

**REVISED AGENDA
(ADDED CONTINUED ITEMS FROM FEBRUARY 19, 2019)**



BERKELEY CITY COUNCIL MEETING

**Tuesday, February 26, 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. Recognition of Jerome Solberg

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. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of January 15, 2019 (special), January 22, 2019 (regular), January 29 (regular), and January 31, 2019 (special closed and special).

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 26, 2019

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: Measure T1 Fund - \$568,759

Contact: Henry Oyekanmi, Finance, 981-7300

Consent Calendar

- 3. Dorothy Day House License Agreements: Veterans Memorial Building and Old City Hall**
From: City Manager
Recommendation: Adopt two Ordinances authorizing the City Manager or her designee to execute license agreements and any amendments thereto with Dorothy Day House to provide services at the Veterans' Memorial Building at 1931 Center Street and the Old City Hall at 2134 Martin Luther King Jr. Way.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 4. Receipt of and Contract Authorization for Kaiser Permanente's Northern California Community Benefit Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept \$150,000 in grant funds from the Kaiser Permanente Northern California Community Benefit Program (Grant Number 20663336) to support the Pathways STAIR Center, and to enter into a grant agreement (CMS # EC183) and any necessary grant agreement amendments for this award.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 5. Contract: Building Opportunities for Self-Sufficiency for Representative Payee Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to enter into a contract and any amendments up to not to exceed (NTE) \$75,000 through March 31, 2020 with vendor Building Opportunities for Self-Sufficiency for representative payee services.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 6. Amendment of Provider Participation Agreement with Department of Health Care Services for Targeted Case Management**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit amendments to the Provider Participation Agreement with the State of California Department of Health Care Services, to accept the grant awards, and execute any resultant revenue agreements and amendments to conduct Targeted Case Management (TCM) services in Aging Services and Public Health Divisions within the Health, Housing & Community Services Department.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400

Consent Calendar

- 7. Contract No. 8,749 Amendment with Official Payments Corporation (OPC)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Official Payments Corporation (OPC) (contract no. 8,749) approving online credit card payment processing transaction fees of 2.5%, borne by the City, for transactions in the Recreation Division's online registration system, for an amount not to exceed \$90,000 for the projected period commencing on or about March 1, 2019 through November 30, 2022, with an option to extend for up to two (2) additional years.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700
- 8. Contract No. 9114F Amendment – Stockton Tri Industries, Inc. to Clean, Paint, and Repair Refuse and Recycling Debris Bins**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9114F with Stockton Tri Industries, Inc. to increase the contract amount by \$40,000 for a total contract amount not to exceed \$200,000 to clean, paint, and repair refuse and recycling debris bins through contract expiration of June 30, 2019.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 9. Contract: D'Arcy & Harty Construction Inc. for Sanitary Sewer Rehabilitation and Replacement at Euclid Avenue and Regal Road Backline**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation and Replacement- Euclid Avenue and Regal Road Backline project; accepting the bid of the lowest responsive and responsible bidder, D'Arcy & Harty Construction Inc. (D'Arcy & Harty); 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 \$812,026, which includes a 10% contingency in the amount of \$73,821.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300

Consent Calendar

10. **Contract: Mosto Construction for Sanitary Sewer Rehabilitation and Replacement - Urgent Sewer Repair Project FY 2019**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Urgent Sewer Repair Project FY 2019 with sites located throughout the City; accepting the bid of the lowest responsive and responsible bidder, Mosto Construction; and, authorizing 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 \$398,808, which includes a 10% contingency of \$36,255.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300

Council Consent Items

11. **Excused Absence for Councilmember Ben Bartlett**
From: Mayor Arreguin
Recommendation: Excuse Councilmember Ben Bartlett from the November 27, 2018 Council meeting as a result of illness.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, 981-7100

Council Consent Items

12. **Establishment of Traffic Circle Policy Task Force**

From: Mayor Arreguin, and Councilmembers Bartlett, Droste and Hahn

Recommendation: Establish a Traffic Circle Policy Task Force comprised of representatives from neighborhoods currently maintaining traffic circles. Members will be appointed by the Mayor and chosen from geographically diverse parts of the city, including one representative from Berkeley Partners for Parks. Staff participating will be appointed by the City Manager.

The charge of this Task Force is to: 1. Evaluate the City's current traffic circle vegetation policy for consideration by the City Council and Traffic Engineer; 2. Find a solution, through active participation and engagement with the community, that respects: -Environmental Policy; -Habitat; -Safety and Performance Standards; - Existing and future liability issues that address sight lines; and 3. Deliver a policy to City Council for adoption prior to August 9, 2019. 4. Conduct a community-led process to update that policy to ensure pedestrian/bicycle/vehicle safety and community efforts to beautify traffic circles.

Task Force activities may include, but are not limited to: -Recommend appropriate characteristics and parameters for allowed plantings based on input from the community and city staff; -Recommend a policy that ensures lines of sight and other important safety considerations; -Work with City staff to conduct a survey of current traffic circles and their vegetation; -Conduct a survey of neighborhood associations, neighborhood captains, community and community groups such as Berkeley Partners for Parks to determine which traffic circles are being maintained by community members; -Examine the City of Oakland's 'Adopt a Spot' initiative to encourage community involvement in the maintenance of public spaces by loaning tools, supplies, and technical assistance to committed members of the community; - Host a presentation from City staff to better understand concerns with the current traffic circle policy and any safety concerns that should be taken into consideration; - Recommend a clear set of guidelines/criteria to allow for community maintenance of traffic circles, with input from city staff; -Outline the appropriate community outreach strategy and process to share the updated policy for managing vegetation in traffic circles; -Recommend a replanting strategy, with emphasis on drought-resistant plants.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, 981-7100

13. **Adopt a resolution to denounce and oppose white nationalist and neo-Nazi groups including their actions** *(Reviewed by the Agenda and Rules Committee)*

From: Councilmembers Davila, Bartlett, Harrison and Mayor Arreguin

Recommendation: Adopt a resolution denouncing and opposing white nationalist and neo-Nazi groups including their actions.

