

**REVISED AGENDA  
(ADDED CONTINUED ITEMS FROM APRIL 14, 2020)**



**BERKELEY CITY COUNCIL MEETING**

**Tuesday, April 21, 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/257156624>. 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: **257 156 624**. 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](mailto: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 Joe Engbeck, Local Activist
2. 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. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020 and initially ratified by the City Council on March 10, 2020.  
**Financial Implications:** See report  
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 21, 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:** Mental Health Services Fund - \$192,276  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 3. Contracts: On-Call Landscape Architectural Services for Capital Improvement Projects**  
**From: City Manager**  
**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call landscape architectural services for capital improvement projects, for contract periods of May 1, 2020 through April 30, 2023:  
1. BASE Landscape Architecture, for an amount not to exceed \$300,000.  
2. PGA Design, Inc., for an amount not to exceed \$300,000.  
3. RRM Design Group, for an amount not to exceed \$300,000.  
**Financial Implications:** See report.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 4. Fiscal Year 2021 Street Lighting Assessments – Initiating Proceedings**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions describing proposed improvements to be used to in determine the annual assessments levied for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District No. 2018, and ordering the preparation of Engineer's Reports.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Council Consent Items

5. **Send a letter to CA Assemblymember Buffy Wicks in support of AB 1851 “Faith-based organization affiliated housing development projects: parking requirements”**  
**From: Councilmember Bartlett (Author), Mayor Arreguin (Author), Councilmember Davila (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Buffy Wicks expressing the City of Berkeley’s support for AB 1851, which would allow for the elimination of residential parking requirements on faith-based properties for density bonus qualifying housing development projects.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

## 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. 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.*

## Action Calendar – Public Hearings

6. **Electric Bike Share Program Franchise Amendment** *(Continued from March 10, 2020)*  
**From: City Manager**  
**Recommendation:** Pursuant to Berkeley Municipal Code Chapter 9.60, conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance granting a Franchise Agreement Amendment to Bay Area Motivate, LLC, a subsidiary of Lyft Incorporated, to provide shared electric bicycles to the Berkeley public.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Acton Calendar – Continued Business

- A. **Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis** *(Continued from April 14, 2020)*  
**From: Councilmember Davila (Author), Councilmember Harrison (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:**  
1. Adopt a resolution opposing the Alameda County Sheriff's proposal to receive an additional \$85 million annually to dramatically increase the Sheriff's Office budgets, especially for Santa Rita Jail; and  
2. Send copies of this resolution to the Alameda County Board of Supervisors prior to their next Board meeting where the proposal will be voted on April 21, 2020.  
**Financial Implications:** See report  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- B. **Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic** *(Continued from April 14, 2020)*  
**From: Councilmember Davila (Author)**  
**Recommendation:**  
1. Adopt a resolution establishing a moratorium on enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.  
2. Direct the City Manager and/or designee to implement the moratorium.  
**Financial Implications:** See report  
Contact: Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Action Items

7. **Adopt a Resolution to Upgrade Residential and Commercial Customers to 100% Greenhouse Gas Emissions-Free Electricity Plan and Municipal Accounts to 100% Renewable Plan** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*  
**From: Councilmember Harrison (Author), Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution to: a. Opt up Berkeley's municipal accounts to Renewable 100 (100% renewable and 100% greenhouse gas-free) electricity service, and refer the estimated increased cost of \$100,040 to the June 2020 budget process. b. Upgrade current and new Berkeley residential and commercial customer accounts from Bright Choice (>85% GHG-free) to Brilliant 100 (100% GHG-free), except for residential customers in low income assistance programs. The transition would be effective October 1, 2020 for residential customers and January 1, 2021 for commercial customers. c. Provide for yearly Council review of the City's default municipal, residential, and commercial plans.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
8. **Urgency Ordinance: Commercial Rent Increase Restrictions During the COVID-19 Emergency**  
**From: Councilmember Harrison (Author), Councilmember Davila (Co-Sponsor)**  
**Recommendation:**  
1. Adopt an urgency ordinance amending Berkeley Municipal Code 13.110, Title 13, The COVID-19 Emergency Response Ordinance, limiting commercial rent increases to 10% through and including six months after the local state of emergency has been declared over.  
