

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, October 3, 2023
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

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 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

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.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1600539994> 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 **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 053 9994**. 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 meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. 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: 6:11 p.m.

Present: Kesarwani, Harrison, Hahn, Wengraf, Robinson, Humbert, Arreguin

Absent: Taplin, Bartlett

Councilmember Taplin present at 6:22 p.m.

Councilmember Bartlett present at 6:27 p.m.

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters:

1. Recognition of Dysautonomia Awareness Month
2. Recognition of Indigenous Peoples Day, October 9, 2023
3. Adjourned in Memory of Christopher Adams, Former City Commissioner
4. Adjourned in Memory of Maura Ghizzoni, Berkeley Resident

City Auditor Comments:

The City Auditor condemned the recent incidents of hate speech at public meetings and thanked the Council for their response to the incidents.

City Manager Comments: None

Public Comment on Non-Agenda Matters: 20 speakers.

Recess 7:26 p.m. – 7:49 p.m.

Public Comment by Employee Unions: 1 speaker.

Action: M/S/C (Arreguin/Humbert) to accept an urgency item from Councilmember Wengraf pursuant to Government Code Section 54954.2(b)(2) entitled Resolution Re-Affirming City of Berkeley's Condemnation of Anti-Semitism and Other Expressions of Hate Speech.

Vote: All Ayes.

Public Comment on Consent Calendar and Information Items Only: 12 speakers.

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

Vote: All Ayes.

Consent Calendar

Urgent Item: Resolution Re-Affirming City of Berkeley's Condemnation of Anti-Semitism and Other Expressions of Hate Speech

From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation: Adopt a Resolution Re-Affirming the City of Berkeley's Condemnation of Anti-Semitism and all forms of Hate Speech.

Financial Implications: None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Action: Adopted Resolution No. 71,058–N.S.

1. **Utility Easement: Bolivar Drive – East Bay Municipal Utility District**

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,883–N.S. authorizing and directing the City Manager to convey a utility easement to the East Bay Municipal Utility District along Bolivar Drive at Aquatic Park.

First Reading Vote: Vote: All Ayes.

Financial Implications: None

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action: Adopted second reading of Ordinance No. 7,883–N.S.

Consent Calendar

- 2. 2024 Tax Rate: Transportation Network Company User Tax**
From: City Manager
Recommendation: Adopt a second reading of an Ordinance No. 7,886–N.S. setting the 2024 tax rate (effective January 1, 2024) for the transportation network company at the following rates: 56.162 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 27.424 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.
First Reading Vote: Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Adopted second reading of Ordinance No. 7,886–N.S.
- 3. Authorizing a Lease of 830 University Avenue to Lifelong Medical Care**
From: City Manager
Recommendation: Adopt a second reading of an Ordinance No. 7,887–N.S. authorizing the City Manager to enter into a lease for 830 University with Lifelong Medical Care (Lifelong).
First Reading Vote: Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Harrison.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted second reading of Ordinance No. 7,887–N.S.
- 4. Police Accountability Board – Appointment of New Member**
From: City Manager
Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Robinson.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 71,059–N.S.
- 5. Revenue Contract with City of Emeryville for Animal Care Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a revenue contract and all necessary amendments with the City of Emeryville for a term of 33 months (Oct 6, 2023 – June 30, 2026) at a total amount not to exceed \$235,548.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 71,060–N.S.

Consent Calendar

6. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 3, 2023

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: See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300

Action: Approved recommendation.

7. Contract No. 9791 Amendment: Environmental Systems Research Institute, Inc. (ESRI) for Enterprise Graphical Information Systems (GIS) Software License Maintenance and Support

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9791 with Environmental Systems Research Institute, Inc. (Esri) for Enterprise GIS software license maintenance and support, increasing the amount by \$279,750 for a not-to-exceed total of \$900,750 for the period of July 1, 2023 through June 30, 2026.

Financial Implications: See report

Contact: Kevin Fong, Information Technology, (510) 981-6500

Action: Adopted Resolution No. 71,061–N.S.

