



Office of the City Manager

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of February 5, 2019 (special), February 19, 2019 (regular), February 26, 2019 (regular), and February 28, 2019 (special).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. February 5, 2019–Special City Council Meeting
2. February 19, 2019–Regular City Council Meeting
3. February 26, 2019–Regular City Council Meeting
4. February 28, 2019–Special City Council Meeting

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, February 5, 2019**

**6:00 P.M.**

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

**Preliminary Matters**

**Roll Call:** 6:07 p.m.

**Present:** Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** Bartlett

Councilmember Bartlett present at 6:09 p.m.

**Worksession**

**1. Pedestrian Master Plan Update** *(Continued from December 4, 2018)*

**From: City Manager**

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** 2 speakers. Presentation made and discussion held.

**2. Referral Response: Small Business Support**

**From: City Manager**

Contact: Jordan Klein, Economic Development, 981-7530

**Action:** 2 speakers. Presentation made and discussion held.

Recess 8:59 p.m. – 9:12 p.m.

Councilmembers Bartlett and Harrison absent 9:12 p.m.

**3. Wildfire Safety Planning**

**From: City Manager**

Contact: David Brannigan, Fire, 981-3473

**Action:** 6 speakers. Presentation made and discussion held.

Councilmember Droste absent at 10:20 p.m.

## Adjournment

**Action:** M/S/C (Wengraf/Kesarwani) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Droste, Harrison.

Adjourned at 10:44 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of February 5, 2019 as approved by the Berkeley City Council.

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April Richardson, Assistant City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

### Item #1: Pedestrian Master Plan Update

1. Presentation, submitted by the Transportation Department

### Item #2: Referral Response: Small Business Support

2. Presentation, submitted by the Office of Economic Development

### Item #3: Wildfire Safety Planning

3. Presentation, submitted by the Fire Department
4. Bryce Nesbitt
5. Fire Chief David Brannigan

**MINUTES  
BERKELEY CITY COUNCIL MEETING  
Tuesday, February 19, 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

**Preliminary Matters**

**Roll Call:** 6:13 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** None

**Ceremonial Matters:**

- 1. Adjourned in memory of Jim Samuels, Berkeley Commissioner.

**City Manager Comments:** None

**City Auditor Comments:**

The City Auditor discussed the importance taking operational cost information and tradeoffs into consideration in the decision making process for the delivery of services. The City Auditor also noted her that her upcoming Audit Plan will include a focus on payments leaving the City.

**Public Comment on Non-Agenda Matters:** 7 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 15 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

- 1. Single Use Disposable Foodware and Litter Reduction Ordinance; Adding BMC Chapter 11.64**  
**From: Councilmember Hahn and Mayor Arreguin**  
**Recommendation:** Adopt second reading of Ordinance No. 7,639-N.S., the Single Use Foodware and Litter Reduction Ordinance, adding Chapter 11.64 to the Berkeley Municipal Code.  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, 981-7150  
**Action:** Adopted second reading of Ordinance No. 7,639-N.S.
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 19, 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:** Various Funds - \$3,291,500  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.
- 3. Annual Purchase Orders for Turnouts, Personal Protective Equipment, Firefighting Tools and Equipment: L.N. Curtis and Sons**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute annual purchase orders and any amendments with L.N. Curtis and Sons for the purchases of: -Turnouts, and personal protective equipment (PPE) such as wildland coats and pants, firehoses, gloves, helmets, gear for hearing and eye protection, fire boots; and -Other firefighting tools and equipment such fire extinguishers, foam, firehose, ladders, bumps, and related devices on apparatus. The purchase order for FY 2019 shall not exceed \$220,000, with an annual increase no more than 5% each year up to a maximum of five years. A 20% contingency is added to cover costs arising from unforeseen incidents or operations for a total amount not to exceed (NTE) \$1,361,286.  
**Financial Implications:** See report  
Contact: Dave Brannigan, Fire Chief, (510) 981-3473  
**Action:** Adopted Resolution No. 68,756-N.S.