2. Send correspondence to the following:  
i. The District Attorney of Alameda County Nancy O'Malley asking that the District Attorney 1) investigate and take action pursuant to Business and Professions Code 17200, et seq. against any commercial real property owner or agent of such who seeks a rent increase of more than that permitted by this ordinance, or seeks a rent increase that has the effect of constructively evicting any commercial tenant; and 2) authorize the Berkeley City Attorney to use Business and Professions Code 17200, et seq. to take actions against any violator of this ordinance or who seeks a rent increase that has the effect of constructively evicting any commercial tenant.  
ii. Governor Gavin Newsom, asking for the Governor to take appropriate action against commercial landlords who seek rent increases that have the effect of constructively evicting commercial tenants during the course of this emergency and for a reasonable time after the end of the emergency.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## 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.

~~~~~  
***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 that reads "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

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

### **Evictions & Rent Payments During the COVID-19 Pandemic & Shelter in Place**

1. Bill Bogert
2. Ian Winters, on behalf of the Northern California Land Trust
3. Linda Blair

### **Construction During the Pandemic**

4. Tina Hand, on behalf of the Bay East Association of Realtors
5. Rachel Rosekind
6. Gene Turitz

### **FEMA Trailers**

7. Thomas Lord
8. Margy Wilkinson

### **COVID-19 General Communications**

9. Janice Murota
10. Beth Gerstein, on behalf of Councilmember Kesarwani
11. Jason Meggs (3)
12. Russbumper
13. David Lerman
14. William Rosen
15. Cynthia Larson
16. Victoria Gu, on behalf of Compassionate Bay
17. Walter Wood
18. Kirsten MacDonald, John Caner and Barbara Hillman, on behalf of the Berkeley Chamber, the Downtown Berkeley Association and Visit Berkeley
19. Regina DiMaggio
20. Jacob Steinhardt
21. Bryce Nesbitt

### **Encampments**

22. Sally Sommer
23. Liz Wiener
24. Margy Wilkinson
25. Marcia Poole
26. Diana Bohn
27. Councilmember Harrison
28. Tajmal Payne
29. Thomas Lord

### **Street Cleaning**

30. James D'Albora



### **Cannabis Dispensaries**

31. James Wood

### **People's Park Bathroom**

32. Sheila Mitra Sarkar (5)

33. Councilmember Davila

34. Andrea Prichett

35. Christopher Kohler

36. Arthur Fonseca

### **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.





Cheryl Davila  
Councilmember  
District 2

## TIME CRITICAL AGENDA MATERIAL

- Meeting Date:** April 14, 2020
- Subject:** Oppose the Alameda County Sheriff's Proposal to Receive an Additional \$85 million Annually to Dramatically Increase the Sheriff's Office Budgets, Especially for Santa Rita Jail During a Pandemic Crisis.
- Submitted by:** Councilmembers Cheryl Davila (Author), Kate Harrison (Co-Sponsor) and Ben Bartlett (Co-Sponsor)
- Rationale:** Find that pursuant to California Government Code Section 54954.2(b) that immediate action is required and that the matter came to the attention of the City Council after the agenda was published.



Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
April 21, 2020  
(Continued from April 14, 2020)

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila (Author), Kate Harrison (Co-Sponsor) and Ben Bartlett (Co-Sponsor)

Subject: Oppose The Alameda County Sheriff's Proposal to Receive An Additional \$85 Million Annually to Dramatically Increase the Sheriff's Office Budgets Especially for Santa Rita Jail During a Pandemic Crisis.

RECOMMENDATION

1. Adopt a resolution opposing the Alameda County Sheriff's proposal to receive an additional \$85 million annually to dramatically increase the Sheriff's Office budgets, especially for Santa Rita Jail; and
2. Send copies of this resolution to the Alameda County Board of Supervisors prior to their next Board meeting where the proposal will be voted on April 21, 2020.

BACKGROUND

At the March 24, 2020 meeting of the Alameda County Board of Supervisors, the Alameda County Sheriff Ahern introduced an item: "Authorize additional staffing and related costs at the Santa Rita Jail for the Sheriff's Office and Health Care Services Agency/Behavioral Health Services." Board President Richard Valle announced at the meeting that this item was tabled to the next meeting. On March 31, the item was tabled again, until April 21.