Financial Implications: None

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

Council Consent Items

14. **Support AB 5 and Write Letter of Support to CA Assemblymember Lorena Gonzalez**
From: Councilmembers Bartlett, Harrison, Davila, and Hahn
Recommendation: That the Mayor of Berkeley and Members of the City Council support CA State Assembly Bill 5 (AB 5) by sending a letter of support to Author Assemblymember Lorena Gonzalez. Assembly Bill 5 codifies and clarifies the application of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903, which established the 3-part “ABC” test to defend the labor rights of misclassified workers and ensure they receive the compensation they deserve.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
15. **Ensuring the Sustainability of the Berkeley Flea Market**
From: Councilmembers Bartlett, Hahn and Davila
Recommendation: Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
16. **Support for AB 177 (Election Day Holiday)**
From: Councilmembers Robinson, Bartlett, Hahn and Droste
Recommendation: Send a letter to Senator Skinner, Assemblymember Wicks, and Assemblymember Low supporting AB 177, which would add any day a statewide general election is held to the list of state holidays.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

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.

17. Proposed Location for the Apothecarium Cannabis Retailer

From: City Manager

Recommendation: Conduct a public hearing to consider information pertaining to Apothecarium’s proposed location at 2312 Telegraph Avenue, and upon conclusion, adopt a Resolution either to approve or to deny the proposed location.

Financial Implications: See report

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

Action Calendar

18. Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission *(Continued from January 29, 2019. 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

19. City Auditor’s Quarterly Summary Report on Audit Recommendations

From: Auditor

Contact: Jenny Wong, Auditor, 981-6750

20. Referral Response: 1000 Person Plan to Address Homelessness

From: City Manager

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

Action Calendar

21. Missing Middle Report

From: Councilmembers Droste, Bartlett, Robinson and Kesarwani

Recommendation: Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to: -Identifying where missing middle housing is optimal/should be permitted. -Allowing the possibility of existing houses/footprints/zoning envelopes to be divided up to 4 units. -Excluding very high fire severity zones as defined by the CalFire and/or the City of Berkeley.

-Considering form-based zoning as a potential strategy. -Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units. -Creating incentives for building more than one unit on larger than average lots. -Provision of tenant protections, demolition controls, and no net loss provisions.

Financial Implications: See report

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

22. Retirement of Council Ad Hoc Subcommittees

From: Mayor Arreguin

Recommendation: Adopt a Resolution:

1. Officially retiring the Ad Hoc Subcommittee on Community Benefits, Ad Hoc Subcommittee on Urban Shield, Ad Hoc Subcommittee on Small Business, Ad Hoc Subcommittee on Automatic Door Openers effective immediately, and;

2. Retiring the Ad Hoc Subcommittee on Paid Family Leave and Fair Work Week, and Ad Hoc Subcommittee on Climate Emergency effective March 31, 2019, and requesting that these Ad Hoc Subcommittees complete their business before that time and make a recommendation to the City Council.

Financial Implications: None

Contact: Jesse Arreguin, Mayor, 981-7100

Action Calendar – Continued Business

A. Referral Response: Supporting Worker Cooperatives *(Continued from February 19, 2019)*

From: City Manager

Contact: Jordan Klein, Economic Development, 981-7530

Information Reports

23. City Council Short Term Referral Process – Monthly Update

From: City Manager

Contact: Mark Numainville, City Clerk, 981-6900

Information Reports

24. **FY 2018 Fourth Quarter Investment Report: Ended June 30, 2018**
From: City Manager
Contact: Henry Oyekanmi, Finance, 981-7300
25. **FY 2019 First Quarter Investment Report: Ended September 30, 2018**
From: City Manager
Contact: Henry Oyekanmi, Finance, 981-7300
26. **goBerkeley Parking Management Program - Recommended Adjustments for April 1, 2019**
From: City Manager
Contact: Phillip Harrington, Public Works, 981-6300

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 the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 21, 2019.***

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 at the City Clerk Department and through Records Online.*

### **Item #17: Proposed Location for the Apothecarium Cannabis Retailer**

1. Jim Hrabetin
2. Laurie Gardner
3. Dana Johnson
4. Keith Cranmer
5. Tony Green
6. Dale Sophiea (2)
7. Bruce Slavin

### **Open Door Initiative**

8. Mansour Id-Deen

## **Oppose CPUC “Resource Adequacy Proposed Decision”**

9. Audrey Ichinose

## **Implementation of Law: Amount of Stuff People Can Have on Public Property**

10. David Lerman

## **San Pablo Park Gun Violence**

11. Alexis Filippini

## **Homelessness – Zoning and Bureaucracy**

12. Jennifer Pearson

13. Carol Denney

## **Wildfire Safety Planning**

14. Christine Schwartz

## **Rodeo Issues**

15. Eric Mills, on behalf of Action for Animals

## **5G**

16. Christina Tuccillo

17. Phoebe Anne Sorgen

## **Climate Change**

18. Thomas Lord (3)

## **Ad Hoc Subcommittee on Climate Emergency Declaration**

19. Linda Currie

20. Tom Kelly

## **Restricting Flavored Tobacco**

21. Amanda Gutzwiller, on behalf of the American Lung Association

## **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.