## Consent Calendar

- 4. FY19 Expanded Winter Shelter: Additional Allocation of Funding and Authorization of Contract Amendment with Dorothy Day House for Winter Shelter Operations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 10577D with Dorothy Day House to add \$114,960 to extend the Dorothy Day House Shelter at the Veteran's Building for a total contract amount not to exceed \$754,608 for the period July 1, 2017 through June 30, 2019; and allocate an additional \$59,000 in General Fund to support pest control, janitorial services and emergency maintenance costs at the expanded winter shelter.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,757–N.S.
- 5. Contract: Recruiting Advertising and Marketing Strategy for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a police recruiting and marketing strategy contract with Epic Recruiting, in an amount not to exceed \$100,000 for a one-year period. The services provided in the contract are designed to assist the Berkeley Police Department with website design, video production, photography, branding, and social media/digital marketing with the goal of increasing the number of qualified recruit and lateral applicants.  
**Financial Implications:** General Fund - \$100,000  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 68,758–N.S.
- 6. Contract: D'Arcy & Harty Construction, 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 Mathews Street, Euclid Avenue and Backline, Mabel Street, Oregon Street, Derby Street, Fairview Street, Catalina Avenue Backline, Fairlawn Drive Backline, and Arlington Avenue; accepting the bid of the lowest responsive and responsible bidder, D'Arcy & Harty Construction, Inc.; 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 \$1,363,373, which includes a 10% contingency of \$123,943.  
**Financial Implications:** Sanitary Sewer Fund - \$1,363,373  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,759–N.S.

## Consent Calendar

- 7. Filling Vacancies Among the Elected Representatives of the Poor – Confirmation of Ms. Lisa Romo**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution confirming the appointment of Ms. Lisa Romo (District 3), as an elected representative of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the commission members at the HWCAC November 28, 2018 meeting, and that her term expires November 28, 2022.  
**Financial Implications:** None  
Contact: Marie-Claire Katz, Commission Secretary, 981-5400  
**Action:** Adopted Resolution No. 68,760–N.S.
  
- 8. Filling Vacancies Among the Elected Representatives of the Poor – Confirmation of Ms. Denah Bookstein and Ms. Saba Deyhim**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution confirming the appointments of Ms. Denah Bookstein (District 1) and Ms. Saba Deyhim (District 2) as elected representatives of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC January 16, 2019 meeting, and that their terms expire November 28, 2022.  
**Financial Implications:** None  
Contact: Marie-Claire Katz, Commission Secretary, 981-5400  
**Action:** Adopted Resolution No. 68,761–N.S.

## Council Consent Items

**9. Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue**

**From: Mayor Arreguin**

**Recommendation:** Short-Term Referral to the City Manager to develop ordinance amendments permitting cannabis events in the City of Berkeley and designating Cesar Chavez Park as an approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Approved recommendation as amended to read as follows:

*Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols. The City Council will revisit the provisions of the ordinance following the first year of implementation.*

**10. Declaring a California Homelessness State of Emergency**

**From: Mayor Arreguin, and Councilmembers Hahn, Davila, and Harrison**

**Recommendation:** Adopt a Resolution requesting that Governor Newsom declare a California Homelessness State of Emergency, and direct more resources to State Departments (e.g. Caltrans). Send a copy of the Resolution to Governor Newsom, Congresswoman Barbara Lee, State Senator Nancy Skinner, State Assemblymember Buffy Wicks, State Superintendent of Public Education Tony Thurmond and Caltrans District Director Tony Tavares.

**Financial Implications:** None

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Adopted Resolution No. 68,762–N.S.



## Council Consent Items

11. **Berkeley Youth Alternatives' 15th Annual Crab Feed Fundraiser: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$180 from Councilmember Cheryl Davila, to Berkeley Youth Alternatives, for their 15th Annual Crab Feed Fundraiser on February 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$180  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Adopted Resolution No. 68,763–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Robinson - \$150; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Harrison - \$100; Councilmember Bartlett - \$250; Mayor Arreguin - \$100.
12. **Ohlone Park 50th Anniversary Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Harrison**  
**Recommendation:**  
1. Adopt a Resolution co-sponsoring the celebration of Ohlone Park's 50th anniversary on June 1st, 2019.  
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Harrison, to the Friends of Ohlone Park, the fiscal sponsor of the 50th anniversary celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Harrison and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$250  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Councilmembers Kesarwani and Davila added as co-sponsors. Adopted Resolution No. 68,764–N.S. (Co-Sponsorship) as revised in Supplemental Communications Packet #2 to include the waiver of Berkeley fees for the event; and adopted Resolution No. 68,765–N.S. (Relinquishment), revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Robinson - \$150; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Harrison - \$250; Councilmember Kesarwani - \$250; Councilmember Davila - \$100; Councilmember Bartlett - \$100; Mayor Arreguin - \$250.

## Council Consent Items

**13. Support for AB 161 (Skip the Slip)**

**From: Councilmembers Harrison, Robinson, and Davila**

**Recommendation:** Send a letter of support for AB 161, which requires that proof of purchase (receipts) be provided only in electronic form unless the customer specifically requests paper, to Senator Skinner and Assemblymember Wicks

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, 981-7140

**Action:** Approved recommendation.

## Action Calendar – Public Hearings

**14. 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 January 29, 2019. 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:** Item 14 held over to March 12, 2019.

