

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 29, 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/82196348694>. 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: **821 9634 8694**. 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: 6:04 p.m.

Present: Kesarwani, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Taplin, Bartlett

Councilmember Taplin present at 6:05 p.m.

Councilmember Bartlett present at 6:11 p.m.

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

Ceremonial Matters:

1. Recognition of Alex Roshal, Retiring Building Official
2. Adjournment in memory of Al Wasserman, Berkeley resident

City Manager Comments: None

Public Comment on Non-Agenda Matters: 6 speakers.

Action: M/S/C (Bartlett/Harrison) to accept an urgency item from Councilmember Bartlett pursuant to Government Code Section 54954.2(b)(2) entitled Resolution in Support and Reaffirm Support for Net Energy Metering.

Vote: All Ayes.

Public Comment on Consent Calendar and Information Items Only: 0 speakers.

Action: M/S/C (Arreguin/Hahn) to adopt the Consent Calendar in one motion except as indicated.

Vote: All Ayes.

Urgent Item: Resolution in Support and Reaffirm Support for Net Energy Metering
From: Councilmember Bartlett (Author), Councilmember Wengraf (Co-Sponsor),

Consent Calendar

Councilmember Harrison (Co-Sponsor)

Recommendation: Send the enclosed Resolution in support of Net Energy Metering and transmit copies to Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and members of the California Public Utilities Commission Board (CPUC). The Proposed Decision (PD) issued by the CPUC on November 10, 2022, continues to threaten access to net energy metering and rooftop-scale solar and storage by homeowners and tenants alike, thus interfering with Berkeley's and California's climate action and equity goals.

Financial Implications: Staff time

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Action: Mayor Arreguin added as a co-sponsor. Adopted Resolution No. 70,616–N.S.

1. Sewer and Access Road Easement and Installation Agreement with Paulonia Investment, LLC and Little Tree Investment, Inc.

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,841-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with Paulonia Investment, LLC and Little Tree Investment, Inc. for extending, operating, maintaining, and accessing sewer pipe facilities on parcel with APN 063-2969-034-23.

First Reading Vote: All Ayes.

Financial Implications: See report

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

Action: Adopted second reading of Ordinance No. 7,841–N.S.

2. Sewer and Access Road Easement and Installation Agreement with James Robert Higgins

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,842-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with James Robert Higgins for extending, operating, maintaining and accessing sewer pipe facilities on 1033 Miller Avenue (APN 063-2969-034-25).

First Reading Vote: All Ayes.

Financial Implications: See report

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

Action: Adopted second reading of Ordinance No. 7,842–N.S.

Consent Calendar

- 3. Sewer and Access Road Easement and Installation Agreement with Paulonia Investment, LLC and Little Tree Investment, Inc.**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,843-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with Paulonia Investment, LLC and Little Tree Investment, Inc. on parcel with APN: 063-2969-034-44 for accessing sewer pipe facilities.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted second reading of Ordinance No. 7,843–N.S.
- 4. Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate the Use of Carryout and Produce Bags and Promote the Use of Reusable Bags**
From: Councilmember Harrison (Author), Councilmember Hahn (Author)
Recommendation: Adopt second reading of Ordinance No. 7,844-N.S. adding a Chapter 11.62 to the Berkeley Municipal Code to regulate the use of carryout and produce bags and promote the use of reusable bags with a phased enforcement and implementation approach, effective with respect to new charges for bags pursuant to Sections 11.63.040 and 11.63.050 and provisions applicable to the City of Berkeley and City-sponsored events pursuant to Section 11.63.090 on January 1, 2023, and administrative regulations for and all provisions in this ordinance effective June 30, 2023.
First Reading Vote: All Ayes.
Financial Implications: Staff Time - \$350,000 per year
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Adopted second reading of Ordinance No. 7,844–N.S.
- 5. 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, August 23, 2022, September 20, 2022, October 11, 2022, and November 3, 2022.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted Resolution No. 70,617–N.S.

Consent Calendar

6. **Amend I-80 Gilman Interchange Improvement project funding agreement, Contract No. 42200065 (Agreement A22-0056) with Alameda County Transportation Commission (Alameda CTC)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the existing Contract No. 42200065 (Agreement A22-0056) with Alameda CTC and any other amendments to fix drainage and grading issues for the future fire lane on 3rd Street between Gilman and Camelia Streets as part of the I-80 Gilman Interchange Improvement Project, increasing the amount of the agreement by \$750,000, for a total not-to-exceed amount of \$1,250,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,618–N.S.

