



AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 14, 2023
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

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 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

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.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1617610462> To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 761 0462**. 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 meeting will be recorded.*

To submit a written communication for the City Council’s consideration and inclusion in the public record, email council@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Preliminary Matters

Roll Call:

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

1. Presentation: AC Transit Realign Process

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. Persons attending the meeting in-person and wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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 or Information 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. Contract No. 090741-1 Amendment: Foster and Foster Consulting Actuaries Inc (formerly Bartel Associates, LLC) for Actuarial Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 090741-1 increasing contract amount by \$370,000 with Foster and Foster Consulting Actuaries Inc (formerly Bartel Associates, LLC) for Actuarial Consulting Services, for a revised total contract amount not to exceed \$750,000 through December 31, 2025.
Financial Implications: See report
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000
- 2. Resolution of Intention - Expansion of the Elmwood BID for Calendar Year 2025**
From: City Manager
Recommendation: Adopt a Resolution declaring the City Council's intention to levy an assessment in the Elmwood Business Improvement District (“BID” or “District”) for 2025 and directing the City Clerk to schedule a public hearing for January 16, 2024 regarding an expanded district boundary and assessment rates for 2025.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 14, 2023**
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: Various Funds - \$2,453,813
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 4. Dorothy Day House Contract Amendment No. 31900284 to fund an Inclement Weather Shelter Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900284 with Dorothy Day House (DDH) to add up to \$290,000 to operate the 2023-2024 inclement weather shelter for a total contract amount not to exceed \$6,549,173.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 5. Contract: Mercury Associates, Inc. for Fleet Replacement/Maintenance Study and Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Mercury Associates, Inc. to complete a fleet assessment, right sizing study, and fleet consulting services for a total amount not to exceed \$125,000 for the contract period of December 1, 2023 through December 30, 2026.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 6. Purchase Order: Western Truck Parts and Equipment for One Roll Off Truck**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City Manager to participate in Sourcwell bid procedures and authorize the City Manager to execute a purchase order for one (1) Roll Off Truck with Western Truck Parts and Equipment in an amount not to exceed \$335,000.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 7. Purchase Order Amendment: Diesel Direct West, Inc. for Fuel for City Vehicles and Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the multi-year purchase order with Diesel Direct West, Inc. for the purchase of fuel for City vehicles and emergency equipment (including generators,) increasing the combined amount by \$400,000 for a total not-to-exceed amount of \$11,894,000, through February 28, 2024.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

8. **Budget Referral: Berkeley Junior Jackets Facilities Expenses**
From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: Refer to the Annual Appropriations Ordinance #2 process \$7,000 to provide Young Lives Matter Foundation, Inc. the necessary funds for the Berkeley Junior Jackets youth sports program's operating expenses associated with the use of Berkeley Unified School District facilities.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
9. **Memorandum of Understanding for East Bay Hills Regional Wildfire Prevention and Coordination**
From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a resolution authorizing the City of Berkeley to enter into a Memorandum of Understanding (MOU) with other jurisdictions in Alameda and Contra Costa Counties to form a Wildfire Prevention Coordinating Group (WPCG) to improve regionwide collaboration to reduce wildfire risk.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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.

When applicable, 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.

10. **Renewal of the Elmwood Avenue BID for Calendar Year 2024**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, "the District", "the Elmwood BID" or "the BID") and, if no majority protest exists, levy annual assessments in the District for calendar year 2024 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

Financial Implications: See report

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

11. **Renewal of the Solano Avenue BID for Calendar Year 2024**

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 (hereafter, "Solano BID Advisory Board" or "the BID") for 2023-2024 and, if no majority protest exists, levy annual assessments in the District for calendar year 2024 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

Action Calendar – Public Hearings

12. **Amendments to the Berkeley Election Reform Act to ensure consistency within the Act for cost of living adjustments and committee reporting requirement thresholds**

From: Fair Campaign Practices Commission

Recommendation: Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) amend provisions related to filing requirement thresholds to be consistent with recent amendment to qualification threshold for committees ; and (2) add two dollar amount thresholds to the list of amounts subject to cost of living adjustments in order to maintain consistency with other associated amounts.

Financial Implications: See report

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

13. **Amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan Relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt a first reading of an Ordinance amending Title 23 of the Berkeley Municipal Code to increase residential development potential in the Southside Plan Area, per Program 27— Priority Development Areas, Commercial and Transit Corridors and Program 33—Zoning Code Amendment: Residential of the 2023-2031 Housing Element Update

2. Adopt a Resolution:

a. Adopting an Addendum to the 2023-2031 Housing Element Update Environmental Impact Report (EIR); and

b. Approving and adopting General Plan map and text amendments to re-designate certain parcels and update certain land use designations to be consistent with the associated Ordinance amendments.

3. Refer to the City Manager to analyze prevailing wage requirements, as recommended in Planning Commission’s letter dated September 15, 2023; and refer a budget allocation of \$50,000 for this project to the FY2025 budget process.

Financial Implications: See report

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

Information Reports

14. **Measure O Bond Impacts on Affordable Housing Development in Berkeley**
From: City Manager

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

Information Reports

15. **LPO NOD: 60 Panoramic Way, #LMIN2023-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
16. **LPO NOD: 803 Delaware Street, LMSAP2023-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
17. **LPO NOD: 1960 San Antonio Avenue/645 Arlington Avenue, #LMSAP2022-0005**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
18. **LPO NOD: 2113-2115 Kittredge Street/#LMSAP2022-0011**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
19. **Planning Commission Fiscal Year 2023-24 Work Plan**
From: Planning Commission
Contact: Alisa Shen, Commission Secretary, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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@berkeleyca.gov

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

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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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 November 2, 2023.***

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](#).*

### **Hopkins Street**

1. Mariya
2. S. Entwistle

**Ashby BART Housing**

3. Jack Kurzweil
4. Sharon Rose
5. Vincent Casalaina
6. Tobey Wiebe
7. Sonya Dublin
8. Jane Scantlebury
9. Paola Laverde

**Integrating Public Art into the Waterfront Specific Plan**

10. Civic Arts Commission

**Berkeley Robberies**

11. Dave Libby, on behalf of Assembly Builders

**Tenant Opportunity To Purchase Act**

12. Matt Gustafson

**Police Accountability Board (PAB) Memo**

13. Hansel Aguilar, Director of PAB

**Japan Wastewater**

14. Grace Morizawa, Chair, Berkeley Peace and Justice Commission (2)

**Human Feces**

15. Todd Jersey

**Alameda County Transit Redistricting Plan**

16. Alfred Twu

**National Sandwich Day**

17. Sonia Anand Rodrigues

**Miyawaki Forest**

18. Melinda Howard-Herrarte, on behalf of the Sierra Club

**Mari Mendonca to Berkeley Housing Board**

19. Berkeley Tenants Union

**Chicago's Municipal Grocery Store**

20. Russell Bates

**Cannabis Policy**

21. Getting It Right from the Start

### **Encampment Policy**

- 22. John Caner, on behalf of the Downtown Berkeley Association
- 23. Carole Marasovic

### **Hate Speech and Hate Crime**

- 24. Karen Weil

### **Israel and Palestine**

- 25. Amy Cummings
- 26. Barbara Gilbert
- 27. Russell Bates
- 28. Virginia Browning
- 29. Luqman Saib

### **Ceasefire Now**

- 30. 49 similarly-worded form letters

### **Stand with Palestine**

- 31. 40 similarly-worded form letters

### **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.

