

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, April 28, 2020

6:00 PM

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

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://zoom.us/j/96207688419>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **962 0768 8419**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

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

1. Adjourn in memory of all the victims of the COVID-19 pandemic.

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. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Amendment: FY 2020 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,694-N.S. amending the FY 2020 Annual Appropriations Ordinance No. 7,682-N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments in the amount of \$28,565,263 (gross) and \$15,378,568 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 2. Lease Agreement with 200 Marina Blvd, LLC for the Doubletree Hotel**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,695-N.S. 1. Authorizing the City Manager to execute the Ground Lease with 200 Marina Blvd, LLC, the owner/ground lessee of the Doubletree Hotel located at the Berkeley Marina for a 60-year term effective from May 14, 2020 through December 31, 2080; and 2. Approving a related Capital Contribution Agreement that 200 Marina Blvd, LLC contribute \$3 million to Marina street improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 3. Zoning Ordinance Amendments for Family Daycare Homes to comply with Senate Bill 234; Amending Berkeley Municipal Code Title 23**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,696-N.S. amending Berkeley Municipal Code (BMC) Title 23 (Zoning Ordinance) to comply with Family Daycare Home regulations recently enacted by Senate Bill 234 (SB 234); and
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 4. Amending Tenant Screening Fees Ordinance for Existing Tenancies; Amending Berkeley Municipal Code Chapter 13.78**
From: Mayor Arreguin (Author), Councilmember Harrison (Co-Sponsor), Councilmember Robinson (Co-Sponsor) *(Reviewed by the Land Use, Housing & Economic Development Committee)*
Recommendation: Adopt second reading of Ordinance No. 7,697-N.S. amending Berkeley Municipal Code Chapter 13.78 (Tenant Screening Fees) to add subsections to prohibit additional fees for existing tenancies and lease terminations.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Consent Calendar

5. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the council meetings of March 10, 2020 (special closed, and regular), and March 17, 2020 (special).

Financial Implications: None

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

6. Citizens Redistricting Commission Implementation Ordinance; Adding BMC Chapter 2.10

From: City Manager

Recommendation: Adopt first reading of an Ordinance establishing regulations and procedures for the Berkeley Citizens Redistricting Commission to supplement the existing provisions of the City Charter related to redistricting, and adding Berkeley Municipal Code Chapter 2.10.

Financial Implications: None

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

7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 28, 2020

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: Sanitary Sewer Operations Fund - \$500,000

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

8. Contract: City Data Services for Streamlined Community Agency Contract Administration and Monitoring

From: City Manager

Recommendation: Adopt a Resolution: 1. Authorizing the City Manager to enter into a contract with City Data Services (CDS) to continue to provide its online data management system to the Department of Health, Housing, and Community Services for the period July 1, 2020 through June 30, 2021 for \$32,160, and; 2. Authorizing the City Manager to extend the contract for an additional three years (FY22, FY23 & FY24), and execute any amendments with CDS for ongoing maintenance of the community agency online applications and reporting systems for an annual service fee of \$32,160 for a total contract not to exceed amount of \$128,640.

Financial Implications: Various Funds - \$128,640

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Consent Calendar

- 9. Contract No. 32000094 Amendment: Youth Spirit Artworks for Transition Age Youth Case Management and Linkage Services and Tiny House Case Management**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with vendor Youth Spirit Artworks (YSA) to provide Transition Age Youth (TAY) case management and linkage services through June 30, 2021 in an amount not to exceed \$217,000. This will extend the existing contract by one year and add in \$117,000 for case management services at the Tiny Homes Village.
Financial Implications: See report
Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400
- 10. Contract: ENGEO for Testing and Inspection Services for Berkeley Tuolumne Camp Construction Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with ENGEO in an amount not to exceed \$500,000 to provide construction testing and inspection services (including Geotechnical inspections) for the Berkeley Tuolumne Camp Project for the period May 1, 2020 through July 1, 2022.
Financial Implications: Camps Fund - \$500,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 11. Contract: Andes Construction, Inc. for Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation at West Frontage Road Crossing Interstate 80 Project; accepting the bid of the lowest responsive and responsible bidder, Andes 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 \$556,292, which includes a 10% contingency of \$50,572.
Financial Implications: Sanitary Sewer Fund - \$556,292
Contact: Phillip Harrington, Public Works, (510) 981-6300

Consent Calendar

- 12. Contract Amendments: On-Call Civil Engineering and Construction Management Services, LCC Engineering & Surveying, Inc. and Pavement Engineering Inc.**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to execute amendments to
1. Contract No. 31900068 with LCC Engineering & Surveying, Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$1,500,000, and extending the term of the contract from June 30, 2021 to June 30, 2022, and
 2. Contract No. 31900047 with Pavement Engineering Inc. for on-call civil engineering services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$2,500,000 and extending the term of the contract from June 30, 2021 to June 30, 2022.
- Financial Implications:** See report
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 13. Approving Proposed Projects Anticipated to be Paid for by the State's Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2021**
From: City Manager
Recommendation: Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California's Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 14. Filling a Vacancy among the Elected Representatives for the Poor**
From: Human Welfare and Community Action Commission
Recommendation: Adopt a Resolution confirming the appointment of Mr. Carlos Hill (District 1), 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 February 19, 2020 meeting, and that his term expires November 18, 2020.
Financial Implications: None
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak line use the "raise hand" function 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.