8. Contract No. 114382-1 Amendment: M.C. Dean for UPS Maintenance

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 114382-1 with M.C. Dean, Inc. for Uninterrupted Power Supply (UPS) maintenance, increasing the amount by \$115,016 for a total not to exceed \$261,922 from July 1, 2014 to June 30, 2026.

Financial Implications: IT Cost Allocations Fund - \$115,016.

Contact: Kevin Fong, Information Technology, (510) 981-6500

Action: Adopted Resolution No. 71,062–N.S.

Action Calendar – Public Hearings

9. Ambulance Transport Fee Increase

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective July 1, 2023, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 70,726–N.S.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

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/Robinson) to adopt Resolution No. 71,063–N.S.

Vote: All Ayes.

10. Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development (Continued from September 19, 2023) (Item contains revised and supplemental material)

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.

Financial Implications: See report

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

Action: M/S/C (Arreguin/Kesarwani) to re-open the public hearing. 11 public speakers.

Vote: All Ayes.

Action: M/S/C (Arreguin/Taplin) to suspend the rules and extend the meeting to 11:15 p.m.

Vote: All Ayes.

Action: M/S/Carried (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #1 regarding the front setback as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.

Vote: All Ayes.

Action Calendar – Public Hearings

Action: M/S/Failed (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #2 regarding the time restrictions for conversions.

Vote: Ayes – Hahn, Wengraf; Noes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin.

Action: M/S/Carried (Wengraf/Hahn) on the severed portion of the substitute motion to accept Policy Alternative #3 regarding neighbor noticing.

Vote: All Ayes.

Action: M/S/Failed (Wengraf/Hahn) to:

- 1) Adopt the Ordinance as proposed by the Planning and Development Department in Supplemental Communications Packet #2 for the October 3, 2023 meeting.
- 2) Adopt Policy Alternatives 1 and 3
- 3) Keep the height requirements as proposed by staff (not adopting 20-foot uniform height standard citywide).
- 4) Refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.
- 5) Request for an annual report on ADUs, JADUs, the rents of those units, and the utilization of those units in order to count ADUs for RHNA goals.

Vote: Ayes – Hahn, Wengraf; Noes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin.

Action: M/S/Carried (Kesarwani/Humbert) on the severed portion of the main motion to include the 20-foot uniform height limit citywide.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin; Noes – Hahn, Wengraf.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to accept Policy Alternative #1 regarding the front setback as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.

Vote: All Ayes.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to reject Policy Alternative #2 regarding the time restrictions for conversions.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Robinson, Humbert, Arreguin; Noes – Hahn, Wengraf.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to accept Policy Alternative #3 regarding neighbor noticing.

Vote: All Ayes.

Action Calendar – Public Hearings

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to use the definition of public transit in Government Code Section 65852.2(j)(11).

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Humbert, Arreguin; Noes – Wengraf.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to conduct a resident survey or to use publicly available data on ADU rent levels to anticipate affordability, as described in the HCD ADU Handbook on pg. 26, contingent on available funding.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Robinson, Humbert, Arreguin; Noes – Wengraf.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.

Vote: All Ayes.

Action: M/S/C (Kesarwani/Humbert) on the severed portion of the main motion to refer to the City Manager to return to Council when the evacuation study is completed.

Vote: All Ayes.

Action: M/S/C (Kesarwani/Humbert) to:

- 1) Adopt first reading of Ordinance No. 7,888–N.S. as proposed by the Planning and Development Department in Supplemental Communications Packet #2 for the October 3, 2023 meeting. Second reading scheduled for October 10, 2023.
- 2) Modify the language in the ordinance on transit to use the definition of public transit in subdivision (j)(11) of Government Code Section 65852.2.
- 3) Accept Policy Alternative 1 as proposed by Councilmember Wengraf in the Supplemental materials submitted for the October 3 meeting.
- 4) Reject Policy Alternative 2 (3-year restriction on conversion of AB to ADU).
- 5) Accept Policy Alternative 3 (neighborhood notice).
- 6) Adopt a 20-foot uniform height Citywide as recommended in the Supplemental materials from Councilmember Kesarwani submitted for the October 3 meeting.
- 7) Refer to the City Manager to return to Council with the results of the evacuation study specific to ADUs for the Hillside Overlay District for the purpose of considering any modifications to the ADU Ordinance.
- 8) Refer to the City Manager to conduct a resident survey or to use publicly available data on ADU rent levels to anticipate affordability, as described in the HCD ADU Handbook on pg. 26, contingent on available funding.
- 9) Refer to the City Manager to consider changes to development standards with specific consideration for setbacks, height, and building separation, for accessory buildings and structures to promote fire safety citywide.

