

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 24, 2024
6:00 PM

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

TELECONFERENCE LOCATION - 125 MICHIGAN AVE NE, WASHINGTON, DC 20017

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244. All Council meetings are recorded.

*To access the meeting remotely use this URL: <https://cityofberkeley-info.zoomgov.com/j/1619309217>. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 930 9217**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Government Code Section 84308 (Levine Act) - *Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.*

Preliminary Matters

Roll Call: 6:17 p.m.

Present: Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin

Absent: None

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 Chochenyo (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 BORP Adaptive Sports Expo on October 5, 2024
2. Recognition of United Against Hate Week, September 25 – 27, 2024
3. Appreciation of Deputy City Manager LaTanya Bellow
4. Welcoming City Manager Paul Buddenhagen

City Manager Comments: None

Public Comment on Non-Agenda Matters: 9 speakers.

Public Comment by Employee Unions: 1 speaker.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 22 speakers.

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

Vote: All Ayes.

Recess Items

- 1. Contract: B-Bros Construction Inc. for Temporary Stabilization of Stair Tower Windows at 2180 Milvia Street**
From: City Manager
Recommendation: Adopt a Resolution approving the City Manager's emergency authorization of a contract with B-Bros Construction Inc. to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street in an amount not to exceed \$400,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300
Action: Adopted Resolution No. 71,515–N.S.

Consent Calendar

- 2. Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,934-N.S. amending Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.
First Reading Vote: Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: None.
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted second reading of Ordinance No. 7,934–N.S.
- 3. Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**
From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,935-N.S. adopting revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.
First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – Lunaparra; Abstain – None; Absent – None.
Financial Implications: None.
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
Action: Adopted second reading of Ordinance No. 7,935–N.S.

Consent Calendar

- 4. Establish 2025 City Council Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.
Financial Implications: None.
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 71,516–N.S.
- 5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 24, 2024**
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.
- 6. Grant Application: Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to: submit a grant application in the amount of up to \$5 million to the U.S. Department of Transportation for the Reconnecting Communities Pilot (RCP) Discretionary Grant Program (second round) for the Santa Fe Railroad Trackbed to Park Conversion Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 71,517–N.S.

Consent Calendar

7. **Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement**
From: Civic Arts Commission
Recommendation: The Civic Arts Commission recommends that the City Council allocate \$125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017. The Civic Arts Commission would like to make changes to the requirement to ensure ongoing support for the arts and culture sector in Berkeley. In order to make any changes to the Public Art on Private Development Requirement, first a nexus study is required by the State of California's Mitigation Fee Act.
Financial Implications: See report.
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
Action: Approved recommendation amended to be a referral to the November or June budget process.
Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Lunaparra, Arreguin; Noes – Humbert.

Council Consent Items

8. **Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by \$11,632.30 for a new total not to exceed \$347,632.30.
Financial Implications: See report.
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 71,518–N.S.

Council Consent Calendar

9. **Budget Referral: Independent Consultant to Conduct Analysis of Referring Restaurant Inspections to Alameda County**

From: Councilmember Kesarwani (Author)

Recommendation: Refer to the November budget process \$100,000 for the City Manager to engage an independent consultant to conduct an analysis that considers feasibility, costs, and benefits of referring food facility inspections to Alameda County, and submit a report with recommendations for Council consideration and potential action as soon as practicable.

The report should consider the following key areas:

- Environmental Health Division staffing, recruitment and retention;
- Costs and staffing resources to develop a new restaurant inspection database that complies with state rules; and
- Costs and staffing resources to develop a restaurant “grading” system, such as those used in Los Angeles County, New York City, or other jurisdictions.

Financial Implications: See report.

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action: Added Councilmembers Humbert and Tregub, and Vice-Mayor Wengraf as co-sponsors. Approved recommendation below as revised below in Supplemental Communications Packet #1.

Refer to the November budget process \$100,000 for the City Manager to engage an independent consultant to conduct an analysis of the current structure of the Environmental Health Food Inspection Program and provide recommendations for alternative models, staffing levels, and increased use of technology to improve customer service.

Specifically, the analysis should consider feasibility, costs, and benefits of referring food facility inspections to Alameda County, and submit a report with recommendations for Council consideration and potential action as soon as practicable.

The report should consider the following key areas:

- *Environmental Health Division staffing, recruitment and retention;*
- *Costs and staffing resources to develop a new restaurant inspection database that complies with state rules; and*
- *Costs and staffing resources to develop a restaurant “grading” system, such as those used in Los Angeles County, New York City, or other jurisdictions.*

Council Consent Items

10. **Resolution Clarifying the Intent of Measure Y (2024) – Increasing the Parks, Trees and Landscaping Maintenance Tax**
From: Councilmember Humbert (Author), Councilmember Taplin (Author), Councilmember Wengraf (Author)
Recommendation: In order to ensure that voters are fully informed and to inform future discussions of potential expenditures, it is recommended that the Berkeley City Council adopt the following language to clarify (but not change) the intent of Measure Y: The intent of Measure Y is to generate additional funds by increasing the Parks Tax for park and landscape maintenance in the Waterfront including Cesar Chavez (Berkeley’s largest park), improvements to Berkeley’s urban forest and street tree plantings, and essential park and landscaping related capital projects.
Financial Implications: See report.
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180
Action: Approved recommendation as revised in Supplemental Communications Packet #1 to remove reference to a resolution.