The Alameda County Sheriff is proposing a funding increase commitment of \$255 million over the course of the next three fiscal years (\$85 million/year) for the Sheriff's Office (ACSO) and Alameda County Behavioral Health (ACBH) staffing at Santa Rita Jail, including 216 deputies, 47 non-sworn ACSO staff, and 103 ACBH staff. Should the Board of Supervisors approve this item, it would be reflected in the County's Fiscal Year 2020-21 Proposed Budget. This is on top of the Sheriff's Office 2019-2020 annual budget of \$452 million.

The Sheriff's funding request is inappropriate in the midst of a climate and health crisis, and lacks documentation to substantiate the requested funding and staffing increase for the jail. In addition, there has been no discussion or analysis of the fiscal impacts on the county and cities due to the COVID-19 crisis. The proposal prioritizes jail solutions over non-custody remedies, while the jail population has been in decline for the last ten years.

This proposal comes at a time when residents throughout our city and county are being laid off and filing unemployment at unprecedented rates. The people's needs will look very differently when cities throughout the county discuss next their fiscal year budgets. The crisis has exposed fundamental faults in the nation's and the County's public health systems; addressing these should be the County's priority.

The first cases of COVID-19 at Santa Rita Jail were announced on March 26, when a nurse working in the jail confirmed positive, and on April 4, when an inmate was confirmed positive. Lack of healthcare and sanitation in Santa Rita had already led to multiple class action lawsuits. Conditions of confinement in jails and prisons in other parts of the United States have led to COVID-19 outbreaks, such as in Rikers Island, New York, and Stateville, Illinois, where 647 and 82 prisoners and staff, respectively, have been infected; prisoners have died from the virus at both jails. In light of the serious and urgent public health risks, the County should focus attention on preventing a COVID-19 outbreak in Santa Rita, including by further reducing the jail population.

County funds and resources should be directed to cities and communities to address the COVID-19 pandemic during this time of crisis. Currently, there have been numerous requests to audit the Sheriff's Office budget, but an audit has not been conducted. Increasing the Sheriff's budget prior to an audit is not fiscally responsible. An \$85 million increase during a COVID-19 pandemic is unacceptable, and is the opposite of what needs to be prioritized in the middle of a health and economic crisis.

The State of California has built twenty-one state prisons since 1980, while investments in health, education, and services were cut. Now is not the time. We must oppose this proposal by the Alameda County Sheriff's office. We must continue to divest from jails, prisons, and detention centers. The public health crisis of the COVID-19 pandemic, as well as the homelessness and affordable housing crisis, and preparation for the next pending climate-related emergencies are the priorities that deserve additional funding.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

Opposing the use of limited taxpayer dollars for incarceration when those funds can be used to protect our communities during this climate and health crisis is an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120  
cdavila@cityofberkeley.info

#### ATTACHMENTS:

1. Resolution

REFERENCES

1. Alameda County Board of Supervisor March 24 Meeting Agenda
2. Agenda Item 32.5 from County Sheriff: "Authorize Additional Staffing and Related Costs at the Santa Rita Jail for the Sheriff's Office and Health Care Services Agency/Behavioral Health Services"  
[http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_03\\_24\\_20/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff\\_HCSA\\_293354.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_03_24_20/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff_HCSA_293354.pdf)
3. March 24 Video Meeting of Alameda County Board of Supervisors  
<https://www.acgov.org/board/broadcast.htm>
4. City Council Resolution No. 68,463–N.S, approved May 29, 2018
5. <https://www.mercurynews.com/2020/04/04/santa-rita-jail-reports-first-inmate-case-of-COVID-19-19/>
6. <https://www.mercurynews.com/2020/03/26/alameda-county-jail-reports-first-coronavirus-case-a-nurse/>
7. <https://chicago.suntimes.com/coronavirus/2020/4/5/21208643/2nd-stateville-prison-inmate-dies-of-COVID-19-19>
8. <https://www.nytimes.com/2020/04/05/nyregion/coronavirus-new-york-update.html>

RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY OPPOSING THE ALAMEDA COUNTY SHERIFF PROPOSAL TO RECEIVE AN ADDITIONAL \$85 MILLION ANNUALLY TO DRAMATICALLY INCREASE THE SHERIFF'S OFFICE BUDGET ESPECIALLY FOR SANTA RITA JAIL DURING A PANDEMIC CRISIS

