the recommendation:

Refer to the budget process an allocation of \$207,150 to support a full time staff position to carry out Vision Zero workplan, staff the Task Force, etc.

Action Calendar – Public Hearings

13. Implement Residential Preferential Parking (RPP) Program on Sections of Fifth Street and Martin Luther King Jr. Way

From: City Manager

Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25J and 25P by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

Public Testimony: The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Droste) to close the public hearing.

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

Councilmember Harrison absent 7:54 p.m. – 7:58 p.m.

Councilmember Wengraf absent 7:54 p.m. – 7:58 p.m.

Action: M/S/C (Hahn/Robinson) to adopt Resolution No. 68,754–N.S.

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

Recess 7:58 p.m. – 8:16 p.m.

Action Calendar – Public Hearings

14. ZAB Appeal: 1155-1173 Hearst Ave

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution to affirm the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units; and dismiss the appeal.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, 981-7400

Public Testimony: The Mayor opened the public hearing. 22 speakers.

M/S/C (Arreguin/Hahn) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:20 p.m.

Vote: All Ayes.

Action: M/S/Failed (Wengraf/Droste) to continue the item to a later date to clarify the CEQA, rent control, and drainage issues.

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

Action: M/S/Carried (Hahn/Arreguin) to remand the project to the Zoning Adjustments Board to undertake further CEQA analysis, review the project based on CEQA findings, and analyze the detriment to rent-controlled units.

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

15. Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus) (Continued from September 25, 2018. Item contains revised material.)

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion, adopt the first reading of Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, 981-7400

Action: M/S/C (Arreguin/Wengraf) to hold over Item 15 to February 19, 2019.

Vote: All Ayes.

Action Calendar

16a. Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27

From: Commission on Labor

Recommendation: Adopt first reading of an Ordinance proposing revisions to Berkeley's Living Wage Ordinance, BMC Chapter 13.27, revising Sections .020, .050, .070, .080 and .090 and adding Sections .045, .110, .120, .130, and .140 to make the application and administration of the LWO consistent with the MWO where appropriate, and modifying Sections .040 and .050 to 1) limit waivers of the LWO for a maximum of one year, and 2) clarifying when employees covered by the LWO are entitled to receive the cash value of the health care benefit.

Financial Implications: None

Contact: Delfina Geiken, Commission Secretary, 981-5400

16b. Companion Report: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending BMC Chapter 13.27, which proposes: 1) adding a definition of "Department" in Section 13.27.020, 2) limiting new waivers of the LWO to one year in Section 13.27.040, 3) clarifying language related to wages and benefits in the Section 13.27.050 and adding Section 13.27.110 related to severability.

Financial Implications: None

Contact: Kelly Wallace, Housing and Community Services, 981-5400

Action: Items 16a and 16b held over to February 19, 2019.

17. Adopt a resolution to denounce and oppose white nationalist and neo-Nazi groups including their actions

From: Councilmember Davila and Councilmember Bartlett

Recommendation: Adopt a resolution denouncing and opposing, in words and actions, white nationalist and neo-Nazi groups including their actions in the City of Berkeley.

Financial Implications: None

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

Action: 3 speakers. M/S/C (Wengraf/Hahn) to refer the item to the Agenda & Rules Committee for review and to make a recommendation to City Council.

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

Action Calendar

18. **Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission** *(Continued from the November 13, 2018 agenda. Item contains revised material.)*
From: Councilmembers Worthington, Davila, Harrison, and Bartlett
Recommendation: That the City Council adopt the attached Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission. This ordinance prohibits the award of city contracts to vendors acting as ICE data brokers, or those providing extreme vetting services.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
Action: Item 18 held over to February 26, 2019.

Information Reports

19. **City Council Short Term Referral Process – Monthly Update**
From: City Manager
Contact: Mark Numainville, City Clerk, 981-6900
Action: Received and filed.
20. **Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight from June 26, 2018 - December 31, 2018**
From: City Manager
Contact: Dee Williams-Ridley, City Manager, 981-7000
Action: Received and filed.
21. **Referral Response: Support for Berkeley Nonprofit Service Providers**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
Action: Received and filed.
22. **Referral Response: Establishment of a Festival Grants Program**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
Action: Received and filed including revised material in Supplemental Communications Packet #2.
23. **Planning Commission Workplan 2018-2019**
From: Planning Commission
Contact: Alene Pearson, Commission Secretary, 981-7400
Action: Received and filed.

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

Adjournment

Action: M/S/C (Harrison/Bartlett) to adjourn the meeting in memory of:

1. Palestinians that have died recently
2. Victims in Florida

Vote: All Ayes.

Adjourned at 10:54 p.m.

Communications

Item #14: ZAB Appeal: 1155 – 1173 Hearst Ave.

1. Yashu Jiang
2. Mariana Almeida
3. Pam Ormsby (2)
4. Dale Anania
5. Tracey Emerson

Homeless Encampments & Public Safety

6. Cheryl Brewster
7. David Lerman (2)
8. BPD Office Brandon
9. Amy Hill
10. Lisa Lum & Michael Hohmeyer

Berkeley Considers – Give Input on Electric Vehicles

11. Eric Friedman

Tobacco

12. Michelle Albert, on behalf of the American Heart Association

West Berkeley Senior Center

13. Todd Jersey

Shellmound Street Exit Clean-Up

14. Joe Vollono
15. BPD Officer Brandon

Cannabis – The Apothecrium

16. Maryclare McCauley
17. Rob Nachtwey

Trees – People's Park

18. Carol Denney
19. Unknown

20. Bob Hunt

Utility Undergrounding and Loss of Communications Choice

21. Bryce Nesbitt

22. Susan Wengraf, Councilmember District 6

ADU

23. Joann Sullivan

Supplemental Communications and Reports 1

Item #12: Vision Zero: Eliminating Pedestrian, Bicyclist and Traffic Injuries and Fatalities

24. Noah Nathan

Item #14: ZAB Appeal: 1155-1173 Hearst Ave

25. Guy Sussman

26. Rain Sussman

Supplemental Communications and Reports 2

Item #12: Vision Zero: Eliminating Pedestrian, Bicyclist and Traffic Injuries and Fatalities

27. Revised materials, submitted by Councilmember Droste

Item #14: ZAB Appeal: 1155-1173 Hearst Ave

28. Lena Nitsan

29. Libby Lee-Egan

30. Rhiannon

31. Julia Cato

32. Berkeley Tenants Union

Item #18: Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission

33. Janice Greenberg

Item #22: Referral Response: Establishment of a Festival Grants Program

34. Revised materials, submitted by Office of Economic Development

Item #12: Vision Zero: Eliminating Pedestrian, Bicyclist and Traffic Injuries and Fatalities

35. 224 Communications submitted via Berkeley Considers, includes summary information.

Supplemental Communications and Reports 3

Item #10: Support for AB 68 (Accessory Dwelling Units)

36. Claudia Kawczynska

37. Cameron Woo

Item #12: Vision Zero: Eliminating Pedestrian, Bicyclist and Traffic Injuries and Fatalities

38. Marjorie Alvord

Item #14: ZAB Appeal: 1155-1173 Hearst Ave

39. Presentation, submitted by the Planning Department

40. Tracey Emerson

41. Rain Sussman (2)

42. Barbara Gilbert

43. Terraphase Engineering

44. Kamman Hydrology & Engineering

Item #15: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)

45. Rhiannon

Miscellaneous

Refuse Collection Overcharge

46. Jae and Adena Chung