

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, February 9, 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 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/85472979547>. 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: 854 7297 9547. 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 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:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Amendment: FY 2021 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,748-N.S. amending the FY 2021 Annual Appropriations Ordinance No. 7,724–N.S. for fiscal year 2021 based upon recommended re-appropriation of committed FY 2020 funding and other adjustments authorized since July 1, 2020, in the amount of \$197,890,469 (gross) and \$193,471,132 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 2. Amendments to the Berkeley Lobbyist Registration Act; Amending Berkeley Municipal Code Chapter 2.09**
From: Open Government Commission
Recommendation: Adopt second reading of Ordinance No. 7,749-N.S. amending the Berkeley Lobbyist Registration Act (BMC Chapter 2.09) to incorporate the recommendations of the Open Government Commission (OGC).
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
- 3. Extending Time for Temporary Parklets and Sidewalk Seating Post-COVID-19; Amending Berkeley Municipal Code Chapter 16.18 and Section 14.48.150**
From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,750-N.S. revising BMC Chapter 16.18 Right-of-Way Encroachments and Encroachment Permits and BMC Section 14.48.150 Sidewalk Seating, Benches, and Planters to extend the period of time that Parklets and Sidewalk Seating established under the COVID-19 declared City emergency can remain in place to 365 days after the termination of the declared City emergency rather than the current 90 days.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Consent Calendar

- 4. Referral Response: Zoning Ordinance Amendments that Reform Residential Off-Street Parking; Amending Berkeley Municipal Code Title 14 and Title 23**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,751-N.S. amending Berkeley Municipal Code (BMC) Title 14 and Title 23 which would:

 1. Modify Minimum Residential Off-street Parking Requirements
 2. Impose Residential Parking Maximums in Transit-rich Areas
 3. Amend the Residential Preferential Parking (RPP) Permit Program
 4. Institute Transportation Demand Management (TDM) Requirements

First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

- 5. Amend BMC Chapter 14.52 Authorizing goBerkeley Parking Program at All Parking Meters**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,752-N.S. amending Berkeley Municipal Code (BMC) Chapter 14.52 to add all parking meter areas to the goBerkeley parking program, thereby authorizing the use of demand-responsive parking management citywide under the existing goBerkeley fee structure and program guidelines.
First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

- 6. 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 and December 15, 2020.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950

- 7. Donation to the Animal Shelter from the Stephen and Mary Birch Foundation**
From: City Manager
Recommendation: Adopt a Resolution accepting a donation from the estate of Stephen and Mary Birch in the sum of \$10,000.
Financial Implications: Animal Services Donation Fund - \$10,000 (donation)
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

Consent Calendar

8. **Contract No. 081263-1 Amendment: Claremont Behavioral Services for Employee Assistance Program Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 081263-1 with Claremont Behavioral Services (Claremont) in order to provide continued services for the Employee Assistance Program (EAP) by increasing expenditure authority in an amount not to exceed \$500,000, for a total contract amount of \$1,635,000, through December 31, 2025.
Financial Implications: Payroll Deduction Trust Fund - \$500,000
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

Council Consent Items

9. **Installation of Banners Marking “Kala Bagai Way”: Relinquishment of Council Office Budget Fund to General Fund and Grant of Such Funds**
From: Mayor Arreguin (Author), Councilmember Droste (Author), Councilmember Hahn (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Adopt a resolution approving the expenditure of an amount not to exceed \$500 per council member, including \$500 from Mayor Arreguin, to the Downtown Berkeley Association with funds relinquished to the City’s general fund for this purpose from the discretionary council office budget of Mayor Arreguin and any other council members who would like to contribute.
Financial Implications: Mayor's Discretionary Funds - \$500
Contact: Jesse Arreguin, Mayor, (510) 981-7100
10. **Housing Trust Fund Reservation to rehabilitate low income housing in South Berkeley**
From: Mayor Arreguin (Author), Councilmember Bartlett (Author)
Recommendation: Adopt a resolution reserving \$560,000 from the Housing Trust Fund to the South Berkeley Neighborhood Development Corporation for urgently needed housing rehabilitation at two low income housing complexes: Rosewood Manor and Lorin Station Apartments.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
11. **Proclaiming February Black History Month and Authorizing City Manager to Fly the Black Lives Matter Flag**
From: Mayor Arreguin (Author), Councilmember Taplin (Author), Councilmember Bartlett (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution Proclaiming February as Black History Month and Authorizing the City Manager to fly the Black Lives Matter Flag every year at the Civic Center throughout the month of February.
Financial Implications: Staff time
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