## Action Calendar

**15. Contract: Pride Industries for Citywide Janitorial Services at Various Locations**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year contract and any amendments with Pride Industries to provide Citywide Janitorial Services at twenty nine (29) various City locations and facilities for the period May 1, 2019 to April 30, 2022, in an amount not to exceed \$3,725,735, with an option for two (2) one-year extensions for a maximum five (5) year contract for an amount not to exceed \$6,414,881, subject to the City's annual budget appropriation process.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Item 15 held over to March 12, 2019.

## Action Calendar – Old Business

16. **Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program** *(Continued from January 22, 2019.)*

**From: Councilmembers Bartlett, Worthington, and Davila**

**Recommendation:** That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report. Recommending allowing 4 equity applicants and 2 non-equity applicants to apply and be processed by the City within 2 years.

**Financial Implications:** Minimal

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** 9 speakers. M/S/C (Bartlett/Arreguin) to approve the recommendation as revised in Supplemental Communications Packet #2 and written below:

*That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.*

**Vote:** All Ayes.

Recess 7:58 p.m. – 8:18 p.m.

- 17a. **Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27** *(Continued from January 29, 2019.)*

**From: Commission on Labor**

**Recommendation:** Adopt first reading of an Ordinance proposing revisions to Berkeley's Living Wage Ordinance (LWO), 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 Minimum Wage Ordinance (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

## Action Calendar – Old Business

- 17b. Companion Report: Council Referral-Proposed Amendments to Berkeley’s Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27** *(Continued from January 29, 2019.)*

**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 Living Wage Ordinance (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:** Item 17b moved to Consent Calendar. Adopted first reading of Ordinance No. 7,640-N.S. as written in Supplemental Communications Packet #1 to include posting, noticing and payroll record requirements for new or renewed contracts, to enhance the ordinance language as it relates to “retaliation” and to add the Section “Relationship to other requirements”, which establishes that if other laws or ordinances are enacted that provide better wages or benefits for employees, that those standards would supersede the Living Wage Ordinance. Second reading scheduled for March 12, 2019.

## Action Calendar – New Business

- 18. Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers**

**From: City Manager**

**Recommendation:** Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, 981-6900; Farimah Brown, City Attorney, 981-6950

**Action:** Item 18 moved to Consent Calendar. Referred Item to the Agenda and Rules Policy Committee.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

- 19a. Assessment of Vacant Properties**

**From: Human Welfare and Community Action Commission**

**Recommendation:** Direct the City Manager to develop a plan to locate the 3,754 “vacant housing units” noted in the “Employment, Economy, Housing “ data in the “City of Berkeley Fiscal years 2018 & 2019 Adopted Biennial Budget” and to assess what would be required to bring as many of the properties to market as possible.

**Financial Implications:** See report

Contact: Marie-Claire Katz, Commission Secretary, 981-5400

## Action Calendar – New Business

**19b. Companion Report: Assessment of Vacant Properties**

**From: City Manager**

**Recommendation:** Refer the issue of vacant housing units to Council's process for setting priorities for Measure O funds.

**Financial Implications:** See report

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

**Action:** Item 19b moved to Consent Calendar. Approved recommendation.

**20a. Resolution declaring City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons**

**From: Peace and Justice Commission**

**Recommendation:** Adopt Resolution submitted by the Peace and Justice Commission declaring the City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons.

**Financial Implications:** None

Contact: Shallon Allen, Commission Secretary, 981-7071

**20b. Companion Report: Resolution Declaring City of Berkeley Will Not Invest City Funds in Any Entity Involved in the Production or Upgrading of Weapons**

**From: City Manager**

**Recommendation:** Continue to support the City of Berkeley's existing investment policy which prohibits investments in gun manufacturers.

**Financial Implications:** None

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** Item 20a moved to Consent Calendar. Adopted Resolution No. 68,766–N.S. revised as follows:

1. Add a Whereas clause to define weapons to read as follows:

*WHEREAS, Weapon is defined as any instrument or device for use in attack or defense in combat, fighting, or war, as a sword, rifle, or cannon; anything used against an opponent, adversary, or victim; and Weapon Systems is defined as any integrated system, usually computerized, for the control and operation of weapons of a particular kind.*

2. Revise the first Resolved clause to read as follows:

*NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that the City of Berkeley will not invest City funds in weapons manufacturers, and decides that it shall be City policy to divest from such entities.*

**Vote:** All Ayes.

## Council Action Items

21. **Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

**From: Councilmembers Harrison, Robinson, and Hahn**

**Recommendation:** Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for owner occupied projects by modifying property lines so that no lot is large enough to construct five or more units. Adopt an updated resolution pursuant to BMC 22.20.065 (Affordable Housing Mitigation Fee) addressing the same issue for rental projects.