Action Calendar – Old Business

11. **City Council Rules of Procedure and Order Revisions** *(Continued from September 10, 2024)*
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.
Financial Implications: See report.
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: 3 speakers. M/S/C (Hahn/Tregub) to refer Councilmember Kesarwani’s supplemental submission, the Council comments, and the proposed changes in the agenda item to the Agenda & Rules Committee for further review and request that the technical changes be sent back to Council as soon as practical and for the more complex issues to return Council at a later date.
Vote: All Ayes.

Information Reports

12. **LPO NOD: 2000 Kala Bagai Way, LMSAP2024-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Received and filed.

Information Reports

13. **LPO NOD: 2227 Parker Street, #LMIN2024-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Received and filed.
14. **LPO NOD: 8 Greenwood Common, #LMSAP2024-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 3 speakers.

Adjournment

Action: M/S/C (Arreguin/Taplin) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 9:09 p.m.

Communications

Item 7: Civic Arts Commission Fund Request - Mitigation Fee Nexus Study, Public Art on Private Development Requirement

1. Cameron Woo

Demolition of UA Theater

2. Melanie Lawrence
3. Save the UA Berkeley
4. Anne Weinberger
5. Seven similarly worded form letters

Cal Sailing Club and J-Dock at Berkeley Marina

6. David Fraser
7. Amy Pereira
8. Karen Huie
9. David Fawcett
10. Paul Herzmark
11. Andrew Buck
12. Nelson Carpentier
13. Nick Goyhenetche
14. Aradhna Mayalall
15. James Fair
16. Jeff Lewis
17. William Gavelis
18. Neeraj DeLima
19. Grant Padmos

Supporting Berkeley Libraries

20. Cathy Brown

Large Building Fossil Fuel Emissions Tax

21. Anand Patel

Containers Missed Pickup

22. Peter Kuhn

TOPA

23. Marcia Edelen

24. Summer Brenner

Ice Cream Truck Generator

25. Dara Pond

26. Adrian McGilly

West Berkeley Concerns

27. Paul Limb

Zoning Ordinance and Zoning Changes

28. Gabriela Kipnis

29. Paula Skene

30. Susie Zukor

31. Andrea Yankowski

32. Susan Collier Thomakos

33. Jim Greenberg

Article Regarding Wildfires

34. Barbara Gilbert

Concerns Regarding 2070 Martin Luther King Jr Way

35. Bryce Kalousek-Maritano

Survey About Local Issues

36. Dona Bretherick

Loud Noises

37. Erwan Illian

Settlement for Civil Case

38. Jesse McCaffrey

Oakland A's Relocation and Current Events

39. Josh Atwood (5)

Links to Articles

- 40. Vivian Warkentin (2)
- 41. Erwan Illian
- 42. Russbumper (5)

Middle East Conflict and Peace & Justice Commission

- 43. Angela Jernigan
- 44. Itamar Landau
- 45. Wendy Greenfield
- 46. Dorah Rosen
- 47. Rick Sterling
- 48. Jennifer S Fechner (3)
- 49. Sheila Jordan
- 50. Yuko Matsumoto
- 51. J Rosenfeld
- 52. Dorothea Dorenz (2)
- 53. Joel Biatch
- 54. Mordechai.netanel
- 55. Erwan Illian (6)
- 56. russbumper (16)
- 57. 399 similarly worded form letters “Let Berkeley’s Peace and Justice Commission Work”
- 58. 4,800 similarly worded form letters “Vote No on Ceasefire Resolution”

Supplemental Communications and Reports 1

Item #9: Budget Referral: Independent Consultant to Conduct Analysis of Referring Restaurant Inspections to Alameda County

- 59. Revised agenda material submitted by Councilmember Kesarwani

Item # 10: Resolution Clarifying the Intent of Measure Y (2024) – Increasing the Parks, Trees and Landscaping Maintenance Tax

- 60. Revised agenda material submitted by Councilmember Humbert, Councilmember Taplin, and Councilmember Wengraf

Supplemental Communications and Reports 2

Item #11: City Council Rules of Procedure and Order Revisions (Continued from September 10, 2024)

- 61. Revised agenda material submitted by Councilmember Kesarwani

Supplemental Communications and Reports 3

Item #11: City Council Rules of Procedure and Order Revisions (Continued from September 10, 2024)

- 62. Presentation submitted by the City Clerk Department

Miscellaneous Communications

- 63. Unknown

64. Eid (3)