



Berkeley Homeless  
Services Panel of Experts

## REGULAR MEETING AGENDA

February 5, 2025 – 7:00 PM

North Berkeley Senior Center, Poppy Room  
1901 Hearst Ave., Berkeley, CA 94709

**Mayor Ishii:**  
Carole Marasovic – **Chair**

**Rashi Kesarwani:**  
Sadie Mae Palmatier

**Terry Taplin:**  
Denah S. Bookstein

**Ben Bartlett:**  
Paul Kealoha-Blake –  
**Vice Chair**

**Igor Tregub:**  
Mary Ann Meany

**Shoshana O’Keefe:**  
Vacant

**Brent Blackaby:**  
Steven Segal

**Cecilia Lunaparra:**  
Donnell Jones

**Mark Humbert:**  
Vacant

Josh Jacobs, Homeless Services Coordinator, Homeless Services Panel of Experts  
*Staff Secretary, [jjacobs@berkeleyca.gov](mailto:jjacobs@berkeleyca.gov), 510.225.8035*

***All items are for discussion and possible action.***

1. Roll Call.
2. Reading of the Land Acknowledgment.
3. Public Comment for Items Not on the Agenda.

### **Updates/Action Items:**

4. Approval of the Agenda. Discussion and Possible Action.
5. Approval of the January 8, 2025 Minutes. [Attachment 1]. Discussion and Possible Action.
6. Brief discussion on public filming at meetings, Brown Act, public records, and public comment. Discussion and possible action.
7. Chair update. Discussion only.
8. Possible letter of support for City Restroom Study recommendations. Discussion and possible action.
9. Staff to report on encampment clearings at Second Street and Harrison; admissions to the Howard Johnson and Capri; RV buy-back program; additional placements of campers from Harrison. Discussion and possible action.
10. Site visits. Discussion and possible action.
11. Election of Chair and Vice-Chair. Discussion and possible action.
12. Adjourn.

***A Vibrant and Healthy Berkeley for All***

**Attachments:**

1. January 8, 2025 Minutes.
2. Brown Act Presentation from City Attorney's Office.
3. Berkeley Open Government Commission Suggested Edits to the Commissioner's Manual.

**Correspondence and Notice of Decision Requests:**

Deadlines for Receipt:

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner's responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by or before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

***\*Supplemental Materials*** are defined as any items authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.

***\*\*Supplemental Communications*** are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.

*Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.*

**Public Comment Policy:**

*Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.*

**COMMUNITY ACCESS INFORMATION**

*ADA Disclaimer "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 ADA Program Coordinator at 510-981-6418 (V) or 510-981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting."*

*Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content.*



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## MEETING MINUTES

January 8, 2025

### 1. **Roll Call:** 7:00 PM

**Present:** Marasovic, Kealoha-Blake, Meany, Segal, Palmatier, Bookstein, and Jones (absent until 7:24).

**Absent:** None.

**Staff:** Jacobs.

**Council:** None.

**Public:** 3.

### 2. Land acknowledgement.

### 3. Comments from the Public: 1.

### Update/Action Items

#### 4. Approval of the Agenda. Discussion and Possible Action.

**Action:** M/S/C Meany/Palmatier move to approve the agenda as written.

**Vote:** *Ayes:* Marasovic, Kealoha-Blake, Segal, Meany, Palmatier, and Bookstein.

*Noes:* None. *Abstain:* None. *Absent:* Jones.

#### 5. Approval of Minutes from November 6, 2024. Discussion and Possible Action.

**Action:** M/S/C Marasovic/Meany move to approve the minutes as amended to remove Segal as present.

**Vote:** *Ayes:* Marasovic, Kealoha-Blake, Segal, Meany, Palmatier, and Bookstein.

*Noes:* None. *Abstain:* None. *Absent:* Jones.

#### 6. Presentation from Options Encampment Mobile Wellness Team with Q and A. Discussion and Possible Action.

Discussion; no action taken.

#### 7. Chair Report. Discussion only.

Discussion; no action taken.

*A Vibrant and Healthy Berkeley for All*

- 8. Possible letter to Council supporting the Citywide restroom project implementation. Discussion and Possible Action.

Discussion; no action taken.

