



AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, September 20, 2022
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/88667906480>. 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 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 886 6790 6480. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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.*

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.” Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

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

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

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

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

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, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, and July 26, 2022.

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

2. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

From: City Manager

Recommendation: Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, and August 23, 2022.

Financial Implications: To be determined

Contact: Farimah Brown, City Attorney, (510) 981-6950

3. Establish 2023 City Council Meeting Schedule

From: City Manager

Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2023, with starting times of 6:00 p.m.

Financial Implications: None

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

Consent Calendar

- 4. 2023 Tax Rate: Transportation Network Company User Tax**
From: City Manager
Recommendation: Adopt first reading of an Ordinance setting the 2023 tax rate (effective January 1, 2023) for the transportation network company at the following rates: 53.775 cents on the user for each prearranged trip that originates in the City that is not part of a pooled prearranged trip and 26.249 for each pooled prearranged trip on each user who arranges each prearranged trip that originates in the City and which comprises part of the pooled prearranged trip.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 5. Contract No. 084349-1 Amendment: AMCS Group Inc. for Zero Waste PC Scale Software Maintenance and Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 084349-1 with AMCS Group, Inc. to provide additional maintenance support and professional services for the Public Works Department's Zero Waste Scale House in an amount \$45,000 for a total contract amount not to exceed \$261,282 and extending the term from July 1, 2022 through June 31, 2025.
Financial Implications: See report
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
- 6. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$250,000 through December 31, 2023.
Financial Implications: Total FY 2023 Professional Services - \$250,000
Contact: LaTanya Bellow, Information Technology, (510) 981-6500
- 7. Contract No. 105921-1 Amendment: TruePoint Solutions, LLC for Accela Professional Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$195,000, for a total not-to-exceed amount of \$1,047,200 and extending the term by two years for the term beginning June 1, 2015 to June 30, 2024.
Financial Implications: See report
Contact: LaTanya Bellow, Information Technology, (510) 981-6500

Consent Calendar

- 8. Contract: SCS Engineers for Landfill Post Closure Maintenance and Monitoring Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with SCS Engineers, in an amount not to exceed \$714,022, to provide engineering, maintenance, and monitoring services for the landfill to meet mandatory compliance requirements at Cesar Chavez Park, from January 1, 2023, to June 30, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 9. Contracts: Davey Resource Group, Inc., and HortScience Bartlett Consulting for On-Call Arborist Services**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call arborist services for capital improvement projects, each for a period of November 1, 2022, through December 31, 2025:
1. Davey Resource Group, Inc. for an amount not to exceed \$125,000.
2. HortScience Bartlett Consulting for an amount not to exceed \$125,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 10. Contracts: On-Call Civil Engineering Services, CSW Stuber-Stroeh Engineering Group, Inc., HDR Engineering, Inc., LCC Engineering & Surveying, Inc., Mark Thomas & Company, Inc., Park Engineering, Inc., Pavement Engineering Inc., and SCI Consulting Group.**
From: City Manager
Recommendation: Adopt seven Resolutions authorizing the City Manager to execute the following contracts and any amendments for on-call civil engineering services for capital improvement projects, each for a period of November 1, 2022 through December 31, 2025:
1. CSW Stuber-Stroeh Engineering Group, Inc. for an amount not to exceed \$750,000.
2. HDR Engineering, Inc. for an amount not to exceed \$750,000.
3. LCC Engineering & Surveying, Inc. for an amount not to exceed \$1,500,000.
4. Mark Thomas & Company, Inc. for an amount not to exceed \$750,000.
5. Park Engineering, Inc. for an amount not to exceed \$1,500,000.
6. Pavement Engineering Inc. for an amount not to exceed \$1,500,000.
7. SCI Consulting Group for an amount not to exceed \$150,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

11. Contract No. 10350 (112199-1) Amendment: Technology, Engineering, and Construction, Inc. for Tank Maintenance and Certification Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or designee to execute an amendment to Contract No. 10350 with Technology, Engineering and Construction, Inc. for the provision of tank maintenance and certification services, extending the contract term to June 30, 2024 and increasing the amount by \$100,000 for a total contract amount not to exceed \$250,000.

Financial Implications: See report

Contact: Liam Garland, Public Works, (510) 981-6300

12. Contract No. 31900085 Amendment: Syntech Systems, Inc. for a Fuel Management System and Software

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900085 with Syntech Systems, Inc. to provide ongoing service and support of infrastructure and software for the City's Fleet Fueling Program, increasing the contract amount by \$45,000 for a new not to exceed amount of \$231,472 and extending the contract term through June 30, 2025.

Financial Implications: See report.

