



AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, September 24, 2024
6:00 PM

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

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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

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

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

Preliminary Matters

Roll Call:

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

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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 attending the meeting in-person and 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.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move 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.

Recess Items

1. **Contract: B-Bros Construction Inc. for Temporary Stabilization of Stair Tower Windows at 2180 Milvia Street**
From: City Manager
Recommendation: Adopt a Resolution approving the City Manager's emergency authorization of a contract with B-Bros Construction Inc. to make necessary repairs to the windows in the secondary egress stairwells in 2180 Milvia Street in an amount not to exceed \$400,000.
Financial Implications: See report.
Contact: Terrance Davis, Public Works, (510) 981-6300

Consent Calendar

2. **Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,934-N.S. amending Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.
First Reading Vote: Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.
Financial Implications: None.
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Consent Calendar

3. Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)

Recommendation: Adopt second reading of Ordinance No. 7,935-N.S. adopting revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.

First Reading Vote: Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – Lunaparra; Abstain – None; Absent – None.

Financial Implications: None.

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

4. Establish 2025 City Council Meeting Schedule

From: City Manager

Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.

Financial Implications: None.

Contact: Mark Numainville, City Clerk, (510) 981-6900

5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 24, 2024

From: City Manager

Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Financial Implications: See report.

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

Consent Calendar

6. Grant Application: Reconnecting Communities Pilot (RCP) Discretionary Grant Program for the Santa Fe Railroad Trackbed to Park Conversion Project

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or their designee to: submit a grant application in the amount of up to \$5 million to the U.S. Department of Transportation for the Reconnecting Communities Pilot (RCP) Discretionary Grant Program (second round) for the Santa Fe Railroad Trackbed to Park Conversion Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

Financial Implications: See report.

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

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

From: Civic Arts Commission

Recommendation: The Civic Arts Commission recommends that the City Council allocate \$125,000 in the FY24/25 Budget to fund a nexus study on the existing Public Art on Private Development Requirement (Berkeley Municipal Code 23.316), which was established in 2017. The Civic Arts Commission would like to make changes to the requirement to ensure ongoing support for the arts and culture sector in Berkeley. In order to make any changes to the Public Art on Private Development Requirement, first a nexus study is required by the State of California's Mitigation Fee Act.

Financial Implications: See report.

Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530

Council Consent Items

8. Contract No. 32000196 Amendment: Szabo & Associates for Communications Consulting Services

From: Mayor Arreguin (Author)

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000196 with Szabo & Associates for communications consulting services for the Mayor's Office, increasing the contract amount by \$11,632.30 for a new total not to exceed \$347,632.30.

Financial Implications: See report.

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Calendar

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

From: Councilmember Kesarwani (Author)

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

The report should consider the following key areas:

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

Financial Implications: See report.

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

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

From: Councilmember Humbert (Author), Councilmember Taplin (Author), Councilmember Wengraf (Author)

Recommendation: In order to ensure that voters are fully informed and to inform future discussions of potential expenditures, it is recommended that the Berkeley City Council adopt the following language to clarify (but not change) the intent of Measure Y: The intent of Measure Y is to generate additional funds by increasing the Parks Tax for park and landscape maintenance in the Waterfront including Cesar Chavez (Berkeley’s largest park), improvements to Berkeley’s urban forest and street tree plantings, and essential park and landscaping related capital projects.

Financial Implications: See report.

Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Old Business

11. **City Council Rules of Procedure and Order Revisions** (*Continued from September 10, 2024*)
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.
Financial Implications: See report.
Contact: Mark Numainville, City Clerk, (510) 981-6900

Information Reports

12. **LPO NOD: 2000 Kala Bagai Way, LMSAP2024-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
13. **LPO NOD: 2227 Parker Street, #LMIN2024-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
14. **LPO NOD: 8 Greenwood Common, #LMSAP2024-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

Archived indexed video streams are available at:
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.
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 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 <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:
<https://berkeleyca.gov/your-government/city-council/city-council-agendas>
and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman 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 (510) 981-6418 (V) or (510) 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.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

~~~~~

*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 September 12, 2024.*



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

1. Cameron Woo

#### **Demolition of UA Theater**

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

#### **Cal Sailing Club and J-Dock at Berkeley Marina**

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

#### **Supporting Berkeley Libraries**

20. Cathy Brown

#### **Large Building Fossil Fuel Emissions Tax**

21. Anand Patel

**Containers Missed Pickup**

22. Peter Kuhn

**TOPA**

23. Marcia Edelen

24. Summer Brenner

**Ice Cream Truck Generator**

25. Dara Pond

26. Adrian McGilly

**West Berkeley Concerns**

27. Paul Limb

**Zoning Ordinance and Zoning Changes**

28. Gabriela Kipnis

29. Paula Skene

30. Susie Zukor

31. Andrea Yankowski

32. Susan Collier Thomakos

33. Jim Greenberg

**Article Regarding Wildfires**

34. Barbara Gilbert

**Concerns Regarding 2070 Martin Luther King Jr Way**

35. Bryce Kalousek-Maritano

**Survey About Local Issues**

36. Dona Bretherick

**Loud Noises**

37. Erwan Illian

**Settlement for Civil Case**

38. Jesse McCaffrey

**Oakland A's Relocation and Current Events**

39. Josh Atwood (5)

**Links to Articles**

40. Vivian Warkentin (2)

41. Erwan Illian

42. Russbumper (5)

### **Middle East Conflict and Peace & Justice Commission**

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

### **Supplemental Communications and Reports**

*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.