- 9. Staff presentation on navigating the path from homelessness to permanent housing. Discussion and Possible Action.

Discussion; no action taken.

- 10. A brief introduction from staff to grievance policies at community-based organizations. Discussion and Possible Action.

Discussion; no action taken.

- 11. Review the upcoming Measure P allocation process and projected revenue with staff. Discussion and possible action/possible recommendation.

Discussion; no action taken.

- 12. Adjourn.

Meeting adjourned at 9:00 PM.

Minutes Approved on: \_\_\_\_\_

Josh Jacobs, Commission Secretary: \_\_\_\_\_

# THE BROWN ACT

SAM HARVEY, DEPUTY CITY ATTORNEY

JANUARY 2025



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## BASICS OF THE ACT

- ▶ Purpose: To ensure the Public's business is done in public.
- ▶ All meetings of legislative bodies:
  - ▶ Open to the public
  - ▶ Adequately noticed
  - ▶ Stick to agenda
  - ▶ Allow the public to speak on agenda items (before action is taken) and on any non-agenda item within the jurisdiction of the legislative body.

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## HISTORY OF THE BROWN ACT



- ▶ In 1952, the San Francisco Chronicle exposed secret meetings conducted by local governments.
- ▶ Example: San Jose City Council left chambers to settle a matter "in private" - "just being practical."
- ▶ League of California Cities drafted a new open meeting law which was sponsored by Assemblymember Ralph M. Brown and signed by Gov. Earl Warren in 1953.

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## THE BROWN ACT - OPEN AND PUBLIC



Ralph M. Brown

Photo courtesy The Modesto Bee

"The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." (California Government Code § 54950.)

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## THE BROWN ACT – AT A GLANCE

- ▶ All meetings of legislative bodies must be open and public
- ▶ Must be adequately noticed and agendized
- ▶ Must give the public an opportunity to attend and be heard

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." (Gov. Code sec. 54953(a).)

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## WHO IS COVERED BY THE BROWN ACT?

- ▶ All "legislative bodies" of the City are covered by the Brown Act:
  - ▶ City Council
  - ▶ Council Committees
  - ▶ Commissions and boards
  - ▶ "Includes just about every type of decision-making body"

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## “AD HOC” COMMITTEE EXCEPTION

- ▶ An “ad hoc” committee is not a “legislative body” covered by the Brown Act
- ▶ This is a narrow exception:
  - ▶ Less than a quorum of legislative body
  - ▶ No fixed meeting schedule—not a “standing committee”
  - ▶ No continuing purpose (e.g., not a subcommittee on particular issue)

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## WHAT IS A MEETING?

- ▶ All meetings of a legislative body must comply with the Brown Act
- ▶ A meeting occurs whenever a **quorum** of members of a legislative body gather to discuss **business within their jurisdiction**.
- ▶ Quorum = a majority of the members of the legislative body
- ▶ Any gathering of a majority of the legislative body can become a “meeting”
  - ▶ Social gatherings
  - ▶ Meetings of other legislative bodies
  - ▶ Retreats, forums, workshops
- ▶ A “meeting” can happen via writing, phone calls, email etc.
- ▶ Serial meetings ...

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## SERIAL MEETINGS

- ▶ One of the most challenging aspects of the Brown Act
- ▶ Serial meeting: when the majority of a legislative body uses a series of communications, either directly or through intermediaries, to “discuss, deliberate, or take action on any item within the subject matter jurisdiction of the legislative body.”
- ▶ Serial meetings deprive the public of the right to observe and participate in legislative decision-making.

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## TYPES OF SERIAL MEETINGS

### Daisy chain meeting

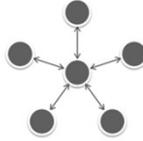


Example: Councilmember A calls Councilmember B to talk about a City issue. Councilmember B then calls Councilmember C who calls Councilmember D, etc., until a quorum of Council has discussed, deliberated or taken action the issue.

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## TYPES OF SERIAL MEETINGS

### Hub and spoke meeting



Example 1: Councilmember A calls B and discusses a City issue. Councilmember A then separately calls Councilmembers B, then C, etc., telling each what the other has said. Eventually a quorum of the Council has discussed, deliberated or taken action on the issue.