Action Calendar

The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, use the “raise hand” function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

- 15. General Plan Redesignation and Rezone of The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00) (Continued from April 14, 2020)**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt a Resolution amending the General Plan land use designations of portions of parcels that comprise The Rose Garden Inn from Low Medium Density Residential to Avenue Commercial;
2. Adopt first reading of an Ordinance amending the Zoning Map for portion of parcels that comprise the Rose Garden Inn from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1); and
3. Certify that the reclassification of General Plan land use designations and rezoning are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Classes 1, 3, 5, and 31

Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

Action Calendar – Public Hearings

16. Submission of the 2020-2025 Consolidated Plan, Including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice

From: City Manager

Recommendation: Conduct a public hearing on the 2020-2025 Consolidated Plan, including the Program Year (PY) 2020 Annual Action Plan (AAP), and upon conclusion, adopt a Resolution:

1. Approving proposed funding allocations under the PY20 Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and Home Investment Partnerships Program (HOME); and
2. Authorizing the execution of resultant agreements and amendments with community agencies for the above-mentioned funds; and
3. Allocating approximately 85% of the PY20 HOME funds to the Housing Trust Fund, up to 5% for Community Housing Development Organization (CHDO) operating funds, and 10% for program administration; and
4. Authorizing the City Manager to submit the 2020-2025 Consolidated Plan, including the PY20 Annual Action Plan as informed by the Regional Analysis of Impediments to Fair Housing Choice (AI), to the federal Department of Housing and Urban Development (HUD), and addressing any public comments.

Financial Implications: See report

Contact: Lisa Warhuus, Housing and Community Services, (510) 981-5400

Action Calendar – New Business

17. Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election

From: City Manager

Recommendation: Discuss possible ballot measures for November 2020, and provide direction to the City Manager about which issues to include in a community survey should the City Council wish to undertake one.

Financial Implications: See report

Contact: Dave White, City Manager's Office, (510) 981-7000

18. Placing Charter Amendment Measure on the November 3, 2020 Ballot Related to Full-Time Status and Salaries for the Mayor and Councilmembers

From: City Manager

Recommendation:

1. Adopt a Resolution submitting an Amendment to Article V of the City Charter regarding the full-time status and salaries for the Mayor and City Council to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

Financial Implications: None

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

Action Calendar – New Business

19. Recommendation to Prepare a City Ballot Measure to Create a Climate Action Fund, in response to the Fossil Fuel Free Berkeley referral

From: Energy Commission

Recommendation: The Commission recommends that the City Council develop a referendum and seek approval for it on the 2020 ballot to create a Climate Action Fund, which would support actions to achieve the Berkeley Climate Action Plan, to become Fossil Fuel free, and to respond to the Climate Emergency.

Financial Implications: See report.

Contact: Billi Romain, Commission Secretary, (510) 981-7400

Council Action Items

20. Placing a Measure on the November 3, 2020 Ballot to Introduce Term Limits for the Mayor and City Councilmembers

From: Councilmember Davila (Author)

Recommendation: Adopt a Resolution to draft an Amendment to Article V, Section 14 and 15 of the City Charter for the November 3, 2020 General Municipal Election, limiting the terms of service for the Mayor and City Councilmembers to no more than three consecutive four-year terms or twelve years, with a required two-year hiatus in order to serve additional terms.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Information Reports

21. FY 2020 Mid-Year Budget Update

From: City Manager

Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

22. Eight Previous Referrals To The Planning Department Which Can Be Tracked As Fulfilled

From: City Manager

Contact: Timothy Burroughs, 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.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service 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 posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

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.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 16, 2020.***

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing through [Records Online](#).*

## **Communications – April 28, 2020**

*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.*

### **COVID-19 General**

1. David Lerman (2)
2. Diana Diaz Morales
3. Jason Meggs
4. Margots999
5. Jurgen Aust
6. Thomas Lord

### **Rental Protection & Evictions**

7. Saki Bailey, on behalf of Bay Area Community Land Trust
8. Lisa Camasi
9. Darinxoso Oyamasela

### **Encampments**

10. Osha Neumann
11. Christopher Kohler
12. Margy Wilkinson (2)
13. Marcia Poole
14. Janice Schroeder
15. Rivka Polatnick
16. Erica Etelson
17. Starchild
18. David Schroeder
19. Christopher Kohler
20. Andrea Henson
21. Esther Dane
22. Diana
23. Steve Gilmartin

### **Berkeley's Mayor Webpage**

24. David Lerman

### **1533 Beverly Place – Appeal of ZAB Decision**

25. Rena Rickles, on behalf of client

### **Street Space + Beg Button for Walking and Biking**

26. Liza Lutzker
27. Dee Williams-Ridley
28. Ben Gerhardstein
29. John Kenney
30. Farid Javandel
31. Charles Siegel (2)

### **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.