12. Support Affirming the Right to Boycott as a Tactic for Social and Political Change *(Reviewed by the Agenda & Rules Committee)*

From: Councilmember Davila (Author)

Recommendation: Adopt a Resolution with the following actions: 1. Support Affirming the Right to Boycott as a Tactic for Social and Political Change, and celebrate the People of Berkeley for their commitment to Peace, Justice and Equity; 2. The City of Berkeley affirms the right of all people to participate in boycotts of any entity when they have conscientious concerns with the entity's policies or actions; 3. The City of Berkeley condemns attempts by governments to infringe upon the right to peaceful boycotts by criminalizing that participation, denying participants state contracts, or otherwise impeding the freedom of advocacy for all; 4. The City Council encourages City Commissions to recommend boycott policies to the City Council when appropriate, so that the City Council may be well informed in its oversight of City resources 5. Send a copy of this resolution to Governor Gavin Newsom, Attorney General Xavier Becerra, State Assemblymember Buffy Wicks, State Senator Nancy Skinner, United States Senators Bernie Sanders, Kamala Harris, Dianne Feinstein, and United States Congressional Representatives Barbara Lee, Ro Khanna, Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, Rashida Harbi Tlaib, and Pramila Jayapal.

(On January 11, 2021, the Agenda and Rules Committee moved the item to the full Council with a Negative Recommendation and recommend that the Council take no action on the item.)

Financial Implications: None

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

13. Right to Choose Communications Services Provider

From: Councilmember Droste (Author), Mayor Arreguin (Author), Councilmember Taplin (Author), Councilmember Robinson (Author)

Recommendation: Refer to the City Manager and City Attorney to explore, and if deemed feasible, draft ordinance language to clarify that property owners of multi-unit properties cannot interfere with tenants' choice of communications services providers.

The City of San Francisco has implemented such an ordinance, which has since been challenged. This recommendation requests the City Attorney to review the San Francisco law and Federal Communications Commission rulings pertaining to this topic to determine if Berkeley could effectively adopt a similar ordinance.

Financial Implications: See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Action Calendar

The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

- 14. Second Substantial Amendments to 1) the 2020-2025 Consolidated Plan including the PY20 (FY21) Annual Action Plan in Response to the Addition of Coronavirus Aid, Relief, and Economic Security (CARES) Act Funds, and 2) the PY19 (FY20) Annual Action Plan**
From: City Manager
Recommendation: Conduct a Public Hearing on: 1. The proposed Substantial Amendment to the 2020-2025 Consolidated Plan including the PY20 (FY21) Annual Action Plan in response to the addition of Coronavirus Aid, Relief, and Economic Security (CARES) Act funds; and 2. A proposed substantial amendment to the PY19 (FY20) Annual Action Plan;
And upon conclusion adopt a Resolution authorizing the City Manager, or her designee, to:
- A. Accept CARES Act Community Development Block Grant-CV3 funding totaling \$891,121 and allocate the full amount allowable under the HUD waiver to public services (\$712,897), and up to 20% to Planning and Administration (\$178,224);
 - B. Allocate all CDBG-CV3 public services funding (\$712,897) to support the Berkeley Housing Retention program;
 - C. Reallocate up to \$1.2M of CDBG-CV1 funds previously allocated to COVID-19 Testing to support the Berkeley Housing Retention Program, leaving up to \$200,000 in CDBG-CV1 funding available for COVID-19 testing or vaccinations if needed;
 - D. Execute resultant agreements and amendments with the Eviction Defense Center for the COVID-19 Housing Retention Program, using \$1,801,541 in CDBG-CV1 & 3, plus any unused CDBG-CV1 funds allocated to the Targeted Equity Testing program (up to \$200,000) for a total possible not-to-exceed contract amount of \$2,001,541;
 - E. Allocate up to 25% of the PY20 HOME allocation for program administration, up to 10% of the PY20 HOME funds for Community Housing Development Organization (CHDO) operating funds, and the remaining funds to the Housing Trust Fund;