**Financial Implications:** See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

**Action:** M/S/C (Harrison/Davila) to accept revised material from Councilmember Harrison on Item 21.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Droste.

**Action:** 3 speakers. M/S/Failed (Droste/Wengraf) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report.
2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.
3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.
4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Kesarwani, Wengraf, Droste; Noes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Abstain – None; Absent – Davila.

Councilmember Davila absent 8:38 p.m. – 9:14 p.m.

## Council Action Items

**Action:** M/S/Carried (Harrison/Hahn) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019.
2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.
3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.
4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Kesarwani, Droste; Absent – Davila.

## Information Reports

22. **Referral Response: Supporting Worker Cooperatives**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Item 22 held over to February 26, 2019.
23. **Referral Response: City Maintained Below Market Rate Units (BMR) Online Resource**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Received and filed.
24. **Mental Health Commission 2018/2019 Work Plan**  
**From: Mental Health Commission**  
Contact: Karen Klatt, Commission Secretary, 981-5400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

**Action:** M/S/C (Hahn/Wengraf) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;  
Noes – None; Abstain – None; Absent – Davila.

Adjourned at 9:14 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of February 19, 2019 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

## Communications

### **Item #1: Single Use Disposable Foodware and Litter Reduction Ordinance; Adding BMC Chapter 11.64**

1. Alison Piccoli
2. Diana Bohn
3. Carol Denney
4. Jan Cecil
5. Steve
6. Rose Schweig

### **Encampments & Homelessness**

7. Richard James
8. Erik Dreher (2)
9. Josh Maddox
10. Dorothea Dorenz
11. Unknown
12. Bree Jenkins
13. Summi Kaipa

### **San Pablo Park**

14. Barbara Gilbert
15. Jenny Strauss
16. Kelly Zito
17. Kester Allen

### **Bike Lanes**

18. Chuck Siegel
19. Marco Facioni
20. Liza Lutzker
21. Dan Leaverton
22. Katy Love
23. Jonathan Walden
24. James Sayre



- 25. Karl Wanaselja
- 26. Caroline Swinehart
- 27. Roger Pritchard
- 28. Lori Hines

**ISP Sonic & 5G**

- 29. Phoebe Anne Sorgen (2)
- 30. Soula Culver
- 31. Max Ventura

**North Berkeley BART**

- 32. Sarah Bardeen
- 33. Phil Erickson
- 34. Vicki Sommer
- 35. Alan Louwerse
- 36. Dana Moskowitz
- 37. Councilmember Harrison
- 38. Harvey Smith
- 39. Diana Damonte
- 40. Bob Whalen
- 41. Mary Behm-Steinberg

**Sugar Sweetened Beverages**

- 42. Holly Scheider

**Neo Nazi**

- 43. Judy Ann Alberti
- 44. Fred Dodsworth
- 45. Donald Goldmacher

**Climate Emergency**

- 46. Sierra Club of San Francisco Bay
- 47. Kelly Hammargren
- 48. Jane Kelly
- 49. Alan Gould
- 50. Thomas Lord

**West Berkeley Senior Center**

- 51. Richard Castrillon, on behalf of the Commission on Aging (2)

**Police Transparency (SB 1421)**

- 52. George Lippman
- 53. Donald Goldmacher
- 54. Sheila Goldmacher
- 55. Janice Schroeder