Council Consent Items

7. **Budget Referral: Strawberry Creek Lodge Food Program**
From: Mayor Arreguin (Author), Councilmember Taplin (Author)
Recommendation: Refer to the December 2022 Annual Appropriations Ordinance (AAO) budget process \$50,000 for the Strawberry Creek Lodge Food Program.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Approved recommendation.
8. **Grant Approval: San Francisco Foundation to support the Equitable Black Berkeley Initiative**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept a \$75,000 grant award from the San Francisco Foundation to renew the existing ideation facilitator contract supporting the Equitable Black Berkeley Initiative, a community-led process to develop a reparative approach to new development at the Ashby BART Station and Adeline Corridor, with the goal of maximizing affordability of new housing.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,619–N.S.
9. **Excused Absence for Councilmember Ben Bartlett**
From: Mayor Arreguin (Author)
Recommendation: Excuse Councilmember Ben Bartlett from the September 29, 2022 Council meeting as a result of illness.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Approved recommendation.

Action Calendar – Public Hearings

10. Renewal of the Solano Avenue BID for Calendar Year 2023

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District for 2022-2023 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Financial Implications: See report

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Public Testimony: The Mayor opened the public hearing. 1 speaker. M/S/C (Arreguin/Hahn) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Hahn/Robinson) to adopt Resolution No. 70,620–N.S.

Vote: All Ayes.

11. Referral Response: Amendments to the Sign Ordinance to Clarify Procedures and to Establish a Coordinated Sign Design Program, and Establish a New Fee for Coordinated Sign Design Programs

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion:

1. Adopt the first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 20 [Signs] to clarify design review procedures for signs, establish an optional Coordinated Sign Design program, and amend Section 20.12.070 [Issuance authorized when] and Section 23.204.070B [Design Review – When required] to provide internal consistency; and
2. Adopt a Resolution amending Resolution No. 67,985-N.S., the Land Use Planning Fee schedule, to add a new Coordinated Sign Design Program Fee.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 2 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to:

1. Adopt first reading of Ordinance No. 7,847–N.S. Second reading scheduled for December 13, 2022.
2. Adopt Resolution No. 70,621–N.S.

Vote: All Ayes.

Action Calendar – Public Hearings

12. Adoption of Berkeley Building Codes, including Local Amendments to California Building Standards Code

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,839-N.S. repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in Berkeley Municipal Code Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.

First Reading Vote: All Ayes.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 3 speakers. M/S/C (Arreguin/Robinson) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Harrison) to adopt the second reading of Ordinance No. 7,839–N.S.

Vote: All Ayes.

13. Re-enactment of the Berkeley Housing Code; Repealing Chapter 12.48 and Repealing and Re-enacting Chapter 19.40

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,840-N.S. repealing Berkeley Municipal Code (BMC) Chapter 12.48 (Residential Rental Housing Safety Program), and repealing and re-enacting BMC 19.40 (Berkeley Housing Code), incorporating BMC Chapter 12.48 into BMC Chapter 19.40.

First Reading Vote: All Ayes.

Financial Implications: None

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

Public Testimony: The Mayor opened the public hearing. 2 speakers. M/S/C (Arreguin/Robinson) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Robinson) to adopt the second reading of Ordinance No. 7,840–N.S.

Vote: Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Taplin.

Councilmember Taplin absent 7:22 p.m. – 7:31 p.m.

Action Calendar – New Business

14. Return to In-Person City Council Meetings and Status of Meetings of City Legislative Bodies

From: City Manager

Recommendation: Review the public health meeting protocols and advise on any revisions to be implemented for the return to in-person regular meetings at the December 6, 2022 regular meeting.

Financial Implications: See report

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

Action: 5 speakers. The Council reviewed the public health procedures for in-person meetings and provided direction to require distancing on the dais and request information on the public health protocols in place for other legislative bodies in the region.

Recess 8:08 p.m. – 8:19 p.m.

Action Calendar – New Business

15. Adeline Street at Ashby BART Conceptual Design

From: City Manager

Recommendation: Adopt a Resolution approving the Plaza with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, and authorizing the City Manager to direct staff to proceed with the detailed engineering design of the project.