WHEREAS, At the March 24th and March 31, 2020 meetings of the Alameda County Board of Supervisors, the County Sheriff introduced an item: "Authorize additional staffing and related costs at the Santa Rita Jail for the Sheriff's Office and Health Care Services Agency/Behavioral Health Services," which was rescheduled for consideration on April 21; and

WHEREAS, The County Sheriff proposes a funding increase commitment of \$255 million over the course of the next three fiscal years (\$85 million/year) for the Sheriff's Office (ACSO) and Alameda County Behavioral Health (ACBH) staffing at Santa Rita Jail, including 216 deputies, 47 non-sworn ACSO staff, and 103 ACBH staff at Santa Rita Jail which, if approved by the Board, would be reflected in the County's Fiscal Year 2020-21 Proposed Budget, in addition to the Sheriff's Office annual \$452 million budget; and

WHEREAS, The State of California has built twenty-one state prisons since 1980, while investments in health, education, and services were cut; and

WHEREAS, This proposal comes at a time when residents throughout our city and county are being laid off and filing for unemployment at unprecedented rates, and community needs will look very different when the County and cities throughout the County discuss next fiscal year budgets; and

WHEREAS, Although the crisis has exposed fundamental faults in the nation's and the County's public health systems, and the fiscal impacts on the county and cities as a result of the COVID-19 pandemic are rapidly growing and are likely to be severe, yet to date there has been little analysis by the County of these fiscal impacts; and

WHEREAS, The City Council adopted a resolution in 2018 supporting community requests for a performance and financial audit of the Sheriff's Office to examine jail costs, staffing, as well as policies and practices that have led to a large number of in-custody deaths; and

WHEREAS, Lack of healthcare and sanitation in Santa Rita Jail has led to multiple class action lawsuits, while conditions of confinement in jails and prisons in other parts of the United States make social distancing impossible and have led to COVID-19 outbreaks, such as in Rikers Island, NY, and Stateville, Illinois, where 647 and 82 prisoners and staff, respectively, have been infected, and prisoners have died from the virus at both jails, and in light of the serious and urgent public health risks, there is an urgent need to prevent a COVID-19 outbreak in Santa Rita, including by further reducing the jail population, and

WHEREAS, County funds and resources should be focused on helping cities to address our communities' needs during the health and economic crisis resulting from the COVID-19 pandemics; and

WHEREAS, Our communities have an imperative to reinvest many resources currently dedicated to jails, prisons, detention centers, and policing, in order to address critical needs related to public health, homelessness, and climate emergencies; and

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Berkeley hereby adopts this resolution opposing the Alameda County Sheriff's office proposal to receive an increase of \$85 million annually for the Santa Rita Jail budget; and

BE IT FURTHER RESOLVED, After reviewing the proposal by the County Sheriff, the Berkeley City Council finds that this funding request is inappropriate and lacks documentation to substantiate the requested funding and staffing increase for the Sheriff's Office and the jail, and that the proposal prioritizes jail solutions over non-custody remedies, although jail staffing needs are in flux; and

BE IT FINALLY RESOLVED, The Berkeley City Council will send copies of this resolution to the Alameda County Board of Supervisors prior to their next Board meeting where the proposal will be considered on April 21, 2020.





Cheryl Davila  
Councilmember  
District 2

## **TIME CRITICAL AGENDA MATERIAL**

**Meeting Date:** April 14, 2020

**Subject:** Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.

**Submitted by:** Councilmember Cheryl Davila

**Rationale:** Find that pursuant to California Government Code Section 54954.2(b) that immediate action is required and that the matter came to the attention of the City Council after the agenda was published.



Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
April 21, 2020  
(Continued from April 14, 2020)

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Establish a Moratorium on Enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.

RECOMMENDATION

1. Adopt a resolution establishing a moratorium on enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.
2. Direct the City Manager and/or designee to implement the moratorium.

BACKGROUND

In light of the [news of community spread in Berkeley](#), which disproportionately places individuals in encampments and shelters at risk, more than ever, it is the utmost urgency to enact a written moratorium of enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic.