Contact: Liam Garland, Public Works, (510) 981-6300

13. Contract: Shaw Industries, Inc. for Civic Center Building Carpet Replacement Project

From: City Manager

Recommendation: Adopt a Resolution: 1. Pursuant to City Charter Article XI Section 67.2 requirements, accepting the California Multiple Award Schedule (CMAS) bid procedures; 2. Approving the CMAS Contract with Shaw Industries, Inc. for Carpet Replacements at the Civic Center Building; 3. 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 terms and conditions of the agreements with Shaw Industries, Inc. in an amount not to exceed \$177,218.68, which includes a contingency of \$23,115.

Financial Implications: See report.

Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

- 14. Helping Achieve Responsible Development with Healthcare and Apprenticeship Training Standards (HARD HATS) Referral**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer to the City Attorney and City Manager to draft a HARD HATS Ordinance based on the policy terms outlined below and bring the Ordinance back to Council for action on December 13, 2022.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

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 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. 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

15. Zoning Ordinance Amendments Making Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance containing technical edits, corrections and other non-substantive amendments to the following sections of the Zoning Ordinance:

- BMC Section 23.204.050 (C-C Zoning District)
- BMC Section 23.204.080 (C-E Zoning District)
- BMC Section 23.204.090 (C-NS Zoning District)
- BMC Section 23.204.130 (C-DMU District)
- BMC Section 23.206.050 (Protected Uses)
- BMC Section 23.304.030 (Setbacks)
- BMC Section 23.304.090 (Usable Open Space)
- BMC Section 23.322.030 (Required Parking Spaces)
- BMC Section 23.406.070 (Design Review)

Financial Implications: None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – Old Business

16. **Restoring and Improving Access to City of Berkeley Website and Archival Materials** *(Continued from July 26, 2022) (Item contains revised materials)*
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)

Recommendation:

1. Accept the report outlining results from consultation with the City Manager after introduction of this item and thank City Staff for their consideration.
2. As a means to support transparency and improve ease of access to historical/archival government records for policymakers, the press, and the general public, request that the City Manager continue developing and implementing measures that support efficient and effective searching, sorting, and identification of responsive materials through Records Online.
3. To support transparency and ease of access to government records, consider creating and disseminating a “style guide” with standards/conventions/protocols for accurately referencing and attaching City materials so they can be properly linked to or easily accessed in Records Online (or a successor/alternative program/database), allowing such materials to be referenced consistently by Councilmembers, Staff, members of the press, and other authors.
4. Refer to the November 2022 Budget Update up to \$50,000 for staff support for Council/Mayor offices to locate documents previously accessed via now-expired links, and request that the City Manager consult Councilmembers and the Mayor to offer the scope of assistance available and identify potential needs.
5. As a means to support transparency and restore ease of access to City materials referenced/attached via now-broken links in City reports, plans, items, and other documents created prior to launch of the new City website, request that the City Manager consider updating key plans, programs and reports by creating and linking PDFs of previously linked documents and/or substituting broken links with footnotes/references in a standard format allowing referenced and attached materials to be quickly/directly located through Records Online (or a successor/alternative program/database).
6. To better fulfill the requirements of the City of Berkeley’s Open Government Ordinance, request the City Manager retain materials such as Council, Committee, and Commission agendas, minutes, recordings, and other official documents on the website for a period at least 4 years, and preferably longer, before retiring them to Records Online.

Financial Implications: Staff time

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action Calendar – New Business

17. **Extending Community Agency Contracts for One Year at Existing Levels and Postponing the Community Agency Request for Proposal (RFP) Process Until Fiscal Year 2024**
From: City Manager
Recommendation: Adopt a Resolution that extends all existing community agency contracts under the community agency Request for Proposal (RFP) process for one year, at current baseline one-year funding, and postpone the four-year Community Agency’s RFP process for one fiscal year, to FY2024, with new contracts to start in FY2025.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
18. **Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight**
From: City Manager
Contact: Peter Radu, City Manager's Office, (510) 981-7000

Information Reports

19. **Update on the Implementation of Fair and Impartial Policing Task Force Recommendations**
From: City Manager
Contact: Jennifer Louis, Police, (510) 981-5900

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

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

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

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, South Branch – 1901 Russell

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 September 8, 2022.***

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 at the City Clerk Department and through [Records Online](#).*

### Transfer Station

1. David Lerman

### IKE Kiosks

2. Cecilia Mayer
3. Allen Mayer
4. Cynthia Whiting
5. Jinny Wong

### **King and West Campus Pool**

6. Pamela Michaud (2)

### **People's Park**

7. Martha Vognar

8. Miranda Winther

### **Wildfire Prevention**

9. Bruce Feingold

### **Poet Laureate Position**

10. Rafael Jesus Gonzalez

11. Sharon Coleman

### **Problem Fraternity House at 2344 Fulton Street**

12. Dan Auten

### **72-Hour Parking Rule Complaint**

13. Kris Ho

### **Heat Wave and Seniors**

14. David Lerman (2)

15. Tanya Bustamante, Manager of Aging Services Division

### **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.