

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

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, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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.*

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

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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, 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. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

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.” 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. 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
- 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

Consent Items

- 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
- 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
- 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

Consent Items

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

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
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
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

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
- 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
- 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 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.

The Presiding Officer will request that persons wishing to speak line up at the podium 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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, line up at the podium 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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. 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.

- 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

- 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

Action Calendar – Public Hearings

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 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 Calendar

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
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

Information Reports

19. **City Council Short Term Referral Process – Monthly Update**
From: City Manager
Contact: Mark Numainville, City Clerk, 981-6900
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
21. **Referral Response: Support for Berkeley Nonprofit Service Providers**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
22. **Referral Response: Establishment of a Festival Grants Program**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
23. **Planning Commission Workplan 2018-2019**
From: Planning Commission
Contact: Alene Pearson, Commission Secretary, 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 or in person 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 made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as 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> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue
West Branch – 1125 University
North Branch – 1170 The Alameda
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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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 Old Berkeley City Hall, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 17, 2019.***



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 at the City Clerk Department and through Records Online.*

### **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**

*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.