Example 2: A city employee or officer who is not a member of the legislative body serves as the "hub." When briefing legislative body members, staff should take care not to disclose other members' views or positions.

Example 3: A constituent, lobbyist or developer serves as the "hub." Take care to ensure that constituents do not disclose views of some members to other members.

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## SERIAL MEETINGS

- ▶ Technology:
  - ▶ Emails, texts, and various forms of online communication can turn into a "meeting" under the Brown Act.
  - ▶ "Reply All" button should be used thoughtfully. Staff should use Bcc when emailing members of a legislative body.
- ▶ Contact the City Attorney's office with questions or concerns

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## SOCIAL MEDIA

- ▶ AB 992 (2020) creates specific Brown Act rules for social media
- ▶ Officials can communicate with the public through social media, including soliciting information regarding matters being considered by the legislative body
- ▶ Prohibited from using social media to discuss official business "among themselves," which is defined as making posts, commenting or using digital icons that express reactions ("liking") communications made by other members of the body
- ▶ Prohibited from responding "directly to any communication" that is made, posted or shared on social media by another member of the same body regarding matters in the body's jurisdiction
- ▶ Note that AB 992 goes further than the Brown Act ordinarily does, as even a single contact between two members via social media is prohibited

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## AGENDA REQUIREMENTS

- ▶ Agenda posted 72 hours before a regular meeting or 24 hours before a special meeting
- ▶ Must notice the time and place of the meeting
- ▶ Provide a "brief general description" of each item of business
- ▶ Legislative body must not take action or discuss any items that are not on posted agenda
- ▶ Limited exceptions to discussing items not on agenda:
  - ▶ Emergency or immediate, unforeseen need
  - ▶ Brief response to statements made by public
  - ▶ Brief announcement or report
  - ▶ Directing staff to put issue on future agenda

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## MEETINGS EXCEPTIONS

Several exceptions to the definition of "meeting"

- ▶ Individual contacts – A member of a legislative body can meet with any other person, including another member of the legislative body.
  - ▶ But be careful of serial meetings
- ▶ Attending a conference or "open and public" meeting hosted by a private person or organization, but must not talk about City business outside of the scheduled program.
- ▶ Social or ceremonial gathering provided a majority does not discuss matters within their jurisdiction.
- ▶ Open meeting of another body – provided a majority does not discuss among themselves, other than as part of the scheduled meeting, matters within their jurisdiction.

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## MEETING BY TELECONFERENCE

- ▶ General Rule: Teleconferencing is permitted only when:
  - ▶ Each teleconference location listed in agenda
  - ▶ Each teleconference location open to the public
  - ▶ Agendas posted at all teleconference locations
  - ▶ At least a quorum of the legislative body is physically present in Berkeley
- ▶ Note: Commissioner's Manual may prohibit teleconferencing for some commissions or situations.
  - ▶ Contact City Clerk or Commission Secretary with questions.

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## TELECONFERENCING IN EMERGENCY

- ▶ In the wake of the COVID-19 pandemic, the State Legislature created exceptions to the general teleconferencing rules.
  - ▶ When Governor has proclaimed a state of emergency:
    - ▶ Legislative body may decide to meet remotely by majority vote
    - ▶ Public must be able to participate via remote technology
    - ▶ Legislative body must recertify need to conduct meetings remotely every 45 days

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## TELECONFERENCING FOR ILLNESS OR FAMILY CARE

- ▶ Limited Exception for Individual Members: Members may appear remotely without disclosing address or making remote location public, if:
  - ▶ Member notifies body of need to participate remotely for "just cause" or "emergency circumstances"
  - ▶ Quorum of legislative body physically present in person
  - ▶ Technology allows two-way remote participation by legislative body and public
- ▶ "Just cause": Contagious illness, childcare or family care need, immunocompromised family member, need relating to disability, or travel on official business
- ▶ "Emergency circumstances": Physical or family emergency that prevents in-person attendance. Legislative body must vote to approve
- ▶ The number of times a councilmember may appear remotely is limited based on the number of meetings the City Council holds per month.