**1155-73 Hearst**

56. Yashu Jiang

**1444 5<sup>th</sup> Street**

57. Stuart Knowles of Trilogy Asset Management

58. Daro Quiring, President of the Oceanview Townhouse Assoc.

**People's Park**

59. Barryett Enge

**Undergrounding**

60. Bryce Nesbitt

**Business License**

61. Arthur Stopes III

**Berkeley Marina**

62. Dave Marcolini

**Strategic Plan**

63. Steve Kromer

**Construction Parking**

64. Maria Bogakos

**Self-Driving Cars**

65. Rhiannon

**Delivering Mail While Black**

66. Margy Wilkinson

**Kent's Tiny Home**

67. Margy Wilkinson

**Human Rights Worldwide**

68. Chairperson, Peace and Justice Commission

**Right to Daylight**

69. Fred Dodsworth

**Lawsuit**

70. Pil Orbison

**Sales Tax Fraud**

71. Arthur Stopes III

**2-1-1 Monthly Report for December**

72. Eden I&R, Inc.

**Transit Passes for Tenants**

73. Rhiannon

**Paradise Fire**

74. Kelly Hammargren

**State and National Eviction Law**

75. Autumn Moon

**Pacific Steel Bankruptcy**

76. Janice Schroeder

**Zero Waste Commission**

77. Kelly Hammargren

**Save the House of Mr. Powell**

78. Diana Bohn

**Supplemental Communications and Reports 1**

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

79. Nuha Khalfay, Chair, Community Health Commission

**Item #17.b: Companion Report: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**

80. Supplemental materials, submitted by HHCS

**Supplemental Communications and Reports 2**

**Item #5: Contract: Recruiting Advertising and Marketing Strategy for the Berkeley**

81. Christine Schwartz

**Item #9: Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue**

82. Carol Denney

**Item 12: Ohlone Park 50th Anniversary Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

83. Revised material, submitted by Councilmember Harrison

**Item #14: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

84. Rhiannon

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

85. Supplemental materials, submitted by Councilmember Bartlett

**Item #17a: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**

86. Barbara Gilbert

**Item 20a: Resolution declaring City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons**

87. Igor Tregub

**Item #21: Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

88. Revised material, submitted by Councilmember Harrison

89. Elisa Mikiten

90. Jeffrey Spahn & Niels Traynor

### **Supplemental Communications and Reports 3**

**Item #14: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

91. Rhiannon

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

92. Martha Belcher

**Item 19b: Companion Report: Assessment of Vacant Properties**

93. Charles Clarke

**Item #21: Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

94. Supplemental materials, submitted by Councilmember Harrison

95. Niels Traynor, on behalf of Mary Law

96. Igor Tregub

**Disposable Free Berkeley**

97. Ecology Center

98. Calliope Askins, on behalf of the Oxford School's Heirs to Our Oceans

**Berkeley Marina – L & M Dock**

99. No name

**MINUTES**  
**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

**Preliminary Matters**

**Roll Call:** 6:00 p.m.

**Present:** Davila, Droste, Hahn, Harrison, Robinson, Wengraf, Arreguin

**Absent:** Bartlett, Kesarwani

Councilmember Bartlett present at 6:02 p.m.

Councilmember Kesarwani present at 6:03 p.m.

**Ceremonial Matters:**

1. Recognition of Jerome Solberg & The Actors Ensemble
2. Adjourned in Memory of:
  - a. Jeff Adachi, former San Francisco Public Defender
  - b. Katherine L. Fischer-Clark, Local Advocate
  - c. Palestinians that have died in Gaza

**City Manager Comments:** None

**City Auditor Comments:** None

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 11 speakers.

## Consent Calendar

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

**Vote:** All Ayes.

**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

**Action:** Approved minutes as submitted.

**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

**Action:** Approved recommendation.

**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

**Action:** Adopted first reading of Ordinance No. 7,641–N.S. (1931 Center St); and Ordinance No. 7,642–N.S. (2134 Martin Luther King Jr. Way). Second readings scheduled for March 12, 2019.

## Consent Calendar

- 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 No. EC183) and any necessary grant agreement amendments for this award.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,767–N.S.
- 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  
**Action:** Adopted Resolution No. 68,768–N.S.
- 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  
**Action:** Adopted Resolution No. 68,769–N.S.



## 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  
**Action:** Adopted Resolution No. 68,770–N.S.
- 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  
**Action:** Adopted Resolution No. 68,771–N.S.
- 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  
**Action:** Adopted Resolution No. 68,772–N.S.

## 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  
**Action:** Adopted Resolution No. 68,773–N.S.
  
- 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  
**Action:** Approved recommendation.

## 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

**Action:** Approved recommendation.

### 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

**Action:** Adopted Resolution No. 68,774–N.S.

## 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

**Action:** Approved recommendation.

**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

**Action:** Councilmember Kesarwani added as a co-sponsor. Approved recommendation.

**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:** Approved recommendation.

## Action Calendar – Public Hearings

### 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

**Public Testimony:** The Mayor opened the public hearing. 50 speakers.

Recess 9:34 p.m. – 9:38 p.m.

**Action:** M/S/C (Robinson/Arreguin) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Robinson, Droste, Arreguin; Noes – Harrison, Hahn, Wengraf.

**Action:** M/S/C (Robinson/Davila) to adopt Resolution No. 68,775–N.S. adopting a new location for the Apothecarium dispensary at 2312 Telegraph Avenue amended to:

- 1) Delete “despite presenting adequate proof of landlord approval multiple times during the selection process” in the sixth Whereas clause.
- 2) Require the Apothecarium to lease at least 10 and up to 25 parking spaces in the Telegraph-Channing Garage or another parking facility in close proximity.
- 3) Require the Apothecarium to display signage and provide information to customers regarding parking and transit resources.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Robinson, Droste, Arreguin; Noes – Hahn, Wengraf.