The City of Berkeley has not enacted a formal, written, moratorium. Fear of displacement causes barriers to individuals adequately sheltering in place to protect themselves and others in the community by causing a constant state of insecurity, as well as unneeded mental and psychological duress. Having the moratorium confirmed in writing would alleviate such stress and enable residents to practice the public health recommendations by experts and major authorities.

With [one COVID-19 related death in Berkeley](#) and the recent news of [70 homeless individuals in an SF shelter testing positive for COVID-19](#), there is an urgent need to fully consider the wellbeing of the unhoused community.

The emergence of COVID-19 (Coronavirus) has resulted in thousands of deaths nationwide and worldwide. The Coronavirus death toll is highest for seniors aged sixty or older, and others with compromised immune systems, have had a heart attack or other health complexities. As of April 13, 2020, there are 38 lab-confirmed cases and one death attributed to COVID-19 in Berkeley.

According to the [Center of Disease Control](#), as of April 14, 2020 there were 579,005 cases of COVID 19 throughout the United States including 22,252 fatalities. These numbers increase hourly. In light of new CDC guidelines and the risk of spreading COVID19 in Berkeley, it disproportionately places individuals in encampments and shelters at risk.

On March 4, 2020, [Governor Gavin Newsome's Executive Order](#) proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

The [City of Berkeley Health Officer ordered](#) all residents to shelter at home, leaving only to receive or provide essential services, effective 12:01 AM, Tuesday, March 17, 2020 due to the Coronavirus (COVID 19 Pandemic).

On March 17, 2020, the Berkeley City Council approved several measures in response to the COVID-19 pandemic, such as adopting the recommendations prompted by the Demands from Grassroots Organizers Concerning COVID-19 to inform the City of Berkeley's emergency response to the Coronavirus.

On the week of March 17, 2020, several Bay Area counties (Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara) issued "Shelter In Place" orders, directing nearly seven million residents to stay home through April 7, 2020. This order was the strongest and most serious effort at that point in the U.S. to contain the spread of the coronavirus and forestall health systems from becoming overwhelmed with new cases. County health officials convened prior to issuing the orders and concluded the stay-at-home orders were necessary to slow the spread of the pandemic.

On March 19, 2020, Governor Newsom announced a statewide stay-at-home order to reduce the spread of COVID-19.

Currently, our current city statistics only reflect lab-confirmed cases, and not the total number of people in Berkeley infected with COVID-19, which we know is much larger. Data shows a substantial community spread in our area. Many people with COVID-19 experience mild or no symptoms, but they can still spread the disease to others. Additionally, many people with symptoms are not included in this count due to limitations on testing.

In February 2019, the Berkeley City Council approved a measure: "Referral Responses: Managing Recreational Vehicle (RV) Parking," which prohibits overnight RV parking. The measure negatively impacts unhoused residents, creating new problems and the fear of being towed or red tagged, due to the enforcement of this measure.

In October 2018, Berkeley City Council approved an ordinance: “Adoption of Administrative Regulations Regarding Temporary Non-Commercial Objects on Sidewalks and Parklets and amended the [BMC Chapter 14.48](#)”, which negatively affects unhoused residents especially those living with tents, reducing their personal belongings to a 3 by 3 feet square. The ordinance has displaced many unsheltered residents.

On any given night, more than 1,000 Berkeley residents do not have shelter (i.e. living outdoors in tents, on sidewalks or in vehicles) according to the [Alameda County 2019 Point-In-Time Count](#). A growing number of residents are housing insecure and at risk of becoming homeless. A majority of unhoused Berkeley residents are people of color, seniors and disabled. Any type of policy, measure or action that criminalizes and/or displaces our unhoused residents during the COVID 19 pandemic is cruel and unusual punishment.

As the public health emergency intensifies and the number of people infected by the COVID-19 virus increases, the City of Berkeley needs to protect our unhoused communities that are particularly vulnerable and high risk. Every resident has been instructed to prioritize public health through safe measures, and we must also take steps to ensure the safety of our most vulnerable populations. Any type of enforcement by the City (i.e. sidewalk ordinance, encampments evictions, sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter) will not only disrupt and displace unhoused residents during this COVID 19 pandemic crisis, but will exacerbate the risk and danger of the public health and safety of all residents in the City.