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

Action Calendar – Old Business

- 11. Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention** *(Continued from June 27, 2023)*
From: City Manager
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000
Action: Moved to Consent Calendar. Held over to October 10, 2023 meeting.

Information Reports

- 12. Sanctuary City Contracting Compliance Report for FY 2023**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Received and filed.
- 13. 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/Humbert) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 11:05 p.m.

Communications

Garbage Rates

1. Melanie Lawrence and John Smail

2274 Shattuck

2. Melanie Lawrence

Tool Lending Library

3. David Lerman

Ohlone Park

4. Walter Wood

Police Matters

5. Janice Schroeder

Berkeley Marina

6. Peter Kuhn

Berkeley Commissioners

7. Cameron Woo

BART

8. Jack Kurzweil

9. Melinda Howard-Herrarte, on behalf of the Sierra Club

Staff Shortages

10. Eric Friedman

Lights and Paving

11. Kathleen Davis

BioTech Labs

12. Ryian Adam Matthews

Senior Citizen

13. Sharon Turnoy

Marina Dock Replacement

14. Camille Antinori

United Artist Theater

15. Allen Michaan

Gasoline Leaf Blowers

16. Nina Sprecher

Berkeley Diversity

17. Sacha

Longfellow School

18. Anthony Vidal

19. Mara Greenaway

20. Liz Linden

21. James Angus

Ohlone Greenway

22. Mary Behm-Steinberg

Hopkins Corridor

23. Robion Kirby

McGee Avenue and Allston Way

24. Cheng Zhang

Landlords

25. Diana Bohn

Waterfront Specific Plan

26. Jim McGrath

Youth Peace

27. Youth Peace Program

Fight Inequity

28. Sylvia Mendez

Berkeley Flag

29. Aditya Prathap

URL's Only

30. Vivian Warkentin

Supplemental Communications and Reports 1

Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development

31. Revised material, submitted by Planning and Development

32. Jamie Candelaria, on behalf of the Department of Housing and Community Development

33. Marvin Snow

34. Valerie Knepper

35. E. Louise

36. Joan Andersson

37. Bruce Feingold

Supplemental Communications and Reports 2

Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development

38. Revised material, submitted by Planning and Development

39. Supplemental material, submitted by Councilmember Harrison

40. Supplemental material, submitted by Councilmember Wengraf

41. Supplemental material, submitted by Councilmember Kesarwani

42. Bret Peterson

43. Claire Broome

44. Ranjit Bharvirkar
45. Ryan O'Connell
46. Kelly Hammargren
47. George Porter
48. Robert Sonderegger
49. Christine Rosen
50. Shirley Dean

**Urgent Item: Adopt a Resolution Re-Affirming the City of Berkeley's
Condemnation of Anti-Semitism and all forms of Hate Speech**

51. Urgent item, submitted by Councilmember Wengraf

Supplemental Communications and Reports 3

**Item #10: Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and
Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the
California Department of Housing and Community Development**

52. California Housing Defense Fund
53. Virginia Browning
54. Alden Mudge
55. Ryan O'Connell
56. Richard Thomason
57. Alex Benn
58. David Mendelsohn
59. Phyllis Orrick
60. Lisa and Tim Goodman
61. Jan Knecht
62. Debra Sanderson (2)
63. Kelly Hammargren
64. Mary Stevens
65. George Porter
66. Zela Claiborne
67. J. Eric Barko
68. Steven Segal
69. Jonathan Bailey
70. Todd Andrew
71. Bryce Nesbitt
72. Todd Jersey

Miscellaneous Communications

73. Berkeley Specialized Unit (SCU)
74. Indigenous People's Day
75. Monstrous Housing Crises - Anonymous