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## PUBLIC PARTICIPATION

- ▶ Two types of public comment:
  - ▶ (1) General matters within jurisdiction of body;
  - ▶ (2) Specific agenda items (before action is taken on the item)
- ▶ Special meetings (meeting at times other than usual time) are not required to allow "general public comment" and may have only comment periods for specific agenda items
- ▶ Legislative body may :
  - ▶ Regulate time limit per speaker
  - ▶ Create rules of decorum
  - ▶ Prohibit disruptive behavior
- ▶ Legislative body may not prohibit speech based on content (e.g., prohibiting criticism of City government). Legislative bodies should take care to avoid using decorum rules to penalize disfavored speech.

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## CLOSED SESSION

- ▶ Legislative bodies can meet in closed session for certain matters:
  - ▶ Existing or anticipated litigation
  - ▶ Personnel matters or labor negotiations
  - ▶ Real estate negotiations
  - ▶ Security threats to public buildings and services
- ▶ Closed session items must be briefly described on the posted agenda, which must identify the exemption for each item
- ▶ Certain actions taken in closed session must be reported out to the public (e.g., approval of agreements and settlements)

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## ENFORCEMENT

- ▶ Lawsuits to invalidate City actions taken in violation of the Act
- ▶ Lawsuits to prevent or stop a legislative body from violating the Act
- ▶ Complaints to Open Government Commission, which can make recommendations to Council
- ▶ Brown Act contains criminal provisions where a member acts with intent to deprive the public of information

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## QUESTIONS?

Please contact the City Attorney with your Brown Act questions.

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**Fw: Public comment**

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**From** carole marasovic <daphnesflight@yahoo.com>

**Date** Wed 1/29/2025 14:37

**To** Jacobs, Joshua <JJacobs@berkeleyca.gov>

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

For packet

Carole Marasovic

----- Forwarded Message -----

**From:** Kitt Saginor <ksaginor@gmail.com>

**To:** carole marasovic <daphnesflight@yahoo.com>

**Sent:** Sunday, January 26, 2025 at 11:56:18 AM PST

**Subject:** Re: Public comment

Hi Carole,

I'm so sorry, I'll be away next week.



I've seen Sam Harvey, Deputy City Attorney explain the Brown Act, public records and public information. I think he does a really good job. You might actually want to request that he provide your commission with a training on the Brown Act.

On another topic, the minutes of our last meeting are not up yet, but when they are posted you might see that Open Government voted to recommend the following edit to the *Commissioners' Manual*:

In Section II.C. ACCOMMODATIONS FOR COMMISSIONERS WITH DISABILITIES. (p. 31) which currently reads:

Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to the commission secretary who will work with the Disability Compliance Program to evaluate the individual's request and will determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of meetings to ensure that the City has an adequate opportunity to provide reasonable accommodation.

We recommended changing the last sentence to read:

Individuals must make a disability-related accommodation request 72 hours in advance of meetings or with as much advance notice as possible. The City may not be able to provide reasonable accommodation with less than 72 hours notice.

Rationale: a person may experience a disability less than 72 hours in advance of a meeting, but with enough time for the City to provide reasonable accommodation. Example, a person could be in an accident a few days before a meeting, but be stabilized with access to a computer and zoom two days before a meeting that has remote participation capability.

Not a major change, but hopefully would be helpful - if they're willing to make that change.

Kitt Saginor

[ksaginor@gmail.com](mailto:ksaginor@gmail.com)

415-860-4173

On Sun, Jan 26, 2025 at 9:46 AM carole marasovic <[daphnesflight@yahoo.com](mailto:daphnesflight@yahoo.com)> wrote:

Kitt,

Are you available the evening of 1/5? It is the date of our next HSPE meeting.

There is a HSPE commissioner who is insistent that she doesn't want the public recording/videotaping meetings because excerpts can be edited. She even suggested that we go into closed session, as Council sometimes does, to prevent it. I explained to her the right to photo/record in a public location and also the limited exceptions that apply to closed sessions at Council that don't apply to us.

The commissioner is insistent that she wants the City Attorney contacted and involved. I was wondering if you wanted to provide comment.

You are doing an excellent job on FPPC/OGC. It is good to see other people coming to the Council Agenda Committee meeting and commenting.

Carole

Sent from my iPhone