Financial Implications: See report

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

Action: 17 speakers. M/S/C (Bartlett/Arreguin) to:

- 1) Adopt a revised recommendation, “Adopt a Resolution approving the Plaza with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, and authorizing the City Manager to direct staff to proceed with developing preliminary engineering concepts directed toward ensuring universal design and access for consideration by the public and the council, and subsequently detailed engineering design of the project including a podium connecting the retail spaces to the Adeline frontage.”
- 2) Request that staff consult with the Ed Roberts Campus and the Commission on Disability regarding universal design and access considerations.
- 3) Adopt Resolution No. 70,622–N.S. with an amended resolved clause to read:

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to direct staff to proceed with the preliminary engineering concepts directed toward ensuring universal design and access for consideration by the public and the council, and subsequently detailed engineering design of the Adeline at Ashby BART Project, based on the recommended conceptual design with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, including a podium connecting the retail spaces to the Adeline frontage, pending identification of funding.

Vote: All Ayes.

Information Reports

16. Climate Action Plan and Resilience Update

From: City Manager

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

Action: Referred to the Agenda & Rules Committee for future scheduling.

17. City Policies for Managing Parking Around BART Stations

From: City Manager

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

Action: Referred to the Agenda & Rules Committee for future scheduling.

Information Reports

18. **Fair Campaign Practices Commission FY2022-2023 Work Plan**
From: Fair Campaign Practices Commission
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
Action: Received and filed.
19. **Open Government Commission FY2022-2023 Work Plan**
From: Open Government Commission
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda – 3 speakers.

Adjournment

Action: M/S/C (Arreguin/Robinson) to adjourn the meeting.

Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin;
Noes – None; Abstain – None; Absent – Droste.

Adjourned at 10:16 p.m.

Communications

Item #15: Adeline Street at Ashby BART Conceptual Design

1. Ryan Lau, on behalf of the Alameda-Contra Costa Transit District

No Right Turn on Red

2. Riti Dhesi
3. Ned Himmel
4. Laralynn and Joe Rapoza

Harriet Tubman Terrace Apartments

5. Darinxoso Oyamasela

Homelessness and Encampments

6. Friends of Five Creeks (3)
7. Craig Nagasaw
8. John Caner, Downtown Berkeley Associations
9. Susana Garcia

PCI Street Conditions

10. David Lerman (2)
11. Marna Braunstein Clark

Hopkins Street Corridor

12. Nancy Lewis

26-Story Building in Central Berkeley

13. Dorothea Dorenz

EV Micro-Mobility Vehicles

14. Bernard Marszalek

Traffic Safety at Cedar and California

15. David Lerman

Bring Back Transit Bus 80

16. Jovanka Beckles

Berkeley Waterfront and Marina Area

17. Camille Antinori, David Fielder and Gordon Stout

Recruitment of Commissioners for the Commission on Aging

18. George Porter, Chair, Commission on Aging

Support for Repairs to La Pena Cultural Center

19. Natalia Neira and Tara Dalbo, Executive & Deputy Executive Director

Illegal Dumping

20. Alice Rosenthal

Implement Ceasefire in Berkeley

21. Diana Bohn

People's Park

22. Susana Lamaina

23. Joshua Hart

24. Susan Stevens

25. Sandra Morey

26. Norma Harrison

Cannabis Policy

27. Getting It Right From The Start

North Berkeley BART Developer Selection

28. John Parman

29. Peggy Radel

Berkeley Half Marathon Impacts

30. Alexander Merenkow

Climate Change

31. Vivian Warkentin

Proposed Proclamation, in Honor of Barbara Ann White

32. Moni Law (2)

End the Eviction Moratorium

33. Jeannie Llewellyn

34. May Fong

35. Daniel Gonzalez

PRA Request

36. Nathan Mizell

37. Dee Williams-Ridley

Berkeley City Council Meeting Comment

38. Peter Goldman

Berkeley Police Department Superior Customer Service

39. Pauline Russo Cutter, Mayor of San Leandro

Golden Gate Fields Stable Code Violations

40. T. Conrad

Measure L

41. Jeffrey Heller

Housing Element

42. 9 similarly-worded from letters

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #15: Adeline Street at Ashby BART Conceptual Design

43. Charles Siegel

Supplemental Communications and Reports 3

Item #8: Grant Approval: San Francisco Foundation to support the Equitable Black Berkeley Initiative

44. Toni Mester

Item 10: Renewal of the Solano Avenue BID for Calendar Year 2023

45. Todd Andrews

Item #15: Adeline Street at Ashby BART Conceptual Design

46. Presentation, submitted by Public Works

47. T. Michai Freeman

Urgent Item

Resolution in Support and Reaffirm Support for net Energy Metering

48. Urgent item, submitted by Councilmember Bartlett