Action Calendar – Public Hearings

F. Reallocate \$535,633 in PY20 CDBG Housing Services funds, \$1,049,370 PY19 CDBG Community Facility Improvement funds, and \$378,230 in available uncommitted funds to the South Berkeley Neighborhood Development Corporation for housing rehabilitation at Rosewood Manor and Lorin Station Apartments and execute resultant agreements, as contained in Exhibits A and B;
G. Update the PY20 CDBG and HOME entitlement allocations to reflect the revised HUD PY20 entitlement awards; and
H. Submit the approved Second Substantial Amendments to the 2020-2025 Consolidated Plan/PY20 Annual Action Plan and the PY19 Annual Action Plan, including public comments, to the U.S. Department of Housing and Urban Development (HUD), and accept any resulting agreements with HUD.

Financial Implications: See report

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

15. **Referral Response: Amendments to the Home Occupations Ordinance; Amending BMC Sub-Titles 23C, 23D, 23E, and 23F** *(Continued from December 15, 2020. Item contains revised material.)*

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending the Zoning Ordinance to streamline the permitting process for Home Occupations and amending Berkeley Municipal Code Chapter 23C.16 Home Occupations, Chapter 23E.84 MU-R Mixed Use-Residential District Provisions, Chapter 23F.04 Definitions, and Use Tables in Applicable Zoning Districts.

Financial Implications: See report

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

Action Calendar – Old Business

16. **Vote of No Confidence in the Police Chief** *(Continued from November 10, 2020)*
From: Councilmember Davila (Author)

Recommendation: Adopt a resolution taking a Vote of No Confidence in the Police Chief.

Financial Implications: See report

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

Information Reports

17. **LPO NOD: 1 Orchard Lane/#LMIN2020-0006**

From: City Manager

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

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 28, 2021.***

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing through [Records Online](#).*

### **Reopening Schools**

1. Mati Teiblum
2. Rainbow Rubin

### **Covid-19 and Vaccinations**

3. David Lerman (2)
4. J. Wilkes
5. Donna Mickleson

### **San Pablo Tennis Courts**

6. Brian Mangold

### **2435 San Pablo**

7. Whit Ingram
8. naomipilar@
9. Virginia Warheit

### **Payson House**

10. Bernard Marszalek

### **Childcare Providers**

11. Devvin Purnell

### **Homelessness**

12. Rachel Gorham
13. Thomas Lord (2)

### **People's Park**

14. Ivar Diehl and Siobhan Lettow

### **Threats of Violence**

15. Barbara Fisher

### **Cannabis**

16. Getting It Right From the Start

### **Civic Center Buildings – Arts and Cultural Uses**

17. Jennifer Lovvorn, Chief Cultural Affairs Officer/Civic arts Program

### **Vision 2025**

18. Nilang

**Greta Thunberg, Environmentalist**

19. Thomas Lord

**Police Accountability**

20. Racial and Criminal Justice Reform Group

**LRDP Update Housing Projects #1 and #2**

21. Carrie Olson, on behalf of the Berkeley Architectural Heritage Assoc.

**TOPA**

22. Jenny Johnston

**URL's Only**

23. Russbumper (2)

24. Vivian Warkentin (3)

**Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.