This measure will also make people feel more secure, and will enable them to practice CDC and HUD guidelines for appropriate physical distancing in encampments and sidewalks.

As the “stay at home” order from California Governor Newsom has been in effect since late March, the City of Berkeley has a duty to assist all residents to safely “shelter in place.” The risk of spreading COVID19 disproportionately places individuals in encampments, living in tents and shelters at a greater risk. The City of Berkeley should limit the exposure of community spread of our citizenry and beyond by implementing a moratorium on enforcement of encampments, the sidewalk ordinance and towing or citations for RV’s and other vehicles as homes, parking on our streets.

#### FINANCIAL IMPLICATIONS

The cost of enforcement will be diverted, including the cost of the staff time dedicated to the sidewalk ordinance, encampment evictions/ closures and RV towing which can be redirected to address the COVID 19 pandemic or other expenses.

#### ENVIRONMENTAL SUSTAINABILITY

Protecting the most vulnerable is itself an act of environmental sustainability.

#### CONTACT PERSON

Cheryl Davila  
Councilmember District 2  
510.981.7120, [cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS:

1. Resolution

REFERENCES:

1. [Berkeleyside: News of community spread in Berkeley](#)
2. [Berkeleyside: one COVID-19 related death in Berkeley](#)
3. [ABC News: 70 homeless individuals in an SF shelter testing positive for COVID-19](#)
4. [Alameda County 2019 Point-In-Time Count](#)
5. [Governor Gavin Newsome's Executive Order](#)
6. [City of Berkeley Health Officer order](#)
7. [Center of Disease Control](#)
8. [BMC Chapter 14.48](#)
9. [HUD guidelines for encampments](#)
10. [HUD](#) and [CDC](#) guidelines for physical distancing
11. [State of California guidelines](#)

RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF BERKELEY TO ESTABLISH A MORATORIUM ON ENFORCEMENTS OF THE SIDEWALK ORDINANCE, 3x3 REGULATIONS, ENCAMPMENTS EVICTIONS, SWEEPS, RV PARKING AND THE TOWING/TICKETING/IMPOUNDING OF VEHICLES USED FOR SHELTER DURING THE COVID 19 PANDEMIC CRISIS

WHEREAS, In light of the [news of community spread in Berkeley](#), which disproportionately places individuals in encampments and shelters at risk, more than ever, it is the utmost urgency to enacting a written moratorium of enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic; and

WHEREAS, Although the mayor has asked for a moratorium on public record, the City of Berkeley has not enacted a formal, written, moratorium. Fear of displacement causes barriers to these individuals adequately sheltering in place to protect themselves and others in the community by causing a constant state of insecurity, as well as unneeded mental and psychological duress. Having the moratorium confirmed in writing would alleviate such stress and enable residents to practice public health recommendations by experts and major authorities; and

WHEREAS, With [one COVID-19 related death in Berkeley](#) and the recent news of [70 homeless individuals in an SF shelter testing positive for COVID-19](#), there is an urgent need to fully consider the wellbeing of the unhoused community; and

WHEREAS, The emergence of COVID-19 (Coronavirus) has resulted in thousands of deaths nationwide and worldwide. The Coronavirus death toll is highest for seniors aged sixty or older, and others with compromised immune systems, have had a heart attack or other health complexities. As of April 13, 2020, there are 38 lab-confirmed cases and one death, attributed to COVID-19 in Berkeley; and

WHEREAS, the emergence of COVID-19 (Coronavirus) has resulted in thousands of deaths nationwide and worldwide, especially with several confirmed cases within the City of Berkeley. The Coronavirus death toll is highest for seniors aged 60 or older, but persons who are immunocompromised also run great risks; and

WHEREAS, according to the [Center of Disease Control](#), as of March 28, 2020 there were 103,321 cases of COVID 19 throughout the United States including 1668 fatalities. In light of new CDC guidelines and the risk of spreading COVID19 in Berkeley, it disproportionately places individuals in encampments and shelters at a greater risk; and

WHEREAS, on March 4, 2020, [Governor Gavin Newsome's Executive Order](#) proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, the [City of Berkeley Health Officer ordered](#) all residents to shelter at home, leaving only to receive or provide essential services, effective 12:01 AM, Tuesday, March 17, 2020 due to the Coronavirus (COVID 19 Pandemic); and