## 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  
**Action:** Moved to Consent Calendar. Referred the item, including the version in Supplemental Communications Packet #1, to the Agenda & Rules Committee and request that the City Attorney review the proposed ordinance.
19. **City Auditor's Quarterly Summary Report on Audit Recommendations**  
**From: Auditor**  
Contact: Jenny Wong, Auditor, 981-6750  
**Action:** 5 speakers. Presentation made and discussion held.
20. **Referral Response: 1000 Person Plan to Address Homelessness**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Item held over to March 26, 2019.

## 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

**Action:** 15 speakers. M/S/Failed (Droste/Arreguin) to suspend the rules and extend the meeting to 11:50 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Robinson, Droste, Arreguin; Noes – Davila, Harrison, Hahn, Wengraf.

**Action:** M/S/C (Wengraf/Arreguin) to continue Item 21 to March 26, 2019.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Droste.

### 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:** Moved to Consent Calendar. Adopted Resolution No. 68,776–N.S.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

## Action Calendar – Continued Business

## 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  
**Action:** 20 speakers. M/S/C (Arreguin/Wengraf) to:
- 1) Receive the report.
  - 2) Refer to the budget process to continue the technical assistance process for Fiscal Years 2020-2021.
  - 3) Refer to the City Manager to add a buy local preference for local cooperatives
  - 4) Refer to the City Manager to incorporate an update on cooperatives in to the regular OED presentations to Council.
- Vote:** All Ayes.

Recess 8:10 p.m. – 8:21 p.m.

## Information Reports

- 23. City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Received and filed.
- 24. FY 2018 Fourth Quarter Investment Report: Ended June 30, 2018**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Received and filed.
- 25. FY 2019 First Quarter Investment Report: Ended September 30, 2018**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Received and filed.
- 26. goBerkeley Parking Management Program - Recommended Adjustments for April 1, 2019**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.

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

## Adjournment

Adjourned at 11:30 p.m.



This is to certify that the foregoing is a true and correct record of the regular meeting of February 26, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## **Communications**

### **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 1**

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

- 22. Sonia Clerc
- 23. Pat Thomas
- 24. Valenta de Regil
- 25. David Slusser
- 26. Anthony Bonet
- 27. Kevin Banis & Kellene Kaiser
- 28. Michael Wade

**Item #18: Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission**

- 29. Revised material, submitted by Councilmember Harrison
- 30. Cecile Pineda

**Item #21: Missing Middle Report**

- 31. Revised material, submitted by Councilmember Droste
- 32. Alfred Twu
- 33. Bryce Nesbitt

**Supplemental Communications and Reports 2**

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

- 34. Communications from the Cannabis Commission – January 10, 2019
- 35. Jennifer Larsh
- 36. Lynn Silver
- 37. Jason Baeten
- 38. John Katovich
- 39. Nina Margaret
- 40. Michael Colbruno
- 41. Chimney Lee

**Item #18: Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission**

- 42. Erica Etelson

**Item #21: Missing Middle Report**

- 43. Revised materials, submitted by Councilmember Droste
- 44. Libby Schaaf, Mayor, City of Oakland
- 45. Theo Posselt

46. Raphael Villagrancia
47. Mark Green
48. Nawal Seedat
49. Dante Gonzales
50. Sarah Abdeshahian
51. Hayley Currier
52. Dorothy Walker
53. Avi Samelson
54. Jeff Hobson
55. Anirvan Chatterjee
56. Phyllis Orrick
57. Andrew Fox
58. Harvey Gould
59. Alex Novet
60. John Stuart
61. Charles Kahn
62. Matt Lardner
63. Joe Collett
64. Zach Franklin
65. David Trachtenberg
66. Liat Zavodivker
67. Marcia Freedman
68. Mark Humbert
69. Lynette Levy
70. Corey Smith
71. Mariana Almeida
72. Teresa Clarke, on behalf of South Berkeley NOW!
73. Mary Canavan
74. Tommaso Sciortino
75. Libby Lee-Egan
76. Karen Chapple, Professor, City and Regional Planning
77. 19 "In Support of" form letters

**Item #21: Missing Middle Report**

78. 290 Communications submitted via Berkeley Considers, Includes summary information.

**Supplemental Communications and Reports 3**

**Item #15: Ensuring the Sustainability of the Berkeley Flea Market**

79. Wakean Maclean
80. Robert Lin
81. Karen Carroll
82. Ory Sandel
83. Christopher Hudson
84. Janice Greenberg
85. S. Omowale Fowles

86. Laurel Sharp
87. Barbara McDonald
88. Allen Barth
89. Daniel Jurnove
90. Mark McDonald
91. Hali Hammer
92. Barry Fike
93. Andre Rivers
94. Paul Deuter
95. Christopher Smith, Berkeley Community Flea Market Vendors Association

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

96. Presentation, submitted by Planning and Development Department
97. Meghan Jobson
98. Lisa Bullwinkel
99. JP Massar
100. Gayle Dominguez
101. Michael Lamperd
102. Bill Baird
103. Sean McPharlin
104. Nike van der Molen
105. Christopher Simmons
106. Kathy Stuart
107. Amy Honigman
108. Sophia Markoulakis
109. Liam Moran
110. Maile
111. Ken Hunter
112. Rod Mehrten
113. Chuck Everett
114. Ezra Malmuth
115. Linda Perrella
116. Jason Beaten
117. Kellylynn Johnson
118. Keith Arnold
119. Barbara Cohen
120. Matthew Woolley
121. Rena Rickles
122. Anna Harte, on behalf of the University of California Berkeley
123. Kriss Worthington
124. Martin O'Brien, on behalf of the Patient's Care Collective
125. Carol Christ, Chancellor of University of California at Berkeley
126. 53 "In Support of" form letters

**Item #21: Missing Middle Report**

127. Tor Berg
128. Todd Andrew
129. Janice Greenberg
130. Pamela Ormsby
131. Thomas Lord
132. Lin Druschel
133. Gail Craine
134. Adolfo Cabral
135. Aaron Stein-Chester
136. Elliot Halpern
137. Pepper Sbarbaro
138. Cora Johnson-Grau
139. Barbara Rydlander
140. George Porter
141. Gary McDole
142. Sarah Bancroft
143. Patrick Golier
144. Adrienne Aron
145. Michael O'Hare
146. Patrick Kennedy
147. Danny Wedding
148. Howard Cohen
149. Kent
150. Barbara Wenger
151. Jeannie Battagin
152. Patrick Sheahan
153. Chris Gilbert
154. Karen Harrington
155. John Taylor
156. Donald Goldmacher
157. Sandra Bernard
158. Chris Reed
159. Denise Pinkston
160. Erica Etelson
161. Mary Luersen
162. Gertrude Allen
163. Julie Snyder
164. Rita Elegant
165. Candace Hyde-Wang
166. Alexander Benn
167. Bruce Brody
168. Eric Panzer, on behalf of Assembly member Buffy Wicks
169. Juliet Lamont
170. Heather Gilbert
171. Sanjani Varkey

172. Todd Jersey
173. Cindy Leung
174. Zelda Bronstein
175. Danie Caraco
176. Bob Flasher
177. Fred Dodsworth (2)
178. David de Souza
179. Tanir Ami
180. Claire Schoen
181. Chris Paciorek
182. F.W. Sparrow
183. Gary Facente
184. Shirley Dean
185. Ty Alper
186. Richard Eastman
187. Polly Quick
188. Kate Harper
189. Aaron Foxworthy
190. Mary Rose
191. Carlota Babilon
192. Robin Millstein
193. Barryett Enge
194. Amanda Prasuhn
195. Remi Omodele
196. Sandy Simon
197. Bruce Bagnell
198. William Lopez
199. Alan Louwerse
200. Stan Lusardi
201. Alyse Jacobson
202. Vincent Casalaina
203. Gloria Child
204. Irene Rosenthal
205. Petra Liljestränd
206. Margaret Goodman
207. David Ying
208. Nina Torcoletti
209. Laura Klein
210. Dawn Howard
211. Chris Chase
212. Vivian Warkentin
213. Mischa Lorraine & Jerry Arriba
214. Martin & Olga Schwartz
215. John Gilman
216. Willie Pettus
217. Maggie Parks

218. Les Shipnuck
219. Kelly Hammargren
220. Nabih Tahan
221. Lynn Sherrell
222. Valerie Knepper
223. Brian Shillinglaw
224. Sarah Leverett
225. Amelia Cass
226. Donna Davis
227. Jessica Hovick
228. Aurora Arder
229. Ivan Diamond
230. Kathy Kahn
231. Charley Paffenbarger
232. Ted Edlin
233. Tony & Trish Hawthorne
234. Heather Gilbert
235. Liz Horowitz
236. Meryl Siegal
237. Joe Berry
238. David Ritvo
239. Norman Frank
240. Joan Bardez
241. Brian Barsky
242. Deanna Soe
243. David Kafton
244. Sandy Zirulnik
245. Ellen Hahn
246. Peter Ekstein
247. Dana Scott
248. David Fielder
249. Gail Craine
250. Deborah Trillia
251. Catherine Varnau
252. Candace Hyde-Wang
253. Ted Lobman
254. Stephen Cataldo
255. John Tozer
256. Margo Smith
257. Susan Pownall
258. Christopher Adams
259. J. Brod
260. Theo Posselt
261. Teresa Clarke, on behalf of South Berkeley NOW!