WHEREAS, on March 17, 2020, the Berkeley City Council majority approved several measures in response to the COVID-19 pandemic, such as adopting the recommendations prompted by the Demands from Grassroots Organizers Concerning COVID-19 to inform the City of Berkeley's emergency response to the Coronavirus; and

WHEREAS, on the week of March 17, 2020, The City of Berkeley and several Bay Area counties (Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara) issued "Shelter In Place" orders, directing nearly seven million residents to stay home through April 7, 2020. This order was the strongest and most serious effort up to that point in the U.S. to contain the spread of the coronavirus and forestall health systems becoming overwhelmed with new cases. County health officials convened prior to issuing the orders and concluded the orders were necessary to slow the spread of the pandemic; and

WHEREAS, on March 19, 2020, Governor Newsom announced a statewide stay-at-home order to reduce the spread of COVID-19; and

WHEREAS, in February 2019, the Berkeley City Council majority approved a measure: "Referral Responses: Managing Recreational Vehicle (RV) Parking", which prohibits overnight RV parking. The measure negatively impacts unhoused residents, creating new problems and the fear of being towed or red tagged, due to the enforcement of this measure; and

WHEREAS, in October 2018, Berkeley City Council approved an ordinance: "Adoption of Administrative Regulations Regarding Temporary Non-Commercial Objects on Sidewalks and Parklets and amended the [BMC Chapter 14.48](#)", which negatively affects unhoused residents especially those with tents, reducing their personal belongings to a 3 by 3 feet square. The ordinance, and has displaced many unsheltered residents; and

WHEREAS, on any given night, more than 1,000 Berkeley residents do not have shelter (i.e. living outdoors in tents, on sidewalks or in vehicles) according to the [Alameda County 2019 Point-In-Time Count](#), a growing number of residents are housing insecure (at risk of becoming homeless). A majority of unhoused Berkeley residents are people of color, seniors and disabled. Any type of policy, measure or action that criminalizes and/or displaces our unhoused residents during the COVID 19 pandemic is cruel and unusual punishment; and

WHEREAS, As the public health emergency intensifies and the number of people infected by the COVID-19 virus increases, the city of Berkeley needs to protect our unhoused communities that are particularly vulnerable and high risk. Everyone has been instructed to prioritize public health through safe measures, and we must take steps to ensure the safety of our most vulnerable populations. Any type of enforcement by the City (i.e. sidewalk ordinance, encampments evictions, sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter) will not only disrupt and displace unhoused residents during this COVID 19 pandemic crisis, but will exacerbate the risk and danger of the public health and safety of all residents in the City of Berkeley; and

WHEREAS, With the "stay at home" order from California Governor Newsom, the City of Berkeley has a duty to assist all residents to safely "shelter in place." The risk of spreading COVID19 disproportionately places individuals in encampments, living in tents, on sidewalks, and shelters at risk. The City of Berkeley should limit the exposure of community spread of our citizenry and beyond by implementing a moratorium on enforcement of encampments, the sidewalk ordinance and towing or citations for a RV's parking on our streets; and

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Berkeley, hereby adopts this resolution moratorium on enforcements of the BMC Chapter 14.48 Sidewalk Ordinance, 3x3 regulation, Encampment Evictions, Sweeps, RV Parking and the towing/ticketing/impounding of vehicles used for shelter during the COVID 19 Pandemic, and directs the City Manager and/or designee to implement this measure; and

BE, IT FURTHER RESOLVED, that the 2018, Berkeley City Council majority adopted measure: "Adoption of Administrative Regulations Regarding Temporary Non- Commercial Objects on Sidewalks and Parklets, and Amending BMC Chapter 14.48", be suspended during this crisis; and

BE, IT FURTHER RESOLVED, that the 2019, Berkeley City Council majority adopted measure: "Referral Responses: Managing Recreational Vehicle (RV) Parking," which prohibits overnight RV parking, be suspended during this COVID 19/ Coronavirus pandemic crisis.