**Item #22: Retirement of Council Ad Hoc Subcommittees**

- 262. Kelly Hammargren
- 263. Patrick Sheahan

**Item #A: Referral Response: Supporting Worker Cooperatives**

- 264. Yassi Eskandari
- 265. North Berkeley Neighborhood Alliance
- 266. Network of Bay Area Worker Cooperatives



**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Thursday, February 28, 2019**

**6:00 P.M.**

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

**Preliminary Matters**

**Roll Call:** 6:09 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin.

**Absent:** None.

**Action Calendar – New Business**

## Action Calendar – New Business

### 1. Referral Responses: Managing Recreational Vehicle (RV) Parking

**From: City Manager**

**Recommendation:** Review options provided by City staff in the report and take one of the following actions:

1. Refer the recommendations in Option A (in the staff report), amending existing codes to limit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system, to the City Manager.

**-AND/OR-**

2. Adopt the recommendations provided in Option B (in the staff report), prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and adopt the first reading of two ordinances amending Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120 and refer any additional costs to the FY20-21 Budget process.

**Financial Implications:** See report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** 78 speakers. M/S/Failed (Davila/Harrison) to refer the item to the Health, Life Enrichment, Equity and Community Committee.

**Vote:** Ayes – Davila, Harrison; Noes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Abstain – Droste.

**Action:** M/S/Carried (Arreguin/Kesarwani) to:

- 1) Adopt first reading of Ordinance No. 7,643-N.S. (BMC Section 14.40.120) regarding stopping, standing or parking restricted or prohibited on certain streets. Second reading scheduled for March 26, 2019. The implementation of the ordinance will be preceded by efforts such as outreach efforts, noticing, flexible funding, and assisting individuals to get stable or rehoused.
- 2) Refer to the City Manager to amend existing codes to prohibit RV parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way or City-owned off-street parking lots in a calendar year. Permits under the new system should be distributed throughout the city.
- 3) Council will continue to work with staff to identify and develop a temporary RV site that serves highly vulnerable populations, including families with young children attending Berkeley schools, as well as a regional long-term non-profit RV site.
- 4) Refer to the City manager to consider a program to allow private entities to have RVs on their property for overnight camping, with an emphasis on persons utilizing the coordinated entry system.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Robinson.

Recess 9:11 p.m. – 9:30 p.m.

## Action Calendar – New Business

### 2. Clean and Livable Commons Initiative

**From:** City Manager

**Recommendation:** Provide guidance on actions the City Manager should take to enhance livability in Berkeley.

**Financial Implications:** See report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** 13 speakers. M/S/C (Arreguin/Kesarwani) to provide direction to the City Manager to pursue the following items:

1. Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping.
2. Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager's office to increase the City's ability to quickly address debris and other negative impacts related to homeless encampments.
3. Add portable toilets and a second homeless locker program near encampments.
4. Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.
5. Explore increasing the penalties for illegal dumping.
6. Refer to the City Manager and the budget process to expand the streets clean up employment program.
7. Explore short-term pump-out options.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain - None; Absent – Harrison.

Councilmember Harrison absent 9:30 p.m. – 10:33 p.m.

## Adjournment

**Action:** M/S/C (Robinson/Hahn) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain - None; Absent – Harrison.

Adjourned at 10:33 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of February 28, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

1. Eric Friedman

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

2. Andrea Segall
3. Laurie Nardinelli
4. Scott Huffman
5. John Niles
6. Kim Nemirow
7. Iris Starr
8. Eugene Bolotin
9. M. Kandarian
10. Tani Macdonald
11. Eva Herzer
12. Meryl Siegal
13. Carly Ebenstein and Steve LaMond
14. Jim Harleen
15. William Tomaszewski (4)
16. Sheila Goldmacher
17. Onica Kuch

## Supplemental Communications and Reports 3

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

18. Interfaith Council of Alameda County, submitted by Councilmember Davila
19. Presentation, submitted by the City Manager's Office
20. Steven Donaldson, on behalf of 50+ Business' in the West Berkeley area
21. Jessica Jennings
22. Clark Sullivan
23. Shaun Barraca
24. Julie Ann Schaul (4)
25. Isis Feral
26. Jan Austerlitz
27. David Pope
28. Lisa Camasi
29. Alfred Twu
30. Jodi Ravel
31. Beth Rockmill
32. Diana Bohn
33. Amin Torabi
34. Erik Holland
35. Elizabeth Martin
36. Adam Rogers
37. Stephanie Thomas
38. Christine Mitchell
39. David Arkin on behalf of Sharon Lee, Executive Director of Low Income Housing Institute